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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
General Sessions Court
The Honorable Perry H. Gravely

Appellant Case No 2022-000928
Lower Case No. (2021GS2306825)

State of South Carolina, ... **Respondent,**

vs.

Joseph M. Swaringen ..... **Appellant.**

RECORD ON APPEAL

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State of South Carolina)
) Court of General Sessions
County of Greenville)
2021-GS-23-6825

State of South Carolina)
vs.) Transcript of Record
)
)
Joseph Swaringen)
Defendant)

June 7-8, 2022
Greenville, South Carolina

B E F O R E:

Honorable Keith R. Kelly, Judge

A P P E A R A N C E S:

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Joy E. Holston
Official Court Reporter

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June 7, 2022

THE COURT: Good afternoon, have a seat. Solicitor, anything from the State?

MR. BLOUIN: Your Honor, just before we get started, I was just going to put on the record that the Defendant in this case was served, it looks like on August 11th, 2011 as well as his attorney with the notice of intent to seek life imprisonment without the possibility of parole. And that was obviously, ten days statutory deadline. I just wanted to make sure that was on the record, both his attorney, Mr. Yarborough and the Defendant were served with that paperwork.

THE COURT: Any question as to that?

MR. YARBOROUGH: There is no question we were served. I think we may have some issues, Your Honor.

MR. WISE: Can we release his right hand so he can make notes for us.

THE COURT: I will let the officers, they say no.

MR. WISE: No.

THE COURT: I don't do security, that is their job, Mr. Wise, not mine.

MR. WISE: Okay.

MR. BLOUIN: The only other thing, Your Honor, I know we had talked and I want to put on the record that I had talked with Mr. Yarborough and Mr. Wise about the

possibility, given some things that happened with the case yesterday, of him pleading to 20 years on this. He has some other cases pending, obviously that would wrap up everything or come back with some sort of reasonable counter, that did not happen. I just want to make sure that he was aware that that was kind of thrown out there to him so that in the future, if something comes back, he knows before anything got started.

THE COURT: Okay, negotiations were not frugal.

MR. YARBOROUGH: No sir, Your Honor, and we discussed all of that with our client on numerous occasions.

THE COURT: I am sure you did. Thank you. We are covered on that.

MR. BLOUIN: Nothing else at this time from the State.

THE COURT: Let's do this, Solicitor, put the case on the record for us. I don't have anything, I don't have a motion, I don't have a scrap of paper, other than the gentleman's name I don't know anything about it.

MR. BLOUIN: Let me see. Your Honor, this is indictment 2021-GS-23-6825. The State versus Joseph Martin Swaringen. That offense is trafficking methamphetamine 28 to 100 grams. This would be a third offense. And there was a subsequent pill charge that was also, he was arrested on. The State is not moving forward

on that pill charge.

THE COURT: Okay. Thank you.

MR. YARBOROUGH: Your Honor, I am sorry. I don't think the State has been made aware. We filed a general suppression motion back on April 26th and it was, a number of cases, two of them are here and it is just a general one. And I will hand that up to the Court.

THE COURT: Okay. Nothing further from the State?

MR. BLOUIN: And just kind of in response to generalized suppression motion. I spoke with Mr. Yarborough and Mr. Wise about what, the basis, because like I said, that motion is extremely general and what exactly they are asking to be suppressed. Just kind of as a bit of a factual basis. Law enforcement did not become involved in this case until after the alleged methamphetamine was discovered. The search, an issue was performed by a Prisma employee. And the, the taking to the hospital was done by EMS. And so we would argue, you know, that suppression is not necessarily appropriate because, you know, the Fourth Amendment doesn't cover private actors unless, obviously, instructed by government, the government to do so. And so there is kind of a question of what the alleged suppression involves or seizure involves since law enforcement did not conduct the search nor were the circumstances any that law enforcement

seized him until after the alleged methamphetamine was discovered.

THE COURT: Mr. Yarborough, you have the floor.

MR. YARBOROUGH: Your Honor, I believe my questions will be able to show, during this hearing, the State will go forward on our suppression motion. There is a black bag that is in the hospital at different times, it went through a number of different hands including that of law enforcement. And we think that any kind of search or seizure of that bag was inappropriate. That is what the basis of this motion is including the fact that he was, Mr. Swaringen was subjected to being brought to the hospital against his will.

THE COURT: Okay.

MR. YARBOROUGH: Your Honor, please allow Mr. Rauch to just chime in whenever he wants to. But I think clearly that, we believe at the point of all of this that the workers at the hospital and EMS became basically law enforcement after. And I think that would go towards our, his Fourth Amendment violation. I think the Court is aware of that. We just, I think they need to prove how they got the drugs and then we will go from there.

THE COURT: We will. Alright.

MR. BLOUIN: Do we need a Clerk to swear in a witness.

THE COURT: Do we have a Clerk. Let's see, Mr. Bailiff, can you get in touch with somebody.

(Whereupon, a short break was taken while contacting a Clerk.)

THE COURT: We don't have to wait on the Clerk, I can swear the witness in.

MR. BLOUIN: The State would first call Medic Alex Henry.

Alex Henry, being first duly sworn, testified as follows:

THE COURT: Tell us who you are and spell your last name.

MR. HENRY: My name is Alex Henry, H-E-N-R-Y, is the last name. I am a paramedic with Greenville County Emergency Medical Services.

THE COURT: Solicitor.

MR. BLOUIN: Thank you, Your Honor, may it please the Court.

DIRECT EXAMINATION

By Mr. Blouin:

Q Mr. Henry, where are you employed?

A Greenville County EMS. I have been employed there for about three years.

Q So you have been employed there. What is your job at the Greenville County EMS?

A I am employed as a paramedic.
Q And what are the job descriptions of a paramedic?
A MY job description is to provide pre-hospital emergency medical care and transport to the hospital.
Q All right. Where were you on November the 18th of 2020?
A I was located, at the time of this call?
Q Yes.
A I was located at a gas station in close vicinity of the call.
Q And tell the Court what happened.
A So we were posted at the gas station. We were made aware of a traffic accident down the street. It came in as a motorcycle versus automobile. We made our dispatch aware of response over the radio and we responded to the scene. We arrived on the scene to find, to find, I am sorry, to find the victim sitting on the side of the road. We noted an, we noted an abrasion to his scalp. We were made aware he was the occupant of the motorcycle. And we were advised that he was not wearing a helmet at the time.
Q When you say the victim, you are talking about the Defendant sitting right there?
A Yes, the Defendant.
Q Okay. And so what kind of procedure would you go through at that point?

A So at that time we were just doing an initial evaluation. We were concerned about the abrasion on his scalp as well as the fact he was allegedly, well, what we were told was he was ejected from the motorcycle he was riding while he was not wearing a helmet.
Q Okay. And then what happened?
A Initially we, we tried to assess him and tried to provide care. He initially said no. I believe I wrote in my report, I will sign whatever you need me to, I am not going to the hospital. And we attempted to convince him to go to the hospital with us. He continued to refuse. And upon the arrival of law enforcement he said he would let, he would let us transport him to the hospital.
Q So you were the first on the scene?
A Yes, we were.
Q Before law enforcement arrived?
A Yes, sir.
Q Did you notice any sort of black saddle bag near the Defendant?
A Yes, I noted a black saddle bag in his immediate vicinity.
Q Okay. And at the point, so would you have, if he had signed waivers --
A Yes.
Q -- to not be transported, what would you have done?

A If someone answers all of our orientation questions, we make sure they are oriented; person, place, time, event and make sure they are aware of their injuries. And we make them aware of the risks, to personal health in refusing transport to the hospital for evaluation by a physician. After insuring they are of sound mind we would have them sign a, we would have them sign a waiver showing they have the capacity to refuse care and that they are refusing care at this time.

Q Was Mr. Swaringen conscious at that time?

A Yes, he was.

Q He could answer your questions?

A Yes, he could.

Q And so if he had signed a waiver would you have forced him to go to the hospital?

A No, we would not have.

Q Okay. So he voluntarily agreed to go --

MR. WISE: Objection, Your Honor, a leading question.

THE COURT: Okay. Rephrase it.

Q What happened next?

A Upon law enforcement arrival he began, he agreed to let us transport him to the hospital.

Q Okay. What all preparation would you need to get him ready to go to the hospital?

A So I believe we removed the jacket he was wearing.

We put a cervical collar which would hold his head in line, in place. And then we got him loaded and packaged onto the stretcher.

Q What happened with the black saddle bag?

A Since it was, since it was in his immediate vicinity we assumed it was a patient belonging and we loaded it into the ambulance along with him.

Q Is that usual procedure?

A Yes, we normally transport patient belongings with patients to the hospital.

Q At any point did Mr. Swaringen deny ownership of the bag?

A I don't believe it was ever mentioned during transport.

Q And where were you during transport?

A I was sitting, he was on the stretcher, I was sitting -- I was sitting in a chair which was facing him so I could provide care and provide monitoring.

Q Did anyone besides the Defendant tell you to transport him?

A No, sir.

Q Did you ever go into the black saddle bag?

A No sir, I did not.

Q Do you have any law enforcement experience?

A No sir, I don't.

Q During transport did the Defendant protest?
A No sir, he did not. The only thing I recall him saying to me during transport was asking where his cell phone was. And he, we were unable to locate a phone but I did not look in the saddle bag for the phone.
Q And where did you take Mr. Swaringen?
A We took him to Greenville Memorial Hospital as our protocol for trauma patients. Under hospital and our protocol he was a level two trauma alert due to his mechanism injury. So upon, we transported him emergent to the hospital and upon arrival we took him into the trauma bay at Greenville Memorial.
Q And where were you during the transport?
A During the transport to the hospital?
Q Uh-huh.
A I was sitting in the attendant's chair facing the Defendant.
Q Okay. Please answer any questions the Defense may have.

CROSS-EXAMINATION

By Mr. Wise:
Q Mr. Henry, when you first go there you said that, Mr. Swaringen said, I don't want to go to the hospital?
A Yes, sir.
Q Correct. And during the process of his not wanting

to go to the hospital did you do just standard evaluation to determine if he was oriented as to place and time?
A Yes sir, we always do.
Q And you determined he was?
A Yes.
Q Correct. He was speaking in coherent sentences?
A Yes.
Q Speech wasn't slurred?
A Yes, speech was not slurred.
Q Nothing to indicate he was under the influence of alcohol or drugs?
A No, sir.
Q So when he told you that he didn't want to go to the hospital did you then go get a form for him to sign?
A No sir, we did not. We have a computer that we normally take around with us. If he had of refused and we started doing the refusal paperwork we would have gotten said computer out and brought it to him.
Q But he did refuse?
A Yes, initially.
Q Right. I mean he refused more than once?
A Yes.
Q Correct.
A Initially, yes.
Q I mean, the first two or three minutes he refused

more than once?
A Yes, he initially refused.
Q All right. We may not be communicating. And he initially refused more than once to go, to get treatment, correct?
A Yes, but he --
Q He told you several times, I don't want to go to the hospital?
A He later, he later consented to transport, sir.
Q Before the transport he told you several times --
MR. BLOUIN: Your Honor, we would object. He has asked that question five times. The witness said, yes, he initially refused and then he changed his mind.
THE COURT: Okay. Give just a little lead-way but I know, I know, I have got the gest of it.
Q Before he was transported he refused more than once to go to the hospital, correct?
A Yes, on the initial encounter.
Q All right. And how long was it after you got there that the law enforcement arrived?
A I do not recall the exact span of time. I believe it was within probably two, three or four minutes though.
Q So two, three, four minutes he refused to go to the hospital and you didn't acquiesce that, did you?
A I mean, if we, if someone refuses with us we aren't

going immediate -- we aren't going to say, okay, you answered the questions right and then immediately leave.

Q How long does it take you to determine whether or not someone can freely and rationally refuse treatment?

A Initially we have to determine mental status. So that would involve him answering our orientation questions which we did ask. And we would do, we probably just do a brief visual assessment of what kind of injuries he had.

Q And you did the orientation questions with him?

A Yes sir, I did.

Q And determined that he qualified to refuse?

A Yes, sir.

Q And at that point he was still refusing to go?

A Yes, sir.

Q How long does it take you to do the orientation questions?

A It takes me all of about, maybe 10 to 20 seconds.

Q Well, certainly 30 seconds.

A Yes.

Q So in a period of about 30 seconds after your arrival you were able to determine that he was rationale enough, oriented enough to refuse treatment. Is that correct?

A Yes.

Q And when you determined he was rationale enough and oriented enough to refuse treatment, you stayed there for

some three to four minutes asking him if he wanted to get treatment?
A Yes. We also have to gather other information like, exactly how he was injured; the events, the events that occurred, that lead to him being injured.
Q And you got that information from him?
A Yes. And we have to make a case advocating for transport to the hospital. We are not allowed, we are not allowed to, we are not allowed to tell someone they are not allowed to go to the hospital. We always have to recommend transport.
Q All right. And if they recommend transport and don't want to go you are suppose to print out a form and have them sign it waiving their right, waiving any transportation to the hospital?
A Yes. We have a form on our computer. We would have to start a narrative, obtain his information as well as some basic medical history.
Q And you never printed one of these forms out?
A No, they are not printed. They are digital, sir.
Q How would he sign it?
A Our computers have a touch screen that allows people to sign.
Q So he could get to the computer and sign that?
A Yes.

Q You never brought it up for him to read?
A I am sorry?
Q You never brought it up on the screen for him to read?
A Yes, I would have and I would have explained the contents.
Q Did you ever bring it up on the screen for Mr. Swaringen to read?
A No sir, we did not get far enough in our assessment of him.
Q Okay. And then when you got him there you tied him to a backboard?
A No, we did not tie him to a backboard.
Q How did you transport him?
A We put a cervical collar around his neck and then helped him off his feet and onto a stretcher.
Q And then did you secure him on the stretcher?
A Yes, we did.
Q And it took you, so in less than one minute you were able to determine he was perfectly okay to refuse treatment?
A Yes, under a minute, on our initial arrival on the scene.
Q And you did not honor his request?
A No, sir. I honored his request when he later

retracted his initial statements and agreed to let us transport him.

Q You didn't honor his initial request to refuse treatment?

A I don't understand what you are asking.

Q Okay. When you determined he was oriented as to time and place, when you determined that he was perfectly capable of refusing treatment you did not, at that point, honor his request to refuse treatment?

A We didn't make a motion to move him onto the stretcher before he agreed to let us transport him to the hospital.

Q All right. We miss-communicated again. You said that within a minute you determined he was oriented as to time and place. Is that correct?

A Yes.

Q And within a minute he knew he was rational enough to sign a form to refuse treatment?

A Yes.

Q And within a minute he had at least once refused, told you he didn't want to go to the hospital?

A Yes.

Q All right. And when he told he didn't want to go to the hospital you did not go get the computer screen for him to sign digitally and refuse treatment, did you?

A That is somewhat a time consuming process. It takes a couple of seconds to go in and get the computer. In that time we have got, we have got to explain the mechanism of his injuries as well as his injuries to him and our reasons for suspecting possibly internal injuries and advocating for transport to the hospital.
Q And was there any basis to be suspicious of internal injuries?
A The one thing I was most concerned about was he was ejected, we were told he was ejected from a motorcycle. He had an abrasion to his head and he was not wearing a helmet. That makes us suspicious for a concussion.
Q Correct. But then you did your test which make, orient to time and place which eliminates a lot of that suspicion.
A Yes.
Q Okay. So he was perfectly capable of refusing treatment?
A Yes.
Q According to your policy?
A On our initial arrival, yes.
Q You just never filled out the form for him to sign?
A No, we didn't get that far.
Q Did you pick up any of his belongings there at the scene?

A Yes. There was a saddle bag right next to him at the scene.
Q Did you pick up anything else?
A No sir, I don't believe so.
Q Okay. And what was done with that saddle bag?
A It was loaded into the ambulance with him and it remained on the floor of the ambulance during transport.
Q So you did not put a, put a spinal board on him?
A No sir, we did not.
Q I want you to review these notes here and look at the part that is underlined. Does that refresh your memory?
A Yes, it does.
Q And you did use a spinal board?
A Okay. Yes.
Q And you tied him to the spinal board?
A Yes, we secured him to it.
Q You have to?
A Yes.
Q And once he was on that spinal board he was not able to move around at all?
A No sir, he was not.
Q He was pretty well restricted?
A Yes, sir.
Q And before you put him on the spinal board he was telling you he didn't want to go to the hospital?

A Yes, sir. Then he later agreed to transport to the hospital.
Q Was that after he got on the spinal board?
A It was beforehand, sir.
Q All right. So do you remember about how long you were there before he got on the spinal board?
A No sir, I do not remember. There should be a timestamp for the intervention on my report though.
Q It shows about a minute and a half. Correct me if I am wrong, from the time y'all arrived.
A Yes sir, I can see that now.
Q So he got on, you put him on the spinal board within a minute and a half, correct?
A According to my report, correct, sir.
Q And you testified earlier that for a good while when you first got there he was telling you he didn't want treatment?
A I do not recall the time between our initial arrival and seeing the arrival of law enforcement. I do know after law enforcement arrived on scene he agreed to allow us to transport him to the hospital.
Q So if law enforcement didn't arrive on the scene for a minute and a half, you had him on the spinal board while he was still saying, I don't want to go to the hospital?
A Sir?

MR. BLOUIN: Your Honor, he has already answered that question. He asked him if he put the spinal board on him before he -- he has already answered, yes. He is asking the same questions 18 different ways.

MR. WISE: That is not the same question, Your Honor.

A If you want me to reiterate what happened on the scene. We arrived on the scene, we made our initial contact with him. He made his initial refusal. We attempted, we attempted to explain his injuries to him. He continued to refuse. Law enforcement arrived on the scene and he agreed to let us transport him to the hospital. After that, after that statement we placed him on the spinal board and placed a surgical on --

Q But you testified earlier it was about four minutes before law enforcement arrived?

A Sir, you are asking me to provide a rough estimate at the time of our arrival on the scene and law enforcement arrival. I do not recall that exact timeframe.

Q Well, it was certainly more than a minute and a half?

A Sir?

Q It was certainly more than a minute and a half?

A Between our arrival and law enforcement's arrival? Yes.

Q Were you able to view a law enforcement report on when their arrival on the scene time was? I am asking you

if it was more than a minute and a half?
A Sir, that was over a year and a half ago, I do not --
Q You don't know.
A I do not recall the time between our arrival on the scene and law enforcement's arrival on the scene.
Q In which case Mr. Swaringen could well have been lying on that spinal board telling you he didn't want to go to to the hospital too, couldn't he.
MR. BLOUIN: Your Honor, he has already asked and answered those questions.
THE COURT: Let's move along.
Q I don't think I have got a good answer. All right. Let me rephrase it a little bit here, try to clarify something. It was several minutes before law enforcement got there or do you know?
A I know law enforcement arrived on the scene shortly after our arrival on the scene.
Q But you don't know --
THE COURT: He said he didn't know.
Q You don't know when they got there. So if law enforcement -- would you agree that Mr. Swaringen was on a spinal board about a minute and half from the time you got there, according to the document you looked at?
A Yes, according to the document.
Q All right. Thank you.

THE COURT: Thank you. Anything further?

REDIRECT EXAMINATION

By Mr. Blouin:

Q Just to clarify, Mr. Swaringen, did he consent to be transported?

A Yes sir, he did. In schooling and in training we are made, we are made aware multiple times that we cannot transport conscious, alert, oriented patients against their will.

Q No further questions.

THE COURT: Anything to that one question?

MR. WISE: Nothing further.

THE COURT: You may step down, please be careful.

MR. BLOUIN: Your Honor, just so we are not potentially, not arguing everything again. Since this seems to be about the seizure, you know, the State would move that the testimony shows that the paramedic got permission from Mr. Swaringen to be transported therefore it wouldn't be any sort of illegal seizure under the Fourth Amendment. He also stated that no one told him to transport Mr. Swaringen other than Mr. Swaringen. So I don't see how they could say he is acting as some sort of state actor on behalf of the state actor; considering the fact that Mr. Swaringen just got hit from behind on a motorcycle with no helmet, bleeding from the head. And

EMS was the first on scene. And while he initially stated, which EMS said he did not want to go, he eventually relented and would not have been transported but for his permission.

THE COURT: Well, are there any other witnesses?

MR. WISE: First of all, as a County EMS person, he is an agent of the government and he can no more seize a person on the street than law enforcement. That was established in Ferguson versus City of Charleston case by U.S. Supreme Court years ago. So our contention would be that once he determined that Mr. Swaringen was oriented at the time and place and then all the criteria to refusing, he had no reason to seize him and take him from that point on. You know, the seizure of Mr. Swaringen is just one issue in this suppression motion. Okay.

MR. BLOUIN: He didn't, to hear a whole bunch of other stuff and then have to go back and get confused.

MR. WISE: That is our basic position, that he is an agent of the government and he has no part to the seizurement of Mr. Swaringen when Mr. Swaringen clearly and unequivocally said, I don't want to go. And apparently, it sounds like only went when law enforcement had some impact on it. But still, I think it is an improper seizure of Mr. Swaringen after he clearly had invoked his right not to receive the treatment which he

has a constitutional right to do under our State Constitution and Right of Privacy.

MR. BLOUIN: I guess we will move onto the search aspect. The State would call Lisa Edmonds.

Lisa Edmonds, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Blouin:

Q Ms. Edmonds, where were you employed on November 18th of 2020?

A I worked at Prisma Health, Greenville Memorial Hospital.

Q And what was your job?

A I am, the Emergency Department, was the family/patient liaison.

Q And what does the family/patient liaison do?

A We wear lots of hats. We communicate with the family and the patient. Part of that job include my inventorying the belongings of patients.

Q So let's talk about that. Why would you inventory the belongings of patients?

A For, both the benefit of the patient and the hospital. Often times people come in with valuables that need to be locked up into the safe. And so we inventory those and then lock them in the safe so the person can

retrieve them later.
Q And who tells you to inventory these items?
A It is just part of the hospital protocol.
Q And that is Prisma?
A Correct.
Q Did law enforcement, hospital police or any other entity ever tell you to search bags?
A No.
Q Whose belongings were inventoried when they come into the ER?
A Everyone.
Q No matter where they are from?
A I don't know where anybody is from.
Q You don't know the Defendant?
A No.
Q And, so did you inventory the Defendant's belongings when he came into the emergency room?
A Yes.
Q And what did you find when you inventoried Mr. Swaringen's belongings?
A There was a suspicion that there were drugs.
Q And were there any law enforcement in the trauma bay?
A No.
Q What were you trained to do if that is what you found?

A I am sorry, say that again.
Q What would you do next once you found, or inventoried what you believe to be suspicious things?
A If I see something suspicious I don't inventory it, I just immediately put a call into the hospital police.
Q Was Mr. Swaringen in the trauma bay at the time you did the inventory?
A No, he was not.
Q Have you ever spoken to Mr. Swaringen?
A I believe I spoke with him when he probably came back.
Q But nothing prior to that?
A No.
Q Is Prisma the same entity that the hospital police are with?
A No.
Q Two separate, and you work with Prisma?
A I work with Prisma.
Q And that was police?
A Correct.
Q To inventory?
A Absolutely.
Q All right. So you are no longer employed with Prisma?
A Correct.

Q And why are you no longer employed?
A I was let go.
Q And why were you let go?
A I looked in my husband's chart and printed out some information which was against the HIPPA.
Q All right. Prior to that had you ever been accused of wrongdoing with Prisma?
A Absolutely not.
Q And do you have any sort of criminal record?
A No.
Q Have you ever been accused of stealing anything?
A No.
Q Have you ever been accused of putting things with people that aren't their's, planting things?
A No.
Q Let's talk about the trauma bay.
A Yes.
Q Can you describe the shape of the trauma bay?
A It is one very large room with a curtain that separates the two beds. And we enter in through the front and go to either trauma bay one or trauma bay two.
Q How many ways in or out of the trauma bay are there?
A One.
Q Okay. So is there a way for any sort of law enforcement entity to get into the trauma bay without

going through the front?
A No.
Q Did anyone in law enforcement tell you to inventory Mr. Swaringen's things?
A No, that is just a given, something we do when each patient arrives.
Q Please answer any questions the Defense may have.

CROSS-EXAMINATION

By Mr. Wise:
Q Ms. Edmonds, do you have a copy of the policy of the hospital for inventorying patient's property?
A Not with me, no.
Q Do you know if one exist?
A I believe it does.

MR. WISE: Your Honor, we haven't gotten it in any discovery. I think it is somewhat relevant. I don't know if the State can get it or has a copy.

MR. BLOUIN: I can try to get a copy.

MR. WISE: We have subpoenaed numerous records from them and we don't, we haven't been able to find it.

THE COURT: The Solicitor says he doesn't have it.

MR. WISE: Excuse me?

THE COURT: The Solicitor says he doesn't have it either.

Q You think there is a written policy?

A I assume so but I can't answer that question.
Q And the part of this is to, I guess, prevent suspicion of people stealing stuff?
A I am sorry?
Q Part of the reason for having an inventory is to prevent an accusation that somebody in the hospital stole something?
A It is for the protection of both parties.
Q Right. That is one of them. And one of them is the hospital and the other one is the patient.
A Absolutely.
Q So it is protection of both of them?
A Correct.
Q So what does the policy say about doing the inventory in the presence of the patient?
A I can't answer that question.
Q You can't. So you understand that if an inventory is done out of the presence of the patient, it kind of eliminates protection for the patients as to whether or not anything is taken?
A Well, it is done for all patients, patients that come in that are incapable of speaking so we just do it for all patients.
Q Is there any policy that if a patient is comatose or unconscious, that the inventory has to be done then by two

people?
A There is always two people in that area when that is done.
Q Who was the other person with you?
A I can't tell you. There were several nurses in there as well as the business office came in.
Q But you did this inventory when Mr. Swaringen was out of the room?
A Correct.
Q And who sat there with you and watched this inventory to make sure it was done properly?
A Again, there were several people but I can't give you names.
Q Did you do a list of the inventory?
A Yes, we do a list.
Q Do you have it?
A I have nothing, that is all hospital property. And it would be a HIPPA violation for me to remove it from the hospital.
Q All right.
MR. WISE: Again, we don't have an inventory list of anything that was taken. And I assume if the inventory was done properly it would have her signature on it and perhaps another nurse while, you know, if it was done out of his presence.

Again, do you have that?

MR. BLOUIN: I am sorry.

MR. WISE: Do you have the inventory?

MR. BLOUIN: I do not have an inventory.

Q And obviously, Mr. Swaringen wasn't in the room, it was done without his consent?

A Correct.

Q Okay. Did you go to any training on how to do these inventories or anything like that?

A I don't believe any training is necessary.

Q Is there a security station in the hospital?

A There are several security stations.

Q And there is one not too far from the emergent, from the ambulance entrance, emergency room entrance.

A Of course.

Q Do you know what the policy is about carrying any personal belongings that may come in with an ambulance to the security station first for inspection?

A I would think all of that information would be with our legal department. So I wouldn't have that.

Q And you wouldn't, you have never been taught anything about it while you were there?

A I don't, what?

Q You haven't been taught anything about the responsibility of any security people to inspect bags that

come into the hospital?
A I have no idea what the security's responsibilities are. That would be something they have to answer. I am not part of that department.
Q And it hadn't been part of your training?
A No.
Q Even when you were taking training on doing inventory searches?
A We weren't given training on inventory searches.
Q Okay.
A I mean it is not a search, so.
Q It is just a look through. And you just generally look in there to see what is in there?
A Pardon?
Q You are just generally told to look through stuff and see what is in there?
A No, not at all, sir.
Q So what were you taught as to how to do the inventory searches?
A Inventory was strictly for the protection of the person that was the patient. We would log clothes, clothes that they had on; glasses; whatever they had; a wallet with credit cards, those would be locked up. Anything that we felt needed to be protected.
Q And do you remember whether any credit cards or money

of Mr. Swaringen's was --
A I do not --
Q I assume that would be on the inventory list?
A It should be, yes.
Q That we don't have here today.
A That should be in the records.
Q Do you even remember what you found in this black bag?
A No, I look through, probably looked through hundreds since he came in. So I cannot.
Q Okay. Do you recall what all was in the black bag?
A No.
Q Do you recall where you found the drugs?
A I can't answer specifically where they were found. They would have been in his belongings that had been brought in. So whether it was the jacket or the, I can't answer that.
Q But you don't know if, what it was found in was actually his belongings anyway, do you?
A It would have had to be his belongings.
Q Well, it was in the bag that was brought in with him?
A That is correct.
Q And you are assuming that whatever is in that bag is his belongings?
A That is correct.

Q But you don't know what it was found in, what drugs were found in?
A I am sorry.
Q You don't know what the drugs were found in, inside the black bag?
A I guess I don't understand.
Q All right. Were the, let me rephrase my question then. Were the drugs loose inside the black bag?
A When you say loose. I know, I am sorry.
Q Was it a bunch of little plastic bags inside the black bag?
A Yes.
Q And they weren't in another container?
A No.
Q Okay. Thank you.

REDIRECT EXAMINATION

By Mr. Blouin:
Q You found something in his belongings, what did you do?
A Pardon?
Q What did you do when you found what you believe to be drugs?
A We are instructed to call law enforcement, stay with that until law enforcement, within the hospital which is a separate entity. So I contacted them, let them know if I

find anything that is suspicious, whether that it is a knife, a gun, appearance of drugs; and then come and make that determination.

Q Just to clarify, what kind of cases do y'all see in the trauma bay?

A Everything.

Q It is the emergency department?

A That is correct.

Q So what all is going on in there, are things moving fast?

A Yes, they can be.

Q How many people were in the trauma, are being treated in that trauma bay during this instance?

A I am sorry, repeat.

Q How many people were in that trauma bay during this instance?

A Employees?

Q No, no, no. Patients.

A Just the Defendant.

Q Just the Defendant?

A Correct.

Q That is all the questions.

THE COURT: Anything else?

MR. WISE: Nothing further.

THE COURT: Ma'am, you may step down. Please be

carful.

MR. BLOUIN: The State would call Chris Miller.

Chris Miller, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Blouin:

Q Officer Miller, where are you employed?

A Greenville Health Authority Police Department.

Q And how long have you been employed there?

A I have been employed there for about a year and eight months.

Q And where were you previously employed before then?

A I retired from the Greenville County Sheriffs Office after 25 years.

Q And where were you working on November 19th of 2020?

A I was working in our substation which is in the emergency room.

Q And were you present when the Defendant came in?

A I was not, I was working in the office and then I was dispatched.

Q Okay. So you did not search any bag?

A No.

Q When were you made aware that there were potential narcotics there?

A When I got the call from dispatch.

Q Did you instruct anybody to search any bags?
A No.
Q Does the officers of the Greenville Health Authority, do they tell people to search?
A No.
Q So when are you called?
A When some medical staff or another hospital employee finds something that they think to be contraband.
Q Did, when you responded was the Defendant in the trauma bay?
A Yes. He was on his way into the trauma bay.
Q Okay. Now, when you were called was the Defendant --
A Yes, he was --
Q Was he in the bay?
A Yes, he was, just had been brought to the bay.
Q Is the Greenville Health Authority part of Prisma?
A No.
Q Did you question the Defendant during any of this?
A No.
Q Please answer any questions that the Defense has.

CROSS-EXAMINATION

By Mr. Yarborough:
Q Did you prepare the investigative reports and stuff in this case?
A Yes, I was the lead investigator. Yes, sir.

Q Did you work from notes or how did you do it?
A No, I did not work from notes.
Q You didn't work from any notes?
A No, sir.
Q Do you have any notes that show who found the drugs that day at the hospital?
A No, I do not.
Q Did you put that in any of your reports?
A As far as who found, no.
Q Do you know the name of the person that found the drugs?
A Yes, I do.
Q What is that person's name?
A That is Ms. Edmonds.
Q Do you, are you aware that during the process of the search being made, have you reviewed the Prisma Health reports?
A No, I have not.
Q Will you look at, what was reported from the Prisma Health reports for 22:09:27, (phonetic), that's what time?
A 10:09.
Q 10:09. Who made that report?
A It says Kelsey Lynn Ridgeway.
Q So she is the one that reported the drugs, isn't that right?

A Yes.
Q It wasn't the lady that testified in court today?
A Right.
Q Let me ask you this. You did an incident report, you are Officer Miller, right?
A Yes.
Q Okay. And in your incident report, does it identify who found the drugs?
A There is no name listed.
Q It just says, she, isn't that correct?
A Yes.
Q Is that correct?
A That's correct.
Q And on that night, Mr. Swaringen was brought in on the ambulance, the EMS worker who testified here, he removed the bag from the ambulance. Is that correct, are you aware of that?
A I was aware that it was brought in by EMS.
Q We are going to go to that in a minute. But at some point, does that EMS man hand the black bag to you?
A No, sir.
Q So if there is an EMS report that says that the bag was given to security and trauma, who would that have been?
MR. BLOUIN: Your Honor, he is asking him to

speculate on someone else's report that I can't even say he has even read. I think he is saying, who could it have been. Pure speculation.

THE COURT: Let's see if he knows. He might and he might not.

A I wouldn't know. There is also security officers that work there too.

Q There is a security officer that works there as well that would have had that bag and would have gone through that bag. Is that correct?

A I would not know that.

Q The policies of the hospital are, that once the security is given the bag, the purse, whatever; they check that for weapons at that point. Isn't that correct?

MR. BLOUIN: Your Honor, he is stating policy, that no one has shown any policy.

THE COURT: Wait a minute. He might know the policy and he might not. Let's see.

Q You work there, right?

A Right.

Q And look, people come in and you are given purses, you are given all kinds of stuff. Security gets that from the ambulance, right?

A They do get purses.

Q They get them from the ambulance when the ambulance

driver comes in. And it is securities job to check the bag, right?
A Yes.
Q Okay. And so, at some point security had checked that bag?
A I have no idea because I was not there.
Q So if I have an EMS report that says that security checked, was given that bag. Is that correct or is that not correct?
A I would have to go by what the report says because I was not there.
Q So that would have been, that would have been something else. And what, do you know what the policy is for the, what are you checking for in the bags. Isn't it for public safety?
A Public safety.
Q It would be public safety. And so if there is not a gun or a bomb or a knife in there it is, that is, I mean you have got women coming in all the time that are pregnant, right?
A Yes.
Q Okay. And nobody is going through, checking their purse to see any guns, knives or bombs in there. That is just sent through, isn't that right?
A Yes.

Q They are not inherently searched piece by piece, right?
A No, they are looking for weapons.
Q And at the point that there was not a weapon found, that is the end of the search?
A I don't know what the hospital policy is.
Q But the hospital policy can't be to check every little compartment that is in a bag, can it?
MR. BLOUIN: Once again, speculation. He just says he doesn't know what the policy is.
Q You worked for the Greenville Sheriffs Office for 25 years. Wouldn't that be an invasion of privacy?
A If law enforcement did it.
Q But law enforcement had this bag, right?
A I never had this bag.
Q Okay. So EMS says that, is that just wrong. How about this, do you know?
A I don't know because I never had the bag in my possession.
Q Okay. Did you have a black bag in your possession?
A No.
Q You never had a black bag in your possession?
A No, sir.
Q Did you ever inventory that bag?
A No, sir.

Q No. Officer, look, and I am not trying to put you on the spot, I am just asking this simply. You are the police officer that is there. You are the cop on the scene, right?
A Yes.
Q Okay. And there is, has to be something, had to have been trained how to handle situations about stuff coming in and out, right? Was there no training?
A That is not our job.
Q Okay. Thank you. I don't have any more questions. Wait a second. Did you ever take any pictures of the bag?
A Of the bag?
Q Yes.
A I don't have my case.
Q You don't have your case file with you?
A No, sir.
Q If I, one second. Is this a picture of the bag?
A Yes, sir.
Q Did you take that picture?
A I did. I just couldn't remember.
Q Excuse me?
A I couldn't remember.
Q And did you search this bag?
A No, sir.
Q Did you search things that were in this bag? You

didn't search it at all?
A Didn't search it at all.
Q Okay.
A No further questions.
THE COURT: Anything?
MR. BLOUIN: Just to clarify.

REDIRECT EXAMINATION

By Mr. Blouin:
Q You had possession of the bag before the inventory was conducted?
A No.
Q No further questions.
THE COURT: Anything to that one question.
MR. YARBOROUGH: I don't think I understood his question, Your Honor, and I apologize. What did you?
MR. BLOUIN: I asked him whether he had possession of the bag before the inventory and he said no.

RECROSS-EXAMINATION

By Mr. Yarborough:
Q Do you have an inventory of what was in the bag?
A No. Just items that were handed to me.
Q Nothing further.
THE COURT: Officer, you may step down.
MR. BLOUIN: The State calls Alvin Harrison to the stand.

Alvin Harrison, being
first duly sworn, testified as follows:

THE COURT: If you will state your name and spell your name for Madam Court Reporter, please.

MR. HARRISON: Al Harrison; last name, H-A-R-R-I-S-O-N.

DIRECT EXAMINATION

By Mr. Blouin:

Q Mr. Harrison, where are you employed?

A I am a contracted Investigator with Prisma Health.

Q And what is your duties?

A How much time do you have. One of my primary duties is to review security and police reports and save any video footage that may be available in reference to those.

Q Did you save any video from this incident?

A I did.

Q I am going to approach, mark this as State's exhibit 1.

(Whereupon, State's Exhibit 1 was marked for identification only.)

Q Do you recognize this DVD?

A Yes.

Q What is this a DVD of?

A It should contain footage of the incident in question or in reference to the report that was written.

Q And how do you know that is what is on this DVD?
A It should have been put on there by case number.
Q Okay. And did you sign that?
A I did.
Q And date that?
A Yes.
Q And is this accurate representation of what you saved from that night?
A Yes.
Q At this time I am going to play the video. We have got to figure this screen, turn us on here.

(Whereupon, a DVD was played from 2:45 through 2:48 p.m.)

MR. BLOUIN: Your Honor, I have no more question for Mr. Harrison. But what I was going to do, after their cross I was going to recall Lisa, just from what we are seeing.

Answer any questions the Defense may have.

CROSS-EXAMINATION

By Mr. Yarborough:

Q I am Bill Yarborough. We have talked before. You told me, let me ask you this. A lot of this video is missing, isn't that right?
A There is video that is directly in the trauma bay. Unfortunately that night with electronics those cameras

were out, I think it was for a couple of days before they were repaired.
Q So part of what went on in the trauma bay was not --
A Would not be available.
Q Would not be available.
A Just so I can let you know. The scope of the cameras in the trauma bay are limited because they don't want direct views of people's chest cavities being opened up, things of that.
Q So we don't, we don't see on here the search of the bag, is that correct?
A I don't believe you can see it. I think the curtain may obscure it from the angle we have.
Q Perhaps you see somebody in the back doing something but it --
A I don't know that you can see it directly.
Q Right. You told me that. But let me ask you this. The bag coming in from the ambulance to the security people, you don't have video of that?
A No, I don't believe we do.
Q Right. And what happened is that video got destroyed, is that right?
A No, that is incorrect. It was not recorded.
Q Okay. When you say, don't they, when the ambulance pulls up they record people coming --

A No, they recorded --
Q They recorded --
A I didn't save it.
Q What?
A It wasn't saved, that long duration of time. Once he arrived, was taken off the ambulance and brought into the hospital, maybe a few more minutes transpired and then that video, I didn't save any more. I am extremely limited, we have got thousands of cameras so I have to be very carful on how much information I save just from a storage aspect.
Q Well, you know, when this happened you were alerted by Officer Miller that we needed to keep this stuff, right?
A No.
Q He didn't alert you to it?
A No, sir. I pick the reports and try to find things and save what I can to help.
Q But you erased the bag coming in from the ambulance to the trauma?
A No sir, I don't erase video, I can't.
Q It got destroyed, didn't it. What's the right term?
A It wasn't saved. That particular part of the bag coming off, the person coming off, yes. The bag coming off was not saved and after 15 to 20 days it just drops

off the server and is no longer available.
Q Okay.
A And a year and a half later it is certainly not available.
Q Right. So when we try to go back and get it it is not available?
A No, it is not going to be there.
Q And that, do you know, do you remember looking at it?
A Looking at the video?
Q Yes.
A Yes, I remember looking.
Q And did the bag go from the ambulance to law enforcement?
A No, it shouldn't have. If memory serves correctly, you see it come in on this camera view directly into the trauma bay.
Q If EMS says they gave it to security, you don't know anything about that?
A No, sir.
Q Okay. What is your job over there?
A I am a contract Investigator. But through that I do work with risk management, human resources, anything involving video for every campus in the upstate.
Q Okay. And are you aware of the hospital's policy of searching personal items?

A I don't know that it is a policy or protocol. I do know that anyone who is brought in via EMS and is put in the trauma bay or even in certain rooms that they inventory their property.
Q They inventory their property. I mean, so there would be an inventory of what, what was found in that bag. There should be if it was policy?
A If it were policy but I don't, I am not sure what their policy is.
Q Who would know if you didn't know?
A Whoever is over the ER probably would have that information.
Q Nothing further.
THE COURT: Anything from the State?
MR. BLOUIN: Nothing from the State.
THE COURT: You may step down, please be careful.
MR. BLOUIN: The State would just recall Lisa Edmonds.
THE COURT: You are still under oath, you don't have to be re-sworn.

DIRECT EXAMINATION

By Mr. Blouin:
Q Ms. Edmonds, looking at the video, can you identify yourself?
A Yes. I am the person, I guess you would say in the

back on the far right.
Q And we are going to play this video a little bit forward. And while this is playing, can you kind of point out where that trauma bay is?
A Yes, the trauma bay is directly behind where the curtains are. We always draw the curtains for the patients privacy because they are generally disrobed at that point.
Q And that is the one way in and the one way out?
A That is the one in and out. And I do generally wait there until they take the patient over to CAT scan before I enter. Obviously there is a lot of activity.
Q So when they remove someone from the trauma bay, where do they particularly go next?
A Almost always they are going to CAT scan. Directly behind that wall is a podium, being the curtains. And that is where the nurse is standing that is recording everything. Often times they are standing there also recording the belongings of the person. So they are taking orders from the doctors and everyone to put into that chart.
Q And I know it is not hard to see, but that is you in the trauma bay?
A That is me.
Q And are you by yourself in the trauma bay?

A No. And there would have, more than likely and it is hard for me to tell, there would have still been the nurse in charge up on that podium making notes. You can see a nurse bending down. She would have been assisting either with getting clothes and bags or possibly things that came off that were, that can be bloody or have bodily fluids on them. That is why we wear gloves.

Q Would this also be around the time you were performing an inventory?

A Correct. And often times I would be dictating to the person on the podium what has been found. One of the reasons --

MR. YARBOROUGH: Your Honor, I am going to object. she is just, not being asked questions.

THE COURT: Okay. Let him ask you a question, Ma'am.

MS. EDMONDS: Sorry.

Q Could you tell us what is going on, I guess, right now?

A Looks like the police officers are arriving which would indicate that I have found something that is out of the ordinary and that is questionable. And they have been contacted.

Q Okay.

A To arrive and check it out.

Q Please answer any further questions that they have.

CROSS-EXAMINATION

By Mr. Wise:

Q Who was the nurse that was sitting down or bending down on the floor?

A I cannot tell.

Q Who was the nurse on the podium?

A I don't know. It will be in the records.

Q You don't remember that?

A No.

Q Okay. Does the nurse stay on the podium even when the patient is out of the room?

A They can. It depends on how much they still have to type in regarding his doctors or giving them blood pressure, all kinds of information.

Q So it would be fair to say that you don't know for sure if the nurse was on the podium at that point?

A Not at that angle.

Q You don't have any independent recall of the nurse being there at that point?

A No, sorry.

Q Thank you.

THE COURT: Anything at all as to those questions?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: Ma'am, you may step down again.

MR. BLOUIN: Those would be the State's witnesses.

THE COURT: Okay. We are running on time. We are running about 90 minutes and we started roughly at 1:30. So everybody, we are going to take about 15, 18 minutes recess.

(Whereupon, a short break was taken.)

THE COURT: Counsel?

OFFICER: He wants to talk to his lawyers. Is that okay, Judge?

THE COURT: Yes.

(Whereupon, a short break was taken while Mr. Swaringen talks to his layers.)

MR. BLOUIN: Your Honor, as we start, just based on the earlier arguments as far as the seizure regarding the EMS or the paramedic who testified that Mr. Swaringen, while he may have initially not wanting to be transported, he did consent to be transported and that they would not have transported him had they got to the point of signing that waiver. We would, the State would say that that is a voluntary, there was no evidence to show that he was coerced or strongarmed or anything other than he changed his mind. And then as to the search. Your Honor, I believe the testimony of Ms. Edmonds who is not a law enforcement officer, who worked as a nurse who testified to the fact that it is a, that they conducted an inventory per Prisma for their protection and the patients as well

so that they were not accused of stealing anything or those sorts of issues. We showed the video where she said this is where I performed the inventory search. It was clear that law enforcement was not present. Law enforcement testified that they did not ask for her to search anything and the testimony shows that they are actually separate entities, the Health Authority and then Prisma. You know, the Supreme Court has basically ruled consistently that only government action, it is a wholly and applicable to search and seizure, even an unreasonable one affected by a private individual not acting as an agent of the government or the participation or knowledge of a government official. We would say that this would fit under that, this was not a Fourth Amendment seizure or search. And therefore we would ask that you deny the suppression motion.

THE COURT: Okay.

MR. WISE: Your Honor, I want to pass up to the Court the 2021 report of the Greenville Health Authority, the significant portion of which is, toward the back where there is a lease agreement between the Greenville Health Authority. And if you read the entire report it is kind of like the head of, the parent group of Prisma. And what that lease agreement shows is that the Greenville Health Authority is a political subdivision, its employees are

therefore are government agents. And they have basically set up a lease agreement with the Prisma group to run the hospital and therefore the Prisma employees would, in fact, be acting as government agents under the theory that the government cannot contract away their constitutional obligations. What we have here, I think first of all is the improper seizure of Mr. Swaringen. Excuse me, if you read Ferguson versus City of Charleston which is found at 532 U.S. 67, they very clearly say that nurses in a hospital that is a government entity are, in fact, government employees for that purpose.

THE COURT: MUSC, I know the case.

MR. WISE: That's correct, that's correct. The first problem we have is, granted the testimony is not clear and that actually should help us, not hurt us. We first heard testimony that Mr. Swaringen, for over four minutes, refused to go to the hospital until law enforcement got there. Then we find out that within those four minutes Mr. Swaringen is fastened to a backboard, apparently while saying, I don't want to go to the hospital. Well, I am going to tell you, once you are fastened to a backboard your choice going to the hospital is very limited because you are going to have to figure out a way to get out of those restraints to not go because he is going. So, when you restrain a person to a backboard and then you get his

consent to go that is kind of coercive consent, to say the least. So the seizure of Mr. Swaringen was improper. He has the absolute constitutional right to refuse medical treatment, there are several cases on that. He doesn't have to go for medical treatment as long as he is reasonably coherent. And in this case the testimony was he was very coherent, he passed all the psychological tests or the trauma tests they wanted. He was oriented in time and place and all of that. So he was perfectly capable of refusing to go. On the other search. There is some cases out there involving searches of property in the hospital and they analogize them to an inventory search of a car. To have a valid search you have to have a valid policy. You just can't say to your employees in the emergency room, check the personal property. You have to have a policy as to what they are to do. And amazing to me in this case is; one, they never mentioned to Mr. Swaringen, you know, can we search your property. They never did it in his presence and if there is an inventory of it we haven't seen it. We have seen no written procedures, no written rules as to how they are to do it, under what circumstances they are to do it. So if you watch the video, it sits there for several minutes before, I assume several minutes, before anybody inspects it, it is hard to say. The point is, it is a hit and miss thing.

If the hospital had a rigid procedure as to how you do an inventory search then the State could argue, the search of the bag in the room with Mr. Swaringen would be legal, but they don't. They don't have an inventory, they don't have a procedure, they don't know if they have one. As I say, it is just basically hit and miss and under those circumstances I think very clearly violates the Fourth Amendment, as an unreasonable search.

MR. BLOUIN: Just a quick response, Your Honor. And like I say, I am looking at this lease for the first time. This lease looks like a lease for property that is from Prisma, property that is owned by Greenville Health Authority. It doesn't seem to make any reference to any actions that the officers, who are employed by the Greenville Health Authority, you know, are all of a sudden working for Prisma. This, like I said, looks like a simple lease for property. And then as to something that Mr. Wise has stated. The testimony was not that they put him on the backboard before he agreed to go. The testimony was clear that he agreed to go and then they put him on the backboard. To say that, you know, sure, he was put on this backboard still saying he didn't want to go is not the testimony that we heard, that they did not start loading him or getting him prepped to go into that ambulance until he agreed to go.

THE COURT: Anything else?

MR. WISE: Well, on that response I would say, originally they were there for four minutes before he agreed to go. And then the officer, the EMS man had to admit that he was on a backboard like a minute and a half after they got there. So it seems to be very confusing and that, if it is not clear I think it helps our side.

THE COURT: Okay. Do we have other motions?

MR. BLOUIN: None from the State.

THE COURT: Anything else?

MR. YARBOROUGH: Nothing at this time, Your Honor.

THE COURT: Well, do we have any more pretrial motions?

MR. YARBOROUGH: No pretrial motions.

THE COURT: No pretrial, I know we will have things as we go along. But we don't have any other pretrial motions?

MR. BLOUIN: There is no ID's or Jackson v. Denno's or anything like that since there were no statements.

THE COURT: I want to do that all today while the jury is not here. I am told we don't have anything to that. You want to get Janeen up here, please, the person from the Clerk's Office, I want to chat with them. Get her, see if we can get her up here.

(Whereupon, a short break was taken while the Court

waits on the Clerk of Court.)

THE COURT: Thank you, be seated. We are going to go ahead and recess at this time for the afternoon. We will reconvene tomorrow morning at 9:00 a.m. sharp.

(Whereupon, the trial will resume the next morning at 9:00 a.m.)

June 8, 2022

THE COURT: All right. We are here on the matter of State of South Carolina versus Joseph Martin Swaringen. The indictment number is 2021-GS-23-006825. The Court took under advisement a motion to suppress yesterday. As to that motion to suppress, the Defendant himself, refused, initially refused transportation to the hospital and within two to four minutes, approximately, law enforcement arrived on the scene. Again, he volunteered to be transported. The EMS Officer did not get far enough along in the assessment before the Defendant volunteered to be transported. The EMS provider was providing medical treatment and he was following his treatment, his training, he was not confining him. He was stabilizing the patient, he was not confining him for law enforcement purposes. The paramedic did not grab a person off the street and strap him or her to a backboard. Here the Defendant was in a motorcycle versus car/motor vehicle accident and the paramedic was rendering medical aid.

There was no seizure of this Defendant under the Fourth Amendment.

As to the issue of the search/inventory. Critical help is a private or profit hospital, not a government actor. Unlike in Ferguson, Prisma Health objected by searching of the bag would not generate evidence for law enforcement purposes. It was not for the specific purpose of incriminating a patient but for the protection of both the hospital and the patient. And, again, there is no search under the Fourth Amendment. It was an inventory by a hospital employee, not a search by law enforcement. It is routinely done for liability purposes and she was not a government employee, not acting in concert with law enforcement and not acting under instructions or directions from law enforcement. She was not looking for contraband but was inventorying items for the benefit of both the patient and the hospital. Her hospital employer directed her to report any suspicious items or item to law enforcement and to safeguard that item or items until law enforcement arrived, which she did. This is not a search in violation of the Fourth Amendment. Therefore the motion to suppress is denied. Anything from the State?

MR. BLOUIN: None from the State, Your Honor.

THE COURT: Anything from the Defense?

MR. WISE: I didn't do it yesterday and should have,

we need to mark that report from Greenville HIPPA Authority and Prisma as a Court Exhibit 1 for purposes of our motion.

(Whereupon, Court's Exhibit number 1 was marked for identification only.)

THE COURT: We will do that. Anything from the State?

MR. BLOUIN: Nothing from the State.

THE COURT: From the Defense?

MR. YARBOROUGH: Just briefly, Your Honor. Judge Austin thought she was doing me a favor and moved me from 10:00 o'clock to 11:00 o'clock to do, pick the jury. And so they are asking me to be in Federal Court at 11:00 as opposed to 10:00. And I think she, the good news, we worked out the detention part so we are now just going over there to work on an evaluation issue, it shouldn't take very long at all.

THE COURT: What time do you need to leave here?

MR. YARBOROUGH: 10:30 and I think I could be back by 11:30.

THE COURT: Okay. We will pick the jury and see what time it is.

MR. YARBOROUGH: See what time it is and maybe we can open.

MR. BLOUIN: I don't open very long, Judge.

THE COURT: Let's see where we are, we will work with you.

MR. YARBOROUGH: Sir?

THE COURT: I will work with you, I will take care of you.

MR. YARBOROUGH: Thank you. And it is only the Judge across the street.

THE COURT: Okay.

(Whereupon, a short break was taken.)

THE COURT: Everybody ready for the jury?

MR. BLOUIN: The State is ready, Your Honor.

MR. WISE: We are ready.

THE COURT: If he needs to talk now is his last chance. We will have the jury, Madam Clerk.

MR. SWARINGEN: Your Honor, I would like to address the Court if possible on record.

THE COURT: Talk to your lawyer first because I don't know what you are about to say. When I was a Defense lawyer I didn't want my clients to talk to anybody.

(Whereupon, Mr. Swaringen and his attorneys talk off the record.)

MR. YARBOROUGH: He wanted us to note for the purpose of your ruling that he felt like, that it was three to four minutes and closer to three minutes by the time, and you said four. I think some of the evidence was closer to

three. He was in the ambulance leaving within three minutes.

THE COURT: Okay, it doesn't affect the ruling.

MR. SWARINGEN: And it is on record, thank you.

THE COURT: It is on the record. We are ready for the jury. Strikes are five and five.

(Whereupon, the jury panel came into open court at approximately 9:40 a.m.)

THE COURT: Is everybody ready?

MR. BLOUIN: The State is ready, Your Honor.

MR. YARBOROUGH: We are ready.

THE COURT: Alright. Good morning, ladies and gentlemen. I am Keith Kelly, one of your Circuit Court Judge's here in the State of South Carolina. There are 49 of us that travel around the State. And I am a Spartanburg County resident, so it is nice to be with you over here in Greenville. I enjoy coming over to Greenville. Good to be with you. First of all, you see that I am standing. And I want to tell you right now, that if I am standing, I stand a lot, it means that I am tired of sitting. Okay. So if I am standing while a witness is testifying it doesn't mean that I believe or disbelieve something that person is saying. It simply means that Keith is tired of sitting. If I am sitting I am tired of standing. That is all it means, okay. I have

could cause a mistrial in the case. Don't bring those back. They are allowed in the Court House but they are not allowed in the courtroom and certainly not allowed during your deliberations. Okay. Please don't have them. Don't try to learn anything about this case while you are on break. Enjoy your lunch, don't be working when you are on break and don't try to learn anything about it because I know very little about it, this piece of paper is about what I know about this case. And we have to learn together in this courtroom. That is our system of justice, we can't go doing anything in investigation. So please don't try to learn anything about this case. You must learn in this courtroom from the sworn testimony about this case. Anything from the State, anything from the Defense?

MR. YARBOROUGH: No sir, Your Honor.

MR. BLOUIN: None, Your Honor.

THE COURT: We are going to go into recess now until 1:30. Please be back so we can get started at 1:30.

(Whereupon, the jury was excused from open court.)

THE COURT: Anything from the State?

MR. BLOUIN: None from the State, Your Honor.

THE COURT: From the Defense?

MR. YARBOROUGH: No, sir.

THE COURT: We will be in recess.

(Whereupon, a break was taken in the trial.)

THE COURT: Y'all approach.

(Whereupon, a bench conference was held.)

(Whereupon, the Court and the attorneys go to in-chambers.)

THE COURT: Any matters from the Defense?

MR. WISE: We do, Your Honor. Over the lunch hour and the Assistant Solicitor received a chain-of-custody form that he previously did not have. The Rule, Rule 6 requires that that form, chain-of-custody and who possessed the drugs. And there were three or four people involved in it, needed to be given to us at least 11 days before trial. Not any fault of the Solicitors, they didn't know it existed until literally court today. And it is probably better to find out that it existed now than to find out it existed later. So in view of that we move for a mistrial. We have conferred with Mr. Swaringen. He understands that this would be without prejudice, he could not assert double jeopardy argument with it even though the jury has been sworn. And the reason for that is, if we don't agree to that then we would have been waived the remedy that we sought which was a mistrial and therefore we would not have a good validation on it. So we have, we request a mistrial in view of that and it is unfortunate this has happened and probably won't be the last time

something like that happens.

THE COURT: Solicitor.

MR. BLOUIN: Your Honor, you know, just basically what Mr. Wise said. I received that document today and turned it over immediately. Obviously, it is a Rule that, it reads that way under the Rule, you know, I hope it wouldn't be prejudiced to them but obviously I can't read their minds. They have kind of implicated that it would cause them some prejudice. I will put on the record, we have agreed to stipulate to one thing in the hope of retrying this case on the term of the 26th so there is no adverse delay which is go ahead. We have discussed that and plan on putting it on that trial docket today.

THE COURT: Mr. Swaringen. I want you to stand, sir, I am going to ask the Clerk to swear you.

Joseph Swaringen, being first duly sworn, testified as follows:

THE COURT: Mr. Swaringen, you now have been sworn so have you heard what your lawyer, your lawyers, plural, have told me?

MR. SWARINGEN: Yes, sir.

THE COURT: And are you seeking a mistrial?

MR. SWARINGEN: Yes, sir.

THE COURT: And are you also waiving of any double jeopardy claim in any future appeal or PCR?

MR. SWARINGEN: Yes, sir.

THE COURT: And you understand what you are doing?

MR. SWARINGEN: Yes, sir.

THE COURT: You agree with what they have said?

MR. SWARINGEN: Yes, sir.

THE COURT: You agree for it to be tried on June 26th?

MR. SWARINGEN: Yes, sir.

THE COURT: Is there any reason why it cannot be tried on June 26th from any of the lawyers?

MR. BLOUIN: Nothing from what we just heard from our witnesses from the State, Your Honor.

THE COURT: Well, we have a Judge-run docket. We don't have a Solicitor-run docket anymore. I don't know what they are doing in the Thirteenth Circuit but we have a Judge-run docket, so says the Chief Justice of the Supreme Court. So it is on my docket here and I am setting it special order on the, trial number one, it is the first trial up on a term of court the last week of June. Any problems with that, anybody tell me now. Nobody is going on vacation, nobody is going to France.

MR. WISE: I have got to get with the Attorney General's office on a PCR hearing but I can handle that.

THE COURT: Oh, yes sir. If you need any help with that let me know. Madam Clerk, it is set by special order

for the first trial up, is number one for trial that week of, what is it, June 26th.

CLERK OF COURT: June 27th.

THE COURT: 27th, the week of 27th. Thank you.

*** END OF REQUESTED TRANSCRIPT OF RECORD ***

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	2021-GS-23-06825
	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
JOSEPH SWARINGEN,	)	(VOLUME ONE OF TWO)
	)	
DEFENDANT.	)	
	)	

JUNE 27 - 29, 2022
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE PERRY H. GRAVELY

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

HUNTER C. BLOUIN, ASST. SOL.

ATTORNEY FOR DEFENDANT:

WILLIAM G. YARBOROUGH, ESQ.
C. RAUCH WISE, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

EXHIBITS

NO	DESCRIPTION	ID	EVIDENCE
S-1	DVD ----------	68	68
S-2	PHOTO ----------	96	139
S-3	PHOTO ----------	96	139
S-4	PHOTO ----------	96	139
S-5	PHOTO ----------	96	139
S-6	PHOTO ----------	96	139
S-7	PHOTO ----------	96	139
S-8	PHOTO ----------	96	139
S-9	PHOTO ----------	96	139
S-10	PHOTO ----------	96	139
S-11	PHOTO ----------	96	139
S-12	GREENVILLE HOSP. POLICE REPORT --	96	202
S-13	DRUGS ----------	96	247
S-14	MAGNETIC BOX ----------	96	190
S-15	CHAIN OF CUSTODY ----------	227	228
S-16	DRUG ANALYSIS REPORT --------	239	246
S-17	AFFIDAVIT - CAPT. MORAN --------	239	251

EXHIBITS

NO	DESCRIPTION	ID	EVIDENCE
C-1	LETTER FROM MR. SWARINGEN -------	8	
C-2	STIPULATION ------------------	68	358
C-3	FOREPERSON SELECTION --------	96	
C-4	DEF. REQUEST TO CHARGE #3 -------	289	
C-5	JURY NOTE ------------------	360	
C-6	JURY QUESTION ------------------	360	
C-7	NOTICE TO SEEK LIFE WITHOUT ----- PAROLE, AFFIDAVITS, CERTIFIED CONVICTIONS	365	

to all -- any communication with the Court, I present it to all parties. Do we need -- and this was a request regarding serving as co-counsel with your attorneys. Do we need to address that?

MR. SWARINGEN: No, sir.

THE COURT: Okay. So you're withdrawing -- you're withdrawing that request?

MR. SWARINGEN: That's fine.

THE COURT: All right. Okay. So I'll mark -- that has been withdrawn. That'll be the letter of June 20, 2023 [sic]. And I'll mark that as a Court's exhibit.

(Whereupon Court's exhibit 1 was marked)

THE COURT: All right. Anything then before we bring -- they're not quite ready, but anything before we address the jury?

MR. BLOUIN: Just that we would put on the record that any sort of motions that have already been heard by Judge Kelly, his rulings would be -- take effect, I guess, during ---

THE COURT: Okay.

MR. BLOUIN: --- would be in effect during this trial.

THE COURT: And y'all are in agreement with that as well, correct?

MR. WISE: Yes, that's correct. And Mr. Yarborough also last time -- they've served life without parole notice. We

have some problems with it, but it doesn't need to be addressed until the end of the trial.

THE COURT: All right.

(Pause)

THE COURT: All right. Is the State ready for the jury?

MR. BLOUIN: The State's ready, Your Honor.

THE COURT: And is the defense ready?

MR. YARBOROUGH: Defense is ready, Your Honor.

THE COURT: All right. Bring the jury panel in.

(Whereupon the jury panel entered the courtroom at 11:18 am)

THE COURT: All right, ladies and gentlemen, thank you for your patience this morning. As I said, Monday morning, we've got a lot of moving parts, and we're trying to get rolling here. Okay.

This is a case involving -- as I told you, there are two types of cases going on this week. This is a criminal case. And I'm going to read you the -- it is the State versus Joseph Martin Swaringen.

I'm going to read you the indictment, but before I read the indictment, I would like to say that these are merely the allegations that the State has made to which the defendant has pled not guilty. And this what's -- this is the matter that the State would have to prove beyond a reasonable doubt. I'll give you more information if you're selected to the jury.

I will tell you from talking with the attorneys -- and these are always predictions. You usually can do a pretty good guess about how long a case would last. We anticipate that this case will go into sometime Wednesday.

But -- and I realize looking out there, I see a couple of people that had little small windows that they needed protection for. I think one of you had to go do a fingerprinting for a job, and somebody had braces to put on. But, you know, and I said I'd protect you.

So if you're selected for the jury, make sure you tell the bailiffs so that once we get started today that I make -- that, you know, we'll cover that into tomorrow. All right.

And, again, these are merely the allegations presented by the State that Joseph Martin Swaringen did in Greenville County on or about the 18th day of November 2020 knowingly sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance or otherwise aid, abet, attempt or conspire to sell, manufacture, deliver or bring into this State or was knowingly in actual or constructive possession of more than twenty-eight (28) grams but less than one hundred (100) grams of methamphetamine, also known as trafficking methamphetamine. So those are the allegations.

First of all, at this time, Mr. Swaringen, if you could stand, please.

But we did get the guy on there that has his fingerprints in the morning that he has to -- I told him I would protect him for -- because he said he had a job that he had to have these fingerprints by Thursday, and he had to break at -- I'll double check with him, but I think he had to have -- has an appointment at 10:45. And it's on Haywood Road.

MR. BLOUIN: And, Your Honor, I had that done recently for a TSA precheck thing. It really only lasts like ten minutes.

THE COURT: Yeah, that's what he said. So we'll probably, you know, just for -- we may start a little early, maybe at nine in the morning. And then we can break about 10:15 so that he can get out there and back and start back, just for y'all's planning purposes. I'll verify with him before we ...

All right. Anything else?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: So we -- there's no additional motions from the State or the defense? Is that correct?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right. And did y'all -- and, again, when we come back in, you know, make sure you put on the record the stipulations -- well, I guess we've already discussed that. Do y'all have, I mean, ---

MR. BLOUIN: We have a signed stipulation that we put in

before we got started.

THE COURT: All right. And I guess -- oh, how about the rulings? Is there something that I need to be aware of?

MR. BLOUIN: I have talked with the court reporter. She is getting me the transcript of that ruling. She said that it would be in my inbox at some point today.

THE COURT: Okay.

MR. BLOUIN: So at that point, then we can make it a Court's exhibit. And once everybody looks at it and makes sure ---

THE COURT: Okay.

MR. BLOUIN: --- the way it's supposed ---

MR. WISE: I mean, we can stipulate to the transcript even if it comes in later.

THE COURT: All right. I just want to make sure that I -- that I'm aware of what I need to be aware of. So -- all right.

So I guess we'll be ready to roll at 3:00.

(Whereupon court was in recess at 12:06 pm)

(Whereupon court reconvened at 3:01 pm)

THE COURT: Oh, counsel approach. Well, I guess we can -- on the record. I did get a comment from -- yeah, come on up here.

(Whereupon a bench conference was held off the record)

(Whereupon the bench conference was ended)

MR. WISE: And it's not going to come as a surprise to the State that we're going to -- we've asked to sequester the witnesses.

THE COURT: Okay. Any objection to that?

MR. BLOUIN: No objection.

(Pause)

THE COURT: All right. Make sure, Mr. Blouin, that all your witnesses know what sequestered means, not only that it's -- that they're not supposed to be in here, but they can't discuss it.

(Pause)

THE COURT: All right. So is the State ready?

MR. BLOUIN: Yes, Your Honor. And I've let the other -- the second witness we would have, I let him know about the sequestration. And I will call the other witnesses. I didn't expect to reach them until tomorrow, anyway. And I will let them know tonight not to discuss anything.

THE COURT: All right. Ready to proceed from the ...

MR. YARBOROUGH: Yes, sir.

THE COURT: All right. If the jury's ready, bring them in.

(Whereupon the jury entered the courtroom at 3:10 pm)

THE COURT: All right. Hope everybody had a good long lunch. I appreciate your patience.

And before we get started, I also wanted to note that I

know -- we're aware one of you has issues in the morning to have to go somewhere at 10:45, is that correct?

JUROR: Yes.

THE COURT: So if we break at 10:15, that'll give you plenty of time to get there?

JUROR: (Affirmative nod).

THE COURT: All right. And I know somebody else had transportation issues. And we've resolved those. You just talk to the bailiffs, and they'll make sure that's taken care of. All right.

With that being said, I will now turn it over to our clerk to administer the oath.

MADAM CLERK: All right. If you'd please stand, raise your right hand for the oath. And the proper response is I will.

You shall well and truly try the case, 2021-GS-23-86 -- excuse me, 6825, the State versus Joseph Martin Swaringen, indicted for trafficking methamphetamine and a true verdict rendered according to the law and the evidence so help you God. I will?

THE JURY: I will.

MADAM CLERK: Thank you. Please be seated.

THE COURT: All right. I'm going to give you some preliminary information about just kind of the procedure that we've got, kind of what I call my roadmap for you. Then I'm

going to turn it over to the attorneys.

First of all, I like to make sure you know who all's in the courtroom just so you don't have to wonder like who's that person? You've already met the attorneys and the parties and stuff like that. But seated right in front of me is the court reporter. She takes down the entire record in the case and the testimony so if it's ever needed at some later point.

We also have the clerk of court. They're the one in charge of the courtroom, and exhibits and everything.

Seated to my right here is my law clerk. She's actually a graduate of law school and assists me in any type of research or anything that I need there.

But for your purposes the most important people are these wonderful folks in the red jackets. And they are excellent. They are the bailiffs. And they do an excellent job here.

If you have any questions or comments, please direct it to them. If it's something I need to get involved in, then they'll come let me know. So any questions like that, please discuss it with them.

What is your role in this matter? Your role is to determine what the facts of this case are. And that is totally different than my role. My role is to rule -- first of all, to preside over the trial. And at various times I will -- there may be objections, and I'll need to rule on the admissibility of things pursuant to our rules of evidence.

We have very specific court rules and rules of evidence that all parties must follow. So that's why sometimes you may hear objections and so forth. It's merely to make sure that the rules of evidence have been properly -- that they have been followed.

And the final thing that I will -- my role is to charge you on the law. And that is at the end of the case I will tell you the law which you need to apply to the evidence which you will hear. And if anything I do or say throughout this trial makes you think I have an opinion about the facts, then you are to disregard that because that's not my job, that is your job there.

And how do you make your decision? Well, one, you will look at -- you will look at all the evidence. And evidence may be in the form of live testimony. It may be in the form of statements or video statements. It may be in the form of written evidence. It may be in the form of stipulations by the counsel.

All of those are the things that you will need -- that you will use to make a decision on the -- what the facts are, okay? And that's why -- and then what's very important that you not get any information that will affect your decision except what's in this courtroom under our rules. And that's important. And that's why I told you do not do any type of research at all because that is getting stuff outside the

courtroom and outside of our rules and may not be -- have not been properly vetted. So that's important.

It's also important not to pay any attention to the news if there's any. There was a news camera in here for the hearing before, but it had nothing to do with this. So don't pay any attention to any social media.

Also it's important not to discuss the case, not only among yourselves, but other people, because then you're starting to make up your mind. And you're supposed to keep that open mind until you've heard all of the evidence and the law. Then you can -- then you have -- you can make an informed decision.

Now this is a criminal matter. And a criminal matter -- I don't know if anybody's been involved in a civil trial or seen one on TV or maybe you were on a jury for a civil trial. And the reason I bring that up is because that is a totally different procedure, totally different burden of proof.

In a civil trial the person needing to prove something is by a preponderance of the evidence or a greater weight, more likely than not, just over the -- just over the kind of 50 percent kind of level.

Criminal matter, since you're dealing with criminal cases, the standard is much higher. It's beyond a reasonable doubt. And you will hear -- at the end of the case I will charge the law. I'll give you some definitions and some tools

about how you determine what reasonable doubt is. But it's a much higher burden.

And the burden in this case is strictly -- is squarely on the shoulders of the State. The defendant comes in here, pled not guilty, has a presumption of innocence and has no burden whatsoever in this case. The defendant does not have to prove anything.

Under our system of justice the State has the burden of proof. And they must prove every element of the charge as I indicated, which is trafficking methamphetamine. They must prove the element of every charge beyond a reasonable doubt.

Now you may -- you heard me reference an indictment earlier. An indictment is merely the formal piece of paper that brings this matter to the court. It's the allegations that the State has brought. But that's not something for you to consider at all. That's something that -- you are to make your decision based on the evidence that you hear in this courtroom.

Now one of the things, too, is I think it's important that you not take notes. This is not going to be a very long trial. But I think it's important for you to pay attention to everything that is being presented. You will have certain pieces of evidence in the jury room that you'll be able to take back with you. So -- but I think that you will be able to do that without taking notes.

As far as procedure of trial, we will -- as you can see, we try to be flexible and take different breaks. And we may -- and we also like to be -- try to be flexible with your time and things that you need to do as well.

And that's kind -- we'll have a little break tomorrow. But that's important. It's important for you to have a jury of your peers, but it's also important that we try to make it as convenient as possible.

We try to break as close to 5:00 as we can every day. Since we're going to take a short break, does anybody have a problem if we start at 9:00 in the morning?

THE JURY: (Negative nods).

THE COURT: Does that work for everybody? If you do, then just please -- please let us know.

And we try to break about every hour. If y'all need to take a break prior to that, just kind of indicate because I know sometimes it's like you may need to take a break. And we may just have to wait until we get to a certain point with a witness.

Now I say we try to break as short -- as close to 5:00 as possible. Sometimes we may have a witness that we need to get to a certain point, and we may go a little past five, okay? If it looks like we're going to do anything like that, I will consult you.

And if anybody needs to make any plans or maybe make any

calls, I'll make sure that you're involved in that. I won't just kind of arbitrarily say, okay, we're going past five and you're like, oh, no, I got to make a call right quick. So we'll -- I'll try to get y'all involved in any of those kind of decisions.

We'll try to, you know, like tomorrow, come in, we'll try to break for lunch somewhere -- we'll break somewhere between twelve and one. And a lot of that depends on where we are with a witness. So it may be a little bit later than twelve, 12:30. Sometimes it may be just before then. It kind of depends on where we are.

So those are -- oh, the procedure for the trial. First, we'll have opening statements by the attorneys. And this is not evidence. This is their summary of what the case is going to be about.

Then we have what we call the evidentiary phase. And that's where the evidence is presented. And then at the conclusion of the trial we have closing arguments by the attorneys, I will charge you the law. And then at that point you will go back to your jury room to deliberate.

And basically your deliberation will be as to the charge, is the defendant guilty, if you find the State has met its burden beyond a reasonable doubt, or not guilty if you find the State did not meet its burden. So that's kind of the question. And maybe more detailed than that.

As we get to the end of the trial, that's when we develop the verdict form. But that's the basic question that you'll be answering here.

So with all that being said, I will now turn it over to the attorneys for their opening statement.

MR. YARBOROUGH: Briefly, Your Honor. We've got a witness in here if he could be sequestered.

THE COURT: Oh, okay.

(Pause)

THE COURT: All right. And that is just for the purposes of -- only one witness can be here at a time and can be involved. That's what that was a reference to.

So -- all right. With that being said, now I'll turn it over to the State for their opening.

MR. BLOUIN: May it please the Court, Your Honor?

THE COURT: Yes.

MR. BLOUIN: Hello once again. My name is Hunter Blouin as I introduced to you earlier. I represent the State or the Thirteenth Judicial Circuit.

Now we are here in the State versus Joseph Swaringen. And he is charged with trafficking in methamphetamine between twenty-eight (28) and a hundred (100) grams.

Now in order for the State to meet its burden, there are three major elements that I need to prove to you. The first element, that it was Mr. Joseph Swaringen. The second element

is that he was in actual or constructive or dominion and control, and the third of twenty-eight (28) to a hundred (100) grams of methamphetamine.

Now as the Judge said, this is not a super long case. This is not a super complex case. The facts of this case are fairly straightforward.

You know, you're going to hear from some State's witnesses that this involves -- starts off as a wreck on White Horse Road. The defendant was riding a motorcycle. He was hit from behind from -- by another motor vehicle.

He was taken to Prisma Health as well as a saddlebag that you will hear witnesses discuss about, and that while the defendant was undergoing tests that an inventory of that saddlebag was taken and that between twenty-eight (28) and a hundred (100) grams of methamphetamine was found in it.

As you listen to the witnesses, as you are the judges of the facts, it is your job to determine who is telling the truth, who is not being truthful, what reasons people would have for being more truthful than others. And I want you to really kind of use your life experiences, use your common sense.

And once you hear all the facts in this case, and once you hear all the evidence, I would ask you to come back with a verdict of guilty for trafficking in methamphetamine between twenty-eight (28) and one hundred (100) grams against Joseph

Swaringen. Thank you.

THE COURT: Mr. Yarborough.

MR. YARBOROUGH: Thanks, Your Honor.

THE COURT: Ladies and gentlemen of the jury, on November 18th, 2021 there was confusion, there was chalice, there was calamities, and then there was some more confusion. And I thought about it, but probably the two most confusing places that you will ever visit is the side of a road during a bad wreck on the highway and then the emergency room later on that evening.

What happened that day was there was a wreck. My client, Mr. Swaringen, was hit from behind. It wasn't his fault. He was taken to the hospital. When they got there, there was confusion. He was running around. He was -- he was -- went and got a CT scan. Later on he was -- he was arrested for these drugs.

Now Mr. Blouin wants to sit here and tell you that this is real simple and it's a case that he's going to be able to look at what -- why people would tell stories and why people would do whatever. This isn't that kind of case.

This is -- this is can they put any drugs in my client's hands? I think that it's going to be pretty -- pretty simple. And when you get -- the answer to that is no.

And then Mr. Blouin is going to try to argue about what constructive possession is. You're going to say can he put

that bag in my client's hands? And the answer to that is probably going to be no, too.

Well, let me -- let me tell you this. I've got a pleasure today, I've got Mr. Rauch Wise, who's a friend of mine and who's a very fine lawyer. He's going to help me try this case.

It's kind of fun. I get excited about trying a case with another lawyer. But that also puts a lot of pressure on me to do a good job right now to tell y'all what's going to happen. So I'm going to -- I'm going to try to talk a little bit about what Judge Gravely was talking about a minute ago.

This is -- this is y'all's case. This is your case to listen to. It's for you to judge the evidence, for you to listen to what Judge Gravely gives you as the law.

And you're going to have a couple of interesting questions. One of them that I just mentioned to you is constructive possession. The other one is something called beyond a reasonable doubt.

Now nobody's clearly talked about that yet, but that's something we don't really define in South Carolina anymore. But it's something I think with your particular abilities as a juror, y'all will be able to think about what beyond a reasonable doubt is. And I think you will be able to come up with what y'all think that -- that term means. What do you think beyond a reasonable doubt is?

You know, this -- a trial is really not anything more than trying to seek the truth. And that's what we're doing here. And, you know, how do you do that? That's for witnesses that are called from the stand.

You know, I think one of the problems here is I keep going back to this confusion issue, is why was it so confusing? And I think what you're going to hear over and over again is because a lot of people were doing other jobs. They were doing the job of running the hospital. They were doing the job of taking care of something that happened at a wreck instead of collecting evidence like we would normally have in a criminal case. So that's a whole different idea.

And -- but there's still rules, and there's still regulations and there's still ideas and thoughts about how people are supposed to do their jobs. And that's what -- that's what -- that's what your determination is. That's for y'all to listen and see if that -- if that happened here.

The bottom line is, you know, there's a -- there's a bag. And I think we'll see a picture of that bag at some point, I think. And, you know, was that bag checked for drugs? And were there drugs found in it?

I think the answer is going to be -- clearly the answer's going to be no. That's going to -- that's going to be the first thing, the answer's going to be no.

And then were there some drugs found in there later on?

I think -- I think the answer to that question is going to be yes. But at that point you're going to learn that nowhere was Mr. Swaringen, nowhere was -- and I'm going to -- I'm going to mess up a bunch of times during this trial. I'm going to call him Joey because that's how I know him. So I'm not going to try to call him Mr. Swaringen. I know him as Joey. That's how I know him.

He's -- I've had the pleasure of representing him since this started. He's, you know, we've developed a really good relationship. And so I do call him by -- by his first name.

And, you know, this is his day in court. This is an important day. This is an important day for our system. And y'all are an important part of that system. And I just urge you to not leave your common sense at the door and to come in here and listen to the evidence as presented and listen to how Judge Gravely charges you on the law.

Those two main issues that I just told you -- if there's some other ones that he comes up with, I'm sure that they'll be important to you and he'll tell you that they're important. But I think you're only going to have one verdict when you come back, and that's a verdict of not guilty. Thank you.

THE COURT: All right. State, call your first witness.

MR. BLOUIN: The State calls Michael McKnight.

MADAM CLERK: Mr. McKnight, please come forward. If you'd please pause at the end of the bench, place your left

hand on the Bible and raise your right hand.

Michael McKnight, being duly sworn testified as follows;

MADAM CLERK: Thank you. Please be seated. Please state your name for the record.

MR. McKNIGHT: Michael McKnight.

MADAM CLERK: Thank you.

Direct Examination by Mr. Blouin:

Q. Mr. McKnight, where are you employed?

A. Currently for MedTrust.

Q. And what do you do for MedTrust?

A. Emergency medical technician.

Q. All right. And how long have you been employed there?

A. About two and a half months.

Q. All right. Where were you employed before then?

A. Greenville County EMS.

Q. All right. And what was your position at Greenville County EMS?

A. Emergency medical technician.

Q. All right. And what do emergency medical technicians do?

A. Treat and transport patients, evaluate patients based upon injuries or illness, assist paramedics, field staff, fire department.

Q. All right. And were you working for Greenville County EMS on November 18th of 2020?

A. Yes, sir.
Q. All right. And what happened on November 18th, 2020?
A. That night my partner, paramedic, were posted at White Horse and Blue Ridge at the QT gas station. While sitting there, bystanders had came up to our ambulance and stated that there was a motorcycle accident in the intersection. We had proceeded to head on over there to see if there were any injuries.

Noted a male patient sitting on the ground did have an obvious head injury. He was acting very irrate, sitting on the corner. There were other bystanders around. So we explained to him that due to his -- based upon his visual injuries that -- and the fact that he was riding a motorcycle without a helmet that it was in the best interest to be transported to the hospital for further evaluation.
Q. Okay. Now when you said White Horse Road, what County is that?
A. Greenville County.
Q. All right. And tell us about -- did the defendant want to be transported?
A. At that time he did not. He was making a statement that he wanted to get out of there. But at that point he was not wanting to go. We strongly encouraged him to go. At some point between both my partner and I and, I believe, a couple of other bystanders that were there, strongly encouraged him

that -- to change his mind to be transported.
Q. All right. Was anything located around the defendant at this time?
A. There was a saddlebag sitting on the ground.
Q. Okay. Can you describe what saddlebag -- what is a saddlebag?
A. It belongs on the side of a motorcycle, carry supplies or whatnot that belongs on a motorcycle, anything that -- belongings ---
Q. Okay.
A. --- as far as I know.
Q. Did the -- did the defendant eventually agree to be transported?
A. Yes.
Q. All right. Talk to me about that.
A. Like I said, shortly thereafter within a few minutes of encouraging him to go, he said he would go to the hospital. By then, once we got permission from him to treat him and transport him, we applied a C-collar on for precautions, placed him on the stretcher and loaded him in the back of the ambulance and started obtaining his vital signs and information and -- and then finding any other injuries and transported him to Greenville Memorial.
Q. All right. Was anything else transported with him?
A. Just the saddlebag?

Q. Okay. Did ---

MR. BLOUIN: Beg the Court's indulgence. May I approach, Your Honor?

THE COURT: You may.

(Whereupon State's exhibit 1 was marked for identification)

MR. BLOUIN: Your Honor, at this time we would like to enter into evidence State's exhibit 1 by stipulation.

THE COURT: All right. Any objection?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right. In without objection.

(Whereupon State's exhibit 1 was admitted into evidence)

(Whereupon Court's exhibit 2 was marked)

Q. Where were you located when the defendant was transported?

A. At the point when he was transported, I was -- I drove the ambulance to the hospital.

Q. Okay. So you were the driver?

A. Yes, sir.

Q. Is it, you know, is it common to transport belongings and such?

A. Upon either request or if we -- or if there's necessary information and we need to continue onto the hospital, we'll transport belongings, yes.

Q. All right. And -- all right.

MR. BLOUIN: Your Honor, permission to publish State's 1 to the jury.

THE COURT: We're turning it on. Are y'all seeing stuff up there?

THE JURY: (Affirmative nods).

THE COURT: Are you going to do your computer or you going to do ---

MR. BLOUIN: The computer.

THE COURT: Okay.

MR. BLOUIN: Perfect.

THE COURT: There you go.

Direct Examination by Mr. Blouin Continued:

Q. Mr. McKnight, do you recognize that?

A. The ambulance bay at Greenville Memorial.

Q. All right. Well, let me play this forward.

(Whereupon State's exhibit 1, DVD, was played for the jury)

Q. And if you can describe what's going on right here.

A. Right now my partner and I are on our way to bring the patient into the trauma bay, which the trauma team is waiting in here.

Q. Okay. Now what did you do -- what did you do once you brought him to the trauma bay?

A. My partner and I transferred care to the trauma team, gave my partner -- my partner gave a verbal report of our

assessments, vital signs and turned him over onto their hospital bed.

Q. Okay. Then what did you do?

A. I returned the stretcher to the ambulance and then went to retrieve any belongings. And I believe I may have or may have not grabbed the tablet for our computer for -- to get our signature from the hospital.

Q. Okay. Did you grab the personal belongings?

A. Yes, I did.

Q. All right. Were the personal belongings in the same condition as they were when you left?

A. Yes.

Q. Did they look rifled with at all?

A. No.

Q. They were where they were placed?

A. Yes.

Q. Okay. And what did you do with those belongings then?

A. Then I brought them into the trauma bay and turned them over to hospital staff.

(Pause)

MR. BLOUIN: Sorry about that, Your Honor.

Q. Once you returned the bag and all, where did you take his personal belongings?

A. Brought them into the trauma bay ---

Q. Okay.

A. --- to the left side pedestal where the trauma nurse would reside.

Q. Okay. And then what did you do after that?

A. After I placed them in there -- anytime I'm bringing belongings, I advise whoever's in the room, whether trauma nurse or other staff, I advise them whose belongings they belong to, and then I walk back out to the truck and continue what I need to do, clean up the ambulance, get back -- get back in service.

Q. Okay. Let's go back a little bit to the scene. Were you -- how many first responders were on-scene when you arrived?

A. We were the first responders there being that we were right in the vicinity of the accident. Shortly thereafter law enforcement and, I believe, fire department arrived as well.

Q. Okay. And you were able to identify the defendant as being injured pretty quickly?

A. Yes.

Q. And what was -- sort of injuries did he have?

A. From what I noticed upon my arrival of getting up to him was a laceration of the head was the obvious injury.

Q. And if I may, I'm sorry my time thing messed up a little bit, I'm going to play through this for a second and then I will pause it.

THE COURT: And for the record, you are playing it in a little faster speed just to get to ---

MR. BLOUIN: Yes, Your Honor, ---

THE COURT: --- a point.

MR. BLOUIN: --- just to try to get to the spot. I apologize. The timing's a little off.

Q. And that was you -- it was a little fast.

A. Yes, sir.

Q. But that was you bringing in his personal belongings?

A. Yes.

Q. All right. Please answer any questions the defense may have.

Cross-examination by Mr. Yarborough:

Q. Mr. McKnight, you're a EMT? Is that what you are?

A. Yes, sir.

Q. How long have you been an EMT?

A. For about -- just over ten years.

Q. Okay. And do you remember that night? Do you remember the night? What was the date?

A. Yes. I do recall most of that night, yes.

Q. Do you remember the date?

A. I don't remember the date. I know it was in November.

Q. And do you remember what the scene was like when you got to the -- to the wreck?

A. A lot of cars in the -- around the area, a couple of bystanders standing next to the patient advising us that he had been involved in an accident.

Q. So there was a lot of chaos out there?
A. Some.
Q. Yeah. And there were -- other people that were in the accident, there was a big family with them, right?
A. I don't recall.
Q. You don't recall?
A. I don't recall exactly who was involved in the accident. What -- I basically got out of the truck and went directly to the patient ---
Q. You put him in a clamp to clamp him down to the board, is that right?
A. No.
Q. You put him on the stretcher?
A. We placed a -- after we got permission from him to transport him, we placed a C-collar on him for precautions ---
Q. Okay. A C-collar ---
A. --- and assisted him onto the stretcher is what I recall.
Q. Okay. Well, let's talk about before you put the C-collar on. There's -- there's a lot going on at the scene, right?
A. Yes.
Q. Okay. I mean, there's flashing lights, there's people everywhere, right?
A. Yes.
Q. Okay. And did you happen to notice that there was somebody that had a bag out there that was picking up stuff

off the ground that was putting it into a bag?
A. No.
Q. Were you looking?
A. No.
Q. Okay. So you weren't observing that because you were concentrating on what was going on with Mr. Swaringen?
A. Correct.
Q. Okay. And y'all had him on the side of the road for, what, a good two, three, four minutes or longer?
A. I would say probably about four -- four minutes max.
Q. Okay. But your report would speak for itself, correct?
A. Yes.
Q. Okay. And did -- you got him in the back of the -- did you get in the back of the ambulance or does the other guy get in the back?
A. Both my partner and I, once we loaded him into the back of the ambulance, we both got in the ambulance to start obtaining vital signs and other information, find any other obvious injuries. And from then on, my partner said, okay, let's go to the hospital and -- being that he was going to be a trauma alert.
Q. And y'all take him to the hospital. And that's what your job is.
A. Yes, sir.
Q. Okay. When you got to the hospital you got him in, you

took him back. Did you take him into the trauma -- trauma -- Prisma one or Prisma two? Do you know the difference between the trauma bays?

A. There's two beds, right -- left and right.

Q. Left and right ---

A. I believe left is resus one.

Q. Okay. But -- so he was on?

A. The left side.

Q. He was on the left side? Are you sure he wasn't on the right side?

A. I'm positive that he was on the left side.

Q. Okay. So he's on the left side. But the bays are back there together, right?

A. Two of them. And one -- there's one whole bay. And there's two beds in that bay.

Q. Okay. There's a lot going on inside the emergency room at that point, too, right?

A. Yes. So the trauma team, multiple doctors ---

Q. Trauma team people moving around. And so at some point you go back outside and you go get this bag out of the back of the ambulance, is that right?

A. Yes, sir.

Q. Okay. Now you got that bag and you took that bag and you gave it to security?

A. Yes. I gave ---

Q. You gave it to security right there for them to inventory it?
A. Inventory, yes.
Q. Right? And when you gave them that bag and they inventoried, nobody said anything about any drugs being in there?
A. No, sir.
Q. You sat there and you watched them open it, and there was no drugs in the bag?
A. I didn't see any drugs. I just let them do their -- their job, which is outdoor security. They do a quick search of that bag, and then I turned it over to the staff inside.
Q. Okay. So when you put in your report, it's correct that you gave that bag to security?
A. Correct.
Q. Okay.
A. It's not -- I didn't type the report. I assisted on the call. But ---
Q. But do you want to look at the report? Do you ---
A. I do recall ---
Q. --- dispute what's in the report?
A. I recall what my partner had put in the report.
Q. Okay. And in that report he says that y'all gave the -- that you gave the bag to security?
A. Yes, sir.

Q. Okay. Nothing about anybody finding any drugs or anything like that? And that's the report that y'all did on the scene that night?
A. Yes, sir.
Q. Okay. When you go -- is that the end of it? Once you give -- once you give that bag to security and they check it, you're through, right?
A. After that, clean up our ambulance, get the truck back into service.
Q. That's all you know about it?
A. Yes, sir.
Q. Are you sure -- do you remember Mr. Swaringen asking for his telephone?
A. I do not.
Q. You don't remember him asking for his phone on the side of the road?
A. No.
Q. Okay. If he would have asked for his phone would you have looked in the bag to see if the phone was there or picked up something off the ground and put it in the bag?
A. If he had asked me to, I would have done it based upon his permission to.
Q. Okay. So if -- and I know this was a while ago. So if someone else said that he asked you to, you would have looked down and picked up something and put it in the bag, is that

right?
A. If he asked me to put it in the bag, it had to be by permission.
Q. It had to be what?
A. If he asked me to pick up the bag or any of his belongings, it'd be by permission.
Q. Right. You would have -- yeah. But he didn't -- he didn't ask you to do anything?
A. That, I don't recall.
Q. Okay. I'm going to go back to the scene, because you were there, law enforcement arrived at the scene?
A. Yes, sir.
Q. Okay. And the -- their red lights were running?
A. Yes.
Q. Okay. And the -- can you tell me approximately how many people were involved in the accident? Because I think y'all got there before law enforcement, right?
A. We were there before law enforcement being that we were right there at the intersection.
Q. And there was ---
A. Well, at the QT gas station.
Q. On what?
A. At the QT gas station parking lot. We were in the parking lot.
Q. You were in the parking lot. That's how you got there so

quick?
A. Yes.
Q. Okay. And so you would agree with me there were at least six or seven people standing around on the side of the road at that point?
A. I don't recall how many people were there. I just know there -- I recall that there were bystanders there on the corner with the patient.
Q. Okay. And at some point were you there when the -- when the motorcycle was on top of Mr. Swaringen?
A. That, I don't -- he was not -- the motorcycle was not on top of him. He was on the corner on the ground.
Q. Okay.
A. Away from the motorcycle.
Q. So if he was -- he just -- if the motorcycle was on top of him, that would have been earlier?
A. Correct.
Q. Okay. Now do you remember testifying in here earlier ---
A. This is my ---
Q. --- a couple ---
A. --- first time testifying.
Q. This is your first time?
A. (Affirmative nod).
Q. Okay.
MR. YARBOROUGH: Give me just one second, Your Honor.

(Pause)

Q. You testified a minute ago that he wasn't put on -- wasn't clamped to a stretcher, is that right?

A. He wasn't clamped down, no.

Q. Okay.

A. Forcibly, no.

Q. Can I approach and let me show this to you? Would you look at what's underlined in red? Do you recognize that ---

MR. BLOUIN: Your Honor, if I could just see what he's showing him real quick?

MR. YARBOROUGH: Yeah, that's fine.

(Pause)

Q. Are you familiar with this report?

A. No, I am not.

Q. You're not familiar with this report?

A. No, sir.

Q. Okay. So if the report says that he was placed on a backboard, a long spiral [sic] board and placed in a cervical ---

MR. BLOUIN: Your Honor, we would object just because he says he's not familiar with the report. So he can't really testify to what's in the report.

THE COURT: Sustained.

Q. Are you familiar with how the emergency room department reports are prepared?

A. No, sir.
Q. Okay. Do you know who gives the information for what happens on the side of the road?
A. The information that they receive are from us.
Q. Okay.
A. As first responders.
Q. Did you tell anybody that he was placed on a backboard with a long spiral [sic] board and placed in a cervical collar?
A. I did not, no.
Q. You didn't? Okay.
A. That report would have been from my partner being that he was the higher level care on the truck that night.
Q. Okay. But there's no question you're the one that gave the bag to the security guards to check, right?
A. Yes, sir.
Q. Okay. You did that?
A. Yes, sir.
Q. Okay. Do you remember who the security officer was that you gave it to?
A. I do not.
Q. Do you remember what he looked like?
A. No.
Q. Okay. Let me just ask you this. And -- when you pull in -- we saw this film of you backing in the ambulance to the --

to the trauma bay, you know, earlier.

A. We drive it in, yes, sir.

Q. Driving it in. Is the security desk right there?

A. There is a security post there for one guard, but not really a desk. I mean, they do stand there all night long.

Q. Okay. And that's where you gave it to the security guard?

A. Yes.

Q. Okay. Nothing further. Thank you very much.

THE COURT: Okay. Redirect?

MR. BLOUIN: Your Honor, just a couple of things just to clear up.

Redirect Examination by Mr. Blouin:

Q. When you arrived on the scene there that night, describe -- was the defendant unconscious?

A. No, sir.

Q. So describe ---

A. He was alert prior to talking.

Q. And he was transported to Prisma -- how was he transported to Prisma? In other words, -- how was he transported to Prisma?

A. Placed in the back of the ambulance. We drove lights and siren to the hospital emergent.

Q. Okay. Was that involuntary, voluntary?

A. Voluntary.

Q. So he agreed to go?
A. Yes, sir.
Q. All right. And when they say the bag, where did you ultimately take the bag?
A. Prior to transport or ...
Q. No, no. Once you -- once you took the bag out of the ambulance, where did you ultimately drop the bag off?
MR. YARBOROUGH: Objection. Asked and answered. He's already answered this question.
THE COURT: Overruled.
Q. Go ahead and answer it.
A. I brought the ambulance -- after bringing the patient into the trauma bay, went back to the ambulance, brought back the bag to the security guard that was standing out at his post. He quickly searched the bag. And then I in turn turned it into the trauma bay.
Q. So you brought it into the trauma bay?
A. Yes, sir.
Q. All right. Thank you.
THE COURT: All right. Thank you. You may step down.
MR. BLOUIN: Your Honor, may he be released from his subpoena?
THE COURT: Any objection?
MR. YARBOROUGH: No, sir.
MR. BLOUIN: Your Honor, at this point the State would

call Alex Henry.

THE COURT: Okay.

MADAM CLERK: Sir, if you'd please come forward. Please pause at the end of the bench, place your left hand on the Bible and raise your right hand.

Alex Henry, being duly sworn testified as follows;

MADAM CLERK: Wonderful. Thank you so much. Please be seated. And would you please state your name for the record.

MR. HENRY: Alex Henry.

Direct Examination by Mr. Blouin:

Q. Thank you, Mr. Henry. Could you please state where you are employed.

A. I'm employed with Greenville County Emergency Medical Services.

Q. And how long have you been employed there?

A. Approximately three years.

Q. All right. And where were you or what is -- what is your job?

A. I'm a paramedic. And that entails providing emergency medical care as well as transportation of the sick and injured to the hospital.

Q. Okay. And what sort of training do you need to be a paramedic?

A. It's approximately six months for an EMT course and then

about a year and a half for a paramedic course.
Q. All right. And where were you on November 18th, 2020?
A. I was on shift at that time.
Q. All right. Describe what was going on that evening.
A. Okay. We were posted at one of our gas station posts. And we were made aware of a -- by a bystander of an accident just down the road from us.
Q. All right. And what did y'all do?
A. So we notified -- we notified our dispatch over the radio, respond to emergency, the given location.
Q. Okay. And what did you find at that location?
A. We arrived on-scene to a traffic accident. It was an automobile versus motorcycle accident.
Q. All right. And was the defendant present at that accident?
A. Yes, he was.
Q. All right. Where was the defendant?
A. When we approached him he was sitting on the curb. We talked to him and we were made aware that he -- he was the rider of the motorcycle. He was ejected from the motorcycle, was not wearing a helmet and had several superficial injuries to his head that we could clearly see.
Q. Okay. Then what did you see?
A. Initially we spoke to him, became aware of the accident. He initially refused transport to the hospital and refused --

refused to let us assess him. After we informed him of his injuries and after me -- myself, Mr. McKnight and several bystanders spoke to him, he agreed to go to the hospital.

Q. Okay. And was there anything by the defendant?

A. Yes. There was a saddlebag in his immediate vicinity on-scene.

Q. All right. And did the -- did the defendant eventually agree to be transported?

A. Yes, he did.

Q. Okay. When did the defendant agree to be transported?

A. After approximately -- it was a short amount of time. It was -- it was after myself, my partner and several bystanders recommended he be assessed at the hospital.

Q. Okay. So then what did you do?

A. We assisted him to his -- we assisted him to his feet, put a cervical collar on his neck for spinal -- spinal motion or spinal motion restriction precautions and seated him on the stretcher.

Q. All right. And then what did you do?

A. We then loaded him into the ambulance along with the saddlebag, which was in his immediate vicinity, and transported him to the hospital.

Q. Did he ask for anything else that was in the vicinity?

A. I believe he asked for a cell phone in the ambulance, but we couldn't -- we didn't see a cell phone laying anywhere in

the debris field.

Q. All right. At any point did you go into or look into the saddlebag?

A. I did not.

Q. All right. And where were you located during the ride to the hospital?

A. I was located in an attendant's seat. It would have been to his immediate left facing him.

Q. All right. Was the defendant conscious?

A. Yes, he was.

Q. Okay. At any point was the defendant unconscious?

A. No, sir.

Q. All right. Then what happened?

A. We provided -- we provided basic care, obtained vital signs during transport. We notified the hospital -- the hospital of his injuries and the events that occurred. And upon arrival we brought him into the trauma bay at the ER and transferred care over to staff.

Q. Okay. What then did you guys do?

A. We gave report to the trauma team and transferred care over to them.

Q. All right. Describe the scene when you arrived on White Horse Road.

A. To the best of my recollection I remember seeing a motorcycle lying in the roadway. The defendant was sitting on

the curb, and there was a saddlebag in his immediate vicinity.

Q. Were there other people in his vicinity?

A. Yes. There were several bystanders on the scene.

Q. Okay. And how many first responders were there?

A. Initially it was just me and my partner on the scene.

Q. Did anybody else end up showing up?

A. Law enforcement ended up showing up before we -- before we initiated transport. I was able to inform the law enforcement officer of our transport destination.

Q. Okay. And that's when you transported him. And is it -- tell me about whether -- is it common to transport personal items with individuals?

A. Yes, it normally is.

Q. Okay. Please answer any questions the defense may have.

Cross-examination by Mr. Wise:

Q. Mr. Henry, so you were at a gas station when a bystander came up and said there's been a wreck?

A. Yes, sir.

Q. All right. So the wreck obviously happened sometime before you got there?

A. Sorry?

Q. The wreck obviously happened two, three minutes before you arrived at the scene?

A. I would assume so.

Q. Okay. That's a fair assumption, correct?

A. Yes, sir.
Q. All right. So -- and you said when you got to the scene there were four or five people gathering around?
A. I don't recall the exact amount of people. I know there were several bystanders present, though.
Q. Certainly more than one or two?
A. Yes.
Q. Okay. So before you got there you don't know what anybody did with any bag that was on the ground, obviously?
A. No, sir.
Q. Okay.
A. We didn't witness the wreck.
Q. And if somebody picked something up and put it in it, you wouldn't know it?
A. No.
Q. Okay. Because you weren't there?
A. Yeah.
Q. All right. And then you put -- and we had one discussion -- and Mr. Swaringen was on a spinal board?
A. I believe he mentioned that to me when you were reviewing your narrative -- my narrative the other day. However, taking a second look at the narrative, we placed it -- we placed a cervical collar on his neck.
Q. All right. So the report is that he arrived at the hospital with a spinal board. Is that a different -- that's a

different thing, isn't it?
A. Yes. So we have -- we have a little category, it's spinal motion restriction. That can be anything from a simple cervical collar all the way up to a spinal -- a long spine board.
Q. Okay. So -- but if the report said spinal board, you would agree that's probably what it was?
A. May I review the report?
Q. Sure.
(Pause)
A. This is placed under the hospital's report. I don't ---
Q. Right.
A. --- believe a spinal board is documented on my report, though.
Q. Okay. But the hospital says he did arrive with a spinal board?
A. Was there a long spine board visible in the video footage?
Q. I don't know. I couldn't tell.
A. Okay.
Q. All right. That's not that important. Now you got to the scene, Mr. Swaringen was there, you got him into the ambulance?
A. Yes, sir.
Q. And who was -- who first went into the ambulance with

him?
A. I believe I climbed in with him.
Q. All right. What about your partner?
A. My partner would have been -- would have been driving the ambulance. I can't recall if we put in basic information before initiating transport or if we initiated transport immediately.
Q. Um-hum (affirmative).
A. But with any trauma scene, we aim to be off the scene within ten minutes.
Q. Okay. So you got to the ambulance and you were inside the ambulance with Mr. Swaringen?
A. Yes.
Q. And your back, then, was to the scene?
A. My back -- yes, I believe my back would have been ---
Q. Okay.
A. --- of the scene.
Q. So you weren't observing what anybody at the scene was doing at that point?
A. No, sir.
Q. All right. And, again, if some Good Samaritan picked something up and put it in the bag, you wouldn't know it?
A. No, I don't believe so.
Q. Okay. Because you weren't looking at it?
A. No. I wasn't directly observing ---

Q. And after you got ---
A. --- the scene.
Q. --- Mr. Swaringen into the ambulance and gave him some initial treatment in there, is it then you went back and got the bag?
A. I don't recall if we retrieved the bag immediately before loading him in or if we retrieved it shortly after loading him.
Q. You don't recall ---
A. No, sir.
Q. --- exactly when you got it?
A. No.
Q. So it could have been there for a while while you loaded him in the ambulance and went back and got it later?
A. It wouldn't have been for long, though.
Q. Right. I mean, 30 seconds even? It's not long.
A. No.
Q. But during that period of time you were not witnessing what was being done to the bag, if anything?
A. No.
Q. Okay. All right. Now when you bring the patient into the hospital, if they have a bag with them, is it generally hospital policy to give that bag to a security guard before you go -- before you bring the bag into the hospital?
A. Yes. If security's present outside, they'll usually

check the patient with a -- with a metal detector and then check through any bags we bring in along with them.

Q. Okay. And if the bag -- I think your partner -- let me back up. So if you bring the patient in and go back and get some of his personal belongings, you're required to let security look at that before you bring it in the hospital?

A. If security's present, yes.

Q. Right. So if there's a security guard there at the entrance, if you're bringing in a patient's bag by itself, you'll give it to security first?

A. Yes, if security's present to check through it.

Q. See what's in it to make sure nothing illegal, any guns, anything like that?

A. Yes.

Q. Is that right? Okay.

(Pause)

Q. Thank you.

THE COURT: All right. Any redirect?

MR. BLOUIN: No redirect, Your Honor.

THE COURT: All right. You may step down.

MR. BLOUIN: We'd ask that he be excused from his subpoena.

THE COURT: All right. Any objection?

MR. WISE: No objection.

THE COURT: All right.

MR. BLOUIN: Your Honor, the State's next witness is probably going to be its longest. That would be that -- the nurse. And I'm -- she had something going on at four. So I -- she was not going to be here. I thought we'd make it a little longer than we did.

THE COURT: There's nothing -- nobody else you can call?

MR. BLOUIN: No, Your Honor. They're not here.

THE COURT: All right. You can step down.

MR. HENRY: Thank you.

THE COURT: We can let him step down. You're excused.

Do you need -- all right. Well, ladies and gentlemen, like I said, we need to be flexible. So we're going to -- apparently the next -- and like I said, the next witness would probably put us well past five.

And so -- I hear thunder rumbling out there. So maybe we can get out of here before traffic gets -- so I'm going to go ahead and let y'all go for the day. And, like I said, be back here -- be in your jury room at 9:00. That's good with anybody -- all right. Okay.

And I'm going to give you -- every time we take a break, you're going to get so tired of hearing me, but these rules -- but they're important. Do not discuss the case. Do not pay any attention to any media coverage if there's any out there. Do not do any type of research. And if you should -- anybody contacts you other than somebody from the clerk's office, then

please let the bailiffs know. All right.

But I'm going to have one of you -- you have one thing -- one task to do before you leave, and that is from the original 12 of you, you need to select your foreperson, okay? And as I always say, they don't get paid anymore than the rest of you. But the duties are basically to lead in discussions and do any communications with the Court.

So when y'all have selected your foreperson -- oh, they do get a special seat. So they get the first seat. So when you do select your foreperson, if you'd write that on a piece of paper and hand it to the bailiff, and at that time y'all are free to go.

So -- all right. If you'll step back in your jury room, select your foreperson, then y'all have a good evening. And we'll see you at 9:00 in the morning.

(Whereupon the jury exited the courtroom at 4:10 pm)

THE COURT: All right. Well, we got a couple of witnesses through today.

MR. BLOUIN: Well, I was going to say, I apologize, Your Honor. I kind of based the timing off of the suppression hearing timing. That last witness was well over an hour last time. So I was kind of thinking it would be about the same.

THE COURT: Okay. Like I said, we got it -- we got it rolling pretty good.

MR. WISE: I apologize for falling down on my job.

THE COURT: Well, you're apologizing for being not as long-winded as you normally are, Mr. Wise?

MR. WISE: Obviously that's true.

THE COURT: Well, we'll take judicial notice.

MR. WISE: All right.

THE COURT: All right. Well, y'all be ready to go at 9:00, okay, so we can get started. Because, like I said, we'll have to break. How long will that -- your next witness last?

MR. BLOUIN: Maybe an hour.

MR. WISE: Yeah.

THE COURT: So we -- that may be a good chance to break so that guy can ---

MR. BLOUIN: For that guy. Yeah, and then a bunch of chain stuff.

MR. WISE: That's probably going to work out ---

THE COURT: Okay. Well, good. All right. Well, we'll see everybody 9:00 in the morning.

(Whereupon court was in recess at 4:11 pm)

Tuesday, June 28, 2022:

(Whereupon State's exhibits 2 - 14 were marked for identification)

(Whereupon Court's exhibit 3 was marked)

(Whereupon court reconvened at 9:14 am)

THE COURT: All right. The State ready for the jury?

MR. BLOUIN: The State's ready for the jury, Your Honor.

THE COURT: The defense ready for the jury?

MR. YARBOROUGH: Yes, sir.

THE COURT: All right. Is the jury [sic] ready for the jury?

(Whereupon the jury entered the courtroom at 9:16 am)

THE COURT: Good morning, ladies and gentlemen. Sorry we got a little bit of a late start, but as y'all probably saw when y'all came in, there was quite of a log jam downstairs. And that creates a problem. So I do apologize.

And, Ms. Mayes.

MS. MAYES: Yes, sir.

THE COURT: I understand you have been selected as the foreperson. So thank you for doing that.

And with that all being said -- I hope everybody had a good evening. And with that being said, we will -- the State -- as you will recall, the State is in their case in chief, and, State, you may call your next witness.

MR. BLOUIN: May it please the Court, Your Honor? The State would call Lisa Edmonds.

THE COURT: And we will be stopping at 10:15. Have a short break there, so ...

Lisa Edmonds, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name

for the record.

MS. EDMONDS: Lisa Edmonds.

Direct Examination by Mr. Blouin:

Q. Ms. Edmonds, where were you employed on November 18th of 2020?

A. Greenville Memorial Hospital in the emergency department.

Q. And what County was that in?

A. Green County.

Q. Greenville?

A. Oh, I'm sorry. I'm from Green County. Greenville County.

Q. Okay. Just making sure.

What was your job title there?

A. I was the Family, Patient Liaison and Chaplin.

Q. Okay. And what did that job entail?

A. I wore a lot of hats. I worked with the physicians in speaking with patients as well as families. I also went through belongings to secure those if need be.

Q. Okay. And why would you go through and inventory patient's belongings?

A. A lot of times people would have things that needed to go to the police, whether that was a switchblade, a gun, even pocket knifes would go to them.

Also, we have a lot of people that would have large amounts of money that needed to go into the safe or jewelry

that needed to go to the safe, maybe an Apple watch. So for their protection and ours as well.

Q. All right. Now are you currently employed with Prisma?

A. No, I am not.

Q. All right. Why are you not employed with Prisma?

A. I lost my job in September.

Q. Okay. Can you go into the reasons why you lost your job?

A. Yes. I'm sorry. I had found out my husband had an affair. And I went into his chart to look at some of his medical records.

Q. Okay. Before that incident -- and there's some tissue beside you.

A. Thanks.

Q. Before that incident had you ever been accused of any wrongdoing?

A. Oh, no.

Q. How long were you employed with Prisma or Greenville Memorial?

A. In that specific position, six years, but with them longer than that in other positions.

Q. Okay. And were you working the night of November 18th?

A. Yes.

Q. All right. I'm going to pull up this video.

THE COURT: All right. Make sure -- hold on.

Q. All right. Before we start the video, can you kind of

give us an idea of what it is we're looking at?

A. The people that you are looking at sitting down are in the A-pod. A-pod is where the most serious patients usually come in. I'm not sure who's being wheeled in. They could be going out of the unit. But behind where the curtains are are what we call trauma bay A and trauma bay B.

(Whereupon the video, State's Exhibit 1, was played for the jury while the witness testified)

Q. Okay. So describe -- how many ways are there into and out of trauma bay A and B?

A. Only one, the one you're seeing.

Q. So anything coming in and out -- you would see anyone coming in and out of that trauma bay?

A. Absolutely.

Q. All right. Do you remember how many patients during this incident were in the trauma bay at that time?

A. I'm not sure if there was somebody on B side or not.

Q. All right. Well, let's go ahead and play the video. And while, you know, this is playing, kind of what all goes on in trauma bays? Like what all are all of these people doing?

A. They're -- the people you see going in, that green, are physicians. Many will be residents because it is a training hospital. So they would be going into assess the patient. There'll be nurses there. Everyone has a certain position, exactly where they stand. It's very organized.

And there is a scribe that stands up on a podium that's kind of against that wall where you see the curtain. And so they will be typing out everything that's going on during that time.

The person that is standing to the right in the green is waiting currently for EMS to come out and give any information that they may have on the patient. We always hope that there'll be a license there so that we have a name of the person as well as an address. At this point nobody's stopped to give her that information. It can take a long time.

That is portable x-ray coming in. As soon as the assessment is done, they will order some portable x-rays.

Curtains are always drawn because pretty much everybody gets naked in the bay. And so for their dignity, we try to keep that closed. People have curiosity to look in.

Q. And what would be happening right here?

A. Right there you see one of the EMS giving her, which she would be from registration, so they're giving her information. It looks like, based on the length of time, that they are telling her a name. Oftentimes they come out and say we don't have anything.

That's me walking up. So I will be getting any information from registration.

Q. All right. So just -- can you kind of point to who you are?

A. I am on the far right in the back.

Q. I'm sorry, ---

A. The short one.

That is respiratory that just walked up. They sit at that computer.

Q. Now all that's been happening now, what side of the trauma bay is this all occurring?

A. It is occurring on the left side. That's referred to as trauma bay 1 or A.

Q. How long would someone typically stay in an individual trauma bay?

A. Oh, it really depends. They could be there a very short time. They could be there a very long time. We have to make sure that that patient is stable before we take them over to CAT Scan.

They're leaving right -- I'm sorry. That's the x-ray. So x-ray is finished. Typically after that, a patient is wheeled over to CAT Scan. And once again, they have to be stable.

So at this point, I've gone in, it appears. I usually wait until x-ray has left, some of the residents have left before I go in.

The person looking in right now is the evening Chaplin that will stay overnight.

And that was one of the residents. He was handing orders

to what we call the Hock (ph.) or the unit secretary, to put in so that they know that they will be taking that patient over to CAT Scan.

All the activity in and out are doctors.

The red vest that you have seen some people come and then hang up, those were just for x-ray. So that is the room where we keep those.

It appears at this point they're getting ready to wheel the patient over to CAT Scan, which is standard procedure. And you can kind of see where he would have been. That blank spot would be where the bed was.

Q. Now if someone was still in trauma room B, ---

A. Yes.

Q. --- what would they have done at this point? Would they have closed curtains?

A. More than likely, yes. It would depend at this point. Based on doctors that were kind of standing over that way, I can safely assume there was no one there.

You see registration coming in. If they are available and it's not crazy, then they will help go through belongings to see if there is anything that needs to be locked up in the safe.

The reason we're usually standing back there is when a person is disrobed, they are throwing those clothing, and shoes and things so it's out of the way for staff that is

examining the patient as well as this is where the scribe stands. So if they have all of their notes, they will also help in writing the notes of belongings being identified.

Q. So what would you be doing at this point in time?

A. At this point I've put on gloves, and I am going through whatever belongings the person has. When their pants are taken off, I'm going through pockets to make sure that everything is secured. If there's a wallet, to make sure that there's not hundreds of dollars that we need to secure or tons of credit cards that need to be secured.

I'm putting things in bags, patient belonging bags. And those are being labeled with that person's trauma name, not their personal name. You can kind of see me there probably with some of the belongings.

Lots of activity goes on although it doesn't look it. There would be blood being labeled with -- to be sent up to the blood lab.

Q. I'm going to pause it right here. During the inventory that you conducted, did you find anything?

A. Yes. At that time I found something that I questioned as possibly being drugs. Anytime that happens, then I contact our campus police and ask them to come and review it.

Q. All right.

A. That would be them arriving.

In the bag would be belongings that need to be locked up.

Q. Okay.
A. So they are taken to the front for business office.
Q. So what did you do with this suspected contraband?
A. I'm sorry?
Q. What did you do with the suspected contraband?
A. The police were called. And as you saw, they had come in and they had taken it.
Q. Okay. And you personally handed it to those officers?
A. Correct.
Q. All right. Was anything out of the ordinary while the defendant and his personal effects -- while this whole situation was going on?
A. I'm sorry?
Q. Anything about this seem out of the ordinary to you?
A. No, not at all.
Q. All right. Do you personally know the defendant?
A. No.
Q. All right. And after someone comes and leaves is the -- is the trauma bay sanitized at all?
A. Yes.
Q. Okay.
A. Absolutely. So after he leaves that area and possibly goes to another room, then it will be sanitized.
Q. Okay. Please answer any questions the defense may have for you.

THE COURT: Cross-examination.

Cross-examination by Mr. Wise:

Q. Ms. Edmonds, the door the two police officers -- the door the two police officers were standing in front of, ---

A. Yes.

Q. --- that's trauma bay, I mean, is there a name for it called resus?

A. Well, they -- they can be referred to as resuscitation rooms if that's called for. Typically 3, 4 is our resuscitation, which ---

Q. All right.

A. --- is in another area.

Q. So if somebody used abbreviation R-E-S-U-S, that refers to resuscitation room?

A. Correct.

Q. All right. And when that -- what resuscitation room would that be?

A. We ---

Q. If we were looking at -- in the video?

A. Well, those are referred to as trauma bay 1 and trauma bay 2.

Q. Okay.

A. And then we have resus 3, 4.

Q. Okay. And where does resus 3, 4 ---

A. It is out in the back area. It's in another room.

Q. All right. And the one we were looking at in the picture with the two officers standing in the doorway was what's commonly called -- what you would call trauma bay 1?
A. Yes. He would have gone to 1.
Q. Where is trauma bay 2?
A. Right next to it. There's a curtain that separates the two.
Q. Okay. So when you look through the door, it's just a big room?
A. It's a huge room, yes.
Q. With a curtain dividing it?
A. Correct.
Q. All right. And you referred to each one of those as a trauma bay?
A. Correct.
Q. All right. And the one that Mr. Swaringen is in would then been trauma bay?
A. 1.
Q. 1. All right. And trauma bay 2 would be off to the right?
A. Correct.
Q. All right. Next to it?
A. Correct.
Q. All right. And that's the way y'all label them ---
A. Correct.

Q. --- in the hospital? All right. Now you obviously didn't have a chance to talk to Mr. Swaringen about searching his property because he wasn't in there?
A. That's correct.
Q. All right. And you said you wait til he leaves?
A. Well, due to the number of people in the room.
Q. I mean, it's a lot of people in and out?
A. That is correct.
Q. I mean, I didn't count them, but seven, eight, nine or ten?
A. Yes.
Q. In that range?
A. That is correct.
Q. Now -- so you say you do this for the protection of the hospital and the protection of the patient?
A. Correct.
Q. And protection of the patient means basically he knows what the hospital got, I guess, out of his personal belongings?
A. If anything is locked up, yes.
Q. All right.
A. They receive a sheet telling everything that has been locked up.
Q. Do you get permission from the patient to search their personal belongings?

A. No.
Q. You never do?
A. No.
Q. Okay. Do you always search the belongings out of the presence of the patients?
A. Not always.
Q. Okay. And do you give the patient an inventory of what you got?
A. Yes.
Q. Okay. And -- but when you search personal property with the patient not being there it can be, I don't know, I hate to suggest this, but it can be an opportunity for somebody to take something that doesn't belong to them?
A. Well, in actuality that's why we go through the belongings so that -- because they can be over in CAT Scan or taken immediately somewhere else. So we inventory that immediately so that does not happen.
Q. The point is if he had -- if a patient had two hundred dollars ($200.00) in their pocket and the inventory was done out of their presence, a nefarious person could take a hundred dollars ($100.00) of that and just only turn in a hundred?
A. If they want to lose their job, I guess.
Q. Right. I mean, if they got caught. But any of the searching you did wasn't on camera?
A. Typically it is always on camera. I mean, it's my

understanding the cameras were not working ---
Q. Right.
A. --- that particular day, but we would not know that.
Q. So what did you -- what did you search of his?
A. It would have been anything that he had, pockets to -- if he had jeans on, a shirt, a sweatshirt, a jacket, a purse. Anything anyone brings in, then we go through that.
Q. Okay. And do you know -- in this particular case what did you search to find the suspicious product in?
A. Wherever that was. I can't specifically say what he had with him.
Q. All right. You found what you believed to be drugs?
A. Correct.
Q. And you don't recall today what you found it in?
A. I see hundreds of people.
Q. It could have been ---
A. So ...
Q. --- in pants pockets?
A. Could be pants pockets. Could ---
Q. Could have been ---
A. --- be a jacket.
Q. --- a shirt pocket?
A. Could be whatever the person has with them.
Q. All right. And you don't remember today what you found it in? Is that correct?

A. I have been told where it was, but ---
Q. Okay. Don't ---
A. --- that's a year and a half ago, so ...
Q. But you have no independent recall of where it was found?
A. No.
Q. Then I assume it's also correct to say that Mr. Swaringen never said to you, those are my belongings, either?
A. He might have. There could have been -- oftentimes in situations, not necessarily him specifically, if there's a great deal of money or whatever, then when they return I will tell them that we have locked up, we saw that you had blah, blah, blah, that has been locked up for your protection.
Q. Do you know a nurse there named Ms. Ridgeway?
A. First name?
Q. First name would be Kelsey Lynn ---
A. Yes.
Q. All right. She was there that night, correct?
A. I assume so, yes.
Q. You don't know that?
A. Year and a half ago.
Q. Did you see her in the video?
A. I assume so, yes.
Q. You assume so?
A. Yes.
Q. Okay. And you've said that there's a woman there taking

notes?
A. Yes. That's the scribe on the podium.
Q. And that you -- I believe you testified earlier you were -- that she was -- you were dictating to her?
A. The doctors dictate to her, nurses dictate to her. If she has time to put in information, then I would give her information. If not, then that's done later.
Q. All right. But I believe you actually testified in this matter and you said that you dictate to the person on the podium? You, yourself, dictate to the person on the podium?
A. Oftentimes, yes.
Q. All right. Do you recall saying that?
A. Probably, because it does happen.
Q. Okay. And what you would dictate to the -- to the person on the podium is what you were doing?
A. No. It would be -- if, again, if they have time and aren't still doing doctor notes, then I would say one pair of pants, two shoes, whatever it is that we are finding.
Q. And they would -- they would write that down?
A. (Affirmative nod).
Q. So as somebody does something, the person writing down takes notes of it?
A. If they are given those notes, yes.
Q. All right. I want to hand you -- ask you if you recognize that as a hospital record in this case?

MR. BLOUIN: Your Honor, if I could see that record before ...

MR. WISE: You can in a second.

Q. Do you recognize the hospital record in this case?

A. Well, it's a quick update.

Q. Just -- you don't have to explain it. Just do you recognize it or not?

A. Well, I wouldn't recognize it, necessarily.

Q. Do you recognize that as a hospital record for Prisma Hospital?

A. Yes. I see here it's got a list of personal belongings ---

Q. All right.

A. --- at the top, so, obviously, she did record those.

(Pause)

Q. All right. In this hospital record on Mr. Swaringen, if you'll look down toward the bottom where it's highlighted, ---

A. Yes.

Q. --- that indicates that a Ms. Ridgeway found something on Mr. Swaringen.

A. Well, it doesn't indicate she did. It indicates that she was the person that was putting in the notes.

Q. All right.

A. Because at the top it also shows that she has put in clothing, face mask, gloves, cough drops.

Q. Do you know if Ms. Ridgeway reported the clothing?
A. It is recorded on the top.
Q. Correct. So Ms. Ridgeway reported that? The clothing at the top?
A. Well, she was the scribe. So she would have been writing that into the record.
Q. All right. So Ms. Ridgeway was the woman standing on the podium?
A. Would have been, yes.
Q. I mean, are you -- are you sure it was Ms. Ridgeway on the podium?
A. Pretty sure if she was the one that put in those notes. Let me see and I can tell you by the other notes made if she was the one ---
Q. Hold on ---
A. --- on the podium.
Q. --- one second. I may make it easier for you.
A. I like easy.
Q. What if I handed you a lot of them, would that help you clarify it a little bit?
A. Ah, well, we'll see.
Q. Okay.
(Pause)
A. I see the orders put in by the unit secretary. Yes, she would have been the person.

Q. All right. There's more than one person's name mentioned in there in that right hand column.
A. Yes.
Q. So would there be more than one scribe?
A. No.
Q. So would there be just -- one person would be doing that?
A. Is doing the scribing. There are -- x-ray have put in their notes. Doctors have put in their notes. It looks like, who would be his nurse, ---
Q. Um-hum (affirmative).
A. --- I'd have to go back further, put in notes.
Q. What in there identifies Ms. Ridgeway as the note-taker, so to speak?
A. It doesn't, but we know who that is.
Q. Okay. Thank you. So you're not here to say that you found drugs in a pocket of Mr. Swaringen?
A. I'm not saying anything regarding where it was found.
Q. All you're saying is he had -- there was a bunch of personal property in there that allegedly belonged to him and some drugs were found in it?
A. Correct.
Q. But you don't know what personal property it was?
A. I'm sorry?
Q. You don't know what personal property it was that you found it in?

A. Not just off the top of my head.
Q. And I assume in the past there have been occasions where people's clothing gets mixed up with somebody else's?
A. Very rarely.
Q. But it does happen?
A. Sure.
Q. Okay. All right. And you never had any conversation with Mr. Swaringen as to whether or not -- wherever you found the drugs, that was -- he never confirmed that was his personal property?
A. When he came back in after CAT Scan, I spoke with him. I always speak with our patients if they're able to communicate once they come back from CAT Scan and things have calmed down.
Q. All right. But you never told him you found drugs in a certain piece of personal property?
A. I would have to say that is probably not my position to say anything like that to someone.
Q. And you turned these over to, I believe, Officer Miller?
A. I assume.
Q. Okay. So when you found -- what did you -- how do you describe them? How did you describe the drugs, what you -- what you thought were drugs?
A. Meaning?
Q. I mean, was it all one lump-sum? One -- what was it?
A. I can't begin to tell you that.

Q. You can't get -- all right. So you don't know if it was one bag, two bags, six bags ---
A. I have no idea. Year and a half ago.
Q. Is that correct?
A. I have no idea.
Q. Now do you have any training as to what to do with any alleged contraband that may have been found on a person?
A. We are told to contact the campus police.
Q. Okay. Did Officer Miller ask you to make some contemporaneous notes as to where you found and what you found?
A. I don't remember.
Q. Okay. But you know of no contemporaneous notes that you personally did as to where it was found and what was found?
A. I will take personal notes to put in my file ---
Q. Um-hum (affirmative).
A. --- in the office should something come up.
Q. Do you know if you did any notes in this case?
A. I would assume so.
Q. All right. Did you turn them over to the solicitor's office?
A. No. Those are kept in my office for a year. And then once the new year comes around, they're all disposed of.
Q. Would Officer Miller be familiar with that practice?
A. Probably not.

Q. All right. So do you recall when you were first contacted again about this case?
A. (No response).
Q. When was -- after that night when were you first contacted again about this case?
A. A month ago, two months ago.
Q. All right. Sometime in late May or early June?
A. Yes.
Q. So it'd be fair to say that you hadn't discussed this incident with anybody until roughly four weeks ago?
A. Probably.
Q. Give me one minute.
(Pause)
Q. Thank you. That's all I have.
THE COURT: Redirect.
MR. BLOUIN: Just briefly, Your Honor.

Redirect Examination by Mr. Blouin:

Q. Based off the video that we all watched, we saw the defendant brought into trauma bay 1?
A. Correct.
Q. And did it appear that there was anybody else ---
MR. WISE: Objection, Your Honor. He's leading the witness.
THE COURT: Rephrase your question.
Q. Were there any other patients in the trauma bay?

A. Not to my knowledge.

Q. Okay.

MR. BLOUIN: No further questions of this witness.

THE COURT: All right. You may step down.

MR. BLOUIN: We'd ask the witness be excused from her subpoena.

THE COURT: Any objection?

MR. WISE: No objection.

THE COURT: All right. Ladies and gentlemen, this is our -- I guess there's no reason to start a witness for just a few minutes. So at this time we're going to take a break.

Do not discuss the case. Do not do any type of research. Do not pay any attention to any media coverage. Anybody contacts you other than the clerk's office, then let the bailiff know.

And, like I said, I don't want -- I mean, I'll let you -- since it's 45 minutes, I'm not going to make you sit back in your room, and you can mill around, but as long as you're back in the jury assembly room at 11:00.

And that way when you come back, everybody can come up at that time, and we'll start just as soon after that. So, all right. So y'all have a good little break, and see y'all back in a little bit.

(Whereupon the jury exited the courtroom at 10:05 am)

THE COURT: I mean, has any of this been introduced?

MR. BLOUIN: Yeah, it's in evidence, Your Honor.

THE COURT: I mean, I never -- I never knew that ---

MR. BLOUIN: That was part of the stipulation. That was like one of the first things we did yesterday.

THE COURT: Oh, okay. You mentioned a stipulation, but there was never any presentation because I was like ---

MR. YARBOROUGH: Yeah, I don't -- Your Honor, ---

THE COURT: The videos are not in the evidence.

MR. BLOUIN: Yes, they were, Your Honor.

THE COURT: I guess y'all did them yesterday ---

MR. BLOUIN: By stipulation. You asked Mr. Yarborough if there was any objection. He said, no.

THE COURT: Was that the stipulated written document?

MR. BLOUIN: That was the video.

MR. YARBOROUGH: I asked ---

THE COURT: Oh, okay. No, I was ---

MR. BLOUIN: And we can read the written document.

THE COURT: Is that what it says? Okay. I mean, I just never was presented with this. So I didn't know. I was like -- I didn't realize that's what -- you said stipulation, but you didn't say it was a stipulation of the video. So that's why I was confused about that.

MR. BLOUIN: I apologize.

MR. YARBOROUGH: That has not been presented to the jury,

Your Honor. I'd asked her ---

THE COURT: Right. This has not been presented, but this ---

MR. YARBOROUGH: That hasn't been presented. I asked her that this morning because I just -- I was confused because they were talking about it and I didn't ...

THE COURT: So this -- are those labeled as exhibits? The DVDs?

MR. BLOUIN: The DV -- it's just one DVD.

THE COURT: Well, I mean, what's the exhibit number?

MR. BLOUIN: It's just exhibit 1.

THE COURT: All right. Okay. That's why I just -- y'all just didn't let me know.

MR. BLOUIN: I'm sorry.

MR. YARBOROUGH: So just -- so the record's clear, is DVD 1, which is the only DV, is it in evidence?

MR. BLOUIN: Yes.

THE COURT: Right. My understanding is there was no objection, I guess, now.

MR. YARBOROUGH: That's correct. And are the stipulations -- the stipulations are in evidence, but they have not been presented to the jury?

THE COURT: Correct. And it's marked as Court's exhibit?

MR. BLOUIN: They're -- I believe so.

THE COURT: Okay.

MR. BLOUIN: It's one. Court's exhibit 1.

THE COURT: Court's 2. Court number 1 was ---

MR. BLOUIN: Court's 2.

THE COURT: --- the letter. Okay. Are you planning on publishing it?

MR. BLOUIN: Oh, yeah, absolutely. I don't know if they want to. So, yeah, that's fine.

THE COURT: Okay. I was just making sure everything was okay with the video, so... All right. And be -- like I said, as soon as that juror gets back, be ready to go with your next witness.

MR. BLOUIN: Yes, sir.

(Whereupon court was in recess at 10:08 am)

(Whereupon court reconvened at 10:55 am)

THE COURT: Okay. Is the State ready?

MR. BLOUIN: State's ready.

THE COURT: Defense ready?

MR. YARBOROUGH: Ready.

THE COURT: Go ahead.

(Whereupon the jury entered the courtroom at 10:56 am)

THE COURT: All right. Welcome back. The timing worked out real well. So I hope you got everything done you needed.

JUROR: (Affirmative nod).

THE COURT: Okay. All right, folks. As you will recall, the State is still in their case. So, Mr. Blouin, if you'd

call your next witness.

MR. BLOUIN: The State would call Katlin Glenn.

MADAM CLERK: Place your left hand on the Bible and raise your right hand.

Katlin Glenn, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name for the record.

MS. GLENN: Katlin Glenn.

Direct Examination by Mr. Blouin:

Q. Ms. Glenn, can you please describe the events of the night of November 18th, 2020?

A. I was coming down White Horse Road leaving my sister's house. And I don't know if he thought he could beat my car, or what the case may have been, I hit him.

Q. Okay. Let's kind of go back. So where were you coming from?

A. From my sister's house.

Q. All right. And where were you going to?

A. Home.

Q. All right. And who all was with you?

A. I had five kids with me.

Q. All right. Were they all your kids?

A. No, sir.

Q. Whose kids were they in the vehicle?

A. Two of them were mine. The other two were my little cousins and my nephew.
Q. All right. And what kind of vehicle were you driving?
A. GMC Jeep.
Q. All right. And describe where you were -- what is the best way to get from where you were going to your home?
A. I was leaving from 123. So I was coming from like Easley. So I hit White Horse Road to go to Berea.
Q. All right. And what happened when you were on White Horse Road?
A. I was coming down White Horse Road and he came from nowhere.
Q. All right. And that person, what was that person driving?
A. A motorcycle.
Q. All right. And what happened after you hit this person on the motorcycle?
A. Once I hit him, I got out of the car to make sure that he was okay. And he kept trying to leave. He kept trying to run.
Q. All right. Did you see -- did you notice any injuries on the defendant?
A. Yes, sir. His head was bleeding.
Q. Okay. And what do you mean by he tried to run?
A. He kept trying to -- I had to hold him down. And another

lady helped me hold him down as well.
Q. Okay. Did you describe the other lady?
A. No, sir. I don't recall what she looks like.
Q. All right. And why did you feel like you needed to hold him down?
A. Because he was bleeding from his head. I'd just hit him on a motorcycle.
Q. Okay. Makes sense. How long did you hold him down for?
A. Until someone got there.
Q. All right. And can you estimate how long that took?
A. No.
Q. Was it a long time?
A. I don't think so.
Q. Okay. What happened after first responders arrived?
A. We -- I got back in my jeep. And they asked me to move my car out of the road. And they put us in KFC parking lot, asked us what happened and sent us home.
Q. All right. So you cooperated with law enforcement?
A. Yes, sir.
Q. And after this incident where did -- where did you go?
A. Home.
Q. All right. Were there a large number of people at the incident location?
A. There were people at the scene.
Q. Okay. Who were some people at the scene that you know

of?

A. The children that was with me, their parents -- their mothers were there.

Q. All right. And so how many people were there?

A. Three.

Q. Okay. And so those were -- were they related to you?

A. Yes, sir.

Q. How were they related to you?

A. One was my sister and two was my aunts.

Q. Okay. And do you remember seeing any sort of bag during this whole altercation?

A. No, sir.

Q. All right. Do you have any sort of experience with methamphetamine?

A. No, sir.

Q. Could you describe to the jury what methamphetamine looks like?

A. No, sir.

Q. All right. Did you know anything about this case after law enforcement?

A. No, sir.

Q. Please answer any questions the defense may have for you.

THE COURT: Cross-examination.

MR. YARBOROUGH: Just a second, Your Honor.

(Pause)

Cross-examination by Mr. Yarborough:

Q. My name is Bill Yarborough. I represent Mr. Swaringen. And I know y'all have -- y'all have been previously tied up in litigation, isn't that correct?

A. Excuse me?

Q. About the wreck and all that? There was criminal, I mean, there was litigation about the wreck. You were determined to be at fault, isn't that right?

A. Yes, sir.

Q. Okay. So you're kind of a little bit soured about that, right?

A. No.

Q. Well, how about this. You did cause the wreck, right?

A. Yes, sir.

Q. Okay. That's -- we all have issues driving sometimes. Now Mr. Swaringen, the bike was laying on top of him after the wreck happened, right?

A. I don't recall.

Q. Well, you just recalled you were -- you were laying on top of him. But the bike -- when EMS got there the bike was laying on top of Mr. Swaringen, right? He was down on the side?

A. I don't recall that. No, sir.

Q. Okay. Well, who helped get the bike off of him?

A. The man was trying -- I don't recall the bike being on

top of him. The man was trying to run.
Q. Look, if he was trying to run, he would have run, right?
A. No, sir.
Q. Well, you -- if he was -- could you stand up?
(Whereupon the defendant stood up)
Q. If that man right there was trying to get away, he could have gotten away, right?
A. No, sir. Not -- we was holding him down. He was trying to run, and we was ---
Q. Okay.
A. --- holding him.
Q. So you're telling this jury that you jumped out of your car after you run into a guy on a motorcycle and then you get on top of him and you hold him down?
A. Yes, sir, I was.
Q. Okay. And you did that because of what?
A. Because he was bleeding from his head, and I'd just hit him on a motorcycle.
Q. Okay. So if he's bleeding from his head and you were sitting there trying to hold him down, you don't know if he's trying to run or if he's trying to stand up, do you?
A. Yes. He was trying to run.
Q. Okay. Again, you're telling me that -- you could keep this man from running if he wanted to run?
A. It wasn't just me. It was another lady that helped me as

well.

Q. Okay. All right. And you didn't see any kind of black bag on the side of the road, right?

A. No, sir.

Q. Okay. But there was total chaos out there, right?

A. Yes, with him trying to run.

Q. Well, I mean, his motorcycle was right there, right?

A. Yes, sir.

Q. His motorcycle would run, right?

A. No, sir.

Q. What was wrong with his motorcycle?

A. He had just been hit on his motorcycle. He couldn't do nothing with the motorcycle.

Q. And you're -- can you -- can you tell me how big the motorcycle is?

A. No, sir. It wasn't too big.

Q. It wasn't big?

A. No.

Q. Okay. Do you remember this -- this very well?

A. I mean -- I mean, for bits and pieces. I remember ---

Q. Okay. Now if -- the EMS people came to the side of the road, right? They came?

A. Um-hum (affirmative).

Q. About five to ten minutes later?

A. I mean, I can't recall exactly how long it was because it

was so much going on trying to keep him there.

Q. Okay. But when they get there, he's sitting on the side of the curb, right?

A. No, sir. We're in the middle of the road.

Q. You're -- you're ---

A. In the middle of White Horse Road at that.

Q. Okay. Where are you on White Horse Road?

A. In the median.

Q. In where?

A. In the median.

Q. And the median's -- and you're out there holding down this man after you've run in the back of him?

A. Um-hum (affirmative).

Q. Okay. And why are you holding him down?

A. Because he was trying to run.

Q. But I don't understand that. Explain to me -- what do you mean he's trying to run?

A. He kept trying to get up off of the ground and run.

Q. And have you ever told anybody this before?

A. What happened? The wreck?

Q. About trying to hold somebody down?

A. Yeah, my family and what happened.

Q. Okay. Where -- who in your family have you told that to?

A. Everybody that asked what happened during the wreck.

Q. Okay. And your whole family's out there at the scene of

the wreck you just testified, right?

A. The children's mother was out there, yes.

Q. Okay. And so there's -- you said there's like three other family members there?

A. Yes, sir.

Q. There are a bunch of young people there?

A. Yes, sir.

Q. There are four or five cars that stopped that are there? Is that right?

A. Yes, sir.

Q. Okay. Did they -- were the police there? Were they stopping traffic?

A. They moved us out of the road. They put us in the parking lot.

Q. Okay. And when they put him in the parking lot, he's sitting on the side ---

A. No. No, no, no. I said us, not him. I don't know what they did with him. They moved me, and my vehicle, and the kids that was with me, they moved -- asked us to move to the KFC parking lot.

Q. Okay. But at that point Mr. Swaringen's cooperating with the police, isn't that correct?

A. After that, I don't know. I got in my vehicle and moved.

Q. Okay.

A. I don't know what happened with him.

Q. So what happened with him -- did you not see them put him on the stretcher?
A. No, sir. When they got there, they moved us from the middle of the road to the parking lot.
Q. Moved ---
A. They asked us what happened, and they sent us home.
Q. Okay. You're not saying they moved Mr. Swaringen over to the parking lot ---
A. Once I got back in my car, I don't know what they did with that man. I have no idea. They was -- they put us in the parking lot, asked us what happened and that was it.
Q. Okay. And ---
MR. YARBOROUGH: One second, Your Honor.
(Pause)
Q. Okay. So -- make sure I get this straight. You -- you run into the back of the motorcycle, right? That's correct?
A. Actually, I'm not sure exactly which way -- how he was hit, no.
Q. Okay.
A. I can't say. Like I said, he came from nowhere. I don't know if I hit him from the side, the back, which way, I don't know.
Q. Okay. But you hit him. And then your testimony is you hit him, and you jumped out of the car and ran and jumped on top of him and held him down because you were scared he was

going to run away?
A. Not jumped out of my vehicle and jumped on top of him, no. I'm trying to figure out if the man's okay, and he tries to get up and run.
Q. He tries to get up and you're ---
A. Three times.
Q. Okay. Okay. That's not unusual for somebody to try to get up from a motorcycle wreck, right?
A. I don't know. I've never been in this situation. And I've never hit nobody on a motorcycle.
Q. Okay. But you did then?
A. Yes.
Q. Right?
A. (No response).
Q. Okay. Let me ask you this. Did you see any drugs?
A. No, sir.
Q. Okay. Did you see a black bag?
A. No, sir.
Q. Did you see -- did you see somebody out there picking up stuff and putting it in a bag?
A. No, sir.
Q. Okay. So if -- did you write down what you saw?
A. No, sir.
Q. Did you talk to the police and tell them what you saw?
A. About the wreck? Yes, sir. I told them exactly what

happened. He asked -- I mean, like I said, I had kids in the car as well. They asked what happened, we told them what happened, and they sent us home.

Q. Okay. And you got charged with running into the back of the motorcycle?

A. I mean, I got reckless driving ---

Q. Reckless driving?

A. Yes.

Q. Okay. One second.

(Pause)

THE COURT: All right. Through?

MR. YARBOROUGH: Nothing further, Your Honor.

THE COURT: Any redirect?

MR. BLOUIN: No redirect, Your Honor. We'd just ask that she be released from her subpoena.

MR. YARBOROUGH: Your Honor, I'd like to maybe be able to call her again. If she could be around for this afternoon.

THE COURT: You got her under a subpoena?

MR. YARBOROUGH: I knew he had her under subpoena.

THE COURT: All right. Well, just be available. You could step down, though.

All right. Next witness.

MR. BLOUIN: Your Honor, the State would call Chris Miller.

MADAM CLERK: Put your left hand on the Bible, raise your

right hand.

Christopher Miller, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name for the record.

MR. MILLER: Christopher Todd Miller.

Direct Examination by Mr. Blouin:

Q. Mr. Miller, where are you employed?

A. With the Greenville Health Authority Police Department.

Q. And how long have you been employed there?

A. About a year and six months.

Q. And where were you previously employed?

A. With Greenville County Sheriff's Office.

Q. And how long were you employed there?

A. I was -- over 20 years, almost 21 years.

Q. All right. And what are your duties and responsibilities at the Greenville Health Authority?

A. To provide security, to answer calls for service and to enforce any laws that have been broken either local, state or federal.

Q. So were you working on the date of the incident?

A. I was working in the emergency room.

Q. Okay. And were you present or where were you when the defendant arrived at the hospital?

A. I was in the ambulance bay.

Q. All right. And what did you do at that point?
A. At that point I left and went back to our -- we have like a substation office. And I went back to that office.
Q. All right. Did you follow -- so did you follow the defendant all the way into the trauma bay?
A. No, I did not.
Q. Okay. And how did you end up being involved in this case?
A. I got a call by dispatch. They said that there possibly was contraband ---

MR. YARBOROUGH: Objection to hearsay.

THE COURT: Yeah, sustained. Tell them what he did. I mean, he can ...

Q. Were you called to the trauma bay?
A. Yes.
Q. All right. And when you got to the trauma bay, what did you find?
A. I was handed a black plastic Pelican case.
Q. Describe what a Pelican case is for ---
A. A Pelican case is a little black plastic case with magnets on the bottom. And it's generally used for automobiles. Like people will stick them up under the frame of a car to put a set of spare keys or something like that.
Q. Okay. What else was handed to you?
A. There was -- also inside the Pelican case there was a

white-like crystal-like substance and also there was a baggy.

Q. All right. So who did you -- what did you do when you -- who did you receive this from?

A. Lisa Edmonds.

Q. All right. And what did you do once you received the crystal-like substance?

A. Once I received it, I took it back to our office.

Q. And what did you do back at your office?

A. Once I got back to the office, I got a field test kit to see what it possibly was.

Q. And what were the results of the field test kit?

MR. YARBOROUGH: Objection, Your Honor. He can't testify to what the -- what the test says. He's not a trained chemist.

MR. BLOUIN: It's a field test, Your Honor.

THE COURT: Lay a foundation.

Q. What are the procedures that you take when potential contraband is found?

A. (No response).

Q. So what would -- what would you do if someone finds potential contraband?

A. I would -- I would take it back to the office and field test it.

Q. All right. Explain what a field test is.

A. It's a presumptive test for different types of drugs. We

have different tests for different drugs.

Q. And explain how -- how would one conduct a general field test?

A. You would -- it's an ampule that you break open. And it has chemical in it. And you take just a small amount of whatever you're testing. And if it turns -- in this case, if it turns blue, it will field test positive for methamphetamine.

Q. Okay. And during your training and experience in law enforcement how many field tests have you conducted? Approximately?

A. Approximately hundreds.

Q. And are field tests part of officer training?

A. Yes.

Q. So did you field test the materials that -- the presumptive contraband that you were handed?

A. I did.

Q. And based on your experience and training, what did the field test come back as?

A. As methamphetamine.

Q. All right. And so what did you do then?

A. Once I field tested it, then I packaged it and placed it into evidence.

Q. Okay. Before you did that, did you take any pictures of it?

A. Yes, I did take pictures of it.
Q. Okay.
A. And I also weighed it.
Q. At this point ---
MR. BLOUIN: May I approach the witness, Your Honor?
THE COURT: You may.
Q. I'm handing you what's been premarked as State's exhibits 2 through 11. Please look through those.
(Pause)
THE COURT: Any objection to these?
MR. YARBOROUGH: No, sir, Your Honor.
THE COURT: All right. So exhibits 2 through 11, State's exhibits are in without objection.
(Whereupon State's exhibits 2 - 11 were admitted into evidence)
Q. All right. And you recognize those photographs?
A. I do.
Q. And are they a fair and accurate description of what you found?
A. Yes.
Q. And did you take these pictures?
A. I did.
Q. All right.
MR. BLOUIN: At this point we'd move to place these into evidence.

THE COURT: They've already ---

MR. BLOUIN: Okay.

MR. YARBOROUGH: I don't have any objections to the pictures. I may have an objection later.

THE COURT: All right. So they're -- 2 through 11 are in without objection, though ---

MR. YARBOROUGH: Correct.

THE COURT: All right. You've got to turn that device on there.

MR. YARBOROUGH: Your Honor, could we approach ---

THE COURT: Yeah.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

Q. Officer Miller, so you took this picture here?

A. Yes.

Q. As well as that picture?

A. Yes.

Q. That picture there?

A. Yes.

Q. That picture there?

A. Yes.

Q. That picture there?

A. Yes.

Q. That picture?

A. Yes.
Q. That picture?
A. Yes.
Q. That picture?
A. Yes.
Q. That picture?
A. Yes.
Q. And lastly that picture right there?
A. Yes.
Q. All right. Now did you fill out any paperwork when you -- when you took possession of these items?
A. Yes, property and evidence sheet.
MR. BLOUIN: May I approach the witness, Your Honor?
THE COURT: You may.
Q. I'm going to show you what's been premarked as State's exhibit 12. Do you recognize that form?
A. I do. That's my handwriting.
Q. All right. And if you could, I'm going to -- is this a fair and accurate description of your ---
A. Yes.
Q. --- what you filled out?
A. Yes.
Q. All right.
MR. BLOUIN: At this point, Your Honor, we'd ask that State's exhibit 12 be placed into evidence.

THE COURT: Any objection?

MR. YARBOROUGH: Your Honor, I do have an objection. And I think I need to take it up -- a point of law outside the presence of the jury.

THE COURT: All right. Ladies and gentlemen, we're going to take a short break so we can discuss this matter. Do not discuss the case. And we'll bring you out in just a few minutes.

(Whereupon the jury exited the courtroom at 11:22 am)

THE COURT: All right. Yes.

MR. YARBOROUGH: Your Honor, the document -- may I approach, Your Honor?

THE COURT: Yes.

MR. YARBOROUGH: The document that he's attempting at this time to -- to move into evidence, first of all, has a number of signatures that look like down at the bottom where -- allegedly where the drugs had been or where they had not been that this officer cannot testify to.

Second, Your Honor, he did not follow -- he's the seizing officer according to regulations that have been defined on what the duties of the seizing officer are. And if you look at the sheet itself, there's several things missing.

He doesn't state whether it's been seized subject to a warrant, a lawful arrest or otherwise. He doesn't describe in great detail the substance -- description of the substance or

containers alleged to contain a controlled substance used in sufficient particularity to distinguish it.

We can't tell from this document exactly what this -- where these drugs were found. But it says it was found by him. And then -- then he allegedly says that he took -- he took these. And now he's testified that he placed them somewhere.

Nowhere on here does it say that these drugs were placed anywhere. If you look at the timeline, where they were seized by, they weren't received by anybody until 12/3/20. So there's 15 days in which these drugs are missing. You know, SLED's promulgated a number of -- and we've codified them -- can I hand this up?

THE COURT: Yes.

MR. BLOUIN: And I don't know what they're handing up. I don't know if they have an extra copy.

MR. YARBOROUGH: I did.

They've codified a number of regulations on how these are -- how this is supposed to be done. And by no way, shape or form has this document purported to report the proper mechanism for the taking, the seizing and controlling of evidence by the seizing officer.

First of all, this is a Greenville Hospital System Police Department form. Your Honor, the -- the drugs are missing on this form for 15 days. They're taken in and out of evidence

at different times.

We don't know who -- first of all, we don't know who the people are that are signing this -- he's not the one -- Miller's not the one that signs all this stuff at the bottom. So that's all hearsay, right? That's -- he can't -- he -- they haven't begun to put a witness up that would testify that that is what that purports to be.

And, Your Honor, what really is disturbing about this -- and I know that Mr. Blouin didn't do this on purpose, but three weeks ago -- two and a half weeks ago we stood here ready for trial. This officer testified that he at no time had written down anything in regards to these drugs. And the day the trial starts we get -- we get this document handed to us.

And I'll tell you this, Judge, this document here, this isn't even his original. His original should be a pink copy. If you look at the bottom down there, it says it should be pink. The one Mr. Blouin is trying to put into evidence is white. I don't know where that one came from.

Judge, SLED and the legislature promulgated different ways in order for drugs to be maintained. And it's not -- it's for the integrity of the system. It's for us to be able to handle these things in court like they are. And I'm not saying he can't put it together. But he can't put it together through that witness because he doesn't have them all on here.

Now if he wants to move this document in, the document is hearsay. He can't -- Officer Miller can't testify to all that stuff down at the bottom. I don't know what he can testify to up here because I can't really tell what all he's written in.

I've got a document over here that says Ms. Ridgeway's the one that found those drugs and all of a sudden he's written in here a Ms. Edmonds found them. And I know she came in and testified, but we -- we've got all kinds of stuff saying this.

And nobody -- nobody could identify who the person was that found these drugs until two weeks ago when we walked in this courtroom and I asked Officer Miller, I said, who found these drugs? He said, I don't know. He said, I got them out of the trauma bay. And nobody could say it was him.

Then all of a sudden the next day I get this document and it's misleading at -- and I'm not accusing anybody. I just -- it's not -- you cannot figure out where the drugs were for 15 days.

MR. BLOUIN: First of all, ---

MR. YARBOROUGH: If he's going to say they were at the hospital for 15 ---

MR. BLOUIN: May I respond, Your Honor?

THE COURT: Well, we have -- he's still going.

MR. BLOUIN: Okay.

MR. YARBOROUGH: If they were at the -- if they were --

if they were held up there somewhere for 15 days, okay, say that. But you can't, you know, don't walk in here and hand me a document -- and then he's going to try to testify -- well, he did testify, and maybe I was a little slow on my objection, that he ran a test kit on it.

But the chemist is going to have to testify that these were methamphetamines. And the chemist -- they're going to have to prove a chain of custody on this thing at some point. And they can't prove a chain through this document.

THE COURT: All right. Let me see what he says before you get too wound up -- more wound up.

MR. BLOUIN: First of all, obviously, Officer Miller doesn't work for SLED and is not bound by SLED's regulations on its own.

Second of all, the sheet in question, since, Your Honor, you have a copy, Officer Miller testified that he got -- recovered the drugs, number 6, from Lisa Edmonds. He is presumably, because he's testified before, going to say that he put those in a locked box that is in his report.

MR. YARBOROUGH: Where is ---

MR. BLOUIN: He's got the report.

THE COURT: Mr. Yarborough, now ---

MR. YARBOROUGH: I'm sorry.

THE COURT: --- he ---

MR. YARBOROUGH: I'm sorry.

THE COURT: --- didn't interrupt you.

MR. YARBOROUGH: I'll be quiet. I'm sorry.

MR. BLOUIN: He's going to testify that he put it in locker box number 6 as he testified last time we had this. He's going to testify that that's his name, Chris Miller, that he filled out the top form of the sheet.

Then Officer Keiper, who is back there, is going to testify that he received the stuff from locker number 6 and put it into the hospital's P&E.

Then he will testify that on 12/3/20 he took the goods -- I missed a spot. Officer Miller's going to testify he then put this sheet along with the drugs into locker number 6.

At that point Officer Keiper is going to say that he took the drugs out of P&E, that he is one of two people that has access to this room, on 12/3 and transported it to the lab, and that that is ultimately his initials.

And then on 12, looks like 12, he returned it from the lab. And then every time he's removed it since, 6/7, 6/8, then up until today, it has been removed for court purposes.

I don't understand exactly what it is that they are arguing is so misleading about the document that, A, they haven't heard, well, they have heard, but they haven't heard the officer testify to previously, and that, two, they couldn't cross him on it.

I mean, the chain -- the purpose of the chain has

identified each person in the chain of custody per Hatcher and State v. Taylor. He has testified that he received the drugs from Ms. Edmonds. He said that's his handwriting, Lisa Edmonds.

He then -- going to testify that he put it in locker number 6. That is reflected in his report. They are more than happy to cross-examine him on that. We're going to explain the locker system, how it works. Then after his testimony is over, Officer Keiper is going to say I picked up the drugs.

Now they are more than happy to say, well, it doesn't reflect that on this report. And that is open cross-examination. And that is -- that goes to the weight of the evidence that they are presenting.

And then Eric Keiper's going to say, I took it from 6, put it in the hospital P&E. We're going to describe hospital P&E kind of like we did the last time. And then he's going to say then on 12/3 I transported it to the lab.

Now, Mr. Yarborough is happy to say, why didn't you write down right here that you put it in locker number 3? I mean, in order to form a chain of custody, we have everyone testifying to where the drugs go that satisfies both State v. Taylor and Hatcher. And I don't understand why Mr. Yarborough can't cross Officer Taylor [sic] or Officer Keiper or whoever he wants to cross, Kara Bennick later to exactly what

happened.

And then at the end of the day if there is a feeling that we did not meet -- we did not substantially per Hatcher/Taylor meet the chain of custody, then obviously that's their motion to make. But I think we're a little premature in saying, you know, without the totality of the testimony.

MR. YARBOROUGH: Your Honor, first of all, I think that they -- this document, itself, what he's trying to move in is hearsay, okay? So he can't testify to what somebody else wrote on this document ---

THE COURT: All right. It's marked for identification ---

MR. YARBOROUGH: Okay. Okay.

Now, so we can go ahead and deal with this now. I mean, if those drugs were placed somewhere and it's not on this report, then they -- the chain's broken. And, I mean, the requirements are a must. I mean, it's -- it's -- handling and seizing controlled substance from -- let me hand this up. This is -- may I approach, Your Honor?

(Pause)

THE COURT: All right. Go ahead.

MR. YARBOROUGH: Your Honor, my point is this, is that those drugs were required by 44 53 485, second (a), they must have been inventoried, reported, audited, handled, tested, stored to preserve -- preserved pursuant to this section and

they weren't. He put them somewhere and he didn't write it down. It's not on the form. It's not -- I'm looking at the form, Judge.

First of all, I was -- and I apologize for getting wound up. I was just shocked when I got this thing two and a half weeks ago because we'd been looking for it. And then I'm looking at the form now, and he wants to testify that -- to stuff that's not on the form, one.

And then, two, he wants to testify to a bunch of hearsay that's ---

THE COURT: No, we've already addressed that. The hearsay's out.

MR. YARBOROUGH: Okay.

MR. BLOUIN: Your Honor, he puts it in his report. So it's not as if it disappeared. Not only is he going to testify to it, but he states in his report, I put it into locker 6. As well as the other officer, I took it from locker 6 and put it into property and evidence. So there is an inventory of what's going on that they can testify to because it's in their report.

MR. YARBOROUGH: But ---

THE COURT: All right.

MR. YARBOROUGH: May the Court, please, one thing?

THE COURT: One final ---

MR. YARBOROUGH: If you can show me on here where it says

that they put it in locker 6, ...

MR. BLOUIN: I mean, I can show you in the report.

MR. YARBOROUGH: Well, I ---

MR. BLOUIN: I mean, you're saying ---

MR. YARBOROUGH: It's ---

MR. BLOUIN: --- it has to be on one sheet, but -- you're saying it has to be documented ---

THE COURT: All right. You've made your objection. You're on the record.

MR. YARBOROUGH: Okay. Thank you.

THE COURT: So let's proceed.

MR. YARBOROUGH: Can you rule on the admissibility of that document ---

THE COURT: Well, I've already said this is marked as an exhibit, and until he ---

MR. YARBOROUGH: Okay.

THE COURT: --- lays a foundation.

MR. YARBOROUGH: Okay. Thanks.

THE COURT: All right. Ready to proceed?

MR. BLOUIN: Sure.

THE COURT: All right. Bring the jury back.

(Whereupon the jury entered the courtroom at 11:38 am)

THE COURT: All right. Mr. Blouin, you may proceed.

Direct Examination by Mr. Blouin Continued:

Q. So referring back to State's exhibit 12, who did you

receive the alleged contraband from?

A. From Lisa Edmonds.

Q. All right. And I'm going to approach again. What did you do with the alleged contraband at that point?

A. At that point I took it back to our substation office.

Q. Okay. And where did you ultimately place the alleged contraband?

A. In evidence locker number 6. We have ten different lockers.

Q. Okay. Before you placed it into a locker, what did -- what do you do with alleged contraband?

A. First we'll -- if it's suspected drugs, we'd field test it. Then once we do that, we will place it in an evidence bag.

Q. Okay.

MR. BLOUIN: May I approach the witness, Your Honor?

THE COURT: You may.

MR. YARBOROUGH: Subject to my previous objection, Your Honor.

THE COURT: Okay.

MR. BLOUIN: May I approach the witness, Your Honor?

THE COURT: You may.

Q. I'm showing you what's been premarked as State's exhibit number 13. Do you recognize that?

A. I do.

Q. And how do you recognize that?
A. That's my signature.
Q. All right. And did you write that?
A. I did.
Q. Okay. And is this the same as it looked like when you did this, basically?
A. Yes.
Q. Okay. So once things are sealed, where did you place the alleged contraband?
A. Into evidence locker number 6.
Q. And what else did you place into evidence locker number 6 with that?
A. The property and evidence sheet.
Q. Okay. And describe how the locker system works.
A. As I was saying before, there's ten different lockers. And each one has a locking mechanism that's like a knob. And once we place the evidence in there, we turn the knob and it's locked. And then no one else can get inside there except for the officers that have the keys to it.
Q. Do you have a key?
A. No.
Q. Could you have gotten into that evidence locker?
A. No, I could not get back into it.
Q. All right.

MR. BLOUIN: May I approach the witness?

THE COURT: You may.

Q. Officer, did you mark down where you placed that alleged contraband on -- in the evidence locker on this sheet?

A. No.

Q. Okay. Did you document it anywhere?

A. I documented it in my incident report, which is what I've always done.

Q. Okay. Now a couple of other questions. Did you take fingerprints of the bags?

A. No.

Q. Why did you not take fingerprints of the bags?

A. First of all, it's not a -- a baggy's not a good -- you can't really get latent prints very well off of a plastic baggy. And it had went through so many hands.

Q. I mean, I'm just going to show you State's exhibit 5 that's already in evidence. I mean, would you say that is a smooth or rough surface?

A. No. That is -- that is a rough surface.

Q. Based -- let's see. I'm going to show you State's exhibit 7, same kind of deal, is that a smooth or rough surface?

A. It's a rough surface.

Q. Based on your training and experience as a law enforcement officer, is that something where fingerprints are likely to be found?

A. No.
Q. All right. Did you request DNA on the bags?
A. I did not.
Q. Why did you not?
A. There again, the lab probably wouldn't accept it. And just so many people having access to it, I just didn't do it.
Q. Was there a bunch of people going in and out of the hospital ---
A. Yeah, ---
Q. --- at that point?
A. --- there's doctors and nurses coming in and out.
Q. Okay. All right. Do you remember what happened to the saddlebag in question?
A. It got turned -- it was given back to the defendant, I thought.
Q. Okay. So that was not put in the locker with ---
A. No.
Q. --- everything else?
A. I did not take possession of it.
Q. Did you search anything during this procedure?
A. No, I did not.
Q. Did you -- so you -- were you involved in any way of the finding of any narcotics or alleged narcotics?
A. No, I was not.
Q. Okay. Please answer any questions defense may have.

Cross-examination by Mr. Yarborough:

Q. Officer Miller, I think you testified you've done thousands of these? Drug cases?

A. Hundreds of them.

Q. Hundreds?

A. Um-hum (affirmative).

Q. And so you're familiar with SLED requirements on handling and seizing drugs?

A. I'm familiar with our departmental procedures.

Q. And what -- you're talking about your experience with Greenville -- were you with Greenville County or Greenville Sheriff's Office?

A. Greenville County.

Q. Okay. So with Greenville County, y'all were trained by SLED, right?

A. We have to follow SLED guidelines, yes.

Q. And your job is to handle allegedly -- drugs that have been seized, right?

A. Yes.

Q. In a case like this?

A. Yes.

Q. Okay. So you've -- they showed you a form that has not been admitted into evidence, but you looked at it. And I think Mr. Blouin asked you did you write down on there anywhere where you placed those drugs into an evidence locker?

A. No, sir.
Q. Okay. So you did not -- and that is -- that's -- the requirements of the form are to place it into the evidence locker, isn't that -- I mean, place it on the form where the drugs go, right?
A. No. There's no -- there's no place on there that says ...
Q. The form is done so that we can track alleged narcotics when they're found, right?
A. Yes.
Q. Okay. And on that form that Mr. Blouin showed you, there is nowhere on that form where we can track that you put those drugs in what you said was locker evidence 6, right?
A. Right.
Q. Okay. So where those drugs went on that night is not on the form?
A. Correct.
Q. Right. And, in fact, that form showed up at this courthouse two and a half weeks ago, right?
A. Yes, sir.
Q. Okay. And that -- it hadn't been turned over for a year and a half, is that right?
A. That's correct.
Q. Okay. Now the drugs that you -- he showed you some narcotics a minute ago. I think he moved them -- he showed

you some narcotics in here, right?

A. Yes, sir.

Q. Okay. And those narcotics that he showed you in here are in one bag, right?

A. Yes.

Q. Okay. The form that you filled out says that the narcotics were in four bags, right?

A. Yes.

Q. Do you have those four bags with you?

A. No.

Q. So you -- you did not keep those bags?

A. I placed those bags into evidence and ---

Q. You placed them into evidence?

A. And then that's the last time I touched them.

Q. Okay. So do you have those bags with you?

A. No, I do not.

Q. Okay. So if we would have wanted to test them, you wouldn't have them, right?

A. No, I don't have them.

Q. Right. And you -- you said you didn't test them for DNA, right?

A. Correct.

Q. So if we would have wanted to test them, we wouldn't have them, right?

A. Yes, I ---

Q. Okay. Doesn't -- when you were trained, weren't you trained to keep all evidence that you find at the scene of an alleged crime?

A. I'm -- yes. I mean, I placed everything I collected into evidence.

Q. Right. And you brought it to the courthouse today?

A. No, sir.

Q. Okay. Where are the four bags?

A. You would have to ask Officer Keiper that. I don't know.

Q. Okay. I'll ask Officer Keiper that. But you don't have them?

A. No, sir.

Q. Okay. Do you have the alleged bag that the -- that this stuff was found in?

A. No.

Q. You had it in your possession at one point, right?

A. No. I never took possession of it.

Q. You never had it in your possession?

A. (No response).

Q. Did you not -- let me just make -- let me make sure I understand what happened. Let me show -- so I think that's marked 11. This bag here, are you familiar with this bag?

A. Yes. I remember taking a picture of it.

Q. You took this picture of this bag. And did you not -- did you save it?

A. No. I did not save that ---
Q. You did not save it. Did you check it? Did you check this bag for any kind of DNA, or fingerprints or anything?
A. No.
Q. Okay. Let me show you what's been previously entered as defense [sic] exhibit 2. Do you recognize that?
A. Yes.
Q. Okay. Did you save that bag?
A. Yes.
Q. Okay. Where is it?
A. I have no idea.
Q. Okay. Don't have it with you?
A. No, sir.
Q. Okay. It's not in -- it's not with these drugs, right?
A. Not that I'm aware of.
Q. Okay. And -- I won't take the jury's time. Three -- you don't have the bag 3, 4, 5?
A. No.
Q. Now let me ask you this. Who took picture 7?
A. That's me.
Q. Okay. And which bag is picture 7, do you know? Those have been moved in. You're welcome to look at them.
A. It's been marked baggy 4.
Q. Marked baggy 4. You got baggy 4?
A. No.

Q. Okay. Because that one -- which one's baggy 4?
A. (Witness pointed).
Q. Oh, you -- okay. You mark them up there. Now I -- now I see how you're doing it. But none of these -- none of these pictures -- there's any -- there's no bags or anything like that that you have with you, right?
A. No, sir.
Q. Okay. But you had them at one point, right?
A. Yes.
Q. Okay. Do you have your chain of custody log from where these bags went?
A. I do not.
Q. Okay. So you don't know where these bags went?
A. They went into the evidence locker. That's the only thing ---
Q. Is that evidence locker 6 or is that evidence locker ---
A. It's evidence locker 6.
Q. Okay. So what came out of evidence locker 6?
MR. BLOUIN: Your Honor, objection. He can't testify to what came out of it. He can just testify to what he put in it.
THE COURT: Okay.
MR. YARBOROUGH: Okay.
THE COURT: Sustained.
Q. Did you -- okay. Let me ask you this. Did that bag go

in evidence locker 6?
A. No.
Q. Okay. Where did that bag go?
A. That went back with the defendant's property.
Q. That's the bag that was searched with defendant's property at the -- at the front of the -- as he was coming in in the ambulance?
A. In the trauma bay.
Q. In the trauma bay. That's the bag that was searched?
A. Yes.
Q. Okay. And this bag had no drugs in it, right?
A. That's where the drugs were originally found.
Q. But -- but this bag was searched coming in trauma bay -- coming into the hospital, right?
A. Yes.
Q. Okay. And -- and we've heard -- or you know that there weren't drugs found in here, right?
A. (No response).
Q. When they -- when it was checked coming into the trauma bay, there were no drugs in this bag.
A. That's where the Pelican case was located.
Q. The Pelican case was located in here? Do you have notes to that effect?
A. No, sir, I don't have them.
Q. You don't have them with you or you don't have them?

A. I don't have them.
Q. You don't have them?
A. (No response).
Q. So there's nothing to say that, right? There's nothing that says that there were any drugs in here, right?
A. No.
Q. Okay. Now if -- if, like you said, the drugs were found in a Pelican case, right?
A. Yes, sir.
Q. Okay. And so if you said the drugs were found in a Pelican case and that Pelican case, you said, was found in this bag, right?
A. Yes.
Q. Okay. If there was another bag that contained narcotics and it -- they had loose narcotics, those -- those narcotics would not have come out of -- out of ---

MR. BLOUIN: Your Honor, objection to speculation. If there was another bag?

THE COURT: Right. Sustained unless you can lay a better foundation, Mr. Yarborough.

MR. YARBOROUGH: Okay.

Q. If Ms. Edmonds testified that she found the drugs loose in a bag, if she testified to that, those drugs would not have come out of the Pelican case, isn't that correct?

MR. BLOUIN: Your Honor, objection. This states facts

not in evidence.

THE COURT: Sustained. You cannot -- you're asking a hypothetical based on testimony. I'm going to sustain the objection.

(Pause)

Q. Change pace. The hospital has a taping system that tapes everything that goes on in the hospital, right?

A. Yes.

Q. Especially in that trauma bay, right?

A. Yes.

Q. Okay. And it would take, just like we saw here, it would take a patient coming in, and we'd be able to see that patient come into the trauma bay and then over to the emergency room, and we would see all that, right?

A. Yes.

Q. Okay. And you went back later and tried to get the film from that day, right?

A. I did not personally.

Q. Okay. You requested it?

A. Yes.

Q. Okay. And I believe we've had a stipulation that that was not -- those films were not available or they had been taped over, isn't that correct?

MR. BLOUIN: Your Honor, the stipulation hasn't been read yet into the evidence. So we would ask that it be read before

he asks any questions of it.

THE COURT: I mean, it's in evidence, so however you want to do it.

MR. YARBOROUGH: Could you read the ---

THE COURT: I mean, I'm not presenting the evidence.

MR. YARBOROUGH: Okay.

Q. Do you know who Alvin Harrison is?

A. I do.

Q. Okay. Can you read us what Alvin Harrison's testimony would have been if he was here today?

A. Alvin Harrison, a independent contractor of Prisma as part of his duties pulled video relating to the defendant coming into Prisma for treatment. His job is to pull relevant video based only on police incident reports. This video is true and accurate depiction of events and shall be admitted into evidence.

Q. Okay. Keep going.

A. There is no video from inside the trauma bay as those cameras were not operational at the time. Alvin Harrison did ask for those cameras to be fixed due to their inoperability. Alvin Harrison did not save all of the potentially relevant video.

The video of the loading docks stops before EMTs retrieve the saddlebag from the ambulance as well as before Lisa Edmonds physically transfers the alleged contraband to Officer

Miller. After 15 to 20 days any video that was recorded by Prisma drops off their server so that any additional video is unable to be recovered.

Q. So we would have had video of all of this, but it wasn't recovered, right?

A. Yes, sir. According to Mr. Harrison, yes, sir.

Q. All right. So that's what -- you work with him. That's what the evidence would show is that we would have it, but we don't have it, right?

A. Right.

Q. Okay. And that would have shown whether or not the drugs were found in a Pelican case or whether they were found loose in a black bag, right?

A. (No response).

Q. Isn't that right?

MR. BLOUIN: Your Honor, again I'm going to object. He's speculating. He wasn't even there.

MR. YARBOROUGH: Okay.

THE COURT: Sustained.

Q. Do you know -- how many officers work in the ER?

A. It would be a supervisor and three police officers.

Q. Okay. Do you know which officer checked the saddle -- the black bag when it came in from the emergency room or came in from the ---

A. That would not be us. We don't do that.

Q. Okay. But it was -- you agree it was checked?
A. Yes. That would be American Security. That would not be us.
Q. Okay. And American Security is like retired police officers, right?
A. No. They're -- some of them have never been a police officer.
Q. Okay. But they work there?
A. Yes.
Q. Okay. Do you know the difference in -- let me ask you this. Did you -- did you follow Joey into the emergency room?
A. I followed him from the ambulance bay, and then I went the opposite direction. I did not follow him into the trauma bay.
Q. Okay. So you followed him in there. And then you were there -- then that would have put you right where the bags were checked, right?
A. That is the ambulance bay where he came in at.
Q. Okay. And that's where that -- that's where they do the inventory check right there?
A. Yes.
Q. Okay. And, look, I know that you -- you probably didn't hear Ms. Edmonds' testify, but y'all don't let people go through people's personal belongings in the -- in the emergency room, do you? Do you?

MR. BLOUIN: Your Honor, I would again object. I would like him to really clarify what exactly he's asking.

Q. Well, y'all -- you don't allow nurses by themselves to go through stuff in the emergency room?

A. I have nothing to do with that.

Q. You're -- you're the man on the scene, though, right?

A. I'm the man on the scene once I'm called there. Now what they do before I get there, I have no idea.

Q. Fair enough. But you're the chief investigating officer of this case?

A. Yes.

Q. Okay. And -- okay. And just to make sure, you tried to get the tapes and could not get the tapes, right?

A. I requested them, but that's ---

Q. Okay. Didn't get them?

A. No.

Q. Didn't check for any DNA?

A. No.

Q. Okay. Didn't ask Greenville City or anybody that you were working with to do it?

A. No.

Q. Okay. Did not check for fingerprints? Did you check for fingerprints?

A. No, I did not.

Q. Okay. You know how to check for fingerprints?

A. Yes. Yes, I do.
Q. Yeah, your 20 years experience. Y'all do that.
A. (Affirmative nod).
Q. You didn't do that?
A. I mean, we would use Greenville County Forensics to do that, but ---
Q. All right. But you didn't send anything for ---
A. No.
Q. Didn't request it? Didn't look at anything?
A. No.
Q. Okay. And you would agree you're the -- you're the seizing officer of the alleged narcotics at the hospital that night, correct?
A. Yes, sir.
Q. Okay. And you've been trained by law enforcement to do it a certain way, right?
A. Yes.
Q. Okay. And you try to fill out the forms as correctly as you can, right?
A. Yes.
Q. Okay. And nowhere did you ever put that the drugs were put into any kind of locker or anything that night on the -- on the -- the intake form, you didn't do that?
A. On the P&E form, no.
Q. Right. And you were trained to make sure that that --

you make the form so that the form could be used in court?
A. Yes.
Q. Okay. Because it'd give you a true and accurate reflection of what happened?
A. Of course.
Q. Right. Chain of custody?
A. Yes, sir.
Q. And in this case your chain on that form is flawed?
MR. BLOUIN: Your Honor, calls for a legal conclusion.
THE COURT: Yes.
Q. Do you have a correct chain?
A. The way I was trained, yes, I do.
Q. Okay. Where -- where on that form, that is not in evidence, did you say you put those drugs into a locker?
A. There is no place on that form to put that. I filled out the form exactly how the form reads.
Q. Okay.
A. That's why I documented it in my ---
Q. Okay.
A. --- narrative of my incident report.
Q. Okay. And you -- you realize that another officer wrote on this form later on that he got stuff, and he put where he put his -- his stuff ---
MR. BLOUIN: Your Honor, he can't ---
THE COURT: Yeah. You objected to this, so I'm not going

to let you get it in on cross-examination.

Q. Do you know if those bays are cleaned before the next patient comes in? Do you have any idea?

A. It depends on the nature of the emergency. I would have no way of knowing that.

Q. Did you leave the hospital with that black bag?

A. No, sir.

Q. You didn't take it and put it in evidence or anything?

A. No.

MR. YARBOROUGH: One second, Your Honor.

(Pause)

Q. Do you know -- do you know when that picture was taken of the black bag?

A. That's after the drugs were located in it.

Q. Okay. So where did you take the picture?

A. That picture?

Q. Yeah.

A. That picture was taken in our office. In our office.

Q. In your office at the hospital?

A. Yes, sir.

Q. And did you -- did you take that bag to your office in the hospital?

A. It would have -- it had to be me or Officer Greer, one or the other.

Q. How would -- would you have taken it in your hands?

Would you carry it?

A. Yes, sir.

MR. YARBOROUGH: Can you queue up that video? Or I can queue it up. One second, Your Honor.

(Pause)

MR. BLOUIN: Do you want me to play it through here?

THE COURT: Do you have -- if you don't have a computer set up on yours -- sometimes ---

MR. YARBOROUGH: Well, I've got -- I got one right there, Your Honor.

THE COURT: But it's got to be hooked up to our system.

MR. WISE: It'd be easier on theirs.

THE COURT: And this one doesn't always work.

MR. YARBOROUGH: If you'd just run -- yeah.

(Whereupon the attorneys were conferring off the record)

(Whereupon a portion of State's exhibit 1, DVD, was played for the jury)

Q. While we're looking, do you see Joey Swaringen anywhere around there?

A. No.

Q. You don't know him?

A. No, sir.

Q. I see you're back there talking to an officer back there?

A. Yes.

MR. YARBOROUGH: Can you stop it there?

Q. Okay. You just came out of that trauma bay and nowhere in your hands is a black bag, is there?
A. No.
Q. And nowhere in your partner's hands is a black bag, right?
A. No.
Q. Okay. And there's not a -- I don't know what y'all keep calling that thing, a box, there's no box, right? No box in your hands?
A. No.
Q. Neither one. And did you have -- when you went in there did you have an evidence bag?
A. No, did not.
Q. So you walked in there and you took -- you took narcotics and put them in your hands?
A. Yes, ---
Q. And you've been trained by SLED, I mean, Greenville Police for how long?
A. I worked for them for over 20 years.
Q. Yeah. And that's not how you collect evidence, is it?
A. I had no evidence in my hand at that time.
Q. Okay. So you don't get anything out of there? You leave whatever it is in there in there, right?
A. I had not received any evidence at that time.
MR. YARBOROUGH: One second, Your Honor.

(Pause)

Q. Okay. So did you go to the detention center from where you were then?

A. Eventually I did, yes.

Q. Right. And so when you -- I guess when you came back you took the picture of the bag?

A. That's been a year and a half ago. I don't recall.

Q. Wouldn't that seem important?

A. Well, I took a picture of it, yes.

Q. Okay. But wouldn't it be important when you took the picture?

A. I'm not following you.

Q. You're the arresting officer, right?

A. Yes, sir.

Q. And it's your job to collect the evidence?

A. Yes, sir.

Q. And would you agree you didn't do a very good job of collecting the evidence that night?

A. I did a fair job. Yes, I did a ---

Q. Okay.

A. --- good job.

Q. Now let's say you did a fair job. Would you have left the evidence in that trauma bay when you went in there if you were collecting it?

A. No.

Q. But that's allegedly where the drugs were found, right?
A. Yes.
Q. And the drugs -- you said the drugs in your report were found and -- in the top over there it says resus 2, trauma bay, right?
A. Yes.
Q. Okay. And allegedly that's that trauma bay, right?
A. Yes.

MR. YARBOROUGH: Can I -- may I approach, Your Honor?

THE COURT: You may.

MR. BLOUIN: Your Honor, I don't know what he's showing him.

(Whereupon the attorneys were conferring off the record)

Q. You recognize the two guys in that picture right there?
A. Yes.
Q. Okay. And what trauma bay is that one?
A. I'm sorry, I can't see it that well.
Q. Okay. Take your time.
A. That is outside the trauma bay.
Q. What trauma bay?
A. It's resus 1 and 2, both in the same ---
Q. It's -- what does it say?
A. It says resus 1.
Q. Okay. So it looks as if it's outside resus 1, right?
A. Yes.

Q. Okay. And your reports or that inventory log that you had says it was 2, right?

A. Right.

Q. And -- okay. We previously had Greenville Hospital System Police Department form marked for identification, right? And you've looked at it several times.

A. Which form?

Q. This form.

A. Oh, yes.

Q. Okay. You're familiar with that form?

A. Yes.

Q. It's not in evidence, but let me ask you ---

THE COURT: It's been marked as ---

MR. YARBOROUGH: It's been marked ---

THE COURT: --- for identification as what?

MR. YARBOROUGH: Identification 1.

THE COURT: No.

MR. BLOUIN: State's exhibit 12, Your Honor.

THE COURT: 12.

MR. YARBOROUGH: 12. But for identification purposes because it has not been moved into ---

THE COURT: But it's still 12. It's still 12. It's still the same number.

MR. YARBOROUGH: Still 12. Okay, 12. Thank you.

Q. There's supposed to be a white copy, which is the

original, right?
A. Yes.
Q. And there's supposed to be a canary copy, which is the one that goes with the drugs, right?
A. Yes.
Q. Okay. Do you have the canary copy, the one that went with the drugs?
A. Talking about the -- no, I don't -- that's just a carbon copy.
Q. No, it's a carbon copy, ---
A. Yeah.
Q. --- but do you have it? It's supposed to go with the drugs, right?
A. I placed the whole form into the evidence locker.
Q. So you placed the whole form in the evidence locker and you retrieved that form two and a half weeks ago?
A. No, I did not. Officer Keiper.
Q. Retrieved it two and a half ---
A. He handles all that. Once I turn the form over, I do not see it again.
Q. Okay. But you're the officer on this case, right?
A. Yes.
Q. Okay. So where is your pink form?
A. That's what I said, I placed the whole -- all three copies because it's just ---

Q. So you ---
A. --- a carbon copy.
Q. You didn't -- you didn't keep a copy?
A. It's just a carbon copy.
Q. Okay. Do you remember testifying in this courtroom two and a half weeks ago and saying that you did not write any of this down?
A. Yes.
Q. Okay. And that wasn't right, right?
A. You -- I was referring to any notes. I didn't write any notes down.
Q. But you were -- I specifically asked you at that time if you had a evidence form. And you said, no, right?
A. I told you I didn't have any notes.
MR. YARBOROUGH: Just one second.
(Pause)
Q. Okay. You testified in here under oath two and a half weeks ago, correct?
A. Yes.
Q. Okay. At that time you testified as the lead investigator in this case?
A. Yes.
Q. Okay. And I asked you at that time specifically do you -- do you work from notes and how did you do it? You said -- do you remember what you said?

A. I remember saying that I didn't write any field notes.
Q. Okay. If I show you this, would you -- does this reflect your -- remind you of what you said?
A. Yes.
Q. Okay. What did you say at that time?
A. No, I do not work from notes.
Q. Okay. And then I asked you again, you didn't work from any notes, right?
A. Right.
Q. And you said, no, sir.
A. Right.
Q. And then I asked you do you have any notes to show who found the drugs that day at the hospital? And you said?
A. No, I do not.
Q. Right. And now you have a form that says that Ms. Edmonds found them, right?
A. Yes.
Q. So previously that testimony was incorrect?
A. No, because you asked me if I had notes. And I did not have any notes.
Q. I also asked -- I also asked did you put that in a report?
A. That's ---
Q. Did you put it in a report?
A. I was referring to my incident report. No.

Q. Okay. And you said, no, right?
A. Yes.
Q. Okay. So do you have your incident reports with you?
A. No, I do not.
Q. Okay. But at that time you said -- as far as who found the drugs you said, no, right?
A. Right. That's correct.
Q. You don't consider the Greenville Hospital System custody form that you filled out a report?
A. (No response).
Q. You don't consider it a report?
A. It is a form. I don't ---
Q. It's a form?
A. When I think of report, I'm thinking ---
Q. You ---
A. --- of an incident report.
THE COURT: Let him finish answering the question, too.
Q. Go ahead.
A. When you say report, I think of an incident report. That is a form.
Q. Will you look and see what the -- what it's called?
A. Property report.
Q. Okay. So you didn't have a property report and then you got one. So when you testified before did you -- had you filled out a report or not?

A. I filled out that form, which ...
Q. Which is -- you're saying had sat in a locker for 18, 19 months?
MR. BLOUIN: Your Honor, he's already testified to this that he put it in ---
THE COURT: Yeah, ---
MR. BLOUIN: --- the locker ---
THE COURT: --- let's move on. You've asked -- yeah, let's move on.
MR. YARBOROUGH: Okay.
THE COURT: Asked and answered.
MR. YARBOROUGH: And I don't mean to beat a dead horse. I'll get through.
Q. This picture of this bag, you took it when?
A. Some point during the -- my shift. I don't remember if it was right away or if it was afterwards, after the drugs were seized. I don't remember.
Q. Wouldn't that be important?
A. But it was taken during my shift.
Q. Did you put it in your incident report?
A. I don't have my incident report in front of me.
Q. Where did you get the bag at? Where did you find that bag?
A. The bag was in the trauma bay.
Q. Okay. And did you find the bag in the trash can?

A. Did I find it in the trash can? No.
Q. Do you know if somebody found that bag in the trash can?
A. I'm not sure.
Q. Thank you.
THE COURT: Redirect?
MR. BLOUIN: Thank you, Your Honor. May I approach the witness, Your Honor?
THE COURT: Yeah. Counsel, approach -- well, approach a second.
(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)
(Whereupon the bench conference was ended)
THE COURT: All right. You may proceed.

Redirect Examination by Mr. Blouin:

Q. Officer Miller, could you please re-read Court's exhibit 4 or Court's exhibit number 2, number 4?
A. Alvin Harrison did not save all the potentially relevant video. The video of the loading dock stops before EMTs retrieved the saddlebag from the ambulance as well as before Lisa Edmonds physically transfers the alleged contraband to Officer Miller.
Q. So based on the stipulation was there any video of you receiving the contraband or evidence from Ms. Edmonds?
A. No.
Q. All right.

MR. BLOUIN: May I approach, Your Honor?

THE COURT: You may.

Q. Showing you again State's exhibit number 12 for identification purposes only, could you please say what color this sheet is?

A. It's yellow.

Q. And could you read the color that they call it?

A. Canary.

Q. All right.

MR. BLOUIN: May I approach the witness one more time?

THE COURT: Yes.

Q. I'm going to show you what's been previously identified and that you have identified as State's exhibit 13. If you could please look at this, holding that just kind of in your lap a little bit, do you see -- what do you see within the heat-sealed bag?

A. I see crystal-like substance, white crystal-like substance.

Q. All right. Do you see any plastic substances inside the heat-sealed bag?

A. Yes.

Q. All right. So, Officer Miller, while you testified earlier that you were unsure on whether the baggies found and pictured in like State's exhibit number 2, are you positive they are not in what you just looked at?

A. (No response).
Q. Are you positive that the baggies that are ---
MR. YARBOROUGH: Objection to leading.
THE COURT: Let him finish the question.
Q. Are you -- is there more than just alleged contraband in the heat-sealed bag?
A. Yes.
Q. Okay. What else did you see in the heat-sealed bag?
A. A plastic baggy.
Q. Do you know how many plastic bags?
A. No, I do not.
Q. Is that ---
MR. BLOUIN: May I approach the witness, Your Honor?
THE COURT: Yes.
Q. I'm going to show you just because we forgot to do this earlier what's been premarked as State's exhibit 14. Do you recognize what State's exhibit 14 is?
A. Yes.
Q. Could you please -- what is State's exhibit 14?
A. That is the plastic Pelican case.
Q. And how do you recognize what that is?
A. That is my -- my writing and my signature on this bag.
Q. You wrote that?
A. Yes.
Q. All right. And that's -- does it look like it's been

tampered with at all?

A. No.

Q. All right.

MR. BLOUIN: At this point in time, Your Honor, the State would move State's exhibit 14 into evidence.

MR. YARBOROUGH: We'd object, Your Honor. There's been no testimony that he found it or that he ever had it.

MR. BLOUIN: Your Honor, he just testified that that was his name on it. Can we approach?

THE COURT: I'm going to have to send y'all out, ladies and gentlemen. So please do not discuss the case. And we'll bring you back out in -- I expect we'll be going to lunch shortly. So do not discuss the case and step out for now.

(Whereupon the jury exited the courtroom at 12:29 pm)

THE COURT: All right.

MR. YARBOROUGH: Ms. Edmonds never testified she found anything in that Pelican bag. That testimony did not come into this courtroom. And Officer Miller is on tape not leaving that trauma bay with anything. I just -- I don't understand how -- where the chain is for the admission of that Pelican box.

MR. BLOUIN: It's a non-fungible item. So it's not like drugs or blood. He recognized the Pelican box. He said that it is what he sees. We've already gone through the fact that when he collected the evidence per the stipulation that was

not on videotape. So the idea that it's not on videotape -- of course it's not on videotape. We've already stipulated to that fact.

He recognized it. He identified it. He stated that he's the one that sealed it in this bag. There has been comments from the defense attorney on cross about the Pelican case. So it's not as if the Pelican case has come out of nowhere.

And so we believe that we have, you know, he's identified it, he says it's a fair description of said Pelican case and that he's the one who sealed it in the bag. I don't exactly know what it is we're missing.

MR. YARBOROUGH: Your Honor, there's no testimony that Ms. Edmonds found that Pelican bag. There's no evidence that that Pelican case went into that hospital. There's no -- I mean, you see the video of him coming out. He doesn't have a Pelican box in his hand. There's no -- there's no chain or any proof that that Pelican box came out of anywhere.

MR. BLOUIN: And if I may point out, Your Honor, the -- Ms. Edmonds testified to finding contraband and calling police. And then he testified during cross that he found the contraband in the Pelican case. So I don't know -- or that drugs were found in the Pelican case. I mean, that came out during his cross.

THE COURT: And that's what I recall as well.

MR. YARBOROUGH: Your Honor, that's not the way I recall

the evidence. Can Mr. Wise -- can I get him to plug in?

MR. BLOUIN: And, Your Honor, if we can bring something, quite honestly, after this? I would like to finish this first, but there was something that kind of came up while I was doing my thing up here that, you know, -- and I understand people are talking and trying to confer. But, you know, when my investigator hears Mr. Wise say verbatim, their chain of custody is shot as a matter of law, and we can hear it right here, then the jury can hear it, Your Honor, and that's a problem.

MR. WISE: I'll try to keep it quiet.

THE COURT: Well, I mean, that's a pretty important comment, too, Mr. Wise to be saying that. And y'all've had a lot of conversation over there. And it's disturbing and you can hear it.

And, Mr. Swaringen, I know this is an important case, but you cannot be making faces in response to what the witness says and those type things. So ---

MR. WISE: We will ---

MR. SWARINGEN: Your Honor, I apologize. It's just hard ---

THE COURT: I know it is.

MR. SWARINGEN: --- when they say one thing one time and one thing another.

THE COURT: Well, but that's fine.

MR. SWARINGEN: I mean, ---

MR. WISE: We'll resort to passing notes. That's the best approach. They won't hear a note, that's for sure.

MR. BLOUIN: I'm not worried about me hearing it, Your Honor.

MR. WISE: Yeah, I know. I know. I apologize.

But the point is, Judge, about the Pelican case is that there is no testimony that Pelican case came into the hospital with any of Joey Swaringen's belongings. There's no testimony from Ms. Edmonds that she even saw a Pelican case.

She is the one that found the drugs. So how a Pelican case gets involved in this, frankly, as far as a container for drugs, I don't know. And, therefore, I think it's not admissible.

MR. BLOUIN: She referred to everything as his personal items. She didn't say exactly what he had on him. She just said personal items, I found contraband, I called the police. Then during cross they elicited that the drugs were apparently found in the Pelican case. I didn't elicit that testimony, they did.

THE COURT: I mean, it was referenced in response to your question, but -- I mean, -- and he didn't say where it came from, but he did say the drugs came from a Pelican case during your cross-examination.

MR. YARBOROUGH: Okay.

THE COURT: I mean, that's what I recall as well. So based on that I'm going to allow it -- allow it in. All right. Anything ---

MR. BLOUIN: Nothing else from the State.

THE COURT: All right. Bring the jury back. How much more do you have of the ---

MR. BLOUIN: I'm going to try to be as quick as possible, Your Honor.

THE COURT: Okay.

MR. BLOUIN: I know it's late. Just a couple more.

THE COURT: No, that's fine. We took a snack during the break, but we'll break for lunch as soon as this one's ...

(Whereupon the jury entered the courtroom at 12:36 pm)

THE COURT: All right. You may proceed, Mr. Blouin.

MR. BLOUIN: Yes, Your Honor.

Redirect Examination by Mr. Blouin Continued:

Q. All right. Officer Miller, you said that -- what did you describe this as?

A. It's a plastic magnetic Pelican case.

Q. And how did you know that this is the Pelican case that you put into evidence?

A. That's my signature and the bag I put it in.

Q. And does it look like it's been tampered or changed with in any way?

A. No.

Q. All right.

MR. BLOUIN: At this point we'd move State's exhibit number 14 into evidence.

THE COURT: All right. And subject to defense's objection.

MR. YARBOROUGH: Subject ---

(Whereupon State's exhibit 14 was admitted into evidence)

Q. So, Officer Miller, just to clear some things up. First off, who do you work for?

A. The Greenville Health Authority Police Department.

Q. All right. Who do the doctors and all work for?

A. Prisma.

Q. All right. What is the difference?

A. They are a private business. We're a law enforcement agency.

Q. All right. And do people -- who does the security scans when they come in with the ambulance?

A. That is American Security.

Q. Okay. What sort of training do they have?

A. They have their own training. I'm not sure, but they -- exactly what it is, but they are trained in looking through people's belongings and checking for contraband, and weapons and that type thing.

Q. What are the main things that they're looking for?

A. They're looking for guns, drugs, anything that might

become a liability -- liability to someone in the hospital.

Q. Okay. And when you -- who did you recover those -- the contraband from?

A. Lisa Edmonds.

Q. And where did the contraband ultimately go?

A. Into evidence.

Q. Okay. And by evidence, what do you mean by ---

A. Into our evidence locker.

Q. All right. And where did you document where you put that evidence?

A. In my incident report.

Q. All right.

MR. BLOUIN: No further questions, Your Honor.

THE COURT: Just ---

Recross-examination by Mr. Yarborough:

Q. That incident report, you don't have with you today, right?

A. No, sir.

Q. Okay. And this Pelican, I guess, I don't know why this is called a Pelican box. You want to tell me?

A. That's the manufacturer.

Q. Okay. Do you -- okay. So this is the manufacturer of this box. And so -- with the Pelican box. But you had a bag for this one, didn't you?

A. (No response).

Q. That's an evidence bag, right?
A. That's an evidence bag, yes.
Q. Okay. And you could have -- you put this in an evidence bag, right?
A. Yes.
Q. And the drugs, did you put them in an evidence bag?
A. Yes.
Q. And the same kind of evidence bag that's in?
A. Similar.
Q. And where did you get that plastic case?
A. That plastic case, I got it from the trauma bay.
Q. Okay. But you're not carrying on that film when you come out?
A. Not on that film. Not on that video, no.
Q. Okay. And we don't have a film like that?
A. (No response).
Q. So you left it sitting in there after you found it?
A. No.
Q. You went in there and -- you testified that you found it on the film and -- when Mr. Blouin called you as a witness, but -- but when we showed you coming out, you don't have anything in your hands?

MR. BLOUIN: Your Honor, I'd object. We've already gone through what is on video and what is off video.

THE COURT: All right. I'm going to -- I'm going to let

him go a little further on this.

Q. I'm just -- he asked about the Pelican case. And I don't even want to call it the Pelican case. I'm going to call it a black case. He asked about this black case. But it's not in your hand when you come out of there, right?

A. Not on that video. I ---

Q. Okay.

A. I have no idea what happened to all the video.

Q. Okay. Yeah, that'd be nice. And there's no black motorcycle bag, right?

A. In my hands, no.

Q. You wouldn't have just left it sitting in there, would you?

A. I didn't.

Q. Okay. And that case hadn't been tested, right, for DNA or for fingerprints?

A. No.

Q. But you would know how to do that?

A. I would know where to send it.

Q. Okay. And Mr. Blouin asked you about -- you said there's some bags in here?

A. (No response).

Q. You said there's some bags in here?

A. There is some ---

Q. They weren't tested?

A. No.
Q. Okay. You'd know how to do that?
A. Yes.
Q. Okay. And they weren't in your hand when you left the hospital, that trauma bay at that time either, right?
A. Not in that video.
Q. Okay. And that video, that's in trauma bay 1, right?
A. It's in -- they're right there together. It's trauma bay 1 and 2.
Q. Okay. So when you're coming around it looks like trauma bay 1, would you agree with me ---
A. Yes.
Q. --- about that?
A. Yes.
Q. Okay.

MR. YARBOROUGH: Nothing further. Thank you.

MR. BLOUIN: No more redirect, Your Honor.

THE COURT: All right. You may step down.

MR. BLOUIN: We'd ask that Officer Miller be released from his subpoena.

THE COURT: Any objection?

MR. YARBOROUGH: No, sir.

THE COURT: All right.

All right, ladies and gentlemen, it's lunchtime. So we're going to take -- we're going to take a break. If y'all

could be -- if I give you til 2:00, that should give y'all sufficient time to get back in here and get lunch and all that. So be back in at 2:00 in your jury room.

Do not discuss the case. Do not do any type of research about the case, lawyers or anything about this matter. Don't pay any attention to media coverage.

And, finally, don't -- if somebody contacts you other than somebody from the clerk's office, then please let the bailiffs know. Other than that, y'all have a good lunch, and we'll see you back at 2:00.

(Whereupon the jury exited the courtroom at 12:43 pm)

THE COURT: All right. Anything from the State before we break?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: Anything from the defense?

MR. YARBOROUGH: No, sir.

THE COURT: All right. We'll see y'all back after lunch. Make sure you're here ready to go at two.

MR. YARBOROUGH: We'll be ready.

(Whereupon court was in recess at 12:44 pm)

(End of Volume one of two)

Tuesday, June 28, 2022 (Volume Two of Two):

(Whereupon court reconvened at 2:04 pm)

THE COURT: All right. Is the State ready to proceed?

MR. BLOUIN: The State is ready to proceed. Your Honor, the only witness issue we may have going forward is the chemist is also involved in Mr. Fowler and Mr. Bondura's trial in courtroom 4. And so they say he's going to be very short, and he should be reached before us. So if there's any delay, it's just waiting for him to go -- come upstairs.

THE COURT: Wow, what are the odds of that?

MR. BLOUIN: Well, he was the firearm expert, which he testified to downstairs, before he becomes the drug expert up here, alleged expert.

THE COURT: But he's not -- he's not your next one?

MR. BLOUIN: No, Your Honor.

THE COURT: All right. So is the defense ready?

MR. YARBOROUGH: Yes, sir.

MR. WISE: Yes, sir.

THE COURT: All right. Is the jury -- are they all up?

THE BAILIFF: Yes, sir.

THE COURT: All right. Bring them on.

MR. SWARINGEN: Your Honor, if I have something to address the Court, I mean, with the jury in here, how do I go about it?

THE COURT: You don't address the Court.

MR. SWARINGEN: Period?

THE COURT: Period. That's what your lawyers are for, okay?

(Whereupon the jury entered the courtroom at 2:07 pm)

THE COURT: All right. Hope everybody had a good lunch. We are now -- again, we're still in the State's case. So, Mr. Blouin, if you could call your next witness.

MR. BLOUIN: Your Honor, the State would call Officer Eric Keiper.

THE COURT: All right.

Eric Keiper, being duly sworn testified as follows;

MADAM CLERK: Have a seat. Please state your name for the record.

MR. KEIPER: Eric Keiper, K-e-i-p-e-r.

Direct Examination by Mr. Blouin:

Q. All right. Officer Keiper, where are you employed?

A. I'm employed at Greenville Memorial Hospital. I work with the Greenville Health Authority Police Department.

Q. And how long have you been employed there?

A. I've been employed there since 2014.

Q. Okay. And what are your duties there?

A. I'm a full-time law enforcement officer who also serves as the evidence custodian.

Q. All right. And what kind of role does the evidence

custodian play?

A. I am responsible for maintaining our property in evidence room. I'm also responsible for transporting any evidence to the Greenville County property in evidence so that it can be tested at laboratory.

Q. Okay. So you guys operate your own evidence room?

A. That is correct.

Q. All right. Can you describe this room?

A. Okay. So this room is about the size of a larger closet. The first entry point to this property in evidence room, it actually has a biometric reader, so a fingerprint reader, which currently there's only two people who can gain access, which would be myself and my major, Eric Hendrix. Once you gain entry into that door, you have a file cabinet that has all our records for the evidence that then is inside a locked, caged area.

Q. Okay. And who has the key to the cage area?

A. There's only two keys that I'm aware of. Those two keys are held by myself, and once again, Major Eric Hendrix.

Q. Can you also talk about the evidence lockers?

A. We have -- we have a substation in our emergency room at Greenville Memorial Hospital. There are ten temporary evidence lockers. There's two that are about -- a larger size. There's two more that are for like -- even like long items such as like long guns, that type of thing. And then

there's six that are about -- kind of like larger than like mailbox size.

And so if -- since I work day shift, if we have a night shift officer who takes something into evidence, he will put it in that evidence box, turn it counterclockwise, and it is locked until I come in the next morning. Or in an emergency backup situation, Major Eric Hendrix would be able to unlock it.

Q. Okay. So how did you become involved in this case?

A. In this case, from my understanding, this incident occurred at night or on night shift. I came in the next morning.

Typically what I will do is I will check all the evidence lockers to see if any are locked. If there's any that are locked, I will unlock them. I will remove the evidence. I will sit in front of a computer and look at the case.

Q. All right.

A. If the case involves something that is just going to be stored in property in evidence, I will transport it over there. If it's -- if it's a case that involves something that needs to go to the crime laboratory, the Greenville County Crime Laboratory, I'll send an actual laboratory analysis request to Greenville County Property in Evidence. And then at that point I then will transport it to our property in evidence.

Q. All right.

MR. BLOUIN: May I approach the witness, Your Honor?

THE COURT: You may.

Q. This has been previously marked as State's exhibit, for identification, number 12. Do you recognize what this is?

A. This is our in-house property in evidence sheet.

Q. All right. And whose initials are those right there?

A. Those are all my initials.

Q. Okay. And who wrote on this lower half right there?

A. The lower portion beneath this grayed in area here is all my handwriting, all my signatures, dates, times.

Q. Okay. And does it look altered in any way?

A. It is now.

Q. Okay. Is it a true and accurate description of what you've done with this?

A. That is correct.

Q. All right.

MR. BLOUIN: At this time, Your Honor, we would ask that State's exhibit 12 be placed into evidence.

MR. WISE: We still would object, Your Honor. I think it's still a hearsay document because it makes references to things that occurred outside the courtroom. I have no objection to it being used for identification purposes for purposes of examining this witness.

THE COURT: I don't -- I don't see anything that has not

been referenced here, I mean, that's not been testified to or ...

MR. WISE: Granted, it's been referenced, but it's a document that was prepared outside the courtroom. So it was not prepared -- it was not -- it violates the rules of hearsay because it's a statement from outside the courtroom.

THE COURT: But both the people that have wrote it have testified and subject to cross-examination. So ---

MR. WISE: I don't ---

THE COURT: --- how's it hearsay?

MR. WISE: --- think that makes any difference on the hearsay rule.

THE COURT: Okay. Well, I'm going to -- not sure I quite understand your objection, but I'm going to overrule it and allow it into evidence.

(Whereupon State's exhibit 12 was admitted into evidence)

Direct Examination by Mr. Blouin Continued:

Q. Now, Officer Keiper, where on this sheet do you put that you picked it up from evidence -- from the evidence locker?

A. On this sheet it is not present.

Q. All right. Did you write down taking -- where did you -- did you put in writing what you did with the evidence in that locker?

A. I did. I put it in our report writing system, which is called LawTrak.

Q. All right. And do you remember what you put in LawTrak?
A. Probably something simple that I removed the evidence from locker number -- temporary evidence locker number 6 and transported it to Greenville Health Authority Police Department Property in Evidence.
Q. All right.

MR. BLOUIN: May I approach the witness, Your Honor?

THE COURT: You may.

Q. This has been previously identified or previously marked, I'm sorry, as State's exhibit 13. Do you recognize that?
A. I do.
Q. All right. Can you explain what this is?
A. That evidence there is -- it's four bags of a crystal-like substance.
Q. All right. And where did you receive this from?
A. From temporary evidence locker number 6 that's in our substation.
Q. Okay. And was it tampered with in any way, shape or form?
A. No, sir.
Q. Okay. Now when we had a talk earlier today outside, explain to the jury, was this the original bag that the -- that this was located in?
A. No, it was not.
Q. All right.

MR. BLOUIN: Approach the witness?

THE COURT: Okay.

Q. This has already been put into evidence as State's exhibit 14. Do you recognize what that is?

A. I do.

Q. What is that?

A. That is a plastic Pelican case that had contained these items that were -- have been introduced into evidence.

Q. Okay. And how did the four bags get into a separate bag?

A. So anytime I have to send evidence to the Greenville County Lab, they have certain requirements of what they will receive and how they receive it. So in other words, it would not allow -- they will not allow me to have it with like multiple items. Those items have to be clearly separated.

Q. Okay.

A. And so in this situation I placed those items in that bag and sealed it and initialed it.

Q. Okay. And it's probably hard, but can you see -- say where your initial would be?

A. It would be on that folded side on the rear there.

Q. Okay. Did you tamper with any of the evidence in any way?

A. No, sir.

Q. Was the evidence that you collected in the same condition ---

MR. BLOUIN: And, actually, if I can approach the witness.

Q. When did you take the evidence to the -- what did you do with the contraband after it was entered into your property in evidence?

A. Once it was in my property in evidence, I wait to receive what is called a -- I receive an email back from Greenville County essentially saying that they've completed their prelog, which then ---

MR. YARBOROUGH: Objection.

A. --- allows me ---

MR. YARBOROUGH: Hearsay.

THE COURT: Rephrase your question.

Q. Where do you take the evidence once you've requested drug analysis?

A. I will take it to Greenville County property in evidence.

Q. Did you do that?

A. I did.

Q. Okay. Did you take it in the bag that you sealed the crystal-like substance in?

A. Yes.

Q. All right. And they accepted that?

A. That's correct.

Q. Did you then later come back into possession of that bag?

A. Yes. When they were finished with it, yes.

Q. And you personally picked that bag up?
A. That is correct.
Q. And then what did you do with the bag?
A. I then placed it back into our property in evidence.
Q. And since that point in time has the bag -- where has the bag been?
A. It's been in behind the cage in a filing system.
Q. All right.
A. So in our property in evidence.
Q. Please answer any questions the defense may have for you.

THE COURT: Cross-examination.

Cross-examination by Mr. Wise:

Q. Officer Keiper, when you opened the locked box what did you physically see that was in there?
A. What I would -- what I physically saw was I saw the property in evidence sheet, and I saw the bag that's entered into evidence over there and the contents of that.
Q. All right. So I'm a little confused. You saw this bag, this box?
A. The bag with the contents that are listed on that bag.
Q. I'm sorry. I'm still -- I'm having trouble for some reason. When you opened it up, how many items did you find in that container?
A. From my recollection the items had been removed from that container ---

Q. All right.
A. --- and still inside that ---
Q. That's not my question. That was a bad question, all right?
A. Okay.
Q. How many items did you find in that locked box?
A. Without me looking at that sheet, I would -- I know at least five, if not more than that.
Q. All right. So what do you need to look at to ---
A. The property -- yes.
Q. This?
A. The property bag that has the Pelican case inside.
Q. All right.
A. Yes, sir.
Q. So that -- and when is this prepared?
A. Am I allowed to answer everything?
Q. Yes.
A. Okay. So everything that's listed here, the black Pelican box with the four baggies that has been entered into evidence, the -- there was a pink baggy with three ---
Q. Okay. All right, all right.
A. Yeah.
Q. So you've got four baggies that were inside that bag?
A. That is correct.
Q. All right. So what you've got here was you had four

baggies and the Pelican box and some other stuff in here?
A. That is correct.
Q. All right. And the four baggies were not in a separate bag?
A. They were not at the time, no.
Q. Not at that time, they were not?
A. That's correct.
Q. Everything was just put in here?
A. That is correct.
Q. Okay. Now the four baggies that you got, what did you do with them?
A. From there -- I made sure that everything matched in terms of what was listed ---
Q. Right. Before?
A. Yes.
Q. Yes.
A. I placed them in a -- that small property in evidence bag for the proper delivery to Greenville County so that they would actually accept it in that condition.
Q. So you put it in a separate -- you broke open this bag ---
A. It wasn't sealed, from my understanding. Let me -- if you allow me to see, I ---
Q. Sure.
A. Because on the one side here, up top here, ---

Q. Uh-huh (affirmative).
A. --- where it has -- you can see the case number, but when it comes to a signature for it, it says it was sealed, but I don't remember it actually being sealed. Because those typically to break them open, you would have to cut -- cut with scissors.
Q. Or tear the bag open some way?
A. Yeah. You would physically see, ---
Q. Right.
A. --- you know, some sort of tampering or that type ---
Q. Is this called a Best Pack?
A. I'm not sure, sir.
Q. Do you know what a Best Pack is?
A. I'm not sure.
Q. Okay. All right. But your experience has been if this had been tampered with or had been sealed, you would have had to completely destroy the bag in some way, not completely ---
A. I would either -- yeah. And a lot of times if I have a situation to where I have to do that, ---
Q. Right.
A. --- I will document that I had to physically cut it open.
Q. All right. So the four individual baggies that you found, ---
A. Yes.
Q. --- what did you do with those?

A. The four individual baggies were placed in a small, you know, that bag that's sealed.
Q. So you -- and that would be something similar to this?
A. That's -- yes.
Q. Okay.
A. That's what they were placed in.
Q. And you put the four baggies in there?
A. Correct.
Q. All right. Now you've been a police officer how long?
A. Since the end of 2014.
Q. All right. And you go to the police academy?
A. I graduated in 2014, yes, sir.
Q. All right. And they teach you things at the police academy, do they not, about chain of custody and so forth?
A. It's -- it's mentioned, yes, sir.
Q. All right. And you're aware that -- are you familiar with South Carolina Code -- well, you may not be aware of the number. But are you familiar with the South Carolina Code dealing with the handling of controlled substances? Is that something that's taught at the academy?
A. I don't recall.
Q. Let me show you this and see if that refreshes your memory any.
A. Okay.
Q. Does that refresh it at all?

A. A little bit, yes, sir.

MR. BLOUIN: Your Honor, I would ask that Mr. Wise go into a little bit more foundation other than does the statute refresh his memory ---

MR. WISE: Well, ---

THE COURT: Yeah, ---

MR. BLOUIN: --- potentially. I mean, whether he was taught certain things.

MR. WISE: I was going to get to that.

Q. First of all, does that refresh your memory in any way?

A. It does.

Q. Excuse me? It does not? Or it does? Or what?

A. I mean, it does a little bit.

Q. Yeah.

A. Yes, sir.

Q. Okay. And as part of your training there you learned that there are -- there are duties of the evidence custodians under regulations established by SLED?

A. I don't remember being taught that ---

Q. All right.

A. --- at the South Carolina Criminal Justice Academy.

Q. All right. I'd ask you if any of that -- well, what were you taught about the duties of the evidence custodian because you used the phrase evidence custodian? What were you taught about duties of the evidence custodian with SLED?

A. With SLED?
Q. Yes, at your police training.
A. Yeah, it is. And understand that my training that I have received was simply hands-on training from the previous evidence custodian.
Q. All right. When you went to the police academy in Columbia did you take any courses in being an evidence custodian?
A. I have not had any.
Q. You've not had any?
A. No.
Q. All right. And the previous person that did your job, did you ever tell them about or did you ever -- did they ever teach you about SLED regulations for evidence custodian?
A. I don't recall.
Q. So are you aware that by statute in the statute I showed you that certain evidence custodian records must be maintained by evidence custodians?
A. Such as?
Q. Well, are you aware that there is a requirement that certain regulations be maintained? Have you had any training in that at all?
A. I've had a little bit of training.
Q. All right. And did you know that in -- that you're required to fill out what they call chain of custody forms?

A. That I'm aware of. And that's what we -- we use our in-house.

Q. All right.

MR. WISE: Where is our exhibit for identification?

MR. YARBOROUGH: It's over here.

Q. And you use an in-house one?

A. That's correct.

Q. All right. Now -- and we're referring again to State's exhibit 12. First of all, what you have in front of you, is that what you received when you opened the locked box to get the items out of it?

A. Yes. That was what was in that locked box.

Q. Was there a pink sheet with that?

A. I don't recall.

Q. Did you tear any sheets off?

A. No.

Q. So what you have, a yellow and a white, is all that you received?

A. To my understanding, yes, sir.

Q. Excuse me?

A. To my understanding, that's correct.

Q. All right. And you understand the pink sheet of that should stay with the officer?

A. It is labeled for the officer based upon what is listed here at the bottom.

Q. Right. The white goes with the evidence and, I guess, technically you're supposed to maintain the yellow one, but both of them end up going with the evidence, correct?
A. They typically do, yes, sir.
Q. Okay. All right. Are you aware, according to SLED regulations, that the evidence custodian, when he makes a record, ---
A. Um-hum (affirmative).
Q. --- and you're supposed to make a record, aren't you? Correct?
A. When you say a record, in terms of?
Q. A chain of custody record.
A. Yes.
Q. And the purpose of obtaining a custody of record is to keep people from making mistakes?
A. That is correct.
Q. Because if you make a mistake, it can screw things up?
A. And in life, yes.
Q. Right. And it's kind of like a checklist for an airplane pilot. You have lists of things that you're supposed to do to make sure it's done right, correct?
A. That's with just about anything, yes, sir.
Q. And if it's not done right, mistakes can be made?
A. If something's not done right, ---
Q. Okay.

A. --- yeah.
Q. All right. Are you aware the duties of evidence custodian for SLED requires that the name of the evidence custodian appear on the document?
A. Can you say that again? Sorry.
Q. The name of the evidence custodian must appear in the document?
A. Yes.
Q. All right. Is that your name or your initials?
A. It is my signature.
Q. Okay. That's where you've signed it, but you didn't type your name out or print your ---
A. It's not ---
Q. --- name out?
A. --- printed, that's correct.
Q. And no reflection because we all have this problem, but it's not that legible?
A. I have been -- I've had bad handwriting my whole life, yes, sir.
Q. I have, too. All right. And does that form you have in front of you reflect the name of the law enforcement agency that employs you?
A. That, it does not.
Q. Okay. Does it contain the capacity of your employment with them?

A. Does this particular sheet have my ---
Q. Yes.
A. No, it does not.
Q. It doesn't -- it doesn't contain -- reference to you as a -- as a custodian?
A. That is -- that's correct.
Q. Okay. All right. Does that show the date that you received the ---
A. That ---
Q. --- the drugs in this case?
A. That is -- that is not on here. I -- the documentation was in our report system, LawTrak.
Q. All right. Does it show on that document how the controlled substance was received? By mail, or in person or whatever? Or in this case, through a locked box?
A. It does not.
Q. Okay. Does it reflect on there from whom you received the drugs?
A. It does not.
Q. Does it reflect on there the name of the agency employing the law enforcement officer or law enforcement employee from whom the drugs -- controlled substances were received?
A. That's essentially the same question. It does not list ---
Q. Okay.

A. --- the Greenville ---
Q. Does it have the name of the seizing officer?
A. On this it does.
Q. It does? All right.
A. Yes.
Q. Now, is there a description on there with using sufficient particularity to distinguish it from other evidence?
A. Explain.
Q. Well, if the requirement is that the description of the controlled substance or containers alleged to contain a controlled substance using different -- using sufficient particularity to describe it? That's just described as four baggies ---
A. Containing crystal-like substance.
Q. Doesn't have any weight, correct?
A. Not on this form, it does not.
Q. All right. And yet if you knew the weight and you put down the weight, that would be a way to distinguish one bag from another one?
A. In this particular ---
Q. Correct.
A. That is correct.
Q. But you have here just a general allegation about four bags, correct?

A. On this particular form, yes. In LawTrak, no.
Q. On what ---
A. In our report writing system it had the listed weight. On this particular form, ---
Q. Did not?
A. --- it does not. That is correct.
Q. Okay. All right. And is there a statement on there that the -- that the form, particularly when you've parted company with it, was in substantially the same condition as when it was received?
A. This particular ---
Q. Yeah.
A. Yes.
Q. It doesn't have it -- it doesn't say on there that it's in substantially the same condition as it was when you received it?
A. Repeat that.
Q. All right. Let me rephrase it.
A. Yes.
Q. In order to prove evidence isn't tampered with, ---
A. Right.
Q. --- right, a party would have to put down I've parted with it, I gave it up, and it was in substantially the same condition it was when I received it?
MR. BLOUIN: Your Honor, he's asking him to make a legal

conclusion here at this point based on ---

THE COURT: Sustained.

MR. WISE: Your Honor, I'm asking him about ---

THE COURT: Well, no, you're -- you're using that, but -- sustained.

MR. WISE: All right.

Q. So then you've had no training in proper use of SLED regulations in maintaining a chain of custody?

A. No training by whom? I mean, ---

Q. Anybody.

A. I've received some training, but I have not received training from like going to the South Carolina Criminal Justice Academy and receiving that type of training.

Q. I don't care who you get it from.

A. Right.

Q. Have you had any training as to the proper requirements of SLED to -- to maintain a proper chain of custody?

MR. BLOUIN: Your Honor, he doesn't work for SLED. He has answered the question of who he's -- I don't know he could answer it any better.

THE COURT: All right. I'll let him ---

MR. WISE: Your Honor, ---

THE COURT: --- answer that specific question.

MR. WISE: Excuse me?

THE COURT: I'll let you -- I'll let him answer the

specific question.
Q. Have you had any training from anybody or any agency ---
A. Right.
Q. --- as to the requirements pursuant to title 44 53 45, and under that SLED regulation 73 90 as to the duties of evidence custodians?
A. I wouldn't say -- I would not want to sit here and say that I have.
Q. Um-hum (affirmative).
A. In terms of saying that if we're going over every single element there, I wouldn't say that I have received training on every single element.
Q. Okay. So you ---
A. That's fair to say.
Q. Fair -- and particularly I assume you're not familiar with the duties of evidence custodian and South Carolina Code of Regulations 73 90?
A. More than likely not.
Q. Okay. You want to look at a copy?
A. (No response).
Q. I mean, if you wanted to, fine. If not -- I don't think it'll help any, but ...
A. I mean, it -- this is for future reference ---
Q. I don't want you to answer the question and then realize later, wait a second, if I'd seen it, I'd have remembered it.

A. It's not going to -- it's not going to matter, sir.
Q. All right. So -- and there's no statement on there that you received the items back in any altered shape compared to when you gave it up, is there?
A. If you're asking me if I received the evidence the same way that I ---
Q. Not quite.
A. Okay.
Q. I'm one step beyond that. Excuse me.
A. All right.
Q. Full question. When you got the items back from the lab, ---
A. Right.
Q. --- all right, there's nothing on that document that shows that you got it back in relatively the same condition that you gave it up?
A. That is correct. There is on the actual evidence itself, on the property bag, who it was opened by, their signatures and it being heat-sealed.
Q. Um-hum (affirmative). This would be this item here?
A. That is correct.
Q. All right. I see the chain of custody on here, but am I mistaken there's no writing on it?
A. This is -- right here where it says opened by, those are the initials of the -- the lab technician with Greenville

County Criminal Laboratory.

Q. And that would be the person that opened it?

A. That is correct.

Q. All right. Do you maintain any records as to the chain of custody in your office?

A. In my office?

Q. Right.

A. No. These are all maintained in our property in evidence room.

Q. Property in evidence room?

A. Yes, sir.

Q. All right. And you don't recall a pink copy being with that?

A. No. I take these as is. So whatever I receive is what goes into our property in evidence.

Q. Let me -- let me -- you're familiar with that form?

A. I'm very familiar with this form.

Q. All right. And you're familiar that it comes in a white, canary and pink?

A. Yes.

Q. And the pink is supposed to be maintained by the seizing officer?

A. Based upon what's written at the bottom here, yes, sir.

Q. Right. Is that correct?

A. Yes.

Q. And where would that form be kept? Do you know?
A. Typically what will happen is the officer will pull that form and most times will put it in a -- in a case jacket or, you know, a folder with the other pieces.
Q. With the what?
A. Other pieces of evidence, the report itself, if there's statements, that type of thing.
Q. Okay. You didn't -- the first time you saw any of this evidence was the next morning?
A. It would -- yes.
Q. You work during the days?
A. I work seven am to seven pm, yes, sir.
Q. All right.

MR. WISE: Give me one minute.

(Pause)

Q. And you sent all this to the Greenville Lab?
A. To Greenville County, yeah.
Q. Okay.

MR. WISE: Give me one second.

(Pause)

Q. Thank you.

THE COURT: All right. Redirect?

MR. BLOUIN: Just briefly, Your Honor, just to clarify some things.

Redirect Examination by Mr. Blouin:

Q. Where did you pick up the evidence from?
A. I picked up the evidence from our temporary storage locker, number 6, at our substation that's at ER, Greenville Memorial Hospital.
Q. Where did you take it to?
A. I took it to our property in evidence that is in a locked area behind a biometric reader and a locked gate.
Q. Did you document this?
A. I documented that in our LawTrak reporting system.
Q. Okay. And what kind of security measures are in your P&E room?
A. We have the -- well, we have the biometric reader that's fingerprint reader. We have cameras in there that are motion activated. And then we have all the evidence behind a locked gate.
Q. Based on your experience was anything tampered with?
A. No.
Q. Okay.

MR. BLOUIN: No further questions.

THE COURT: All right. You may step down.

MR. WISE: Just one question real ...

Recross-Examination by Mr. Wise:

Q. The LawTrak reporting system, is that the system -- this reports who goes in and out of the evidence room?
A. No. That is just -- that is our report writing system

that we use for all of our case reports.

Q. Did you print one out for this case?

A. It would have been sent to the solicitor's office.

Q. Did you print one out and send it to the solicitor's office?

A. I'm not the one that handles that.

Q. Who handles that?

A. That would have been either our -- more than likely our major would have sent that in.

Q. Okay.

THE COURT: All right. You may step down.

A. Thank you.

MR. BLOUIN: The State -- can he be released from his subpoena?

THE COURT: Any objection?

MR. WISE: I have no objection.

THE COURT: All right. He can be released.

MR. BLOUIN: The State would call Kara Bennick.

Kara Bennick, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name for the record.

MS. BENNICK: Kara Bennick.

THE COURT: Counsel, can y'all approach just a second about a ---

MR. YARBOROUGH: Sure.

THE COURT: --- housekeeping matters?

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

Direct Examination by Mr. Blouin:

Q. Could you please give us your name?

A. Kara Bennick.

Q. And where do you work?

A. The property and evidence section.

Q. For whom?

A. Greenville County.

Q. Okay. And how long have you worked there?

A. I've been employed with Greenville County for 24 years.

Q. And can you describe your duties?

A. I'm the manager over the unit, the Property and Evidence Unit.

Q. And how is evidence logged into property and evidence?

A. There's two ways that evidence can come into us. It's through the counter services or during after hours it'll come in through drop-boxes and lockers.

Q. And generally how is evidence stored in property and evidence?

A. Depending on the reason that it's coming into us will depend on where it goes. This particular case, drugs came

into us, and they were taken to the secure holding staging area to go out to lab services.

Q. Okay.

MR. BLOUIN: And if I may approach?

(Whereupon State's exhibit 15 was marked for identification)

Q. I'm going to show you what's been marked as State's exhibit 15. Could you please identify that?

A. I can. This is a chain of custody.

Q. And is that chain of custody an accurate description of what went on with this case?

A. I believe so.

Q. Okay. Has it been tampered with in any way, shape or form?

A. No.

Q. And does it reflect evidence from the point that it entered into the Greenville County Property and Evidence?

A. Yes. Actually it begins prior to that with the prelog process where the paperwork was sent to us via email. It was prelogged and then it was accepted in.

Q. Okay.

MR. BLOUIN: At this point, Your Honor, we'd ask that State's 15 be entered into evidence.

MR. WISE: Same objection as previous document.

THE COURT: Let me see what ...

(Pause)

THE COURT: And subject to the ---

MR. YARBOROUGH: Can we approach?

THE COURT: Yeah.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

THE COURT: All right. In -- and that's -- what was the number again?

MR. BLOUIN: 15.

THE COURT: All right. In subject to the defense's objection.

(Whereupon State's exhibit 15 was admitted into evidence)

Q. Okay. I'm going to give this to you. So can you please kind of give us the history of what happened with this item?

A. Yes. So initially I received the paperwork via email. I put it in the prelog system, which is just that we're holding paperwork for this case. It will arrive when the officer transports the items over.

At that point, on 12/3/20 Rachel Richenburg (ph.) received the items into evidence. And then she put them in the staging location for other agency drug stuff.

Q. Okay.

A. They stay there until the lab picks them up.

Q. All right. May I approach?

A. Um-hum (affirmative).
Q. This has been marked as State's exhibit 13. Could you please identify that?
A. Okay.
Q. Oh, I'm sorry.
(Pause)
MR. BLOUIN: Your Honor, may we approach real quick?
(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)
(Whereupon the bench conference was ended)
THE COURT: All right. Exhibit 15 -- what's previously been marked as exhibit 15 is withdrawn and replaced with a new exhibit 15.
(Whereupon State's exhibit 15 was withdrawn and replaced with a new State's exhibit 15)
Q. All right. I'm showing you what is State's exhibit 15.
A. Yes.
Q. Would you identify that with ---
A. Okay.
Q. --- 15?
A. Okay.
Q. Was State's exhibit 13 what was delivered to property and evidence per State's exhibit 15?
A. Yes.
Q. All right. Now when you take things into property and

evidence, what sort of condition must they be in?
A. They have to be sealed. And they have to contain dates and initials.
Q. Okay. And what happens if they don't have those sorts of things?
A. We won't accept them. We make the officer fix it at the time of entry so that it is sealed or they have to take it back ---
Q. Okay. And who ---
A. --- to the agency.
Q. Okay. And who all has access to these materials once they've been logged in?
A. The seven people who work in property and evidence, and that is it.
Q. And what sort of safety measures, sort of security measures are at P&E to make sure that that is what happens?
A. So all doors have swipe cards as well as regular safety locks that are on daytimers during the day. So you still have to have a card to get through anywhere. We have camera systems. We have -- we have a lot of security. And nobody can get through the evidence -- like nobody can get into the office at all ---
Q. Okay.
A. --- but us.
Q. And if I may approach real quick with 15 again. Can you

please say at what point did the evidence return from the lab?
A. So the evidence was returned back into our custody on January 12th.
Q. Okay. Then what did you do with the evidence at that point?
A. It was then returned to the bin for the hospital system.
Q. Okay. And then at that point it would be returned to them?
A. When their officer comes over, he would pick it up and it would return to them.
Q. Okay. And all the names on this sheet, are they all -- are or were employees of property and evidence?
A. They all are employees of property and evidence.
Q. All right. Please answer any questions defense may have for you.

Cross-examination by Mr. Wise:

Q. Ms. Bennick, have you been through the training on chain of custody forms?
A. I have.
Q. Have you been to the SLED training?
A. I have. And I'm also a certified evidence technician.
Q. Excuse me?
A. I'm also a certified evidence technician.
Q. And part of that you learned that there's certain SLED regulations you have to comply with to have a good chain of

custody?
A. We do not have to comply with SLED regulations. We are a separate agency from SLED regulations.
Q. All right. Excuse me one second.
(Pause)
Q. I'm talking about SLED regulations as opposed to a SLED lab requirement.
A. We are not a part of SLED.
Q. I understand that.
A. Yeah.
Q. All right.
A. So we don't have to comply with any rules that they have. We have our own policies and procedures that we comply with.
Q. SLED has supervisory authority over all law enforcement, correct?
A. Um-hum (affirmative).
Q. And -- and SLED can set up procedures for you to comply with, ---
A. Okay.
Q. --- Correct?
A. I'm sure they can. We have our own policies and procedures that are ---
Q. I ---
A. --- established.
Q. --- understand you have your own policies and procedures.

A. I honestly can't testify as to what SLED can and can't do.
Q. All right. So you're not familiar at all with SLED regulations, South Carolina Code of Regulations 73-90?
A. Is that the -- if that's the evidence ---
Q. That's the duties of evidence custodian.
A. Okay. Yeah. I am familiar with my policies and procedures for the regulation of evidence.
Q. And you're not familiar with any SLED requirements?
A. I am familiar with the -- in order for us as an agency to submit to SLED, I am familiar with those.
Q. I didn't ---
A. We do not submit drug evidence to SLED.
Q. Are you familiar with that SLED regulation?
A. I have seen this SLED regulation.
Q. And that SLED regulation applies to any law enforcement officer, doesn't it?
A. I'm not a law enforcement officer. I'm a civilian.
Q. All right. You're what?
A. I'm a civilian.
Q. You're a civilian even though ---
A. I'm a civilian evidence ---
Q. --- you've got on ---
A. --- custodian.
Q. --- a police uniform? Okay. Are you an employee of law

enforcement?
A. I am.
Q. All right. And this SLED regulation applies to an employee of law enforcement, correct?
A. It may. Again, it's not one of my regulations.
Q. I didn't -- I'm not claiming it's one of your regulations. I'm not even arguing that.
A. But I can't testify to it, sir, because I'm not familiar with it in the operational standpoint.
Q. All right. But you're familiar with it in the sense you've had some familiarity with that SLED regulation?
A. The only familiarity I have with SLED and their regulations is when I submit evidence to them. I have a standard I have to ---
Q. All right.
A. --- follow in order to submit it ---
Q. All right.
A. --- to them.
Q. I may be wrong, but I thought you testified a minute ago that you were familiar with the regulation ---
A. I have ---
Q. --- 73-90.
A. I have seen it, yes.
Q. You've seen it?
A. But I would not consider myself operationally familiar

with it.
Q. Well, would you agree from reading this document that you have previously seen before today that it applies to any employee of law enforcement in the opening sentence?
A. I mean, if I sat here and read the document, I might ---
Q. Just read the opening sentence. You don't have to read much.
(Pause)
A. Yes.
Q. So ---
A. Maintain the record of chain of custody. We do that, sir.
Q. So you are an employee of law enforcement, so this document would apply to you?
A. Okay.
Q. All right. But you've had no formal training in it?
A. I've had formal training in evidence, yes. The standard for evidence.
Q. You've had no formal training in the operation of South Carolina Code of Regulations 73-90?
A. We don't call it that according to our policies and procedures.
Q. All right. Now, you've got exhibit 15 in front of you?
A. No. I don't, sir.
Q. All right. Look at exhibit 15. All right. Does it have

on there from whom this evidence was received?
A. No, it is not printed on here the person that it was received from.
Q. All right. Does it have the name of the agency employing the law enforcement officer from whom it was received?
A. No.
Q. Does it have the name of the original seizing officer?
A. No. All that's on their paperwork.
Q. All right.
A. We don't need that in testing purposes.
Q. You don't keep it in the chain of custody form, that information?
A. No, because our chain of custody begins at the counter when we take possession of it.
Q. I understand that. All right. So you've never been taught that that is a requirement that you include those three things on your chain of custody form?
A. Those three things are in our computer system. It's just not printed on this document. But they are, in fact, in our computer system.
Q. And they don't print out on this automatically?
A. Uh-uh (negative).
Q. Did you print out any of that to show it's in your computer system in preparation for today?
A. I was not asked to.

Q. All right. On 1/12/2021 at approximately 1:13 in the afternoon it says item moved to this location, Greenville Hospital PD bin.

A. Um-hum (affirmative).

Q. Who would have taken that to the Greenville Hospital PD bin?

A. Rachel.

Q. Excuse me?

A. Rachel Richenburg.

Q. She would have hand delivered it?

A. Yes. She would have moved it from her possession to that bin.

Q. Okay. So she would have left your -- her place of employment and gone to Greenville General Hospital?

A. No. That bin is assigned to our -- in our staging location for return to the agency.

Q. Gotcha. Okay. All right. And so it sat there for a while. And Rachel Richenburg would have put it in that bin?

A. Yes.

Q. And then she would have eventually returned it on -- some 14 days later, correct?

A. On 2/2/21 ---

Q. Right.

A. --- she returned it to ---

Q. Okay. And it's not on here who it was returned to?

A. Yes, it is.
Q. The ---
A. Right there.
Q. --- agency, yeah. Excuse me? Yeah, I see that at the bottom. Yeah. And that's who got it back on the 12th?
A. Yes, sir.

MR. WISE: Excuse me a second. Okay. Thank you.

THE COURT: Redirect?

Redirect Examination by Mr. Blouin:

Q. The only question I just have is -- and I think you said this earlier, what is your position in P&E?
A. I'm the manager.
Q. Okay.

MR. BLOUIN: No further questions.

THE COURT: All right. Thank you. You may step down.

MR. BLOUIN: And, Your Honor, at this point we're looking for the chemist. We're trying to figure out where he is.

THE COURT: All right.

MR. BLOUIN: First, Your Honor, we'd just release Ms. Bennick from her subpoena if ---

THE COURT: Any objection?

MR. BLOUIN: And then, Your Honor, if we could just take a five minute break just to make sure we know where ---

THE COURT: Okay. All right. We're going to take -- we're going to take a five minute break. Don't discuss the

case, and we'll bring you back out in just a few minutes.

(Whereupon the jury exited the courtroom at 3:00 pm)

(Whereupon court was in recess at 3:00 pm)

(Whereupon State's exhibits 16 and 17 were marked for identification)

(Whereupon court reconvened at 3:21 pm)

THE COURT: I understand y'all have who you need. Y'all be seated.

MR. YARBOROUGH: Can we approach?

THE COURT: Yes.

(Whereupon a bench conference was held off the record)

(Whereupon the bench conference was ended)

THE COURT: All right. You want to put what y'all ...

MR. WISE: Yes, Your Honor. As you're aware, our -- we do have a serious chain of custody argument. And in order to utilize the Court's time most efficiently, what we've agreed to do with consent of the State is when the SLED chemist testifies we will object to the introduction of the drugs subject to our prior discussion, which will be this discussion.

And what we intend to do is then go through all of the witnesses for the State and the defense. And then after the jury's excused at the end of the day, then we will have the serious argument on whether or not the chain of custody's been proven.

THE COURT: All right. Any objection from the State?

MR. BLOUIN: I mean, the only thing is that I'm going to rest after this witness and then entering in the stipulated evidence.

THE COURT: All right.

MR. BLOUIN: And so I don't want to be stuck with evidence hanging out there after the State rests that's not in evidence.

MR. WISE: Well, I mean, if the chain of custody -- we've been, you know, the chain of custody is ---

MR. BLOUIN: I'm fine with doing it that way.

MR. WISE: Right.

MR. BLOUIN: I just don't want there to be an issue whereas I have rested my case, I don't have my drugs in and that could potentially become ---

MR. WISE: Oh, no.

MR. BLOUIN: --- an issue later.

MR. WISE: You will have your drugs in when the -- we will say objection, Your Honor, subject to our prior discussion.

MR. BLOUIN: Okay.

THE COURT: Well, now am I going to admit them and then they will not be ...

MR. WISE: Subject to our prior discussion, which is to discuss admissibility after the -- after everybody's rested.

THE COURT: All right.

MR. WISE: It seemed like that ---

THE COURT: Well, as long as -- and if I ---

MR. WISE: If you exclude them, you know, the case is over.

THE COURT: The case is over. And if I admit them, then nobody, I mean, it goes forward and they're admitted into his case.

MR. WISE: Right.

THE COURT: All right. As long as everybody's on the same page there.

MR. WISE: Um-hum (affirmative).

THE COURT: Y'all ready because Judge Miller evidently wants his witness back.

MR. BLOUIN: Oh, yes. We will work with him very fast.

THE COURT: You're a very popular individual today.

MR. ARMSTRONG: Yes, sir.

THE COURT: All right. The State's ready for the jury?

MR. BLOUIN: Yes, Your Honor.

THE COURT: Defense?

MR. WISE: Yes, sir.

THE COURT: All right. Bring the jury in.

(Whereupon the jury entered the courtroom at 3:27 pm)

THE COURT: All right. The State can call your next witness.

MR. BLOUIN: Your Honor, at this point the State would call James Armstrong.

James Armstrong, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name for the record.

MR. ARMSTRONG: James William Armstrong.

Direct Examination by Mr. Blouin:

Q. Mr. Armstrong, where are you currently employed?

A. I'm employed -- currently employed with the U.S. -- United States Marshall Service as a court security officer at the Federal Courthouse.

Q. All right. Where were you employed in 2020?

A. In 2020 I was employed with the Greenville County Department of Public Safety Forensics Division and Crime Lab.

Q. Okay. And what is your or what was your job at the Crime Lab?

A. At that point in time I was the supervisor of the drug laboratory and the firearm analysis laboratory as well.

Q. Okay. And what is your educational background?

A. I have a Bachelor of Science in Chemistry from Erskine College. I've trained in the area of drug identification approximately one year under the direction of the lab supervisor. I've attended numerous instrumental analysis schools concerning the instruments I used in my analysis.

I've attended multiple courses sponsored by the Drug Enforcement Administration in the detection and the identification of controlled substances. And I've testified in federal, state and local courts at least 170 times as an expert in the field of drug identification.

Q. All right.

MR. BLOUIN: Your Honor, at this point we'd move for Mr. Armstrong to be qualified as an expert in drug identification.

MR. WISE: No objection.

THE COURT: Okay. And without objection.

Ladies and gentlemen, normally a person cannot testify about conclusions or opinions about things. Normally a witness can just testify about what they observed, heard and so forth.

The exception to that is when somebody's been qualified as an expert. And, again, your -- qualified as an expert ...

MR. BLOUIN: Drug identification, Your Honor.

THE COURT: Drug identification. And then this individual has been qualified as an expert in drug identification. So, therefore, he can testify about his opinion based in that field based on his education, his experience and training. But just like all evidence, you're to give it the weight and the value that you feel is appropriate. So go ahead.

Direct Examination by Mr. Blouin Continued:

Q. All right. Generally speaking, how does the substance that needs to be tested come into your possession?

A. The property and evidence is a storage location, which is in the basement of the law enforcement center. The officers usually take the evidence down there, have it secured and stored. They fill out the property and evidence sheet that will establish the chain of custody.

And then they have to fill out a request form. That request form then lets those people know that they need to put those drugs or items in a specific area for the chemist to come in and pick up those items to get them worked.

And then I would go to the property and evidence room and ask them for a batch of cases to sign out. Then I would sign them out from there, go to the office, inventory, then conduct the examination.

Q. When you conduct an examination, please go through the process of what you would do to do that.

A. When I first receive an item, I open up the envelope to make sure everything that I have on the property chain is actually in my custody. And then I make sure all the items are sealed. If they are not sealed properly, I then have them go back to property and evidence room for them to take care of that situation.

Q. All right. And once you remove the substances from the heat-sealed bags, what do you do then?

A. Once I remove the items from the heat-sealed bag I do a -- I weigh the items of a actual substance, not any packaging, just the actual substance they have. And then do a chemical spot test and then perform an instrumental analysis test to confirm the presence or absence of a drug.

Q. Okay. And what sort of scientific resources do you use in order to test substances or drugs?

A. Well, in this case it'd been -- like our chemical spot test, we use those that gives a color change to give us an idea what we may have or may not have. Then from there, take a small bit of the sample, dissolve it in a solvent, which we then run on the gas chromatograph-mass spectrometer, which is two big words to me. It's like a big oven for the first part and then an identifier for the second part. It separates it out in the gas chromatograph and then we detect it with the mass detector.

MR. BLOUIN: May I approach the witness, Your Honor?

THE COURT: Yes, you may.

Q. I'm showing you what's been marked as State's exhibit 16. Do you -- can you identify that document?

A. Yes, sir, I can.

Q. And what is that document?

A. This is a drug analysis report for the drug lab case number G210045, which is the DPS case number 11 2020 349.

Q. Is that an accurate -- has that been altered in any way?

A. Not that I can tell, no, sir.
Q. And is that your signature at the bottom?
A. Yes, sir, it is.
Q. All right.
MR. BLOUIN: At this time, Your Honor, we'd move State's exhibit 16 into evidence.
MR. YARBOROUGH: No objection.
MR. WISE: No objection.
THE COURT: Okay. No objection.
(Whereupon State's exhibit 16 was admitted into evidence)
Q. And if I may approach with ---
MR. WISE: Well, actually not no objection. Objection subject to our prior ---
THE COURT: Prior? Okay. Yes.
MR. WISE: --- position. As we discussed earlier.
THE COURT: Yes.
Q. I'm showing you what's been marked and identified as State's exhibit 13. Do you recognize that?
A. Yes, sir, I do.
Q. Okay. How do you recognize that?
A. This outer heat-sealed bag has my initials and the date where I sealed it back after I completed my analysis. The inside bag has my initials, the date and the case number that corresponds with this report and a check mark that it was sealed. And also has my initials, the item number and the

weight of the items in this bag.

Q. Okay. And does that correspond with this report here?

A. Yes, sir, it does.

Q. All right.

MR. BLOUIN: Your Honor, at this point we would move State's exhibit 13 into evidence.

MR. WISE: Again, subject to our position earlier.

THE COURT: All right.

(Whereupon State's exhibit 13 was admitted into evidence)

Q. And can you read for the jury what State's exhibit 13 is from item 1 there?

A. My item 1 is four bags with rock substance found that it contained methamphetamine with a weight of twenty-nine point six five (29.65) grams.

Q. All right. And are you the only one who sees this report or goes over your work?

A. No, sir. All the reports in the drug laboratory are peer reviewed by another chemist to try to eliminate any errors that we may -- may have made.

Q. All right. And what did you do after you finished testing and resealing that bag?

A. Once the analysis was complete, everything was sealed, took the evidence back to property and evidence for storage or transportation back to the agency.

Q. Please answer any questions the defense may have.

THE COURT: Cross-examination.

Cross-examination by Mr. Wise:

Q. Mr. Armstrong, you've got four bags on the report?

A. Yes, sir.

Q. All right. How much did the first bag -- baggy weigh?

A. Well, I couldn't weigh them individually because when I opened up the main container, all the bags had loose material around them and it was kind of mixing, so it was a total weight.

Q. All right. So that's not a good thing to happen, is it?

A. Well, when I received it, I had to -- yes, sir.

Q. I understand. But it's generally not a good thing to happen?

A. Correct.

Q. Okay. But what you like to do is weigh bag one, ---

A. If they're properly ---

Q. --- and ---

A. --- closed and nothing ---

Q. Right.

A. --- escaping, yes, sir, it's ---

Q. What you like to do is take bag one and analyze it?

A. Yes, sir.

Q. Take bag two, weigh it and analyze it?

A. That's correct.

Q. Take bag three, weigh it and analyze it ---

A. That's correct.
Q. --- the same with four, ---
A. That's correct.
Q. --- correct?
A. That's correct.
Q. And the reason is because a lot of drug dealers aren't honest?
A. You can get different things, yes, sir.
Q. And they'll sell you some fake stuff, right?
A. (Affirmative nod).
Q. All right. But once you get all of it co-mingled and if some true methamphetamine touches fake methamphetamine, even the fake's going to test positive, isn't it?
A. There is a likelihood it could, yes, sir.
Q. Yeah. So there's no way for you to separate it once ---
A. No.
Q. --- it's all mixed together, ---
A. That's correct.
Q. --- correct? So you can't tell us that any one particular bag did or did not contain methamphetamine?
A. Well, my -- in the case, when I received it, all four would have contained because it's all mixing together.
Q. All right. Let me rephrase my question. If individual bags had been sealed individually, ---
A. Correct.

Q. --- right, you would not -- you could have told us whether or not each individual bag ---

A. That's ---

Q. --- contains meth or not meth?

A. That's correct.

Q. And if some were analyzed and didn't contain meth, then, of course, the weight's off?

A. That's correct.

Q. All right. About how much do you think you used to test -- did you use in your testing?

A. Less than a hundredth of a gram.

Q. There's what?

A. Less than a hundredth of a gram.

Q. Less than a hundredth?

A. Yes, sir.

Q. So basically then the only thing you can positively say is less than a hundredth of a gram is guaranteed to be meth?

A. The items that I tested, yes, sir.

Q. That is correct?

A. That's correct.

Q. Okay. Thank you.

THE COURT: Redirect?

Redirect Examination by Mr. Blouin:

Q. When you said the bags, the original bags were leaking, that would have been -- what do you mean the original four

bags were ---

A. The bags that were sealed up inside the evidence bag from the agency, those bags, when they were placed in those, there were some residue mixing among those ---

Q. Not the agency bag, but ---

A. Not the agency bag.

Q. --- with the original packaging?

A. The original packaging, yes, sir.

Q. So it wasn't packaged tightly?

A. Correct.

Q. All right.

MR. BLOUIN: No further questions.

THE COURT: All right. Thank you. You may step down.

MR. BLOUIN: Your Honor, we would release, obviously, ---

THE COURT: Right.

MR. BLOUIN: --- Mr. Armstrong from his subpoena.

And then, Your Honor, the last thing, per stipulation of both sides, the State is going to admit State's 17 into evidence, which is a affidavit of records from Captain Jinny Moran as well as inmate property records for the defendant in this case.

THE COURT: All right. Is that correct?

MR. WISE: Yes, that's correct, Your Honor.

THE COURT: And I guess -- all right.

(Whereupon State's exhibit 17 was admitted into evidence)

THE COURT: All right. And before you close, the last, I guess, three exhibits were conditionally introduced into evidence and accepted conditioned upon any former -- any rulings ---

MR. YARBOROUGH: Any former objection, Your Honor.

THE COURT: Yes. All right. Yes. Okay.

MR. BLOUIN: All right.

(Whereupon Mr. Blouin approached the court reporter)

MR. BLOUIN: Your Honor, at this point the State will rest.

THE COURT: All right. Ladies and gentlemen, the State has rested their case in chief. So at this time we must -- we're required to take a break. So if you will just go back to your jury room. Do not discuss the case, and bring you back out in just a few minutes.

(Whereupon the jury exited the courtroom at 3:39 pm)

MR. WISE: On behalf of Mr. Swaringen I would move at this time for a directed verdict on several -- several grounds and kind of take them in reverse order.

Based upon the testimony of Mr. Armstrong, I would move for a directed verdict on the ground -- on the charge of trafficking on the grounds that Mr. Armstrong testified the only thing he can conclusively say is that that one one-hundredth of a gram was methamphetamine because the others were so mixed together. Whether any of them were negative, he

has no clue. So I think that eliminates a trafficking charge.

Second, I'd move for a directed verdict on the ground that I am at a loss to determine how these drugs are now associated with Mr. Swaringen. Theory of a possibility coming in through a black bag. Theory of possibility of being in his clothes. Theory of a possibility that the items that were left in the emergency room, later were obtained from somebody at some time and then analyzed and come up with a report of methamphetamine.

There's simply been no showing, particularly a circumstantial evidence showing that Mr. Swaringen had control of anything that might have had the drugs in it. They have no DNA on the Pelican bag. They have no fingerprints on the Pelican box. They have nothing to really show that Mr. Swaringen had these items in his possession.

If the drugs were in the saddlebag, they were not in the saddlebag when they entered the hospital. And Mr. Swaringen was never in touch with that saddlebag until after he was arrested. So it's a mystery as to how they got there. And I think with all that there's just not a substantial circumstantial evidence case that Mr. Swaringen's guilty of anything.

THE COURT: Mr. Blouin.

MR. BLOUIN: Your Honor, as to the first. As you're aware the State of South Carolina's rule on drug mixtures is

that one gram of cocaine and a hundred grams of flour is a hundred milligrams of cocaine. The chemist testified that he weighed it, that he tested it, he tested it all at one time, and it came as twenty-nine (29) grams of meth.

Under the law, even though his -- the sample size he tested was very small, under the weight of the whole mixture that he tested, that would equal twenty-nine (29) grams of meth, which would reach the trafficking threshold of between twenty-eight (28) and a hundred (100) grams.

As to the secondary argument, I believe the testimony shows that Mr. Swaringen was, in fact, in a motorcycle accident, that he was taken to the hospital with a black bag and that his clothes and all were inventoried, including the bag, at the hospital by non -- you know, by lay people, that what ended up being twenty-nine (29) and change grams of methamphetamine was found in clothing, which was on, you know, that was found on his -- as part of his property.

In the light most favorable to the State, I believe that there is ample evidence to show that Mr. Swaringen was in either actual or constructive possession of those drugs given the circumstances and the testimony of the witnesses.

THE COURT: All right. Anything further?

(No response)

THE COURT: I mean, I believe it's very circumstantial and it's lots of good arguments that y'all are going to have

in your closing, but I believe that there's enough there for it to be a jury question. So I'm going to deny your motion.

MR. YARBOROUGH: You want to ask him if he wants to testify?

THE COURT: Oh, okay. Yes. All right.

Mr. Swaringen, would you stand at this time and raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth so help you God?

MR. SWARINGEN: Yes, sir.

THE COURT: All right. First of all, your name?

MR. SWARINGEN: Joseph Swaringen.

THE COURT: And how old are you?

MR. SWARINGEN: Fifty-nine.

THE COURT: And how far did you go in school?

MR. SWARINGEN: I have a GED.

THE COURT: All right. Are you under the influence of any alcohol, drugs or medication today?

MR. SWARINGEN: No, sir.

THE COURT: Do you have any health or mental issues which would keep you from understanding what's going on?

MR. SWARINGEN: No, sir.

THE COURT: All right. Now this is the point in time where I want to discuss with you your right to testify. Do you know under the Constitution you have the absolute right to testify on your own behalf, but you also have the right not to

testify.

And if you decide not to testify, then I will instruct the jury that they're not to consider that at all, that that is not -- that you are -- you have the right under the Constitution to exercise that right not to testify, and that that's not even considered as evidence because you have no burden in this matter.

Now, if you do testify, then you would be subject to the same rules of cross-examination as any witness including any criminal convictions that you would have.

What would -- what is his record, just for the record here, that he would -- could be subject to cross-examination on?

MR. BLOUIN: Let's see. He has forgeries from, it looks like, 2011. He's got prior drug convictions, but, obviously, I think there would be an argument to keep those out. I don't think there would be much as far as -- let's see, there's a shoplifting from 2017.

And then, like I said, there's a whole bunch of drug stuff, and strong arm robbery in '13, and drugs from '17, but I don't think it would be relevant. Obviously, I think it would be probably too prejudicial ---

THE COURT: Okay.

MR. BLOUIN: --- unless he opened the door.

THE COURT: All right. So that's kind of the information

regarding -- you going to stand up and say something?

MR. YARBOROUGH: Yes. I just think he needs to understand what Mr. Blouin just said. And I think -- is that you could testify and there would not be -- there's not a whole lot they could cross-examine you about from your past because it's too old.

THE COURT: Either too old or too prejudicial.

MR. YARBOROUGH: Right. So you could testify.

THE COURT: Right. And I'm going to give you the opportunity to -- all right.

But ultimately, you know, -- and also this may be, you know, you also have a right -- it sounds like your attorneys have indicated they may have additional witnesses. But any -- if your side puts up any evidence, you know, there's strategic reasons for that, for not putting up any evidence, as your attorneys will tell you, because then you get the final argument. And those -- that's one of the strategic reasons.

But ultimately your decision to testify or not to testify has to be your decision. Now you can make that decision through talking with your attorneys or whoever you need to talk to, but ultimately that decision is yours.

So usually what I like to do is before I ask you if you want to testify, I'm going to give you an opportunity to discuss this further with your attorneys. Would you like to have a few minutes with your attorneys to discuss this?

MR. SWARINGEN: Yes, sir, I would.

THE COURT: All right. So I'm going to give you -- we're going to take a short break. And then we'll -- we'll come back out and I'll ask you if you understand your rights and what you want to do.

MR. SWARINGEN: Yes, sir. Thank you.

(Whereupon court was in recess at 3:47 pm)

(Whereupon court reconvened at 4:00 pm)

THE COURT: All right. Mr. Swaringen, -- okay. Now as I talked to you before we went on break, you -- I explained to you what your rights were about testifying and that you have the right not to testify and gave you an opportunity to discuss that -- your options with your attorneys. Have you had sufficient time to discuss with your attorneys whether you want to testify or not?

MR. SWARINGEN: Yes, sir, we discussed it.

THE COURT: All right. And do you want to testify?

MR. SWARINGEN: I'm not sure, Your Honor.

THE COURT: All right.

MR. WISE: What we've discussed is we're going to be running close to 4:15, 5:30. If he testifies it'll be about 30 minutes, 40 minutes. But can he just wait and think about it overnight?

THE COURT: All right.

MR. WISE: Because it won't interfere that much with ---

THE COURT: Okay.

MR. WISE: --- what time we get out of here.

THE COURT: All right.

MR. WISE: Thank you.

THE COURT: All right. Are we ready for the jury?

MR. YARBOROUGH: Yes, sir.

THE COURT: The State ready?

MR. BLOUIN: Yes, Your Honor.

THE COURT: All right. Bring the jury in.

(Whereupon the jury entered the courtroom at 4:03 pm)

THE COURT: All right. As you will recall, ladies and gentlemen, the State has rested their case. And now the defense may call your first witness.

MR. WISE: We call Ms. Lisa Edmonds.

THE COURT: Ms. Edmonds, come around. And I'll remind you that you've previously been sworn. So that still is in effect.

MS. EDMONDS: Absolutely.

Lisa Edmonds, having been previously sworn testified as follows;

Direct Examination by Mr. Wise:

Q. I apologize for having to make you come back, ---

A. That's okay.

Q. --- one little thing we missed. Do you remember testifying in this matter before back on June 7th of this

year?
A. I'm sorry?
Q. June 7th of this year, testifying earlier?
A. Whenever -- if it was June 7th, ---
Q. Right.
A. --- you bet.
Q. Okay. I'm going to ask you to look at page 31. And just read it to yourself right now, and I'll ask you a question about it. When you get through reading the entire page, let me know.
(Pause)
A. Okay.
Q. Okay? Does that refresh your memory as to where you found the drugs?
A. In the black bag, I assume. Yes.
Q. And you testified earlier they were in little plastic bags inside the black bag?
A. I don't believe so.
Q. Well, look at line ---
A. I see that, but I ---
Q. And your answer was yes?
A. I'm not sure if they were black bags. It was inside a black bag, ---
Q. No, ---
A. --- but I'm not sure I ---

Q. Bad question again. All right. Your previous testimony was that the little plastic bags were inside ---

MR. BLOUIN: Your Honor, I ask that he not lead the witness. He's ---

MR. WISE: Okay.

Q. According to your testimony from June of this year, looking at line 15 through 17, what do you know about where -- what was found inside the black bag?

A. What I see here is that I didn't understand the question. And you said, were they loose? And I say, I -- I didn't understand the question.

Q. Um-hum (affirmative).

A. Then you asked, little black -- little plastic bags? And I said, yes.

Q. Correct. And where were the little plastic bags, according to your testimony?

A. Inside the black bag.

Q. Okay. And -- all right. Do you recall whether or not they were readily visible?

A. Meaning?

Q. Seeing real easily.

A. Difficult for me to say. You know, a year and a half ago. So when you go through belongings, sometimes there's lots of things, sometimes there's few things.

Q. All right. Do you know who carried the black saddlebag

out of the emergency room? Do you remember that?

A. Not at all.

Q. Okay. Thank you very much.

THE COURT: Cross-exam?

MR. BLOUIN: Nothing from us, Your Honor.

THE COURT: All right. You may step down.

A. Thank you.

MR. WISE: Yes, she can be excused.

MR. BLOUIN: Okay.

THE COURT: All right.

MR. WISE: We're definitely now ---

THE COURT: All right. You may be excused.

MR. WISE: We've got one witness took a smoke break a while ago.

THE COURT: Okay.

MR. YARBOROUGH: We call Kelly Burnette.

MADAM CLERK: Place your left hand on the Bible and raise your right hand.

Kelly Burnette, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name for the record.

MS. BURNETTE: Kelly Burnette.

Direct Examination by Mr. Yarborough:

Q. Ms. Burnette, were you -- did you see a wreck back in

November of 2020?

A. Yes, sir.

Q. Okay. And where were you when that wreck took place?

A. I was beside the Walgreens right there on White Horse Road.

Q. Okay. And did -- what was that -- what was that wreck? Was there a motorcycle in the ---

A. A car and a motorcycle.

Q. Okay. And did you -- did you sit over there and watch?

A. I did for a little bit. Just to see what was going on. Because I didn't know with it being a motorcycle accident, that can be pretty bad sometimes.

Q. Right. Did you -- did you happen to see the ambulance guys working on the guy from the motorcycle?

A. Yes. There were several people out there.

Q. Okay. And as you watched did you see a ---

MR. BLOUIN: Your Honor, we'd object to leading.

Q. Did you see what some of the ambulance people were doing on the side of the road?

A. There were -- like I said, there were several people out there, but they were just mainly going around just picking up stuff, putting it back in the bag or whatever ---

Q. Okay.

A. --- and working on, you know, some of them were working on him. And that's about it.

Q. Okay. But you -- you saw somebody picking up stuff and putting it ---

A. They were picking up several things off the road, yes.

Q. Okay. And that looked like a saddlebag, is that right?

A. It was a black bag.

Q. Okay. You don't know what a saddlebag is, do you?

A. I do know what a saddlebag is.

Q. Right. But could you tell if it was a saddlebag?

A. I couldn't tell that.

Q. Were you too far apart -- too far away?

A. Well, yeah, I was across the road.

Q. All right. But you did see the ambulance out there?

A. Yes, I did.

Q. Okay. And did you see the ambulance take the motorcycle guy away?

A. No. I left before then.

Q. Okay. But you just saw the ambulance out there ---

A. I -- yes.

Q. Seen him out there picking up stuff?

A. Yes.

Q. Okay. Thank you.

A. You're welcome.

MR. YARBOROUGH: No further questions.

THE COURT: Cross-examination.

Cross-examination by Mr. Blouin:

Q. Ms. Burnette, my name is Hunter Blouin.
A. How are you?
Q. Do you know the defendant?
A. I've came to know -- of him, yes.
Q. Okay. How do ---
A. I'm sorry. I mean, he's -- like he -- I work down the street from there. And he had been in my work a couple of times, but, I mean, I didn't know that was him or anything like that. But ...
Q. Okay. Do you know the defendant's wife?
A. I do now.
Q. Okay. Did -- so where were you standing when this all occurred?
A. When it occurred -- I was pulling into the Walgreens.
Q. All right. And you must not have been there for very long?
A. No. I had just -- like I seen it, and then I pulled -- I was pulling in, then the wreck happened. And I sat there for just a few minutes, and then I left.
Q. Okay. And during that period of time the only thing that you remember seeing is EMS guys messing with a black bag?
A. No. There were several people out there running around and people were picking stuff up off of the ground. So it wasn't the only thing that I remember, no.
Q. Okay. And how far would you say the Walgreens is from

where the wreck occurred? I mean, we talking like this close? We talking maybe ---

A. Probably back just a little bit more.

Q. Like to the windows back there?

A. Not to the windows.

Q. Okay. And was White Horse Road busy?

A. I really don't remember to be honest.

Q. White Horse Road ---

A. White Horse Road stays busy.

Q. Yeah, White Horse Road ---

A. Most of the time.

Q. --- is typically busy, ---

A. Yes.

Q. --- a lot of people coming and going?

A. Yes.

Q. All right.

MR. BLOUIN: No further questions.

THE COURT: Any redirect?

MR. YARBOROUGH: No further questions.

THE COURT: All right. You may step down.

MR. YARBOROUGH: She can be excused.

A. Can I go all the way out? I can ---

THE COURT: Yes, you can leave.

A. Okay. Thank you.

MR. YARBOROUGH: Yeah, can she be released, Your Honor?

THE COURT: Yes, she's fine.

A. Thank you.

THE COURT: Without objection. All right.

MR. YARBOROUGH: One second.

THE COURT: Okay.

MR. YARBOROUGH: We call Chris -- let me just grab -- Chris Klaczko. We'd call Chris Klaczko.

MADAM CLERK: Place your left hand on the Bible and raise your right hand.

Chris Klaczko, being duly sworn testified as follows;

MADAM CLERK: Please have a seat. Please state your name for the record.

MR. KLACZKO: Chris Klaczko.

Direct Examination by Mr. Yarborough:

Q. Chris, where -- where are you employed?

A. I'm at Harley Davidson of Greenville.

Q. Okay. And have you worked there for a while?

A. I've been here at this location for three years.

Q. And what about before that?

A. In and out of the Harley World since about '94.

Q. Okay. And you -- you and I have talked a lot about these bags that are on the side of motorcycles, right?

A. Yes, sir.

Q. Okay. And if -- these bags are like -- describe the bag

for me, will you?

A. It's probably not going to be -- it's what we call throw-over bags. They're not ---

MR. BLOUIN: Your Honor, I object. They have no foundation of what he's talking about.

THE COURT: Yeah. You've got to lay a foundation.

MR. YARBOROUGH: Okay.

Q. What kind of bags do y'all sell?

A. There's several different types of bags, okay? You have what's called a throw-over bag.

Q. Right.

A. It's a bag that actually goes under the seat of the motorcycle.

Q. Right.

A. They can detach on the outside of being strapped to the seat. These particular bags do not.

Q. Okay.

A. They also have a hard mounted bag. So it could be any hard shell, sometimes UV coated leather look and stuff like that. And also maybe like an ABS plastic, you know, color matched and stuff like that to the -- to the color of the bike.

Q. Okay. Can I show you a picture of a bag?

A. Yeah.

MR. BLOUIN: Your Honor, can I see that picture real

quick?

THE COURT: Hasn't one been introduced?

MR. YARBOROUGH: Sure. I think there's one in evidence ---

THE COURT: Well, let's use the one in evidence unless you want to ---

MR. YARBOROUGH: That's fine if you know the number. I was just trying to move things along.

THE COURT: Well, but we still have to identify by the exhibit number.

MR. BLOUIN: They're all over there. Looks like it's number 11.

Q. Let me show you that picture that's been previously marked as exhibit 11. Do you recognize a bag like that?

A. Yeah, it's a River Road bag. It's a -- it's one of our lower end -- well, it's not something that we even carry. It's not a Harley bag.

Q. Okay. But if you open that bag is it -- does it have compartments or is it just have -- is it just open?

A. No, as this flap opens up, the studded flap, it -- obviously you see buckles here. It's unbuckled. You would open it up, it'd be one whole compartment.

Q. It'd just be one whole compartment ---

A. One whole compartment, yes, sir.

Q. There wouldn't be parts in there or anything, it'd just

be one compartment ---

A. No, unless something was added after the fact. I highly doubt it.

Q. Okay. And ---

A. I mean, and I can't ---

Q. And that bag is -- it buckles? Is that what it does? It buckles?

A. Yes, sir. It's kind of like the theory of a belt. So you basically have the straps that come down, obviously the holes in the straps, and it buckles like a belt.

Q. Okay.

MR. YARBOROUGH: No further questions. Thank you.

THE COURT: Cross-examination.

Cross-examination by Mr. Blouin:

Q. Mr. Klaczko, you were not present at the scene of this accident?

A. No, sir.

Q. And, if I may, you have never examined this bag itself, have you?

A. No, sir.

Q. You've never seen this bag?

A. I've seen the bag, not that bag.

Q. Okay. You've seen a bag like this. So you can't tell if anything was done to the bag like you testified earlier?

A. No.

MR. BLOUIN: No further questions.

THE COURT: All right. Any redirect?

MR. YARBOROUGH: One second.

(Pause)

MR. YARBOROUGH: No further questions. Thank you, Your Honor.

THE COURT: All right. You may step down. Any objection to him being released?

MR. YARBOROUGH: No -- no objection, Your Honor.

THE COURT: Counsel, can y'all approach so we can discuss timing here?

(Pause)

THE COURT: Come on, Mr. Yarborough.

MR. YARBOROUGH: Sorry.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

THE COURT: All right. We're trying to figure out the schedule here.

So we will -- we've got some few things that we've got to go over. So what I'm going to have y'all do is come back at 10:00 in the morning. And then we will be -- we'll finish the case tomorrow.

At some point we'll present it to you. We'll have closing arguments, and we'll have any additional evidence that

may be presented in the morning, and then we'll have closing arguments and I'll charge you the law. And then at that point you can begin your deliberation.

In the meantime, my four rules, I know you're getting tired of them, do not discuss the case among yourselves or with anyone else. Don't do any type of research about the case. Do not pay any attention to any media coverage or social media. And if anybody discusses -- contacts you other than somebody from the clerk's office, please let the bailiffs know. Otherwise, I'll see you in the morning at 10:00. All right. Y'all have a good evening.

(Whereupon the jury exited the courtroom at 4:20 pm)

THE COURT: So do we want to -- do we want to do any -- present arguments?

MR. WISE: You know, I'm -- on my chain of custody?

THE COURT: Yeah.

MR. WISE: I think we do, yes, sir.

THE COURT: All right. Let's go ahead. I mean, it's twenty after. Let's go ahead -- that way we can get that -- this stuff ---

MR. WISE: Right. And if you want to think about it overnight, ---

THE COURT: Yeah.

MR. WISE: --- overnight.

First of all, Your Honor, the testimony in this case was

very, very clear when Mr. Yarborough asked the question twice of Mr. Miller, did you take the drugs out of the emergency room when he left? He twice said, no.

We don't know from that -- after that when he went and got them, whose possession they were in during that period of time be it 30 minutes or three hours. The only thing we know is he had the drugs when he put them in the bin or locked box at the hospital. We don't know when that was, what time that was. Clearly he had it then.

That situation, Your Honor, is the same description as to what happened in State versus Pulley where the drugs were on the hood of a car, everybody leaves the scene, the drugs are still on the hood of the car and nobody knew how the drugs got to the Laurens Sheriff's -- or Sheriff's -- or Police Department.

And the South Carolina Supreme Court threw that case out because they didn't prove the chain of custody. And that's the same thing here. We've got a gap here of anywhere from who knows how long from the time ---

THE COURT: Well, hold on just a minute. In Pulley, though, they said there was a gap, but they said there was no evidence of who actually delivered the drugs from the scene to the locked box.

MR. WISE: Right.

THE COURT: Which is -- we have evidence here that says

who took the drugs and delivered it to the drop box.

MR. WISE: No, we don't. We have -- we have evidence that Mr. Miller left the drugs in the emergency room because that's what he said twice. So we've got drugs sitting in the emergency room. Bay 1 or bay 2, there's some confusion on that.

The next thing we have is at some time he's putting the drugs in a locked box at the hospital. There is a gap of who knows how long where they're unaccounted for. He didn't testify, yes, I left them there, I left them in a secure location and then I came back with a proper bag an hour and a half later and got them.

Nobody from the emergency room testified, yes, he left them with me. I had them in my secure possession until he came back. There is a gap there of who knows how long where nothing happened.

I mean, we don't know who's in charge of the drugs. Mr. Miller walked away from them. We know that because that's what he testified to. No one testified they were responsible for watching it until he came back. No one testified he came back. No one testified to anything about it except he says he then put them in a locked box at the hospital. So, you know, that's -- there's several chain of custody problems here.

Secondly, under the code section, that Your Honor has a copy of, that says law enforcement must comply with these

regulations. It doesn't say they're advisory. They don't say, you know, hope they do. They're regulations on their face, which I think I gave the Court a copy of evidence custodian, but I'll pass one up.

THE COURT: I got the seizing officer ---

MR. WISE: The seizing -- this is the evidence custodian.

THE COURT: 73-90.

MR. WISE: Both of them say this applies to any law enforcement officer. That's not just to SLED. It applies to any law enforcement officer.

And quite clearly the forms that have been submitted in this case to show a chain of custody do not, even in the 50 percent range, comply with the regulations that SLED has imposed. And these regulations are imposed for one purpose and one purpose only, to guarantee that the right stuff gets to the right people in the right way, so that no mistakes are made.

And if you don't comply with them, and the statute says must, I don't think this Court has an alternative but to say the chain of custody is insufficient very similar to the SLED regulations involving the Datamaster. SLED has regulations on that. If you don't comply with them, Datamaster doesn't come in.

THE COURT: Yeah, but isn't -- there's case law that says -- do you have a case law that says that failure to apply by

-- abide by these SLED regulations, then that means that destroys the ---

MR. WISE: Well, I ---

THE COURT: --- chain of custody?

MR. WISE: I would contend I have something a little better than case law, I have a statement from the legislature where the statute says you must comply with it. Because that's the opening line -- opening sentence of that statute saying you must comply. And must doesn't need much case law to say must means ---

THE COURT: No, but it doesn't say whether that voids the chain of custody. That's just -- I think that you're making an assumption there myself.

MR. WISE: I understand what you're saying now. But I think when you look at the word must, it doesn't mean it's advisory.

THE COURT: Right. So what is the repercussion if they fail to do it? Are they subject to ---

MR. WISE: There's only one. If you don't comply with the statute, it gets suppressed. I think that's the only ---

THE COURT: Well, couldn't that very easily -- couldn't the legislature very easily have put that in there as well?

MR. WISE: They could have.

THE COURT: If that was their intent?

MR. WISE: Well, I would assume if the legislature used

the word must, their intent was must.

THE COURT: To suppress it? I mean, I guess, you know, ...

MR. WISE: There's no discretion there. But clearly those regulations apply to this case because it applies to all law enforcement. And they didn't comply with it.

Clearly there's a big gap in what happened to the drugs. We don't even know, I mean, we don't -- we have the drugs being given to a third party, a security officer who has never come in and said I didn't change anything. And it was given to him.

It was out of the control of one of the EMS people. He opened it and looked at it. So he's in the chain of custody. And yet he has not come in and said I didn't put anything in it, you know, or whatever. So, again, there are a lot of gaps in the chain of custody in this case. And I think you should, you know, suppress it.

The form they introduced, I forget what the number was, 12, I believe, or 15, clearly doesn't comply with those requirements of SLED. And if must doesn't mean must, I think you're right it goes for the Court's consideration. But when they say must, I don't think it's -- only one definition of the word must.

THE COURT: But you're jumping from must to the fact that I must -- I don't see I must suppress it. That's what --

that's what I'm missing here.

MR. WISE: I understand that. But what other remedy is there? To ---

THE COURT: Well, if that was the intent of the legislature wouldn't the legislature have put it in there?

MR. WISE: Not necessarily. Not necessarily at all. But I think they were ---

THE COURT: Isn't that the whole -- isn't legislative intent that that's what you're supposed to put in there?

MR. WISE: If the legislature had meant for them to be advisory, the legislature would have used the word advisory. And they didn't.

THE COURT: All right. Well, here's this. How about this, though? How about who came up with the regulatory -- who came up with the regulations? The legislature didn't do the regulations.

MR. WISE: SLED did.

THE COURT: Right.

MR. WISE: And the legislature authorized SLED or required SLED to come up with the regulations in the statute.

THE COURT: Yeah.

MR. WISE: And so that's part of the must.

THE COURT: So SLED could have come up with anything, say they're not even reasonable, and you're saying, therefore, the Court would have no discretion because of that must language

in there just because SLED came up with it.

MR. WISE: I'm saying precisely that. But, having said that, if this Court finds these regulations unreasonable, then we can cross that bridge. But none of these are unreasonable.

THE COURT: Yeah.

MR. WISE: Or unable to be complied with. They're pretty -- to me, they're pretty basic.

THE COURT: I mean, in looking at -- yeah, they're very basic and very detailed. And it's just like -- I'm just surprised that that's -- there's not a -- I mean, these came out, what, 1992 ---

MR. WISE: Ninety something, yeah.

THE COURT: And there's -- so -- and there's never been a suppression case 'cause I'm sure you would have it right there with you if it was.

MR. WISE: I don't think there have been any cases one way or the other.

THE COURT: Yeah. So -- all right.

MR. WISE: But they're pretty clear on the face to me.

THE COURT: All right. Mr. Blouin.

MR. BLOUIN: Your Honor, I will address the first issue with Officer Miller. You know, all due deference to Mr. Wise, I believe there was also testimony that he received the contraband directly from Ms. Edmonds, and that it was in his possession, and that he put it in the lock box.

There is an idea of a gap, this idea of a gap, -- I know there was some questions about when he came and picked up the black bag, but I do not believe that there was any issue of him saying, no, I left contraband sitting in the emergency room.

I believe he testified to -- now, maybe -- maybe there's something that they can harp on closing, but I do think that there's evidence on the record that he testified to he received it from Ms. Edmonds and that he put it into the locker. So I think that would satisfy that level of the chain. There's no sort of put it down. There was no sort of mystery where is it?

As to the statutory argument, Your Honor, you know, for what it's worth, I believe what the defense is doing is almost making like a Pseudo-Chisholm argument, basically saying that if it's not on the blue sheet of paper, then it must be suppressed. Well, if you take all of the documents together from the Greenville Health System, both their incident reports and the sheet of paper, it makes a complete chain.

So in other words, Mr. Wise is basically saying, well because it's not all on the blue sheet of paper, but some of it's on the white sheet of paper, then that means it should be suppressed. You know, case law, since these regulations have come out, you know, State v. Carter, State v. Taylor and State, you know, Hatcher, we have found evidence inadmissible

only where there is a missing link in the chain of possession because the identity of those who handled, and this is Carter, blood was not established, at least as far as practical.

Your Honor, we have produced every single link in the chain. I believe the spirit of that regulation was so that defense counsel would have in writing every link of the chain so that it would be known to them. Through discovery, through sheets they have been apprized of every single link of the chain and have had the opportunity to cross-examine every single link of that chain.

MR. WISE: And ---

MR. BLOUIN: And -- I'm sorry.

MR. WISE: I thought you were ---

MR. BLOUIN: And basically under Mr. Wise's argument based on his question of the paramedic, every single case in Greenville County should be dismissed because they do not follow to the letter of the law what SLED does, but they have their own policies and procedures, which, Your Honor, I'm sure SLED's aware of and if they have a problem with it, would correct the issue. But SLED clearly doesn't have a problem with it.

You know, they've run the same thing for decades. And, you know, Your Honor, -- and even then I don't believe the correct remedy would be then to suppress the case. I think it would be more in align to say as a drug, turning in a search

warrant ten days late or after ten days, you know, suppression of the search warrant isn't the valid remedy or, you know, turning in a search warrant returned to the wrong magistrate, not necessarily the valid remedy.

So we would just say that, you know, Your Honor, if you look at the totality that the chain was complete, that while it wasn't all on the one form that it was in writing, those other bits of information, that information was available to the defense, was released to the defense beforehand and so that they had an opportunity to know every link of that chain and where those drugs went from step A to step B to step C.

MR. WISE: Just briefly.

There is evidence Mr. Miller left the emergency room without any of the drugs, or the bag or the little black box. It's on the video. Mr. Yarborough asked him, did you have it in your hands? Miller, no, I did not. That's on the video. This is not -- that's not a factual dispute. That's conclusive. We never had any testimony of when it came back.

Secondly, for them to argue that SLED has no objection to Greenville County's method of doing things is assuming a fact not in evidence. There's no testimony from SLED. There's no testimony from any witness that what we do has been approved by SLED.

Now, you know, the requirements in the -- I think in the lab, while they don't comply with the statute either, they are

much closer than the documents from the hospital.

And as far as not doing an inventory within ten days as required with a search warrant, that doesn't go to the integrity of the evidence. Failure to abide by the chain of custody goes to the integrity of the evidence. Not returning it within ten days is basically a procedural issue. These are not procedural issues. These are things designed to protect the integrity of the evidence.

THE COURT: All right.

MR. BLOUIN: Just briefly, Your Honor. As to the whole he didn't have it on video, of course not because we have in evidence the stipulation that the hand-off between Ms. Edmonds and the officer did not occur on the video. They stipulated to it in evidence. We've mentioned it multiple times.

And then, you know, as far as the idea that, well, the lab didn't quite -- but it's not as bad, I mean, it's either all or nothing. I mean, he can't -- there's not degrees of this. If it's all there -- and like I said, I would say that all, you know, per case law, all of the individuals in the chain had been identified. They were all available to the defense. And the defense had all of them prior to trial. And they all testified and had a chance to be cross-examined. I think that that under Taylor and others forms a complete chain.

MR. WISE: On the video, the stipulation was the cameras

inside the trauma bay were not operating. And that's correct. So there's no transfer of anything there. But clearly there was video camera working, people coming into and out of the emergency room or trauma bay.

And I assume that if we'd seen -- if such a video existed, the person who was designed or were told to go get the evidence would have also preserved that video, but they didn't. So we have a void of Mr. Miller coming back to the emergency room to pick up anything.

THE COURT: Well, but -- yeah. And ---

MR. WISE: And if it's not there, it's certainly not our fault because they're the ones that messed it up. And I don't think we can be punished for that.

THE COURT: Well, -- and this is the way I looked at the evidence on that. I mean, because I was making a little chart as you were -- they were testifying and all.

But we're clear, although, it's not supported by the video. He clearly testifies -- Ms. Edmonds testifies, I have it, I gave it to Miller. Miller says, I took it from Miller, I mean, I took it from Edmonds. And at some point -- and at what point, I don't know. That is I don't know. But then he takes it and puts it in the box.

I think that, you know, and I'm looking at the -- I've looked at the Pulley case beforehand. And it says that, you know, where multiple people have handled it -- they quote

Sweet, that the identity of the individuals who've acquired the evidence was done with evidence between -- no, that's not it.

Proof of chain of custody need not negate all possibility of tampering so long as a chain of possession is complete. And I think we have testimony that that makes it complete.

Now, there's a lot of -- I think y'all have some arguments, you know, maybe to this jury and maybe to the Court of Appeals. But I believe that there's a -- that this is not the prettiest case of chain of custody.

So, you know, on that basis I'm going to deny that. I think that the, you know, the totality of all the documents either comply or substantially comply with the regulations. So I'm going to deny your motion to suppress for chain of custody.

MR. YARBOROUGH: Your Honor, based on your ruling, we'd ask that you consider a charge to the jury that the State has the burden of proving the chain of custody in this case, and if that chain of custody is not proven beyond a reasonable doubt to them, then they're -- they're required to return a verdict of not guilty.

THE COURT: Okay. Do you have such a charge to present?

MR. WISE: I've got one I can send ---

MR. YARBOROUGH: We'll get you one, yeah.

MR. WISE: It's based upon language out of -- I ---

THE COURT: That's fine. Just -- okay. If y'all have any charges, then y'all need to submit those this evening if possible.

MR. WISE: I'll submit it -- I'll submit it to everybody this evening.

THE COURT: Okay. All right.

And then first thing we're going to do in the morning is start off and decide whether Mr. Swaringen's going to testify. And then we'll have -- or, I guess, -- first we'll start about the -- well, we'll discuss -- let's discuss the charge at 9:00.

MR. WISE: 9:00?

THE COURT: Yeah.

MR. WISE: Okay.

THE COURT: And then we can go on the record at 9:30 with putting anything on him. And then if we need to start, you know, any additional testimony, the jury will be ready to go at ten. If not, we can argue and charge at ten.

MR. WISE: Okay.

THE COURT: All right?

MR. BLOUIN: Thank you, Your Honor.

MR. YARBOROUGH: Thank you, Your Honor.

(Whereupon court was in recess at 4:41 pm)

Wednesday, June 29, 2022:

(Whereupon court reconvened at 9:53 am)

THE COURT: Okay. We had the charge conference, discussed the charge. And I've got my law clerk emailing it to both of y'all so y'all can have it and review.

And I'll let y'all put whatever you need to on the record here, but in the charge conference I advised that I would be charging the one sentence about the amount, that one -- I can't remember how -- let me pull that up. All right. The portion added recommended by the State about determine the weight of controlled substance. I've added that.

I have denied the request to charge about controlled substance. And upon further review I am not going to be charging lesser included. It's just -- I figure it's just all or nothing on that.

And, again, -- so -- and I've also got the verdict forms. I want y'all to look at those. And then y'all -- I want y'all to put whatever y'all feel on the record. And these are copies for you. That's your -- you can take that copy.

MR. WISE: Okay.

THE COURT: All right. So with that being said, from the State, anything you want to put on the record?

(Pause)

THE COURT: Does the State -- anything the State wants to put on the record?

MR. BLOUIN: Nothing, Your Honor.

THE COURT: All right. Yes, I'll be glad to hear from

the defense.

MR. WISE: First off, I had sent the Court a request to charge on chain of custody.

THE COURT: You know, I printed that out, too.

MR. WISE: Okay. Just need to mark that as a Court's exhibit for purposes ---

THE COURT: I think -- all right. Yeah, let me go grab that right quick.

MR. WISE: All right.

And, secondly, I'd also requested in chambers you substitute the word defendant for Joey Swaringen in your -- in your jury charge because he is the defendant.

THE COURT: Right.

MR. WISE: He is the person on trial. And to me it communicates to the jury that all this applies to him individually and not some generic defendant.

THE COURT: Yeah. I mean, and I appreciate your position on that, but I'm -- I'm just going to stick to the tried-and-trues, so to speak.

MR. WISE: Okay.

And, of course, we'd object to not charging simple possession.

THE COURT: Okay.

Here's the -- you want to just mark that, then. Make

sure that's the one that you're referring to.

MR. BLOUIN: Your Honor, just quickly, do you send the indictment back with the jury ---

THE COURT: No.

MR. BLOUIN: --- or not? Okay. Just wanted to make sure.

THE COURT: I just send the verdict form.

MR. BLOUIN: That's perfect.

(Pause)

(Whereupon Court's exhibit 4 was marked)

MR. YARBOROUGH: Can we discuss ---

THE COURT: Yes, okay.

Mr. Swaringen, if you'll -- all right. You're already under oath from yesterday, but, you know, one of the discussions we had is an important decision for you to make is whether you want to testify or not. Okay.

First of all let me ask you again to make sure that -- you know. Are you under any influence of any alcohol or drugs this morning?

MR. SWARINGEN: No, sir.

THE COURT: You have any health or mental issues which would keep you from understanding what's going on?

MR. SWARINGEN: No, sir.

THE COURT: All right. So you understand your Fifth Amendment right that you have the right not to testify and

that cannot be used against you?

MR. SWARINGEN: Yes, sir.

THE COURT: Okay. And I know you've had plenty of opportunity overnight to discuss with your attorneys. Have you had all the time you need to discuss with your attorneys whether you should testify or not?

MR. SWARINGEN: Yes, sir.

THE COURT: Okay. And ultimately, again, you can have the advice from them, or family members, or whoever, but ultimately the decision is yours. And so you understand your rights?

MR. SWARINGEN: Yes, sir.

THE COURT: Okay. And what do you wish to do?

MR. SWARINGEN: I'm not going to testify.

THE COURT: Okay. And is that your decision?

MR. SWARINGEN: Yes, sir.

THE COURT: And nobody's forcing you to make that decision?

MR. SWARINGEN: No, sir.

THE COURT: And you're doing that freely and voluntarily?

MR. SWARINGEN: Yes, sir.

THE COURT: All right. Then I find that it is an appropriate waiver of your right to testify and to exercise your constitutional rights. All right.

Anything else from the defense?

MR. YARBOROUGH: Your Honor, in discussing last night with Mr. Swaringen his rights not to testify he asked me to put on the record -- I think ---

MR. WISE: We were going to get that as soon as we make a motion for a directed verdict.

MR. YARBOROUGH: Okay. Yeah -- okay.

MR. WISE: We haven't made the motion for a directed verdict ---

THE COURT: Oh, okay. That's true. That's right.

MR. WISE: What he's going to bring up is included in that.

THE COURT: Okay. Okay. Well, then let's -- that's right because -- I guess then y'all have rested then?

MR. WISE: Right.

THE COURT: Okay.

MR. WISE: Well, we haven't rested in front of the jury ---

THE COURT: Right. And we'll let you -- well, and do you, I mean, and then what we can -- what we can do is bring the jury out and then y'all want to rest on the record? And then we'll immediately go into -- and I'll tell them that it's time for closing arguments?

MR. WISE: Well, we've got to make our motion ---

THE COURT: That's right.

MR. WISE: --- for a directed verdict.

THE COURT: Okay. See, that's why we should have done all this yesterday. But, anyway. Okay.

MR. WISE: And we can do it now and then formally rest in front of the jury, too.

THE COURT: I mean, I'd hate to bring them out here for just ---

MR. WISE: I agree.

THE COURT: --- just to say -- I mean, I think that's going to agitate them, ---

MR. WISE: I agree.

THE COURT: --- quite frankly.

MR. WISE: And our basis for a directed verdict is basically the same as we had made yesterday. And we incorporate all those arguments ---

THE COURT: And you can sit down for this, Mr. Swaringen.

MR. WISE: We have two additional things. First of all, we think the failure to comply with the statute ---

THE COURT: Oh, before we do that, just for the record, the State has rested, I mean, the defense has rested.

MR. WISE: That's correct.

THE COURT: All right. Okay.

MR. WISE: Two additional grounds from yesterday, and we incorporate all of them from yesterday, too, when the legislature passes law that says you must do something, we think it's a denial of due process of law for evidence to be

introduced that did not fully and completely comply with the statute and the regulations that were promulgated through the statute. That's the Due Process Clause under both the Fourteenth Amendment of the United States Constitution and the State Constitution.

Secondly, based upon the testimony of the chemist yesterday, when he said the only thing he can really say is that the one one-hundredth of a gram is meth, and he said because of the way they were packaged he's unable to tell if any of the other bags were not meth because they all got co-mingled, that creates a real problem as to whether or not the State has proven at least twenty-eight (28) grams of methamphetamine. If just one of those bags is not meth, and we have no way of knowing, no way, then that's a directed verdict of not guilty because they haven't proved twenty-eight (28) grams.

And I think that chemist did not testify beyond a reasonable doubt there was twenty-nine (29) grams or at least twenty-eight (28) grams of methamphetamine in those bags because he had no way of knowing because they were co-mingled. So if you just take out one bag, they haven't met the indictment.

THE COURT: Mr. Blouin.

MR. BLOUIN: Your Honor, obviously the law says that any sort of mixture of substances, if it contains meth, it's all

meth. The State would say that the chemist testified to his sheet that says that there were twenty-nine (29) and change grams of meth, which would have exceeded the twenty-eight (28) grams, in the light most favorable to the State.

Also, he didn't testify that there were any other substances that were located, you know, in any bags that he tested or the bags that he tested.

So we believe that we have met, in the light most favorable to the State, our burden as far as overcoming directed verdict.

THE COURT: All right. And, again, just like yesterday, I feel like this is an issue -- I'm going to let the jury make the decision of that. So ...

MR. WISE: All right.

THE COURT: Did you have something else?

MR. YARBOROUGH: Yes, sir, Your Honor. In talking to Mr. Swaringen last night about him testifying, he has asked me repeatedly to put on the record that the tapes or the videos from the hospital that were destroyed or taped over that are part of the stipulation, Mr. Swaringen believes, and I really -- I understand where he's coming from, that if there was a videotape of when the bag was searched by the security guard coming into the ambulance, that if they would have had that videotape and that videotape would not have been destroyed or -- or the camera wasn't working, that was such strong and

meaningful evidence that this Court wouldn't be moving forward at this time.

And so Mr. Swaringen's asked me to make a motion that the case be dismissed based on the fact that exculpatory evidence was either destroyed or -- or it ---

MR. SWARINGEN: That camera was working.

MR. YARBOROUGH: Yeah.

MR. SWARINGEN: That camera worked.

MR. YARBOROUGH: It -- there's an argument that that camera was working at that point and that that evidence has since -- it's part of the stipulation that that evidence was destroyed or was not available.

MR. BLOUIN: And, Your Honor, just in response, and this kind of goes back to the suppression hearing when Al Harrison initially testified. He based his -- basically pulling from the server to the recording based off of incident reports. He didn't destroy any video. He just in his own kind of job authority said, okay, we've taken him in here, and he stopped that video recording at a certain point.

The State hasn't destroyed any evidence. The State doesn't know of any exculpatory evidence. The State hasn't spoliated any evidence. It's just based on the fact that that evidence didn't exist based on his original testimony and then kind of going into that stipulation that there was not saved video and that that could have potentially contained relevant

information, which obviously they're able to argue about.

THE COURT: I mean, don't you have to have something a little more -- I mean, I understand your position. But don't you have to have something more -- some kind of evidence to show that something else happened to it?

MR. YARBOROUGH: What our position is is that on that night that officer made a decision not to save that video and that the value of that video at this point is so important and so obvious to anybody, that law enforcement searching the bag before the bag comes into the hospital, he believes that that would exculpitate -- I can't even use the right ---

THE COURT: Exculpate.

MR. YARBOROUGH: Exculpate him without any -- without any question. We wouldn't even be moving forward. I mean, at that point this Court would have directed a verdict in our favor.

And so he says that minutes -- minutes later Edmonds searching that bag -- well, minutes, it's probably ten or 15 minutes later, but she searches that bag. So you've got the bag being searched by security, by security, which was the testimony, which -- that the bag was open, it was searched by security, and 15, 20 minutes later Ms. Edmonds finds a bag -- we're assuming that's the same bag that was searched, and if that videotape would have been available from the search -- the jury could see that at that point -- the jury would know

that the -- he didn't have any drugs when he came in because he never touched the bag again.

THE COURT: Well, first of all, does that argument change when -- I mean, is this security law enforcement? And is that the state at the time?

MR. YARBOROUGH: Okay. The testimony was that the security was by -- security -- Mr. Harrison's security company. So it was their security. They were ---

THE COURT: American -- I think he testified it was American Security.

MR. YARBOROUGH: American Security.

THE COURT: Which is the same people downstairs.

MR. YARBOROUGH: Right.

THE COURT: No, they're not -- they're not law enforcement.

MR. YARBOROUGH: Right. But they -- and I've -- I've discussed that with Mr. Swaringen. Mr. Swaringen and I have talked about it.

And he says -- but it -- they're not law enforcement, but they are trained to search by SLED and they're trained to search. That's what they're hired to do.

And they opened the bag. They looked, and they sent the bag on in. And, you know, at that point there weren't any drugs in it.

THE COURT: Well, I mean, don't you have -- you have

testimony that they searched the bag.

MR. YARBOROUGH: I've told him we have -- but what his point is, and I don't disagree with him, that if that tape was available, that tape would be so beneficial to him, that at that point the -- you know, you wouldn't even be sending this to the jury because you would say, okay, I see a tape of this bag being searched. Where, Mr. Blouin, has that bag ever been touched by Mr. Swaringen again? Because it hasn't been. It never was touched by him again. There's no testimony that he ever had a bag in the hospital.

THE COURT: No, no, I don't think -- I mean, I agree with you, but, I mean, obvious -- whether that tape is in or not you still have testimony that the bag was searched and nothing was found at that time.

MR. YARBOROUGH: Right. We do have ---

THE COURT: So what would -- the tape is just, you know, additional evidence of that.

MR. YARBOROUGH: Well, the tape -- yeah. But the -- okay. If you had -- if you had a DUI and you've got a stop, and law enforcement testifies that this is what happened on the side of the road, South Carolina has gone and said, you know, look, you've got to save the tape, you've got to follow the rules, you've got to do all those things. It's the same thing here.

And in this case it was not the decision of the security

-- it wasn't the decision of the security guard there to not save the tape, it was the -- it was the decision of Mr. Harrison, who is the subject of the stipulation.

THE COURT: Anything else, Mr. Blouin?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: All right.

MR. YARBOROUGH: The only thing, he ---

THE COURT: Yeah.

MR. YARBOROUGH: He does want me to point out, you know, this is a video world. This would -- people -- the jury would understand that. And we think that evidence is so important that it should have been saved and by not saving it it has significantly prejudiced his case.

THE COURT: And I believe it's -- like I said, I think it's ---

MR. YARBOROUGH: In violation of Due Process. Thanks, Mr. Wise.

THE COURT: I think, you know, I mean, I totally -- I understand where you're coming from, but I feel like at most it's cumulative. And, I mean, y'all are going to argue they didn't -- they didn't find it, so it wasn't there.

And I'm sure the State's going to argue, well, just because they looked in it doesn't mean it wasn't there. And that video does not change either of that. So I'm going to deny your request of dismissal on that basis.

MR. YARBOROUGH: Thank you, Your Honor.

THE COURT: All right. Is the State ready?

MR. BLOUIN: The State is ready to proceed, Your Honor.

THE COURT: And the defense is ready?

MR. WISE: Defense is ready, Your Honor.

THE COURT: All right. And just to make sure because I -- funny you get asked this every trial it seems like. I mean, we're still under the process. The State goes first, defense goes and then the State ---

MR. WISE: The State's required to open fully on the law and the facts.

THE COURT: Right.

MR. WISE: Right.

MR. BLOUIN: And then I would get a reply since they've put up ---

THE COURT: Exactly.

MR. BLOUIN: --- a case.

THE COURT: Right. Just making sure because that gets questioned almost every trial even though it's like -- nothing ever really changes except for about a month.

MR. BLOUIN: It took me still about three and a half years to figure it out.

THE COURT: Yeah. All right. Ready for the jury?

MR. BLOUIN: Yes, sir.

THE COURT: Oh, when the jury comes out -- oh, well, any

reply testimony? I mean, any reply evidence?

MR. BLOUIN: No, Your Honor.

THE COURT: All right. When the jury comes out do you want me to just tell them that y'all've rested?

MR. WISE: We can do -- formally rest, makes no difference. And I'm probably going to just say I renew our motions as previously ---

THE COURT: Okay.

MR. WISE: --- discussed just so that that motion is technically made after we rested.

THE COURT: All right.

MR. WISE: The attorney general's picky about that.

(Whereupon the jury entered the courtroom at 10:13 am)

THE COURT: All right, ladies and gentlemen. I hope everybody had a good evening. And I know we're running a few minutes late. And I apologize for that. Some things we had to get -- to go over.

Defense? Mr. Wise?

MR. WISE: Defense rests, Your Honor.

THE COURT: All right. Any additional ---

MR. WISE: I don't know if the State has any reply.

MR. BLOUIN: No reply from the State, Your Honor.

THE COURT: Okay.

MR. WISE: And we'd renew our motions as we discussed earlier.

THE COURT: All right.

MR. WISE: Thank you.

THE COURT: All right, ladies and gentlemen, the -- all the evidentiary phase of the trial is over. So what that means is you have gotten all of the evidence that you'll be getting to make your decision, okay?

And so at this point we will have closing arguments by the attorneys. And I -- I'll remind you, as I said earlier, closing arguments is not evidence. That's merely the argument that the counsel makes about the evidence. Ultimately you're the ones to determine what that evidence means based on the law.

Then when the attorneys -- the State will open. They'll have the opening argument. Then the defense will have their argument. And the State has a brief reply based on the defendant's argument.

At that -- then at that point I will charge you on the law. And then I'll go back and discuss the -- you can deliberate the case.

And this is something I forgot about, but we need to make arrangements for lunch.

THE BAILIFF: I have the ---

THE COURT: See, they're already -- okay. We'll make arrangements for lunch so that y'all can continue deliberations or at least eat here, you know, in the jury

room.

So with that being said, I will now turn it over to counsel for their closing arguments. Mr. Blouin.

MR. BLOUIN: May it please the Court, Your Honor?

Once again, my name is Hunter Blouin. And as I've introduced myself twice before and you've heard during this trial, I represent the State of South Carolina in the State versus Joseph Swaringen.

Now, when I came to you the first time I said the State had to prove three fundamental elements in this case. That, one, Mr. Joseph Swaringen, two, possessed, either actually possessed or constructively possessed, and as the Judge will tell you when he goes through his charges, that means like dominion and control, whether he had control over, and, third, that over or between twenty-eight (28) and one hundred (100) grams of methamphetamine.

Now, I'm going to get into, you know, the State's proof of those things. But first I kind of want to take y'all from a thirty thousand (30,000) foot view of what exactly has been going on.

What are the facts that both sides really have no argument about? The first is on November 18th of 2020 that Mr. Swaringen was riding a motorcycle on White Horse Road, that the State's witness, Katlin Glenn, ultimately hit Mr. Swaringen from behind, Mr. Swaringen wasn't wearing a helmet,

that he sustained some sort of injury to his head. We've heard from multiple witnesses about Mr. Swaringen's injuries and that EMT or, you know, was the first first responders on-scene.

So then he gets taken to the hospital along with his personal effects; a black saddlebag. And once he's in the hospital, those items get carried into the trauma bay.

Now once they get to the trauma bay -- we've heard from the State's witness, Lisa Edmonds. And Ms. Edmonds stated that, you know, they do an inventory search of everyone's property.

And why do they do an inventory search? It is for the protection not only of Prisma to make sure that there's not like illegal things that are coming into the hospital, but also for the protection of the patients because they carry sometimes large amounts of money, they carry valuables, they have things, you know, on them that they need to put in safes to make sure that they document what's going on so that they cannot be accused later of taking things. It's a way to document what comes in because people come into the emergency room in different states.

The fact is that Ms. Edmonds found what she believed to be contraband. So she did what she's trained to do. She called the law enforcement.

Now, what did law enforcement do? Law enforcement

basically took the contraband from Ms. Edmonds, secured it until they could take it to a lab in order to test it. And that contraband has been secured from this point forward.

Now, in the opening and throughout this case the defense has used the word chaos a lot. They said, well, there's chaotic situations. You know, at the scene of a wreck there's a lot of chaos. At the hospital there's a lot of chaos going on. And that's true. Those are chaotic situations.

But we also heard from witnesses who are trained to deal with such chaotic situations. EMTs, when they respond to emergencies, always enter into or very often enter into chaotic situations.

You know, you saw video from the hospital. Sure, there are a bunch of people coming in and out of that trauma bay because in an emergency room there are chaotic situations and that individuals are trained to deal with those.

Now, one thing I want you to keep in mind is I don't want you to take the chaos and let the defense manufacture chaos. Don't let them manufacture chaos that doesn't exist.

And ask yourself why would they want to manufacture chaos? And ultimately is -- that is because they want to distract you. They want you over here instead of seeing the facts of the case as they were presented.

So I'm going to start off with the very beginning and I'm going to walk you through the witnesses and what they

testified to. Now, one very important fact, you get that evidence back with you in the jury deliberation room. If you have questions about what a witness testified to, or you don't remember exactly what someone testified to, you can look at everything, you can hold certain things, you can, you know, use certain things and manipulate certain things.

If there are questions about what was going on on video, you can ask to have the video replayed. You can also ask to have testimony reheard. So understand that you are going to have control over this evidence if you have any questions. But I'm going to start by taking you back to the beginning.

First, we had Ms. Katlin Glenn. She came in here and said, yes, on that night I was driving. I had five kids in my car, and a motorcycle pulled out in front of me, and I hit him. Did she know Mr. Swaringen? Absolutely not. Never seen him before in her life.

What did she do? She did what any sort of person caught in that situation would do. She jumped out of the car and she wanted to make sure that he was all right. Now, why would she do that? Because she'd just hit a guy on a motorcycle and she's driving a car.

What did she testify to? That he tried to get up and leave, and that her and another woman had to physically restrain him. I believe she said he tried to get up and run away three times until first responders came.

Now ask yourself, what reason does Ms. Glenn have to lie about that? She admitted to hitting him. There's no question about that. She cooperated with law enforcement. She pulled off to the side of the road when law enforcement asked her to. Law enforcement let her go home.

I think she was asked, well, did you get charged with anything? And she was like, yeah, reckless driving. What reason does she have to tell an untruth? Because as the arbiters of the facts, it is your job to give different weights to different testimony. You use your -- you -- sorry -- your all's -- you all's decision to believe or not to believe to different standards to each person's testimony.

Well, then we have Michael McKnight and Alex Henry. Those are the two EMTs you heard -- well, EMT and paramedic you heard from. You heard from Mr. McKnight first. We got a call sitting at the QT that there was a wreck on White Horse Road. We responded.

Mr. Swaringen was sitting on the side of the road. What was beside him? A black saddlebag. Well, what was he like? He was agitated. He did not want to go to the hospital. Well, what was going on? Well, he had a cut on his head. He was in a motorcycle accident with a car while he was on a motorcycle. We eventually talked him into going to the hospital. Okay.

What happened to the bag? Well, we take personal items

with -- or with someone with them to the hospital. Why? Because what else are they going to do? Just leave them on the side of the road?

Alex Henry basically said the same thing. That Mr. Swaringen was conscious. He did not want to go to the hospital. And he changed his mind.

Now, I would argue that at that time people start to show up, you know. It's time to go to the hospital. He's got a head injury. They put him on the stretcher. They take his saddlebag and off he goes.

Now the defense also had a witness, a lady who said that she was standing at the Walgreens, I believe she said somewhere between the door and the witness stand. And, you know, she couldn't have been watching very long because even the witnesses, Ms. Glenn as well as EMT, said they weren't there very long, a few minutes. Took a few minutes to get there, a few minutes to leave, you know.

Their witness said, well, I saw it happen. And, you know, I saw someone's, you know, the EMTs putting stuff into a black bag. Was she able to identify it as the saddlebag? No, she was not. She actually said she -- it was just a black bag. They were asked, was it a saddlebag? I don't know.

So then you get to the defense's case. So they're going to say to you, well, it's possible on White Horse Road after this wreck that someone took, turns out to be a bunch of meth,

you know, it's got value to it, and walking down the road -- no one's in trouble, you know? No one's under arrest. There aren't police everywhere. And just decided, you know what I'm going to do? I'm going to slip this into this person here's random bag on White Horse Road and, you know, just leave it there and walk off. Ladies and gentlemen, that's outrageous. That's not reasonable. People don't do that.

They're going to take this, like I said, just random individual on busy White Horse Road? There was testimony there was a bunch of people around. And we're going to just clandestinely walk up to a person who's just been on a motorcycle accident, is being held down, and then first responders come, and we're just going to slip it in? No, ladies and gentlemen, that's not reasonable.

And even then, well, it's possible the EMT decided to put the meth in the bag. I mean, you know, why not? Once again, outrageous. These aren't law enforcement officers. These aren't -- these are people who are doing their job. These are people who are responding to an accident and trying to make sure that Mr. Swaringen gets to the hospital with a possible head injury.

But we're going to believe that they're just like, well, you know, I got this meth on me right now. And it's just -- it's just that time. So I'm just going to slip this in here. And, you know, hate it for him. That's outrageous. That's

not reasonable.

They take Mr. Swaringen to the hospital. There Michael McKnight and Alex, you can see it on video, they take him into the trauma bay. Mr. McKnight testifies that the bag was still in the EMS truck, that I went and later got it. Why? Because he can't hold onto personal effects. Took it to the trauma bay.

Well, it was searched first by American Security, who are not law enforcement, who don't have -- we don't know what sort of training he has. We don't know if it was wanded. They're looking for weapons a lot of the time. They didn't find any drugs there. And took it into the trauma bay and then they left.

Once again, he said the bag didn't look like it had been messed with. It was in the same place it was when they brought Mr. Swaringen into the hospital.

Again, we had Lisa and Ms. Edmonds, Ms. Lisa Edmonds. And she said, well, this is part of my job as I stated earlier. It is my job to go through everybody's possessions to make sure that those are documented because people come into emergencies -- room.

They're going to be taken out of trauma and be taken for other tests. So we want to make sure because, you know, we've got to take everybody's clothes off when they come to the emergency room to get access to everything and to diagnose

injuries and to take x-rays. And so we scribe it out and we document it.

And we want to make sure, if there's a bag, which you can see on the video Mr. McKnight brings in, and got to make sure we document all this because, A, if there's something valuable in it, if there's cash in it, if there's money in it, I think she actually used like an Apple watch example, we want to lock it up in the safe.

She doesn't know Mr. Swaringen. Never seen Mr. Swaringen before in her life. She has no reason to make up the fact that she found contraband. I believe when they recalled her she stated they'd found contraband in -- in the black saddlebag. Once again, it goes to why would Ms. Edmonds -- what purpose would Ms. Edmonds have in lying about that?

She then calls the law enforcement officer, Deputy Miller. Or not Deputy Miller, I'm sorry, Officer Miller. Officer Miller comes and picks up the contraband, the methamphetamine and also a Pelican case.

Now what did he do during this entire investigation? This isn't like, you know, looking at TV shows like Cops or different other TV shows where there is a police investigation that involves like pulling someone over, searching vehicles, search warrants. None of that happened.

At the point that Officer Miller became involved, the drugs had already been found. His job was to document what

had been found, take pictures of it, they're all here for you to look at and put it in a secure lock box. Lock box number 6, which once he turns the handle it cannot be opened except by the evidence custodians. Now why is that? That's to make sure that what was found remained in the same condition as when he put it in there.

And then what happened? Officer Keiper says that the next morning he's got one of two keys to the lock box, unlocks it, there's some stuff in there, picks it up, takes it to the secure property and evidence room, documents things in his report and on the evidence sheet and puts it behind lock and key.

And what does he mean by lock and key? He means by lock and key that you have to use a fingerprint identification to get through door number one. And only two people's fingerprints work. And then if you manage to get through door number one, there's a steel cage. And only two people have a key, him and then a major.

That he then just transported that to Greenville Property and Evidence, the County Property and Evidence where there's more security measures. Everything's on video, steel doors, all sorts of things before the chemist tests it.

Now what did the chemist testify to? That the scientific methods he used involve weight, spot test, and then he puts it basically in a big, you know, his sample in a big oven that

heats it up, burns it off so then another instrument can read what it is. And, ladies and gentlemen, as you can see, per his report, twenty-nine point six five (29.65) grams of methamphetamine right here.

Now defense is going to argue, well, it's not all meth. It doesn't have to be all meth. He just tested a small amount. Well, once again, I'm going to have to ask you to use common sense based on what the chemist testified to.

He puts the sample in a big oven. If he tested the whole -- put the whole thing in the oven, then we wouldn't have anything left to show you because it would all be burned up.

And as the Judge will tell you, under South Carolina law, if there is a mixture of stuff, meth and something, that under South Carolina law that is all meth. And that meth weighed two hundred and sixty-five (265) grams.

And it is a -- kind of clear, crystalline substance. That is why it's called crystal meth. You may hear it called clear. You may hear it called ice because this is what meth looks like. It looks like little chunks of ice.

Now, I entered something into evidence at the end of the day, which you didn't get to look at, but, once again, we put it into evidence so that you can look at it later in the day or when you deliberate. And this is the affidavit of the records custodian at the jail where Mr. Swaringen's property was located. I would point your attention to the bottom,

black saddlebag. It's his bag and his clothes.

So I say all this to say don't let the existence -- don't let the defense manufacture chaos beyond what actually happened. And here's what happened. Mr. Swaringen was riding his motorcycle down White Horse Road. He didn't know he was going to get hit by a car. No one knows when they're going to get in a wreck. He got hit -- he got hit and thrown off his bike, hit his head.

He tried to run. Why would you try to run? I don't know. Twenty-nine point six five (29.65) potential reasons why you might want to leave that scene.

He then didn't want to be transported to the hospital. Why not? Get out of there. He got transported to the hospital. He agreed, you know. Troopers started showing up. Police. Agrees to get transported.

And why is that? Because he didn't think his stuff was going to get searched when he went to the hospital. And now he is throwing everything against the wall and saying, well, possibly someone planted it here. It's possible someone planted that there. It's outrageous.

My job as the prosecutor is to prove the elements beyond a reasonable doubt. And it is not reasonable under these circumstances to believe that anyone other than Joseph Swaringen right there had possession and control of those drugs.

Were they in his hand? No. He was riding a motorcycle. Hands were full. Were they in his bag? Per the testimony you heard yesterday, yeah. He didn't believe he was going to get caught. He got caught. And now he wants to blame any other possible reason why you shouldn't convict him.

But he is guilty of trafficking between twenty-eight (28) and a hundred (100) grams. And I'm going to ask you to come back with a verdict of guilty against Mr. Swaringen for trafficking between twenty-eight (28) and a hundred (100) grams. Thank you.

MR. WISE: Madam Forelady, ladies and gentlemen of the jury, when you go into your jury room and you say to yourself or among yourselves, when you start discussing this case, if you say, you know, Joey Swaringen's probably guilty, he probably had those drugs in his -- in that black saddlebag, and he's probably guilty, what should your verdict be? Your verdict should be not guilty.

Because when we talk about proof beyond a reasonable doubt, we're not talking about what probably happened. We're not talking about what could have happened or what might have happened. We're not even talking about what possibly happened. It is the highest standard known to man short of an absolute certainty. It is that standard when we brag about our criminal justice system to people around the world that we point out.

Now people have said that's for the protection of the defendant. No, it isn't. In part, yes, but not entirely. It's for the protection of the jury. Because when the burden is that high, a juror doesn't go along and say to themselves a week later or two weeks later, you know, I thought about it a little more, and I'm not so sure I made the right decision. When it is that clear, then -- that it's proof beyond a reasonable doubt, you can put your head on the pillow at night and sleep with a clear conscience because that is the standard that this -- the State has to meet in this case because it's a serious thing.

The Judge told you in opening that we talk about preponderance of evidence in a civil case, when you want to take somebody's money. That you can have a little doubt about, but still preponderance of evidence is a much lower standard.

When the State of South Carolina wants to take someone's child from them, they have to do it by clear and convincing evidence, which is higher than preponderance. And beyond a reasonable doubt is even beyond clear and convincing evidence. And that's the standard that has to be met in this case as to everything the State is required to prove to secure a conviction.

There's a -- in football season, if you watch enough football, they always have instant replay. And as the

announcers get ready to do an instant replay, they always say, well, you know, there has to be irrefutable evidence that the call on the play -- on the field is wrong. Irrefutable evidence.

And they'll show that replay, and show that replay, and show that replay, and they'll talk about it. Well, that's close. I don't know. Yeah, but is there enough to overturn? Well, I don't know. You know how those discussions go. And then they'll keep constantly saying irrefutable evidence, irrefutable evidence.

In this courtroom the call on the field is not guilty. So the question is has the State produced irrefutable evidence that the call on the field is wrong? And let's analyze what they claim is irrefutable evidence to show that that call is wrong.

The State's case, to be successful, should be clear, concise and convincing. Instead what we have here is a calamity of chaos and confusion. And it is not manufactured chaos and confusion. It is chaos and confusion created by the State's witnesses themselves.

And this confusion starts at the very, very beginning. They bring in a witness that says Joey's trying to leave. I went and sat on him. Me and another person sat on him to make sure he couldn't leave. First, I don't know of anybody at any accident that I've ever heard of went and sat on somebody

because, one, if you're injured, you don't want to sit on them. All right? That's just ludicrous. Oh, he was trying to leave, so we sat on him.

What does EMS say? Joey was sitting there on the curb. All Right? Like somebody's supposed to do. He wasn't getting up running. He wasn't picking up a bag and running away. He was sitting there on the curb.

They asked about going to the hospital. He said, no. But he wasn't leaving. EMS says he's sitting there. If he wanted to leave, he could have been long gone. All Right? But he's sitting there.

And I think that's probably a prudent thing to do, let EMS come check you out. If they find something really wrong, then, yeah, we're going to the hospital. If they don't find anything wrong, he didn't want to go to the hospital. They finally talked him into going. But he was sitting on the curb is what EMS tells us. And that's probably what happened. All Right?

Then a witness says he saw a thing, you know, somebody putting something in a black bag. Was it a black saddlebag? Don't know. They didn't know. Doesn't change the fact that that was observed there at the scene. That is something that you have to consider.

And somebody was doing that when the ambulance was there. The ambulance people admitted that they had spent a great -- I

mean, not a great deal of time, but took them a few minutes to get there. They had their backs turned to where the bag was several times and all this. And they eventually get Joey to go into the ambulance.

But here's an important thing, Joey doesn't insist the bag go with him. I mean, the motorcycle's there. The bag could go with the motorcycle. He doesn't sit there and say, oh, I got to have the bag. I got to have that bag. No, no. They bring it, you know, basically assuming it's his. You know, they put it in the ambulance with him.

Now, here's the key. When that bag was finally taken out of the ambulance after sitting -- sitting in the back for a while and brought into the hospital, there is absolutely no question that bag was searched. There's no question about that. The guy has one job, search items coming into the hospital, go make sure nothing illegal gets in. It's his only job.

It's not a busy night. We saw, I think, one other person, maybe, in there. But there aren't people in both trauma bays. It's not that busy a night. I think the -- Ms. Edmonds testified no one else had been in there that night.

So he had plenty of time to inspect. He had plenty of time to look inside. He had plenty of time -- if there was anything in the black bag with -- that was a container, to open that to make sure nothing illegal got in. He had plenty

of time to do his job right.

And they want to say, we don't know his training. We don't know his training about what to look for. Why don't we know what his training was? And I'll tell you why we don't know what his training was because they didn't bring that person in here to testify. They didn't bring him in here. They didn't bring him in here to say, oh, we don't really do a thorough search. They didn't bring him in.

They have the burden of proof. All we know is everybody testified they don't let drugs and guns into the hospital. And, therefore, it is a correct assumption on your part to assume that he did his job like he should have done because there's nothing in this record to indicate he didn't have time to do his job thoroughly, do it properly and do it successfully.

Is there a real possibility that there were no drugs in that bag when that man looked in it? The answer to that is yes. There's probably more than a possibility, it's a real probability.

And the reason I say real possibility is this. When the Judge charges you as to what reasonable doubt is, he'll give you some guidelines. And then he will tell you this, if, however, you believe there's a real possibility he is not guilty, you are to find him not guilty. And if there's a real possibility there were no drugs in that bag when that man

inspected it according to his job, according to his job description and according to what he gets paid for, then Joey Swaringen is not guilty.

Because that bag was never in his possession again that evening. You saw the bag being brought into the trauma bay when he was not in the room. You saw people going in there claiming to search it when he was not in the room. He never touched that bag again.

Is that a real possibility there were no drugs in the bag when it was brought into the hospital? Absolutely. And the State has done nothing to refute that real possibility except to ask you to use -- surmise and conjecture as to what happened. They have the burden.

We can only assume based upon this testimony that that man did his job like he's supposed to do it, like he's trained to do it and like he's paid to do it. No drugs in the bag when it came in.

Now, Ms. Edmonds, she came back up in reply testimony and admitted that what she found was some loose bags of drugs, allegedly drugs inside a saddlebag. All Right? You know, we have to take her word for it. That's what she remembered.

Ms. Edmonds, you remember, is the lady who unfortunately got fired from the hospital for messing with -- checking her husband's records. And then she was fired for that.

But you remember what the State has done to Ms. Edmonds?

All the investigators in this case. Ms. Edmonds is what we call a relatively important witness. She allegedly found the contraband November the 18th of 2020. This case was so important to these investigators, so important to them that they never sat down with Ms. Edmonds and interviewed her and asked her where did you find these drugs? You know, what did you do with them and so forth?

She had very little recall of that evening. She admitted she had little recall. We don't, I mean, we know she did testify a few weeks ago that there were loose bags inside the black bag. How they got there, I'm not going to tell you I know. I can speculate. But all I know is they were not in there when they were inspected by the security officer.

And then Ms. Edmonds, I mean, common sense would tell you that someone that found the drugs who's not a law enforcement officer and doesn't make notes should be interviewed, should be talked to and get a very clear concise answer as to where they were found.

She talked -- original testimony about going through clothes. Well, where were they found in the clothes? I don't know. Were they found in shirt, pants? I don't know, you know. They come back, yeah, I think -- I think they were found in the black -- in the black saddlebag.

That's not manufactured confusion and chaos. That's confusion and chaos because somebody didn't do their job and

do a decent interview with her that night.

She didn't remember who was in the room. When we look at the video, we see several people in the room. Did somebody not even go bother to try to find out and identify those and prepare them for this trial to see if they can confirm what Ms. Edmonds said? They -- and if you look at the video, you could identify them. The State could have had those people in here.

One name was Ms. Ridgeway 'cause it's in the medical records. And the medical records say that Ms. Ridgeway found the drugs on the person. We know that's not true because he wasn't in the trauma bay when this allegedly happened. You know, on the person is not the same as in the clothes. But what can we say? Ms. Ridgeway wasn't here.

And when you look at the evidence in this case, you can base the verdict of not guilty on two things, evidence and lack of evidence. And if the State hasn't produced evidence to satisfy you beyond a reasonable doubt, because they didn't produce witnesses, that's something that you can consider.

A number of people in the trauma bay, 15 or more. Did somebody find something in the hall they thought went with the saddlebag and bring it in? I don't know. I don't know. That is a distinct possibility, but I can't tell you that because everybody in the trauma bay wasn't interviewed. And if Ms. Edmonds had been interviewed better, we may be able to answer

that question. But we don't know.

Several people were helping with the search. Didn't testify. Only name we know is Ms. Ridgeway. Were they even interviewed? We don't know. We don't know.

Then we get to Mr. Miller. He left, as you can see on the video, nothing in his hands. And Mr. Yarborough asked him, hey, did you leave with the Pelican box? And he said, no. Question -- and it seems to me this is a question that if you've got anything like a decent chain of custody should be real, real easy to answer.

And the question if Mr. Miller did not leave the trauma bay with the drugs and the Pelican box, when did he get them? Who had whatever they found for a period of time from the time Mr. Miller left the trauma bay to the time he put them in a lock box? And how did he get them from the trauma bay if he didn't go back and get them?

We know for sure that the cameras to the trauma bay was working. We saw it. We saw it. I mean, it's on -- it's on the video you can look at. We know that camera's working for the entire time of this episode.

If there's a video of Mr. Miller coming back to the trauma bay with gloves and bags to put it in like he's supposed to, why don't we see it? Why? I don't know. All I know is it doesn't exist.

So we have no clue what happened to those drugs for a

period of time or those things that were seized for a period of time from the time Mr. Miller left til the time he put it in there. We simply don't know.

The other interesting thing, never once did Ms. Edmonds ever say she even saw a Pelican box. Never once. She never said it. They have -- they brought her in. They could have asked her. She never said it. She never -- never said it.

We had a picture here of the -- I thought we did. Ah, we have pictures of the drugs. But let me ask you something else. Take these drugs, look at them. Take these plastic baggies. Would they fit in there? Is there a real possibility they wouldn't fit?

If there's a real possibility they don't fit, then I don't know what -- I don't know what to say because it's not a very big box. It's a magnetic box. Something you put on a car. Something that can come loose if a car stops in a hurry. But we don't know.

And they want to accuse Joey Swaringen of possessing drugs. Under one of their theories, it's in the box. Under another of their theories, it's in a saddlebag, which is not here. So apparently they have a habit of getting rid of evidence and giving it away or whatever.

They never once sent this box for touch DNA. Touch DNA simply would tell you whether or not Joey Swaringen has held this box in his hand. It's not there. And you can acquit on

the lack of evidence, the lack of it. We don't know.

He doesn't know when he took the pictures of the saddlebag. Don't know if he knows when he took these. And what's interesting, too, if you look at these pictures, if I can find it, -- if y'all can figure this out, congratulations.

This is labeled baggy four. All Right? And y'all will have this in the jury room with you. You can look at it. All right? This is labeled baggy 4 sitting on the scale. Is that the same baggy 4?

And if you want to have an interesting time, I would suggest you go look at baggy 2 on the scales and -- let's see, baggy 2. There's a picture of baggy 2. All right? Here's a picture of baggy 2 on the scale. Is that the same baggy? Is there a real possibility that's not the same bag?

And if that's a real possibility they're not the same bag, there's a real possibility this case is really messed up and your verdict should be not guilty. And you can do the same with the others, too.

Then let's look at Mr. Miller. He admitted he didn't comply with the SLED regulations. All right? He had the place wrong. He had resus two. It should have been one. It's not that far apart according to testimony. So be it. All right?

But what time did he seize the drugs? Joey went to the hospital about -- I believe about 10:00 that night. All

right? On his Greenville Hospital System Police Department form he says the drugs were seized at 20:15, 8:15. He seized them before Joey got to the hospital according to his chain of custody form. What can you say? What can we say?

Mr. Miller was asked about how he graded himself on his chain of custody in this case. He said, fair. Fair may be good enough because fair's about a C. Fair may be good enough for preponderance of the evidence. A, B may be good enough for clear and convincing. But when we talk about proof beyond a reasonable doubt, you've got to make an A. And if you don't make an A, your chain of custody is bad. And he admitted it was only fair.

Another thing, too, about this. You look at the bottom, the pink sheet goes to the officer. All right? What did Mr. Miller testify? Oh, I didn't take the pink sheet off. I attached it to it, and I sent it just like it is. Okay. That can happen.

But there's no pink sheet with it now. Why? What difference does the pink sheet missing mean? Well, if we could find out a little bit about whether everything was filled out on the pink sheet, too. Or was the pink sheet just what Miller did? We don't know because we don't have the pink sheet.

And if the pink sheet had this writing on it, something's wrong. We don't have the pink sheet. Not a major thing, but

it's another example of it's not done right. It's not done in keeping with the proper chain of custody. All right?

Now, I'm going to talk about the chain of custody a little bit. It's a hodge-podge of tests. Joey can't be convicted for what these officers failed to do in their chain of custody for preserving evidence properly. And Joey can't be convicted for the fair job that Miller did as opposed to a proper job.

Now, the drugs. The indictment in this case says more than twenty-eight (28) grams. If the State can't prove beyond a reasonable doubt that there's more than twenty-eight (28) grams of methamphetamine, the verdict has to be not guilty even if you think it's ten (10) grams, or twelve (12) grams, or twenty (20) grams or twenty-seven point nine (27.9) grams because they allege a specific amount. They have to prove to you not there's just some drugs there, but beyond a reasonable doubt there is twenty -- at least twenty-eight (28) grams of methamphetamine.

And what did their chemist say? He said, you know, there are crooked drug dealers out there who sell imitation drugs that are not methamphetamine. And that is why when he gets a case, the gold standard, the A rating, the one that proves things beyond a reasonable doubt, that happens, you measure each bag that comes in. They put all the bags into one big bag. And as a result they -- they contaminated each other as

it was being processed, and picked up and moved around. All right?

So we don't know and he doesn't know. He said the most he can say, because he can't say each bag contained methamphetamine, the most he can say is he had one one-hundredth of a gram that was for sure methamphetamine.

They had four bags that weighed different amounts. And you've got pictures here showing it. All right? Six point seven (6.7) is one. And you've got some pictures that show weights on them.

But here's the point. Mr. Armstrong could not say beyond a reasonable doubt that every single bag contained methamphetamine because of the way it was botched. And if one of those bags, just one of them, did not contain methamphetamine, the State has not met its burden of proving more than twenty-eight (28) grams of methamphetamine. They haven't met it. Just one.

And Mr. Armstrong knows there's a real possibility that everything you get that's supposed to be drugs isn't. And that's why he said I can only say one one-hundredth of a gram is.

It wasn't Joey Swaringen that contaminated the evidence. And he -- he didn't have it in his possession. It wasn't Joey. Law enforcement did it. Law enforcement did it when they took each individual bag and put them inside the big bag

instead of putting each individual bag in a baggy and sealing it. Because when they were handled, they fell out and co-mingled.

And as he said at that point, I can't tell you what each individual bag would -- would weigh. I can't tell you what each individual bag contained. And, therefore, there's no proof beyond a reasonable doubt of even twenty-eight (28) grams. As I say, a couple of grams less, one bag out, the State hasn't proven its case.

Now, a verdict of not guilty in this case does a lot more than saying Joey Swaringen's not guilty or the State hasn't proven its case. And that's really what a criminal trial is about, whether or not the State can prove its case.

But this is one of those cases where a not guilty does more. You can send a message and say, oh, this police work is fine. Don't save the video. Don't store the drugs properly. Don't handle them properly. Don't bring in all the witnesses we really need to know what happened such as the security guard and people in the emergency room. Don't do any of that. And we're going to let this pass for a criminal justice system and say he's guilty beyond a reasonable doubt. You can say that.

You can also say wait a minute. We as a community deserve better. We deserve things to be done right. We deserve for things to be done by the book. And before we're

going to take a fellow citizen and label him a felon, a drug trafficker, we want it done right.

And if you send that message, and six -- a year from now, two years from now you're serving on another jury, you'll see a better case because it can't be done sloppily. It has to be done by the book. It has to be done by the gold standard. It has to be the A performance. It cannot be what passed the chain of custody in this case, investigation in this case or anything else. The proper verdict in this case is not guilty. Thank you.

THE COURT: All right. Reply, Mr. Blouin.

MR. BLOUIN: May it please the Court, Your Honor?

I'm just going to say a few things and try to clear up a few things.

First of all, Mr. Wise was talking about, you know, burden of proof, beyond a reasonable doubt. You know, he made examples like possible doubt, absolute doubt. And then he used a analogy with football, irrefutable evidence. That is not the law. The law in the State of South Carolina is beyond a reasonable doubt. In other words, is it reasonable?

Now, I'm going to take a look at a few things. One, there was a stipulation made at the beginning of the case in which both parties admitted that when Ms. Lisa Edmonds handed the contraband, which is what she called it, and we've been calling this a Pelican case because that's the brand and

that's what the officers called it, she called it contraband, to Officer Miller, it was not on videotape. They admitted that. We admit that.

And like I said, there -- do not let them manufacture chaos based on the facts that you've heard because when Ms. Edmonds found the drugs, she was doing a simple inventory. She was doing what she was trained to do. She's not law enforcement.

And you're right, I can't speak to the American security guard, who there was testimony on, we don't know what their training is. They're not law enforcement officers. They are not trained at the law enforcement center. They are just hired to try to, you know, they use a wand to make sure that no weapons get in. And I do not know the thoroughness.

But I do know it's not reasonable to believe that the EMT, Mr. McDavid, planted this on his way into the hospital. I know it's not reasonable to believe, as Mr. Wise said that, you know, sitting in the hallway, doctor walks up, oh, this must go -- let's put this in this bag.

I mean, look at it. That's crystal meth. Also bags in here with it. You can, like I said, manipulate it all you want to. It is not reasonable to believe that that happened.

It is not reasonable to believe that in the moment they were putting Mr. Swaringen in the ambulance, once again, someone on 25, White Horse Road, one of the busier roads in

South Carolina, just walked up and said, you know, I'm not in trouble, there's nothing really going on, you know, I'm just going to take my twenty-nine point six five (29.65) grams of methamphetamine and I'm going to give it away. And you know who's the lucky recipient this week? It is that man right there because I'm just going to slip it in his saddlebag. It's not reasonable.

And as much as they want to harp on, well, Officer Miller, you know, you did this. What did Officer Miller actually do? He took the drugs from a woman who was doing her job, who saw something suspicious, and he locked it in a locker after taking some pictures.

Ms. Edmonds, you know, they want to have it both ways. Well, Ms. Edmonds testified when we recalled her that she found the loose baggies in the bag. Well, can you fit all of this in the Pelican case? You can't have it both ways. You can't have it both ways.

This methamphetamine was in that saddlebag. That saddlebag belonged to Mr. Swaringen. We know this because it was in his property. Made reference, oh, they just got rid of the evidence, they got rid of the saddlebag. No, they didn't. They gave it back to him. Sitting right there, got signed out for it. Y'all look at it. Do not let them create chaos where no chaos exists.

They put, you know, the chemist tested this. It's his

initials. Twenty-nine point six five (29.65) grams of meth. Look at the meth. Then stored it. All of the actions that occurred up unto the finding of this meth happened from people who are not law enforcement. People doing their jobs.

You know, once again, Katlin, hit him on the back of a motorcycle and said her -- you know, he says they sat on him. I don't believe that was her testimony. I believe they said him -- her and another woman had to hold him down.

Why would he run from the scene? What's a reasonable explanation? Because he had something he don't want to be there for. Why not? It's not his fault. She testified it's her fault. You know, why would you want to leave? Because, man, I don't need to be right here right now.

He gets taken on the ambulance with the bag. That's his. That's documented. Does an inventory. They go through pockets, they say. They go through each individual, you know, compartments. We found contraband.

And that contraband came back as methamphetamine. And that methamphetamine belonged to Mr. Swaringen. And he's guilty, trafficking in methamphetamine twenty-eight (28) to one hundred (100) grams. And I'd ask you to come back with that verdict. Thank you.

THE COURT: All right, ladies and gentlemen. We've been going about an hour. There's one item I need to go over with the jury, I mean, the lawyers. So if you'll step back in your

jury room. Do not discuss the case because I still have to give you the charge on the law.

Would this be a good time they can do their lunch -- okay. And then you can go ahead and make your lunch order. That way we can get that in the -- go ahead and get that ordered. And then when you come back out, I'll charge you, and then I'll send you back for your deliberation.

(Whereupon the jury exited the courtroom at 11:15 am)

THE COURT: What I wanted to address is -- you need to take a break?

MR. WISE: He needs to use the restroom.

MR. BLOUIN: Restroom.

THE COURT: Y'all want to do that right quick? Okay.

MR. SWARINGEN: I'm sorry.

THE COURT: No, that's fine. Let's take two or three minutes. Then we'll come back out when ---

MR. SWARINGEN: I'm sorry, Judge.

THE COURT: No, you're fine.

(Whereupon court was in recess at 11:16 am)

(Whereupon court reconvened at 11:23 am)

THE COURT: One of the things I wanted to address with both sides is normally I do not send the drugs back into the jury room. But I think in this case because of the arguments made by the defense, I think that may be more necessary than normal just because some of the position there.

So, I guess, do we have gloves so I can maybe give -- what I would ---

MADAM CLERK: Yes.

THE COURT: What I'm going to instruct, if they need to look at the drugs, would have the foreperson handle and take out. You can put them with the -- like in the box.

MR. WISE: I don't -- needs to go would be the envelope that ---

MR. BLOUIN: The heat-sealed ---

MR. WISE: --- with the bags that were in.

MR. BLOUIN: Are you talking about the heat-sealed bag it's in?

MR. WISE: Yeah.

THE COURT: No, no, I'm just saying -- normally I wouldn't send any, I mean, the package back.

MR. WISE: I mean, no problem in sending it back, I mean, sending the gloves back with it.

THE COURT: Right.

MR. WISE: Yeah.

THE COURT: I know, I mean, just -- and if they -- I mean, what it is, I can say they can use them ---

MR. WISE: Right.

THE COURT: --- if they want to.

MR. YARBOROUGH: Use the drugs?

THE COURT: So I kind of give them some instructions that they need to handle that with care and that the -- all right. Is the State ready for the -- State ready for the jury?

MR. BLOUIN: The State's ready, Your Honor.

MR. YARBOROUGH: Defense is ready, Your Honor.

THE COURT: All right. If they're ready, bring them in.

MR. BLOUIN: Oh, and, Judge, just -- I would tell them, not that we really need to, not to open the bag.

MR. YARBOROUGH: I think they know that.

THE COURT: No, I always just tell them -- I'll tell them, handle with care.

(Whereupon the jury entered the courtroom at 11:27 am)

THE COURT: All right, ladies and gentlemen. I'm going to come down here as well. I always feel like when I sit up there, it feels like the Wizard of Oz. Get Toto away from the curtain there, so -- all right.

We are now at the kind of final phase of the trial. And what that means is I'm going to charge you on the law. And as you will recall, as I told you in the beginning and you've heard throughout, the charge that you are being presented with is trafficking methamphetamine of more than twenty-eight (28) grams but less than a hundred (100) grams. That's the State statute and how that is classified.

Now, I also told you in the very beginning that the fact that I read an indictment to you, that is merely the formal

charge. That's the formal paper that brings this matter to the court. Those are merely the allegations that the State has made. But that is not to be considered by you in any way as evidence.

The fact that someone may be arrested, that they were charged or that they were indicted is not evidence. That's merely the allegations made by the State to bring this case to trial.

And Mr. Swaringen has pled not guilty. And, therefore, that puts the burden on the State to prove each element of the case beyond a reasonable doubt. As I repeat, the defendant in this matter has no burden whatsoever. The burden is clearly on the State.

Now, I also told you that each of us have different, I mean, each -- you and I have different roles in this case. My job is to preside over the trial, is to rule on objections. And objections are merely the attorneys making sure that the evidentiary rules are properly preserved in the court rules that we all have to abide by. And also I'm to charge you on the law.

Now, if you had an idea before you came into this courtroom what you thought the law in this matter was, and if it differs from what I'm telling you, if it's something you got off TV or maybe some of your reading -- from some reading, if it differs from what I'm telling you, then you're to

disregard that. Because by your taking an oath you're saying I am going to apply the law that the Judge charges and regardless of what I think it was or what I think it should be because this is the law that I have determined applies in this matter.

Now your role is to determine what the facts are. And ultimately, as I will discuss with you in a minute, you will determine what the verdict is. And the verdict is either guilty or not guilty. That's the question that you will be asked. I'll go into that in a little more detail in just a minute.

And you're to determine that by the evidence and the evidence only, the evidence that's been presented. And that's by way of stipulation, by way of actual exhibits or testimony. Those are the -- and everything else presented in here.

If anything was stricken from the record, I don't believe there was, but if there was anything stricken from the record, then that's something you're not to consider. You're to look at this evidence and you're to apply the law and you're also to use in addition to the evidence presented the law that I'm charging you on now. That's how you determine what the facts are.

Now if there is anything that I have done or said throughout this trial that makes you think I have an opinion about the facts or I made an inference about what I think is

the facts, then you are to disregard that because that's not my job. That's your job ultimately. My role is totally different from yours.

Now, I'd also mentioned the defendant has pled not guilty. And that plea puts the burden on the State. And a person charged with committing a crime in this State is never required to prove himself innocent. This presumption of innocence is a substantial right. It's one of the foundations of our criminal justice system.

And that stays with an individual throughout the entire criminal process, the entire criminal trial, until you, the jury, have found beyond a reasonable doubt that the State has met its burden. And only then is that presumption of innocence -- is removed.

But throughout your deliberation, that presumption remains until you have reached a verdict that they have met their burden. If you find they have not met their burden, then that presumption of innocence stays with the defendant.

Now, what is reasonable doubt? Again, the State has the burden of proving the defendant guilty beyond a reasonable doubt on each element that it must prove.

Now, as has been referenced several times, it's much different than in a civil matter. Civil matter is by a preponderance or greater weight or more likely than not. That's kind of the civil thing. Criminal, much higher. That

is -- it's not absolute, they must prove beyond absolute certainty, but reasonable doubt.

And reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

You know, there's very few things that we know with absolute certainty. And our law does not require the State to prove that with absolute certainty, to overcome every possibility. But if, based on your consideration of the evidence, you're firmly convinced of the defendant's guilt, then you must find the defendant guilty.

On the other hand, if you think there's a real possibility the defendant is not guilty, then you must give the defendant the benefit of the doubt and find him not guilty. Facts and circumstances that merely place suspicion upon the defendant is not sufficient. Or merely raise a speculation or conjecture that the defendant is guilty, that is not sufficient to find the defendant or to make a finding that the defendant is guilty.

Now, there are two types of evidence that the -- that can be used by the State in meeting its burden, that is direct and circumstantial evidence. Direct evidence is when evidence proves a fact without an inference which in itself true -- conclusively establishes that fact. Direct evidence is

basically evidence that you can see, observe or hear.

Circumstantial evidence, on the other hand, may be a group -- a series of facts that need to be proven to show a particular fact. In other words, you may have heard a particular event occurred based on a proof of circumstances warranting such an inference. It's nothing -- something that one observes but from facts one can draw a conclusion.

I always like to -- this is kind of a simple analogy, but it gives you a little -- an idea of what I'm talking about between direct and circumstantial. If you pull into your driveway this afternoon and all of a sudden the bottom drops out and it's pouring rain, and you run into the house, I mean, you have direct evidence that it was raining because you saw it.

But on the other hand, you pull into our driveway and it's dry, clouds kind of dark, you go into your house and it wasn't raining and you come back out ten minutes later, it's still not raining, the car's wet, the pavement's wet around it, a different breeze to it, and that's circumstantial evidence. It had to be a series of facts you had to consider to determine that. I know that's a simple analogy, but that's kind of the difference between direct and circumstantial.

Now, crimes may be proven by both direct and circumstantial, a combination of the two. It's still -- the burden is the same on the State whether they use direct or

circumstantial. It's beyond a reasonable doubt. And each piece of evidence, whether there's direct or circumstantial, is also to be given the weight and value which you feel is appropriate.

However, to the extent that the State relies on circumstantial evidence, all of the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the defendant beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, then that proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. And that rests with the State, again, whether it's direct evidence, circumstantial evidence or a combination of the two.

Now, also let me talk to you a little bit about expert witnesses. Now, I know I mentioned this when the individual was qualified as an expert. Now normally a witness cannot testify and give their opinions about anything. They can give you -- a witness can tell you exactly what they saw, exactly what they heard, exactly what they felt. That's what -- what we call a lay witness.

Now the exception to that is when somebody has been qualified as an expert. At that point they can testify about their opinions and their conclusions in their particular field. And that is based on their experience, their training,

their education and everything related to -- and their job.

And -- but you still are to give that the weight and the value that you feel is appropriate even when it may not be contradicted by any other evidence. But like every piece of evidence, you give it the weight and the value that you feel is appropriate.

Now, let me talk -- one of the tools that you have in determining what the facts are, and that is determining the credibility of witnesses. Now that's one of the tools that you have. And that's a decision that you have to make based on your own common sense.

But one of the things that you can consider and determine whether a witness is credible or believable, that is, you can determine -- did they have a particular bias? Did they have a particular motive? Do they have an interest in the outcome? How did they appear on the stand? All those things are things to be considered by you.

Now you may accept one witness' testimony over several others. You may accept several witness' testimony over one witness. You may accept a portion of a witness' testimony and reject the remaining portion. Or you may accept the testimony of a witness in its entirety or reject it in its entirety. That's up to you to give it the weight and value that you feel is appropriate for every witness.

Now another very important kind of foundation of our

judicial system is a person's right -- to exercise their right, Fifth Amendment right not to testify. In this case the fact that the defendant did not testify is merely his exercise of his Fifth Amendment right not to testify.

And that is something that you are not to even consider. That is not anything that you are even to discuss in your jury room because the fact that a person who fails to testify is not to be used against him or even to be considered in this matter because he has no burden in this case.

The burden is on the State. And whether the defendant testifies or not has nothing to do with the burden on the State. The State still has that burden of proof beyond a reasonable doubt.

So, again, that's a very important part, a foundation of our criminal process. And that is that anybody charged with a crime has the right to exercise their Fifth Amendment right. And that is not something for you to consider.

Now let me talk to you a little bit about intent. In order to establish criminal liability criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence.

Criminal intent must -- again, must be proved beyond a reasonable doubt. It's always a matter that must be determined by the jury from the circumstances surrounding the

situation. You know, there's no way to prove criminal intent with mathematical certainty or, you know, looking into someone's brain to determine what they had, you know, what their intent was.

So the law requires that criminal intent may be inferred from the circumstances existing at the time. And this is how you make a determination of whether or not the element of intent is required, I mean, was present.

It's not necessary for it to be established by direct evidence. It can be established by circumstantial evidence as well using the rules that I indicated when I mentioned -- discussed with you about circumstantial evidence.

Criminal intent is a mental state. It's a conscious wrongdoing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed at the time.

Criminal intent can arise from action or failure to act. It may arise from negligence, recklessness or an indifference to duty or to consequences that are considered by the law to be the equivalent of criminal intent. So those are some general rules that you will have in making your decision on the facts.

Now let me discuss with you the specific elements of the charge that you're -- will be looking at. And that is the charge of trafficking methamphetamine. And this is -- these

are the elements.

The State must prove beyond a reasonable doubt that the defendant -- and this is a list of things that come straight out of the statute. And there's quite -- quite a few of them. And you must determine if any of these apply.

That the State [sic] knowingly sold, manufactured, cultivated, delivered, purchased, brought into this State or provided financial assistance or otherwise aided, abetted, attempted or conspired to sell, manufacture, cultivate, deliver, purchased or bring into this State or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of methamphetamine. So any of those items, that's the -- kind of the laundry list of what is determined by trafficking when added to this next element.

And that is the State must also prove beyond a reasonable doubt that the amount of methamphetamine that was either controlled in any way by -- as indicated above was more than twenty-eight (28) grams but less than one hundred (100) grams. So you have to have twenty-eight (28) to one hundred (100) grams, and the defendant must have done one of the other things that I just listed.

And the State has to prove that beyond a reasonable doubt. And that is what is designated by our law as trafficking methamphetamine.

Now to prove possession the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the methamphetamine. Possession may be either actual or constructive.

Actual possession means that the meth was in the actual physical custody of the defendant. Constructive possession, on the other hand, means that the defendant had dominion and control or the right to exercise dominion or control over either the methamphetamine itself or the property in which the methamphetamine was found.

Mere presence at the scene where the drugs were found is not enough to prove possession. The defendant's knowledge and possession may be inferred when a substance is found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration by you along with the other evidence in this case and to be given the weight and the value which you deem appropriate.

Now in determining the weight of the controlled substance, the weight of any controlled substance reference is the weight of the substance in pure form, or a compound or a mixture thereof.

Now I want to also tell you a little bit, too, we have -- the exhibits we have here, you have some photographs, you have

a bag with an item in it. And first let me -- and you also have a video.

Let me address the video. I'm not sure if we have a -- if you need to look at the video, then we can -- then you need to let me know. That's one of the jobs you have as the foreperson is to communicate. Any kind of communication, you would write on a piece of paper, sign and date it. And then give it to the bailiffs and they'll bring it to me.

If you want to review the DVD, then what you will do is we'll send a -- what we call is a clean laptop that you can -- back there and review it all. Sometimes that presents a problem. And if it does, we may have to bring you back out here. But, otherwise, that's what you need to do.

And you also have as exhibits -- you will have what's been designated -- alleged as drugs. And they will be in -- and it may be something you need to review, maybe not. Again, that depends on you.

We're going to be sending some gloves back. And if, I think, you need to make sure that if it's something maybe you feel like the drugs -- the gloves are appropriate to look at the drugs or handle the drugs, then make sure you use the gloves. That's up to y'all.

Again, be very careful. Don't be, you know, doing any type of manipulation of that because, like I said, that's a very serious exhibit. So make sure you take the appropriate

precautions when using or handling any of -- any of the evidence -- exhibits, but specifically the drugs. All right.

Your verdict, the verdict form -- and let me just -- I'll give you what you're going to be having. The top portion of this is merely the caption and the indictment number. It says verdict form.

It says please answer the following question. As to the charge of trafficking methamphetamine more than twenty-eight (28) grams but less than a hundred (100) grams, we, the jury, find the defendant, Joseph Martin Swaringen, and you check one.

If you find that the State has met its burden as I've discussed, then -- beyond a reasonable doubt, then you would check guilty. If you find that the State has not met its burden beyond a reasonable doubt, then you would check not guilty.

Once you've reached a verdict, Madam Forelady, you would sign, date and you'd let the bailiff know that you've reached a verdict. Now, your verdict must be unanimous. That means all 12 of you must agree on what the verdict is.

And your verdict must be based on the evidence and the law that I've given you. It cannot be based on any sympathy, any passion, any prejudice, any emotion, anything other than what you've received in this courtroom.

Also I'm going to tell you that the evidence that you are

to consider has already been presented. You cannot -- we cannot give you anymore evidence. The parties have presented all the evidence which they feel is to be presented to you.

So you -- sometimes juries will have questions like, well, what about this form? Or what about this witness? We cannot -- we can't answer factual questions. You have everything that you can use to make your deliberation. But if you do have any questions, then you would just merely write it down on a piece of paper and give that to the bailiff.

Now the alternates, I want to tell you this is -- your role in this matter has been very important just like all the other 12. But under our law you cannot be in the room and you cannot be involved in the deliberation at this time.

So -- but I don't want you to feel that your role is not important. If something -- if one of the regular jurors could not have completed the trial, then you would have had to step in and serve in that role. So it's very important that we have alternates even though they can't -- can't go to the conclusion there.

So -- also it is -- we should have your -- I think lunch should be coming around 12:30. And that's something that -- and the alternates, we'll have yours, too. Don't worry. If you want to stick around.

And that's something you can -- y'all can decide, if y'all want to stop deliberating and eat your lunch or if you

want to continue. That's totally up to you when it gets here. So -- all right.

At this time -- would you put that verdict form on top of there. Just -- yeah, put it right there, that'd be good. All right.

At this time I'm going to send you back to your -- all of you back to your jury room. But, you know what, I'm going to tell you one more time you can't discuss the case. And the reason is, I've got to talk to the lawyers to make sure, one, I haven't missed something or that I haven't misstated. And if I have, then I'll have to bring you back out. I don't want to have to repeat the whole thing, but I'll give you any additional charges that I need to do.

But if not, then your signal that you can begin your discussion, your deliberations of the case is the bailiff will bring the exhibits with the verdict form, and she'll exchange them for the alternates, and the alternates will step out at that time. That's the signal for you. But at this time I'd ask that you return to your jury room and wait for additional instructions or signals.

(Whereupon the jury exited the courtroom at 11:50 am)

THE COURT: All right. Any exception or objections from the State?

MR. BLOUIN: None from the State, Your Honor.

THE COURT: From the defense?

MR. WISE: Yes, Your Honor.

First of all, one of substance as opposed to the others, perhaps. Your Honor charged on page 8 of the charge that the defendant's knowledge and possession may be inferred by the substances found on the property under the defendant's control. However, this inference is simply an evidentiary fact to be taken into consideration. That charge was disallowed by State versus Terrance Stewart, which was decided on May the 19th of last year.

The other part of that page where you could find constructive possession is the right to exercise dominion and control over either the meth or the property was also -- I believe that was also declared unconstitutional in that case.

THE COURT: And what's the case again?

MR. WISE: State versus Stewart. It's August, excuse me, May 19 case of last year. I'm kind of familiar with it.

THE COURT: Is that one of yours?

MR. WISE: Yes.

(Pause)

THE COURT: We're not finding it on the ...

MR. WISE: South Carolina Supreme Court case.

THE COURT: Yeah. We ---

MR. WISE: S-t-e-w-a-r-t.

THE COURT: Yeah, we popped that in.

MR. WISE: Use opinion number 28029.

THE COURT: What is the number again?

MR. WISE: 28029.

(Pause)

THE COURT: All right. We found it. All right. While she's getting that, any other objections or exceptions?

MR. WISE: Of course, renew our objection to failure to charge chain of custody. And renew our objection to not using our client's name instead of defendant.

THE COURT: I've got her ---

MR. WISE: And ---

THE COURT: --- printing that.

MR. WISE: Excuse me, Your Honor.

THE COURT: Yes. And all objections made prior to the charge, ---

MR. WISE: Right.

THE COURT: --- yes.

(Pause)

THE COURT: So you don't have a proposed charge, I assume?

MR. WISE: Well, there's no -- the charge has got to be -- basically the first paragraph on page 8 has got to be taken out.

THE COURT: I don't have the same pages that you do. I have mine different.

MR. WISE: Oh, I'm sorry. It's right above jury verdict.

THE COURT: All right. So what is your -- what are you saying should be removed?

MR. WISE: You should tell the jury that this paragraph I charged you earlier is not a correct statement of law and they are to ignore it.

THE COURT: Which one -- which one are you saying is removed?

MR. WISE: Paragraph that begins constructive possession means the defendant had dominion and control. I guess you could write exercised dominion and control over the meth, itself, but the rest of it has to be stricken.

Well, technically constructive possession means the defendant had dominion and control or the right to exercise dominion and control over the methamphetamine, period.

THE COURT: All right. Do you think that ...

MR. WISE: And then after that, the rest of it (unintelligible).

THE COURT: And then the rest of it what?

MR. WISE: The rest of it is stricken, should be stricken.

THE COURT: All right. And what's your position?

MR. BLOUIN: I mean, the Supreme Court didn't really -- while it struck that down, it didn't really give us many options of what should replace it.

THE COURT: Yeah, I know.

MR. BLOUIN: So I'm kind of at a loss, Your Honor.

MR. WISE: I think the answer is they gave no options to replace it, so there's nothing to replace it.

(Pause)

THE COURT: All right. I have underlined parts of this -- I'm going to just read straight from the case. If y'all will look at that and see if I ...

(Pause)

MR. WISE: Yeah. Yeah.

MR. BLOUIN: Hold on.

(Pause)

MR. BLOUIN: Sure.

THE COURT: All right. Is there anything else?

MR. BLOUIN: Your Honor, I'd briefly mentioned whether it would be appropriate to send Court's exhibit 2, which was the original stipulation as far as the video since there was obviously some arguments and some confusion over that, and since that spells it out, back to the jury.

MR. WISE: I think it's a piece of evidence. They can -- if they have a question about it, they know how to read it.

MR. BLOUIN: Well, they don't see -- they don't get it because it's a Court's exhibit.

MR. WISE: Oh.

MR. BLOUIN: They're not going to send it back. We're asking ---

MR. WISE: Oh.

MR. BLOUIN: --- to send it back.

MR. WISE: Oh, okay. Yeah. I thought they were going to get it. I'm sorry.

MR. BLOUIN: So ---

THE COURT: I mean, I don't ---

MR. BLOUIN: --- is it okay with them getting it?

THE COURT: I mean, I thought -- I don't know why you made it a Court's -- usually it's -- it should have been ---

MR. BLOUIN: I don't know why it was -- I thought it was made as part of exhibit 1, too. But ---

MR. WISE: That's never really been read to the jury.

MR. BLOUIN: Well, it was read to the jury.

MR. WISE: It was? I missed that.

MR. BLOUIN: It was.

THE COURT: Well, I mean, I was wondering why it was not a State's exhibit anyway. So ...

MR. BLOUIN: But is there any objection to sending it back?

MR. WISE: Uh-uh (negative).

MR. BLOUIN: Okay.

THE COURT: All right.

MR. YARBOROUGH: But will you tell them that you're sending it back?

THE COURT: I'll -- we'll just put it over there.

MR. YARBOROUGH: Okay.

(Whereupon Court's exhibit 2 was admitted into evidence, which should have been marked as a part of State's exhibit 1, and will be sent back to the jury)

MR. WISE: And I assume when you recharge them you're going to tell them that the previous statement ---

THE COURT: Right.

MR. WISE: --- about an inference. Okay.

THE COURT: All right. Is the jury ready? Bring them -- bring them back in here.

(Whereupon the jury entered the courtroom at 12:03 pm)

THE COURT: Sorry, you're not released quite yet.

So, all right. Ladies and gentlemen, I need to -- I brought you back out here to correct a misstatement that I had made for you. And when -- and that is when I was talking about the elements of the charge.

Now I mentioned to you that the elements of trafficking methamphetamine you had the various acts that a person can do to constitute trafficking. And there also has to be proof beyond a reasonable doubt that the amount is between twenty-eight (28) grams and a hundred (100) grams.

And when you're talking about actual -- possession of a drug, it can be by way of actual possession or constructive possession. And what I brought you out here for is my charge to you on how constructive possession was defined is to be

disregarded. I mentioned something about inferences in there that is not to be considered by you. So disregard anything I said about constructive possession. And now I'm going to give you the appropriate charge at this time that you are to use.

First, the State -- again, this will be by actual or constructive possession. First, the State must prove the defendant had the right and power to control the disposition or use of the drugs. For actual possession, the State may meet this burden by proving the defendant had actual physical custody of the drug.

For constructive possession the State must prove by other evidence that the defendant had the right and power to exercise control over the drug. And, second, the State must prove the defendant had knowledge of the drugs and the intent to control the disposition or use of the drugs.

So it's a slightly different, but a very important distinction in your consideration. That is what's defined as constructive possession.

So with that being said, I will send you back just to make sure we've got everything covered. And wait, again, for the signal before you begin your deliberations.

(Whereupon the jury exited the courtroom at 12:07 pm)

THE COURT: All right. Any objections or exceptions to the additional charge from the State?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: From the defendant?

MR. WISE: No, Your Honor.

THE COURT: All right. That solved the issues you had?

MR. WISE: That's all the issues ---

THE COURT: All right. Well, make sure y'all have all the exhibits there.

MR. YARBOROUGH: We did.

THE COURT: All right. Well, if they're ready, then send them back to the jury in exchange for the alternates.

(Whereupon the jury began deliberations at 12:08 pm)

(Whereupon court was in recess at 12:08 pm)

(Whereupon Court's exhibit 5 was marked)

(Whereupon Court's exhibit 6 was marked)

(Whereupon court reconvened at 1:44 pm)

THE COURT: We have a question. And I'm not really sure what it's asking. It says can we use any of the videos or just the one that was used in court?

MR. BLOUIN: Well, Your Honor, there's four, like, clips. I think we played two of them on there. We actually presented them, but they're all in evidence, so they can look at anything on those videos they want to.

THE COURT: I wasn't sure if that's what they were asking or not because ---

MR. BLOUIN: That's the way I understood that.

THE COURT: Yeah. And I guess they have them -- I wonder

if they can find them on there.

MR. BLOUIN: So they're -- when they open it up, it should list four separate videos.

THE COURT: Oh, okay.

MR. BLOUIN: And then, you know, the one that, I mean, if we want to tell them this, the one that we kind of played the most of was the last one on the list. And then they should be able to figure out clicking which one's which. Yeah, they're labeled pretty well.

THE COURT: So you -- so I guess my response is you can review any videos that are on that disk.

MR. BLOUIN: Yes, Your Honor.

THE COURT: All right. Y'all look -- I just put you can review any disk -- any videos on that disk.

MR. BLOUIN: Perfect.

THE COURT: Any objections from the State?

MR. BLOUIN: None from the State.

THE COURT: Defense?

MR. YARBOROUGH: No, sir.

THE COURT: And if that's not what they were asking, then they'll come back.

MR. WISE: Yes, sir, that's true.

THE COURT: Was that good enough for you? I didn't ask you.

MR. WISE: I like that verbiage.

THE COURT: All right.

(Whereupon court was in recess at 1:46 pm)

(Whereupon court reconvened at 1:54 pm)

THE COURT: Please be seated. My understanding, we have a verdict. So anything from the State before we bring the jury in?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: Anything from the defendant?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right. And, Mr. Swaringen, I know this has been a long ordeal for you. And regardless of the verdict, I would ask that you keep your composure, all right?

MR. SWARINGEN: Yes, sir.

THE COURT: And then -- so. All right. Bring the jury in.

(Whereupon the jury entered the courtroom at 1:57 pm)

THE COURT: All right. Madam Forelady, I understand you've reached a verdict.

MADAM FORELADY: Yes, sir, we have.

THE COURT: And you can hand it to the bailiff, please.

MADAM FORELADY: Yes, sir.

THE COURT: All right. If you could publish the verdict, please.

MADAM CLERK: Your Honor, this is case number 2021-GS-23-06825, the State of South Carolina versus Joseph Martin

Swaringen. As to the charge of trafficking methamphetamine more than twenty-eight (28) grams but less than one hundred (100) grams, we, the jury, find the defendant, Joseph Martin Swaringen, guilty. Signed by our foreperson.

Ladies and gentlemen, if this -- if you agree with this verdict and is what you have reached in the deliberation room, please raise your right hands.

(Whereupon all juror's raised their right hand)

THE COURT: All right. Thank you.

Anything from the jury before I release them from the State?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: Anything from the defense?

MR. YARBOROUGH: Will you poll the jury, Your Honor?

THE COURT: All right.

MADAM CLERK: The verdict I have published was the verdict you reached in the jury room, I ask you was it your verdict then and is it your verdict now? When I call your number, please answer yes or no.

Juror number 82?

JUROR #82, JOHN FRYE: Yes.

MADAM CLERK: Juror 139?

JUROR #139, LATORIA MAYES: Yes.

MADAM CLERK: Juror 233?

JUROR #233, LAUREN WELCH: Yes.

MADAM CLERK: Juror 105?

JUROR #105, HEATHER HERDT: Yes.

MADAM CLERK: Juror 29?

JUROR #29, MORGAN BROWN: Yes.

MADAM CLERK: Juror 37?

JUROR #37, TAMMY BURRELL: Yes.

MADAM CLERK: Juror 182?

JUROR #182, HAROLD ROBINS: Yes.

MADAM CLERK: Juror 67?

JUROR #67, KERRIANNA DURHAM: Yes.

MADAM CLERK: Juror 62?

JUROR #62, WILLIAM DEVANEY: Yes.

MADAM CLERK: Juror 25?

JUROR #25, MICHAEL BRIGNAC: Yes.

MADAM CLERK: Juror 121?

JUROR #121, CHRISTINA LATHAM: Yes.

MADAM CLERK: Juror 71?

JUROR #71, BERNADETTE FARROW: Yes.

THE COURT: All right. So that has been confirmed. Anything else from the defense?

MR. YARBOROUGH: No, sir, Your Honor.

THE COURT: All right. Ladies and gentlemen, I'm going to release you back to your jury room. I've got a couple of things to discuss with you about the rest of the week. I'll be back there in just a minute to discuss that with you.

(Whereupon the jury exited the courtroom at 1:59 pm)

THE COURT: Let me go release the jury because I've got to tell them they've got to come back in the morning for another trial. Y'all gather everything that you need to do, and then I'll -- we'll see.

(Whereupon court was in recess at 2:00 pm)

(Whereupon Court's exhibit 7 was marked)

(Whereupon court reconvened at 2:09 pm)

THE COURT: All right. First of all, motions from the defendant?

MR. WISE: Your Honor, let me reserve -- well, no, I won't -- I won't have time, not with my schedule.

We would again renew our motion for a directed verdict. And one of the things I wanted to illustrate to the Court on this case, and I think these bottles can illustrate it very well.

What they did in this case is took a sample of methamphetamine from a package and said -- well, this is in essence what they did. They took a sample from methamphetamine from one package, tested it, and it said methamphetamine.

They then took samples from three packages that they did not test, poured it into the one they did test and say the total weight is methamphetamine. As a matter of law, they didn't prove the case.

Now, that's not exactly what they did, but in substance that's what they did once the State permitted the four bags to intermingle with each other so that you couldn't separate them. If a case came into this court in which a lab did what I first said, took sample A, tested it, it tested for meth, and then said, oh, the other three samples must be meth, too, and poured them all together and weighed them, no judge would let that case get to the jury, but that is in essence what they did here.

THE COURT: And that was, I mean, you made that argument earlier. And I'll consider it ---

MR. WISE: Well, I just found a way to illustrate it a little ---

THE COURT: No, ---

MR. WISE: --- better.

THE COURT: --- I mean, I -- it's a good illustration, too. But I think based on my same analysis, I'm going to deny the motion, so ...

MR. WISE: And then, again, the only grounds is the chain of custody that we don't think was adequately proven in this particular case.

THE COURT: Right. And, again, that was addressed as well previously, so ...

MR. WISE: Okay.

THE COURT: All right. Anything else?

MR. WISE: That's it.

THE COURT: All right. From the State?

MR. BLOUIN: Your Honor, obviously, just going forward we had served a notice with intent to seek sentence of imprisonment for life without the possibility of parole.

This was based on prior convictions of a distribution of methamphetamine, second, or subsequent offense with an incident date of July 30th, 2015; a possessing of heroin with intent to distribute, second offense, with an incident date of June 22nd, 2016; trafficking in methamphetamine with an incident date of June 22nd, 2016; possession of heroin with intent to distribute, second, with an incident date of July 6th, 2016; trafficking in methamphetamine with an incident date of July 6th, 2016; and possession of methamphetamine with intent to distribute with an incident date of November 30th, 2016.

Your Honor, we are going to make a -- marked as Court's exhibit 7 with that as well as affidavits of service that Mr. Swaringen was served with that notice on 11th of August, 2021 and that Mr. Yarborough was served on the 11th of August, 2021.

And then I'm also including, attached these certified convictions of those convictions I read back. And we would just make those Court's exhibit number 7.

THE COURT: All right. Have you seen -- you got a copy?

MR. WISE: We've seen that, Your Honor.

THE COURT: All right.

MR. WISE: We would have a disposition for the Court. First, that the pleas were on the same day. And I think the spirit of the life without parole law certainly should not apply to charges that are pled on the same day and then a subsequent conviction because life without parole is where you keep re-offending after you've been sentenced. Or at least that's, I think, the spirit of it.

THE COURT: Let me ---

MR. WISE: The ---

THE COURT: Hold on. Let me look at this. All right. Go ahead.

MR. WISE: And the other thing, too, is we want the record to reflect that Mr. Swaringen is not admitting the validity of those in any way in these proceedings today as he may seek to do a collateral attack on some of those at a later date. So the record should reflect that he is not conceding to the validity of those convictions.

THE COURT: All right.

MR. BLOUIN: And, Your Honor, we would just point to State v. -- Bryant v. the State of South Carolina, which stated that for purposes of strikes, they are separate incident dates and do not -- it doesn't matter if they plead to them on the same day if they are distinct incidents that

happened.

THE COURT: All right. And it looks like there's one, two, three, four different incident dates based on the priors.

MR. WISE: I know there's more than two incident dates.

THE COURT: There was a July -- I'm sorry. There's May -- July 30, 2015; a June 22nd, 2016; July 6, 2016; and a November 30, 2016 based on the summary. I have not compared the -- yeah, there.

MR. YARBOROUGH: Your Honor, just -- Mr. Swaringen tells me that when he entered into those guilty pleas on that day he was represented by Mr. Eppes. Mr. Eppes told him to -- that it didn't matter if they pled to all of them together.

Now, of course, they -- at that point were not thinking about the, you know, two strikes. But that -- based on -- he entered pleas to all of those based on advice of counsel at that time. And he got seven years concurrent for all of them.

MR. WISE: And that may be something -- that's why he doesn't want to agree to the validity of those charges -- that was collateral -- possible collateral attack later.

THE COURT: All right. Anything else? Mr. Blouin?

MR. BLOUIN: Your Honor, I'd just read his record in full regardless of those. In 1983, attempt to obtain a controlled substance by fraud and an ABWIK; '84, obtaining goods by false pretense, failure to stop for blue lights; '85, a parole violation; '88, resisting arrest; '92, two shopliftings, grand

larceny, six forgeries, driving under suspension and assault and battery; '96, failure to stop for blue light, petty larceny; '97, petty larceny; '98, grand larceny; '99, forgery, grand larceny, resisting arrest, breaking and entering an automobile, shoplifting, there's a trespassing, failure to stop for blue light, receiving stolen goods, petty larceny, another driving under suspension; 2000, grand larceny; 2001, parole revocation, three petty larcenies; 2002, failure to stop for blue light, shoplifting, grand larceny; 2007, petty larceny; 2009, failure to stop for blue light, habitual traffic offender, resisting arrest, fraudulent check times 16, driving under suspension, DUI, hit and run; 2008, driving under suspension, shoplifting; 2009, grand larceny, three forgeries, a resisting arrest, failure to stop for blue lights; 2010, forgery; 2011, failure to stop for blue light; 2013, driving under suspension, failure to stop for blue light; 2017, resisting arrest, possession of cocaine base, distribution of heroin, second offense, distribution of methamphetamine, second offense, possession with intent to distribute heroin, second offense, times two, two trafficking in methamphetamines, possession with intent to distribute meth, second, and a shoplifting.

He also has a Florida conviction in 1991 for DUI and Georgia convictions of a 1988 DUI and false name to law enforcement; an '89 fraud, and battery, and false name to law

enforcement, and FTC fraud; 1990 DUI; 1991 DUI and probation violation; 1992, false name and probation violation and theft; 2006, fleeing from law enforcement, false information or false name to law enforcement, DUI and receiving stolen goods.

THE COURT: All right. Anything else from the defense?

MR. YARBOROUGH: Your Honor, I think that it's -- a lot of those charges were small charges. I mean, it does go back. He struggled with alcohol and drug addiction.

I will say this, Your Honor, that on his behalf his mother can't bear to be in here. She's met with me on numerous, numerous occasions. And she loves Joey very much.

He's got a wife, Linda, that cares very much about him. She's been in and out of the courtroom at different times. He's got a young little girl that he cares very much -- cares very much for.

I don't know that I've ever had a client that worked as hard on his individual cases as Joey has. And he's worked hard with my office, with my office staff. He has always treated us with -- we might have cross words at different times because we don't agree, but he's always treated us with dignity and respect.

He's a good guy. I've watched this, Judge. You know, I've got a -- spent a lot of time dealing with people with addiction issues and dealing with my own personal problems, but I know that from watching him over time, being in jail and

being away from alcohol or drugs, whatever his -- his drug of choice was, I've watched his mind get better, and watched his ability to interact with people get better.

And, you know, Judge, I know that there's a sentence here, but I'd ask you to be as lenient as possible. It's been a -- it's been an honor to represent Mr. Swaringen. And, you know, I wish nothing but the best for him and for his family. I know he loves them very much.

THE COURT: All right. And, Mr. Swaringen, anything you want to tell me?

MR. SWARINGEN: Yes, sir.

Your Honor, I'm 59 years old. I think the mandatory minimum is 25 years. I'll be 80 something years old if I come home then. All these charges and stuff, I've never run over a dog. I never hurt a soul.

I got shot at by a highway patrolman for speeding on my way to Judge Eppes' house to take him a Christmas present, literally. I have the newspaper article. And he -- it put me in the hospital, and I was strung out on opiates. And my life's been hell.

I mean, do I have to die in a prison? I mean, am I a threat at 80 years old? I mean, 25 years at 85 percent, I'm 59. And have I done something to deserve dying in prison? Anything?

Fraudulent checks, I wrote some bad checks. The

forgeries, they were my mama's -- my mama's checks. And she put my ass in jail where I belonged. Saved my life. I was on drugs. You know, credit card, my mother's.

I've never had one victim up here saying I couldn't feed my kids at night, or I couldn't go to work, or he hurt my husband or he hurt my wife. Never. Never once.

I mean, I've been -- I did the time. I always took -- and say, hey, I'm guilty. I got a hit by a lady, I mean, I -- I'm not going to rehash all that.

But, I mean, isn't me coming home at 82 or 80 something -- I mean, I'm 59, 22 years from now. I mean, 81, isn't that enough? I mean, would I still be a threat to anybody? I mean, I don't -- I mean, I've never hurt anybody.

And I -- Frank said, they going to give you -- he said, if you'll just plead, we'll give you seven years to each one of these charges. Ain't going to be but seven years. And it don't matter. Those will all be gone instead of fighting them. So I signed.

I mean, most of these pleas, this charge and that charge, you just sign, okay, we'll just plead you out to all of them and we'll give you -- they'll give you less time. That's the way that works with the solicitor's office.

I mean, you know, you just plead to all these and we'll just give you this and let you go on about your way. And, I mean, that's the way it works. That's the way it's done every

day.

Judge Miller's -- Judge Miller's been my attorney before, you know. Judge Stilwell's been my attorney. I mean, -- I mean, I got some esteemed attorneys now. I don't think the people that's been in my life, if I was just a scumbag, you know, nothing, I don't think they would have been involved with me.

And I've got a little girl. She's nine years old. And she has acute ataxia, you know, a debilitating disease. And, you know, how you tell her, your daddy's never coming home? And how do I tell my 83 year old mama, I'll never be home, mama?

I haven't -- I've never hurt nobody. I've never hurt a soul, not once. Not once. Except he talked about in 1980, I was 16 years old. And I didn't hurt nobody then. That was a misdemeanor or a common law misdemeanor. And Judge Victor Pyle gave me the max for it. Tried me as an adult. I was 16. I had not -- I've never once hurt nobody. Not one person.

You know, I watched them the other day give a man who watched his wife beat a little girl to death. He got 20 years. I mean, I don't -- I mean, Judge, I don't understand what's going on with the solicitor's office in this. I don't.

I mean, I watch these people, you know, I just see these things and it doesn't make any sense to what he -- some things are just -- some people are treated one way and some people

are treated another.

I mean, how is this not unusual punishment? When's the last time they gave somebody with a drug charge a life sentence? You got these people up here every week with State Grand Jury indictments getting, from prison, already in prison for selling dope out of prison, and they're not getting life without parole.

I mean, I wasn't subject to no drug task force investigation. Nobody was after me or investigating me for being involved in a drug ring or anything else. I got hit by a car. I have no -- nobody -- there wasn't no -- no, you know, undercover investigation or manpower hours chasing Joey down. You know, there just wasn't.

I mean, I don't -- I mean, I would like to have at least a date to come home, maybe, if I could live that long. I mean, 82 years old. Wouldn't that, you know, I mean, you would think that would be enough for twenty-nine (29) grams of methamphetamine.

MR. WISE: Your Honor, I just would like to echo his sentiment on the harshness of the drug laws of life without parole. You know, I've always envisioned it as someone who is a true danger to other human beings in our society. And you can argue that dealing in drugs is a danger to other people in society, so be it, but it's not like someone who takes aggressive action against strangers.

Secondly, I have read the newspaper article where he got shot on the way to Judge Eppes' house. And it was -- I think it had an impact on him, unfortunately, not in a good way. But he was clearly assaulted many, many, many years ago. And it may have been what started the spiral into drug addiction. But that did -- that did happen.

MR. SWARINGEN: I refused to testify at the grand jury against that highway patrolman. And I signed a civil waiver. He made a mistake. Your Honor, I went to his house and found him and shook his hand. L.E. Warden, I hunted him down.

And he shot my wife's car up. I jumped out and ran. He shot me. And then he pistol whipped me because I couldn't get up and walk. And then it got me strung out on opiates. I mean, you're in there getting a shot every two or three hours and then they send you home.

I don't -- but nobody's ever come up in here in this court and said I couldn't feed my kids because of something he did, or he stole my car, and I couldn't go to work, or he stole my tools, or he broke in my house. Never. Never.

I mean, I don't -- I've never -- all my stuff, I mean, I never victimized people. The only people I hurt was the people who loved me. That's it.

THE COURT: And yourself.

MR. SWARINGEN: Yes, sir. I mean, I hurt my mama so much. Judge Eppes, he -- he cussed me out for getting shot, I

mean, literally. You know, Ms. Gibson, Lottie Gibson, I don't know if you knew her, I broke her heart. She's like my second mama.

I hadn't done anything to deserve to die in a prison. I mean, I don't -- I mean, who am I a danger to at 80 something years old? If I make it that long.

THE COURT: Anything else from the State?

MR. BLOUIN: Nothing from the State, Your Honor.

THE COURT: I think in light of the circumstances, the prior convictions that are on the notice of intent, they were all -- I realize they were different incident dates, but they were all the same conviction dates and representations. I'm going -- so the sentence of the Court is going to be 28 years in the Department of Corrections.

MR. SWARINGEN: Thank you, Judge.

THE COURT: So good luck to you.

MR. SWARINGEN: Thank you, Judge. I'll try to behave.

(Whereupon court was in recess at 2:29 pm)

(Whereupon court reconvened at 2:31 pm)

THE COURT: All right. It has been brought to my attention after the verdict form, I mean, that -- I guess I just didn't look at the statute, not part of the verdict, but sentencing sheet.

The -- under 17 25 45 it appears that the -- I guess I just didn't consider this. But in light of the 17 25 45,

under these circumstances, it is a mandatory, once life without parole has been served, and then if -- it meets with the qualifications. So I'll be glad to hear from the defense.

MR. YARBOROUGH: Your Honor, I think that you just highlighted the exact problem with the life without parole statute and the way it was served in this case. This is a case where this defendant pled guilty to certain charges on a certain date, and they were all run concurrent. And they were run by the advice of counsel without counsel having noticed him that those would be more than one strike, they would -- it was held that way.

The Court looked at it, came to the same conclusion that everyone else does that that seems unfair and sentenced the defendant to 28 years versus life. And we'd ask that you remain there because that's what I asked you to do to begin with. And I think the 28 years is more than a fair sentence under the circumstances.

THE COURT: You know, and I think there's a practical matter, it may not make much of a difference practical, but, you know, now upon further review of this statute, I'm not sure that there is any discretion regardless if I think it's fair or not. So I don't think there's -- I don't have any choice but to amend my sentence and sentence to life without parole. So ...

MR. SWARINGEN: Your Honor?

THE COURT: Yes.

MR. SWARINGEN: Bill said that he was going to file the notice of intent to appeal. I mean, is it -- is this sufficient?

MR. WISE: No, no. We'll file ---

MR. YARBOROUGH: No, we'll file a written notice.

MR. WISE: Yeah, it's a written document you file.

THE COURT: Yeah, he'll -- he'll take care of that.

MR. WISE: I meant to say earlier -- Mr. Yarborough said it's been a pleasure to represent Joey. I will say it's going to be a pleasure to continue to represent him.

THE COURT: All right. Well, good luck to you, Mr. Swaringen.

MR. SWARINGEN: Thank you, sir.

(Hearing Ended at 2:34 pm)

(End of Requested Transcript of Record)

PRISMA HEALTH®

2021 Report to the Greenville Health Authority

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NOTE: This report spans a primary time frame of Fiscal Year 2021 (October 2020–September 2021). COVID-19 protocols were in effect during this period, so some figures may differ markedly from previous years.

Increase accessible, affordable care

(Compliance with lease sections 3.11a, 3.11b, 3.11c, 3.11d, 3.11e)

Community benefit report

Prisma Health uses guidelines set by the Catholic Health Association (CHA)* allowing for equitable comparisons of community benefits among healthcare institutions. In recognizing the importance of community outreach in ensuring a high quality of life for all residents in the region, Prisma Health offered support in a variety of ways during Fiscal Year 2021 (October 2020–September 2021).

To help meet the medical needs of Upstate residents who have no healthcare coverage and cannot afford to pay for medical services, Prisma Health provided $152 million in charity and government-sponsored healthcare (at cost) in Fiscal Year (FY) 2021.

Community benefit programs encompass community health services, education of health professionals, subsidized health services, research, and financial and in-kind contributions. In addition to offering health fairs, screenings and information sessions, our organization works with community groups and educational institutions to train healthcare workers and to ensure access to basic medical services for everyone.

Although the numbers below are for the Upstate only, it is important to note that the percentage of operating expense recognized as community benefit for our health company overall was 15.4%.

Prisma Health: Upstate only (FY 2021)

Net cost of charity and Medicaid services ..... $152 million
Support to the community and community health partners ..... $21.9 million
Benefits recognized by CHA.....$173.9 million

Medicare shortfall and bad debt (at cost) are also benefits that the health company provides. The Medicare shortfall represents $128.3 million of unpaid costs when reimbursement falls short of the actual cost of care. Bad debt, which totaled $104.8 million, occurs when patients are unwilling or unable to pay for services and do not seek charity care.

Medicare shortfall.....$128.3 million
Bad debt.....$104.8 million
Additional benefits recognized by American Hospital Association.....$233.1 million

TOTAL QUANTIFIABLE COMMUNITY BENEFIT..... $407 million

These figures and amounts are reported based on information through Sept. 30, 2021 (as of Jan. 17, 2022), and are subject to change. Updated information or changes may be reflected differently in more current filings such as tax forms and cost reports. Figures may differ markedly from previous years due to COVID-19.

**CHA guidelines are used by most hospitals to measure their community benefit.*

Medicare and Medicaid participation

Our organization has long been committed to providing care for all Greenville County residents. To fulfill this commitment, Prisma Health takes part in Medicare and Medicaid programs.

In FY 2021, Prisma Health provided $690,153,735 in care for Medicaid patients and $1,933,609,942 in care for Medicare patients who live in Greenville County. This care was received at our facilities and practices in the Upstate, including our five Prisma Health hospitals in Greenville County: Greenville Memorial, Greer Memorial, Hillcrest, North Greenville and Patewood (see below).

FY 2021	Total charges	Payor mix by total charges
Private/Managed care insurance	$1,712,575,437	36.8%
Medicaid	$690,153,735	14.85%
Medicare	$1,933,609,942	41.5%
Self-pay/Charity	$319,376,401	6.9%
Grand total	**$4,655,715,515**	**100%**

Ongoing response to COVID-19

- Prisma Health continues to lead the state's COVID-19 response in both the Upstate and Midlands – treating 30% of patients hospitalized with the virus. Of our 13,713 total hospitalizations, 8,202 occurred in the Upstate. Some of our patients avoided or reduced hospital stays and severe illness by receiving monoclonal antibody treatments early in their disease progression; 2,339 treatments were given in the Upstate.
- In January 2021, Prisma Health created mass vaccination sites, taking a leadership role in vaccine distribution in the Upstate (vaccines to team members began Dec. 15, 2020). At its peak, 9,656 vaccines were administered Jan. 22 throughout Prisma Health, with 6,093 being given in the Upstate that day! We additionally outfitted three mobile vans in the Upstate to deliver vaccines, targeting residents in rural and underserved areas. These three vans administered 4,350 vaccinations to 2,929 participants at 106 "popup" sites starting in February. In total across Prisma Health, 444,384 vaccines were administered by Sept. 30, with 234,788 dispensed in the Upstate.
- Because testing remains key to managing the local impact of coronavirus, Prisma Health continued to provide COVID-19 tests throughout the Upstate – 203,140 to be exact – with many being administered at drive-thru sites in our communities.
- In large part due to COVID-19, Prisma Health's virtual care platform approximately 360,000 visits by video, phone or eVisit in the Upstate. These options have been particularly helpful for people reluctant to seek on-site care for other health concerns during the pandemic.
- Quick adaptability has proven essential to our coronavirus response, perhaps best exemplified by North Greenville Hospital, which became a COVID-19 inpatient facility during the surges in FY20. When cases declined in spring 2021, the hospital transitioned back to providing long-term acute care. As cases then reached record highs in late summer and beyond, the hospital again transitioned as a site for treating COVID-19 patients who need extra recovery time.

Increase access

- LifeNet South Carolina, an air medical program, and Prisma Health have collaborated to offer additional air ambulance coverage. The partnership has established a base at the Pickens County Airport with new aircraft. This new base will ensure that residents in Upstate South Carolina, northwestern North Carolina and northeastern Georgia have access to excellent air medical services, resulting in quicker response times during emergency and trauma situations.

- Prisma Health Baptist Easley Hospital began construction on a new cancer facility, called the Larry Winn, MD, Cancer Care Unit. The $1.9 million project will open in 2022 and allow patients to stay close to home to receive treatment.
- A groundbreaking ceremony was held in August at Prisma Health Oconee Memorial Hospital to expand the Emergency Department. The $13 million project is slated for completion in 2023 and will more than double the current space, providing at least 22 new private treatment rooms.
- Despite the pandemic, Prisma Health Carolina Dermatology opened a practice in Easley and Prisma Health Orthopedics launched a new office in Greenville. North Greenville Hospital also greatly expanded its adult and pediatric walk-in clinic. Other examples of increasing access include adding more on-site clinics in Upstate businesses and increasing the use of advanced practice providers.

New providers

In addition to establishing or expanding patient access points, Prisma Health has added new providers to enhance accessibility of care. Marked gains occurred in the Upstate number of nurse practitioners (adding 45 for a total of 389) and employed physicians (adding 107 for a total of 1,355) over the previous year. Specialty areas of anesthesiology and orthopedics saw the highest physician growth, with cardiology and neurology/neurosurgery logging noteworthy increases in the number of advanced practice providers. It is no surprise that as clinician – and practice – numbers increase, so does patient accessibility to the services provided.

New services

- Prisma Health announced the formation of a Transplant Center in response to rising community needs. South Carolina ranks second per capita for those on the waiting list for kidney transplants. One of two such centers in the state and 253 nationwide, this center at Greenville Memorial Hospital received approval to perform kidney transplants starting fall 2021.
- Prisma Health has begun a 10-year strategic relationship with medical technology company Siemens Healthineers to innovate healthcare. As part of this relationship, Prisma Health is upgrading major clinical technology to more modern systems that improve patient outcomes, reduce costs and enhance team members' skills. The organization is also collaborating with Siemens to develop new medical technology and software.
- Prisma Health announced an agreement with Aetna to offer a new Medicare Advantage product for South Carolinians age 65+ and others eligible in Greenville, Spartanburg, Anderson, Pickens, Oconee and Laurens counties. The goal is to connect consumers with an integrated solution to their healthcare needs. The focus is to improve coordination, clinical performance and efficiency of care for plan members.
- Home Recovery Care, a program that makes possible hospital-at-home services for those with select conditions, is now available through Oconee Memorial Hospital. This care model keeps patients out of the hospital and provides nursing oversight, thus allowing them to avoid hospital-acquired infections while enjoying the comforts of home. Patients with acute, non-life-threatening medical conditions spanning approximately 150 diagnoses are eligible for this service. The program was first offered at Greenville Memorial Hospital last fiscal year.
- Patewood Hospital opened a Breastfeeding and Newborn Care Center. The center helps ensure a seamless transition from hospital to home for breastfeeding moms and their newborns.
- Prisma Health now has a Hemophilia Treatment Center in Greenville. Our organization houses the state's two federally supported treatment centers (the other is in Columbia), serving both adults and children.

Advance population health

(Compliance with lease sections 3.11a, 3.11b, 3.11d)

Prisma Health Upstate Network

In spring 2014, our health company began partnering with independent doctors, hospitals and other healthcare providers across the Upstate to form a physician-led clinically integrated network. This created the infrastructure to operationalize clinical and cultural change to transform healthcare and improve patient outcomes.

Prisma Health Upstate Network engages providers in a patient-centered performance improvement program that integrates quality initiatives across the continuum of care. This collaboration fosters a high degree of coordination to enhance quality, improve the patient experience, create efficiencies in care and reduce healthcare costs.

Value-based care necessitates focusing on the patient's needs and the convenience to access healthcare in innovative ways. The key to success in any payment model is a well-poised clinical delivery system that can ensure high quality and exceptional patient experience. By partnering with physicians and other providers, the network can work together in new ways to ensure optimal care delivery within and across the continuum to meet the healthcare needs of our communities.

The network negotiates value-based contracts directly with employers, Medicare and commercial payors that hold providers accountable for quality performance in their patient populations, for instance, reducing A1c levels in those with diabetes. These value-based contracts shift payment from fee-for-service, volume-driven models to shared savings if quality performance and/or financial targets are met, or shared risk if quality performance and/or financial targets are not met.

The network's initial contract was with the Medicare Shared Savings Program (MSSP) in 2015, which then expanded into the direct-to-employer market.

In its sixth year of taking part in the MSSP in 2020, Prisma Health Upstate Network improved clinical quality and cut Medicare costs by more than $4.5 million across a population of 59,553 patients. Although the network exceeded the quality target and came in under the Centers for Medicare & Medicaid Services (CMS) benchmark, saving CMS in excess of $4.5 million, it did not meet the shared savings thresholds. Through the MSSP contract, Prisma Health Upstate Network has cumulatively saved the Centers for Medicare & Medicaid Services more than $67 million for the 59,000+ Medicare fee-for-service beneficiaries.

In 2020, the network made great strides by adding three Medicare Advantage contracts, along with a large commercial agreement totaling more than 42,000 at-risk lives. In 2021, the network partnered with BlueCross BlueShield of South Carolina to offer a new product – Blue Exclusive Reedy – that included nearly 3,000 Greenville County individual exchange members.

Although the network has not yet engaged in a Medicaid contract, Prisma Health has a value-based, at-risk contract with Healthy Blue Medicaid.

By putting management and decision-making in the hands of providers and patients, Prisma Health Upstate Network can ensure that clinical quality priorities remain at the forefront of care.

Population health initiatives

Hypertension Management Program

In this evidence-based program, participants with high blood pressure meet for 16 weeks to receive health education on how to control their hypertension. The program (in partnership with Clemson Cooperative Extension) graduated 78 patient participants this past year. Of those, 47 (60%) lost weight, 40 (51%) decreased their blood pressure or maintained a normal blood pressure and 50 (64%) showed an increase in their knowledge scores related to high blood pressure.

Diabetes Prevention Program

This evidence-based, yearlong program helps prevent or delay type 2 diabetes. The Diabetes Prevention Program offered 18 courses in FY21 (six completed, 12 ongoing) with 171 participants. Total weight loss was 1,900 pounds.

AccessHealth

Prisma Health AccessHealth programs work with community partners, such as free medical clinics, to improve access to care and services for those in need. In FY 2021, Upstate AccessHealth programs resulted in a 65% reduction in Emergency Department (ED) use and 15% decrease in inpatient care for patients enrolled in the programs, resulting in a $3.6 million savings for Prisma Health. Since inception, Upstate AccessHealth programs have served approximately 11,000 uninsured patients.

Mobile Mammography unit

Prisma Health's Mobile Mammography unit is making it more convenient to screen women across the Upstate – 1,275 in its inaugural year in FY21. The new service has partnered with nearly 100 corporate and community sites to offer mammograms at various locations.

Mobile Health Clinic

The Prisma Health Mobile Health Clinic provides proactive healthcare for those facing barriers in access to care by going directly to communities with high rates of preventable illnesses, hospitalizations, and ED and emergency medical services (EMS) use.

The clinic completed 2,002 patient visits for the underinsured or uninsured at 180 community clinics in FY21. More than 70% of the patients seen have been referred to AccessHealth for continuum of care.

Community Paramedicine program (through June 2021)

Community paramedics are advanced paramedics with field experience and Community Paramedic Certification. They provide preventive care, treat non-emergent health needs, and help patients manage their chronic conditions to prevent inappropriate use of EMS, ED, and inpatient services.

Greenville County

The Community Paramedicine program in Greenville County has reduced unnecessary ED use by 9.3% and inpatient use by 29.3% for participants – decreasing costs by $2,259,420 through June 2021 (the most recent data). Also, primary care visits have increased by 180%. The program enrolled 201 patients with chronic conditions and set self-management goals to improve participants' overall health.

Oconee and Pickens counties

The Community Paramedicine program in Oconee and Pickens counties has reduced unnecessary inpatient use by 39.1% and EMS use by 65% for participants – decreasing costs by $477,315. Primary care visits also increased by 10%. The program enrolled 52 patients in FY21.

Community Care program

The Community Care program consists of volunteers who work together to offer practical, emotional and spiritual support to patients in the community. The goal is to reduce readmissions, improve patient engagement and avoid unnecessary medical costs.

In its first full year, the Community Care program received 131 referrals; of those, 43 people were eligible and enrolled in our program.

Community Health Worker program (through March 2021)

Community Health Workers are front-line public health workers who handle patients' social determinant of health needs through home visits, phone calls or by accompanying patients to medical appointments. They act as navigators to connect patients with health services and community resources. They also help ensure compliance with appointments, screenings, treatments and medications, and they address self-management of health conditions, establish goals and facilitate transportation.

The Community Health Worker program has reduced unnecessary ED use by 39% and inpatient use by 65% for participants, while decreasing costs by $929,262 through March 2021 (the most recent data). In addition, primary care visits have increased by 215.6%. This program enrolled 647 uninsured patients to help them access healthcare services and connect with community resources.

PASOs Greenville

PASOs ("steps" in Spanish) is a Greenville-based organization formed in response to the maternal and child health needs of the growing Hispanic population in South Carolina.

During FY 2021, PASOs Greenville connected:

- 439 adults and 34 children to a social determinant of health referral
- 1,130 adults and 875 children with access to healthcare
- 147 adults and three children with SNAP (Supplemental Nutrition Assistance Program) benefits
- 179 pregnant women with education on folic acid; 193 received general pregnancy education
- 207 women and 399 children to be enrolled in WIC (Special Supplemental Nutrition Program for Women, Infants and Children)
- 416 adults and 1,025 parents of children with information on WIC benefits
- 548 new adults and 500 new children from the numbers above to take part in PASOs

Bradshaw Institute for Community Child Health & Advocacy

The Bradshaw Institute for Community Child Health & Advocacy, part of Prisma Health Children's Hospital–Upstate, works to create healthy and safe communities, increase access to care for those experiencing vulnerabilities, provide evidence-based strategies to improve health literacy, and ultimately become a best practice leader. Made possible by a legacy gift in 2016, the institute's funding comes from various sources: grants, philanthropy and operational dollars.

What follows is a summary of the team's activities or statistics in the Upstate during FY21:

- Pediatric Support Services, which was established throughout our ambulatory pediatric practices, received 4,346 referrals.
- The Survey of Well-being of Young Children screening tool was fully implemented at all Prisma Health Children's Hospital ambulatory practices and is available to all family medicine and internal medicine-pediatrics practices.
- 244 students were seen during 392 total visits at our School-based Health Centers in the 2020–21 school year; 163 of those visits were for mental health screenings and psychosocial management.
- 160 Tdap, HPV and meningococcal vaccinations were administered to Greenville County students through these School-based Health Centers.

- 144 students received sports physicals through School-based Health Centers.
- Safety educators provided personalized pediatric injury prevention education to 1,371 families at Greenville Memorial Hospital and 858 families at Patewood Hospital before their baby's discharge from Newborn Services at our Children's Hospital.
- 108 individuals participated in Bradshaw Institute's virtual Parenting Support Series.
- The team maintained 31 permanent Child Passenger Safety Inspection Stations in the community, including the on-site station at Greenville Memorial Hospital; new services began at Patewood Hospital and Oconee Memorial Hospital with the addition of a Child Life/Safe Kids position that covers inpatient and community car sear/safe sleep needs.
- 496 car seat inspections were completed in the community, including 75 through our Diaper Bank.
- To help keep 4,000 children healthy and dry, nearly 180,000 diapers were distributed via our Diaper Bank to 2,406 families in need.
- 843 Upstate students took part in the Wheels to Wellness bike skills program.
- 242 safe sleep referrals and education were provided via Cribs for Kids; 55 cribs were supplied to families.
- 40 of our medical residents were trained in community health and advocacy.
- Six Title 1 schools received comprehensive health promotion messaging from September–May.
- 565 referrals for Connect for Health text messages were made by 49 providers from eight of our pediatric practices.
- Six of our pediatric practices received outreach education on Connect for Health and pediatric obesity weight management.
- 150 faculty, staff and administrators from Greenville County Schools took part in a daylong training offered by our institute on conscious discipline.
- On average each month, 175 Prisma Health pediatric patients who attend their well child appointment are eligible to participate in the Connect for Health intervention.

Improve quality and safety

(Compliance with lease sections 3.11a, 3.11b, 3.11d)

National recognitions

ABCs of safety

In the Upstate, all Prisma Health general acute-care hospitals earned "A" rankings in the spring 2021 Leapfrog Group report. Overall, only 33% of eligible hospitals attained this top ranking.

A: Baptist Easley Hospital
A: Greer Memorial Hospital
A: Hillcrest Hospital
A: Laurens County Hospital
A: Oconee Memorial Hospital
A: Greenville Memorial Hospital

Leapfrog's report uses national performance measures from CMS, Leapfrog Hospital Survey, Agency for Healthcare Research and Quality, Centers for Disease Control and Prevention, and the American Hospital Association's Annual Survey and Health Information Technology Supplement. Taken together, those measures produce a grade representing an acute-care hospital's overall performance in keeping patients safe from preventable harm and medical errors.

The Leapfrog Hospital Safety Grade is assigned to general acute-care hospitals only. Time frames used in calculating these ratings range from 2017–20.

Greer Memorial Hospital is the state's sole hospital to earn an A for six years in a row!

Maternity care laurels

Recognized for Best Maternity Care nationally by Newsweek/The Leapfrog Group were all Prisma Health birthing facilities in the Upstate: Greenville Memorial, Greer Memorial, Laurens County, Oconee Memorial and Patewood hospitals. Baptist Easley Hospital was also named, although it is not offering maternity services at this time due to ICU capacity increases related to COVID-19. Overall, Prisma Health accounts for 7 of the 10 hospitals named for Best Maternity Care in South Carolina.

- ✓ Baptist Easley Hospital
- ✓ Greenville Memorial Hospital
- ✓ Greer Memorial Hospital
- ✓ Laurens County Hospital
- ✓ Oconee Memorial Hospital
- ✓ Patewood Hospital

Quality Star listings

The Centers for Medicare & Medicaid Services (CMS) released its 2021 Overall Hospital Quality Star Ratings, with top (5-star) ratings going to Hillcrest and Patewood hospitals. Just 455 hospitals (10%) nationwide garnered top marks for quality performance!

*****	Hillcrest Hospital
*****	Patewood Hospital
****	Baptist Easley Hospital
****	Greer Memorial Hospital
****	Oconee Memorial Hospital
***	Laurens County Hospital
**	Greenville Memorial Hospital

Four stars went to Baptist Easley, Greer Memorial and Oconee Memorial hospitals. Three stars were given to Laurens County Hospital, with Greenville Memorial Hospital receiving two stars.

This initiative uses scores of quality metrics to rate more than 4,500 U.S. hospitals on a 1–5 scale. Time frames used in calculating these ratings range from 2016–19.

Best Hospital honors

Healthgrades lauded Patewood as being one of the nation's 100 Best Hospitals for Joint Replacement. Healthgrades also tapped Greenville Memorial Hospital for clinical excellence in coronary intervention and Oconee Memorial Hospital for clinical excellence in pulmonary care.

U.S. News & World Report ratings

U.S. News & World Report recognized three of our Upstate hospitals as High Performing in these areas:

✓ Greenville Memorial Hospital: heart attack, colon cancer surgery, lung cancer surgery, stroke

✓ Oconee Memorial Hospital: heart failure, chronic obstructive pulmonary disease (COPD)

✓ Patewood Hospital: hip replacements, knee replacements

Kudos to these hospitals

Three Upstate hospitals were honored by the American Heart Association for high-quality stroke care:

- Greenville Memorial: Gold Plus Achievement/Quality Award; Stroke Elite Plus, Honor Roll; Stroke Advanced Therapy, Honor Roll; Type 2 Diabetes, Honor Roll
- Greer Memorial: Gold Plus Achievement/Quality Award; Stroke, Honor Roll; Type 2 Diabetes, Honor Roll
- Hillcrest: Gold Plus Achievement/Quality Award; Type 2 Diabetes, Honor Roll

Most Wired award

Prisma Health was again named a Most Wired organization by the College of Healthcare Information Management Executives, reaching Level 8 (of 10) and placing it in the top quartile of the more than 16,000 facilities surveyed. The Most Wired program evaluates technology use to improve healthcare in multiple areas, including clinical quality and safety, interoperability, population health, patient engagement, and analytics and data management.

Supply chain recognition

For a second consecutive year, Prisma Health was named the 2020 GHX Excellence in Vendor Credentialing & Compliance winner. This award recognizes healthcare supply chain leaders who set the standard for optimizing sourcing, contracting and onboarding; credentialing and payment approval; and performance reviews. Our team also received Supply Chain of the Year honors from the Emergency Care Research Institute.

Ambulance accolades

Prisma Health's Ambulance Service was the 2020 South Carolina Large EMS System of the Year. The state's EMS Association tapped the service team for "outstanding professionalism and service to communities and citizens."

Community hospital congratulations

Hillcrest Hospital was recognized by Vizient as the 2021 Bernard A. Birnbaum, MD, Quality Leadership winner in the Community Hospital category. Rankings measure quality of patient care in five areas: safety, mortality, effectiveness, efficiency and patient-centeredness.

Breastfeeding award

Prisma Health's Center for Pediatric Medicine received the 2021 IBCLC Care Award (IBCLC stands for international board-certified lactation consultants) for training those who care for breastfeeding families, promoting breastfeeding and supporting the lactation consultant profession.

Outstanding Employer honors

Baptist Easley Hospital was named 2020–2021 Outstanding Employer of the Year by the S.C. Division on Career Development and Transition, serving as a host site for Project SEARCH, which boosts employment opportunities for youth with disabilities (in partnership with the School District of Pickens County).

Energizing news

Hillcrest Hospital and Patewood Hospital were presented the Energy to Care Award from the American Society for Health Care Engineering for reducing campus energy consumption by 10% in a year. Both were the only hospitals in South Carolina recognized for energy conservation the previous year as well.

Patient recognitions/Satisfaction score awards

Women's Choice winners

The Women's Choice Award identifies the country's best healthcare institutions based on the most recent publicly available data from CMS and accreditation information that considers clinical excellence and the preferences of women when selecting a hospital. Three of our hospitals in the Upstate received a total of six awards for meeting high standards.

Women's Choice winners	Mammogram imaging	Obstetrics	Patient safety	Stroke care
Greer Memorial Hospital		✓	✓	✓
Oconee Memorial Hospital	✓			
Patewood Hospital	✓	✓		

Greer Memorial Hospital received recognition for Obstetrics, Patient Safety and Stroke Care. Patewood Hospital garnered Obstetrics honors. Both Patewood and Oconee Memorial hospitals were commended for their mammogram imaging.

Best of the Best

Greenville News readers voted Prisma Health entities among the top three in these Best of the Best categories:

- Hospital: Greer Memorial Hospital
- Orthopedic Surgeon: Brayton Shirley, MD (Prisma Health Steadman Hawkins Clinic of the Carolinas)
- Pediatrician: Prisma Health Pediatrics–Mills Avenue and Maxwell Pointe
- Primary Care: Prisma Health Internal Medicine Associates of Greenville
- Urgent Care: Prisma Health Urgent Care
- Virtual Medical Experience: Greenville Memorial Hospital Emergency Department

In addition, the Prisma Health Swamp Rabbit Trail was named Best Hiking Trail and listed as a Best Remedy for Cabin Fever.

Greer Citizen readers tapped Greer Memorial Hospital as Best Hospital, Prisma Health Pediatrics–Greer as Best Pediatrician and Prisma Health Internal Medicine–Maxwell Pointe as Best Family Doctor.

Readers of the Pickens County Courier voted Prisma Health Pediatrics–Easley as Best Pediatrician.

Patient experience recap

National award

Greer Memorial Hospital again received the Healthgrades Outstanding Patient Experience Award in 2021. This honor was given to the top 15% of hospitals in the nation for patient experience.

Prisma Health Service and Quality Pillar performance

Across our enterprise, a key measure of service quality is creating a better experience for patients and their families. This experience includes interactions that patients may have with Prisma Health as they seek and receive care, such as communication with providers and the support team, along with access to facilities and timely appointments.

Commitment to an excellent patient experience is reflected in the organization's Pillar goals, particularly Service and Quality. The Service Pillar goal was not met, which has been a challenge for all hospitals in terms of delivering outstanding patient experience during the pandemic. Prisma Health performed well on the Quality Pillar goal of clinical excellence, designed to enhance both patient outcomes and the patient experience. These enterprise-wide goals are intended to drive long-term improvements in quality and safety.

Service Pillar goal: Serve our patients and their families by providing them with an exceptional experience.

Measurement	Metric	Target	Actual
Inpatient satisfaction	9 of 9 HCAHPS metrics	7 of 9 (49th %-ile)	2 of 9

Quality Pillar goal: Deliver high-quality care that keeps our patients and caregivers safe.

Measurement	Metric	Target	Actual
Clinical excellence	Quality and Patient Safety Dashboard	at least 100%	101%
Ambulatory	Quality and Patient Safety Dashboard	at least 100%	103%
Acute	Quality and Patient Safety Dashboard	at least 100%	101%
Post-acute	Quality and Patient Safety Dashboard	at least 100%	95%

For the complete Pillar Performance Scorecard showing all of Prisma Health, refer to Appendix Page 36.

Accreditations, certifications, designations

Zero Harm accolades

In the Upstate, Prisma Health hospitals amassed 40 of 223 Certified Zero Harm Awards (18%) in the latest announcement from the S.C. Hospital Association. The awards, given semiannually, recognize hospitals when no preventable hospital-acquired infections of a specific nature are recorded during the reporting period. Also included are two Drive to Zero Suicide Awards. In two preventable harm categories, Greer Memorial Hospital earned a special Crystal Award for logging no such infections over a time frame of at least seven continuous years!

Stroke certifications

Hillcrest Hospital and Laurens County Hospital received Primary Stroke Center certification from the Joint Commission in collaboration with the American Heart Association/American Stroke Association. Greer Memorial Hospital (recertified in FY21) and Oconee Memorial Hospital have already received this recognition.

Baby-Friendly designation

Patewood Hospital earned international Baby-Friendly designation. Baby-Friendly hospitals offer optimal care for infant feeding and mother/baby bonding, and all Prisma Health birthing facilities in the Upstate are now designated as Baby-Friendly.

Centers of Excellence

The Prisma Health Cancer Institute was designated by the National Pancreas Foundation as South Carolina's first clinical Center of Excellence for pancreatic cancer. This status demonstrates that our Cancer Institute provides multidisciplinary care while treating the "whole patient."

Hillcrest Hospital was named a Center of Excellence by Optum for bariatric surgery. And the facility was again recognized as the state's only Diagnostic Imaging Center of Excellence by the American College of Radiology.

Blue Distinction Centers

Across the Upstate, BlueCross BlueShield of South Carolina designated these five Prisma Health hospitals as a Blue Distinction Center+ (BDC+) for maternity care: Greenville Memorial, Greer Memorial, Laurens County, Oconee Memorial and Patewood. Blue Distinction Centers are nationally designated hospitals with expertise in specialty care. A Blue Distinction Center+ demonstrates enhanced cost efficiency in delivering care. (Baptist Easley Hospital was honored as a BDC for maternity care, but it is not offering maternity services at this time due to ICU capacity increases related to COVID-19.)

Hillcrest Hospital was deemed a BDC for bariatric surgery. BDC honors for spine surgery and for cardiac care went to Greenville Memorial Hospital. Oconee Memorial Hospital earned knee and hip replacement designation.

Blue Distinction Centers	Bariatric surgery	Cardiac care	Hip/Knee replacement	Maternity care	Spine surgery
Baptist Easley Hospital				✓	
Greenville Memorial Hospital		✓		✓+	✓
Greer Memorial Hospital				✓+	
Hillcrest Hospital	✓				
Laurens County Hospital				✓+	
Oconee Memorial Hospital			✓	✓+	
Patewood Hospital				✓+	

Be responsible stewards of resources

(Compliance with lease sections 1.8 and 3.11d, 3.11e)

Annual commitment to Greenville County and its municipalities

Pursuant to the Lease between Prisma Health–Upstate and the Greenville Health Authority (GHA), Prisma Health is pleased to provide funding to the GHA for an annual commitment of $1 million to Greenville County and $1 million divided among the incorporated municipalities within Greenville County. The annual commitments were provided to the county and its municipalities in February 2021 to support programs and services that enhance the health and well-being of Upstate communities.

Municipality/County	Population based on 2010 census	FY21 GHA award based on census data
Fountain Inn	7,799	$56,750.54
Greenville	58,409	$425,021.47
Greer	25,515	$185,663.56
Mauldin	22,889	$166,555.09
Simpsonville	18,238	$132,711.42
Travelers Rest	4,576	$33,297.92
Greenville County	n/a	$1,000,000

This commitment continues for the life of the Lease between Prisma Health–Upstate and GHA.

Healthy Greenville grants

Pursuant to the same Lease, Prisma Health is pleased to provide funding in the amount of $4 million annually to the GHA so that it may award grants to improve the health of Greenville County and the Upstate community. This funding has enabled the GHA to pledge more than $20 million in yearlong and multiyear grants through FY22.

In 2021, the GHA Board of Trustees approved major grants for these organizations:

- A Child's Haven
- Greenville County Schools
- Greenville Free Medical Clinic
- Mill Community Ministries
- Servants for Sight

This $4 million in annual funding continues for the life of the Lease between Prisma Health–Upstate and the GHA (34 years).

Healthy Greenville, Too! grants

In addition to Healthy Greenville grants, a portion of the $4 million in annual funding provided by Prisma Health supports the Healthy Greenville, Too! "micro-grant" program. Healthy Greenville, Too! grants support nontraditional health services that provide a valuable charitable role in improving the well-being of the people of Greenville County.

This year's recipients were:

- A Child's Haven
- First Impression of SC
- Fostering Great Ideas
- Fountain Inn Kid Enrichment Center
- Girl Scouts of South Carolina Mountains to Midlands
- Greer Community Ministries Inc.
- Julie Valentine Center
- Just Say Something
- LiveWell Greenville
- Meyer Center for Special Children
- Piedmont Women's Center
- Project Host
- Rebuild Upstate
- Servants for Sight
- Specialized Alternatives for Families and Youth of SC
- The Salvation Army
- United Ministries
- Unity Sports
- YMCA of Greenville

Insurance coverage and licensures

The ability to maintain insurance coverage and the appropriate licenses for our facilities and services highlights our dedication to quality as well as our commitment to protecting and maintaining our resources.

Please refer to Appendix Page 28 for a summary of insurance coverages.

Before FY17, our facilities did not have a common license renewal date with the S.C. Department of Health and Environmental Control. However, Prisma Health has now moved all licensure renewals to Oct. 31.

Please refer to Appendix "License Application Processing/Applied for/Renewed" on Page 29 for a list of licensures expiring in the next year.

Supply chain challenges

As the state's largest, most comprehensive integrated healthcare organization, Prisma Health possesses the breadth and depth of resources to rapidly respond to supply chain challenges across the healthcare spectrum – many resulting from the ongoing pandemic – such as securing critical medical supplies to ensure our patients and team members have the medicines and equipment they need, no matter what the illness. Thanks to our size, we can go directly to manufacturers around the globe to obtain supplies in bulk at a reduced cost. We can then quickly, conveniently and cost efficiently store and ship these items from our central distribution center.

Flu shots

Each year, Prisma Health administers hundreds of flu vaccinations at multiple drive-thru and walk-in sites, including Greenville, Greer, Simpsonville and Travelers Rest. Vaccinations are free to the public and available on a first-come, first-served basis. In addition, our Business Health Solutions department provided 3,908 flu vaccinations to 55 businesses in FY21.

Internally, Prisma Health dispenses influenza vaccinations for free to team members as a way to keep the community healthy. During last year's flu season (September 2020–March 2021), 14,284 vaccinations were administered internally. An additional 303 were given to other Prisma Health associates (volunteers, health students, credentialed providers and contractors).

Because flu symptoms can closely mirror COVID-19 symptoms, Prisma Health launched a vaccination campaign in August for the upcoming flu season. As of Jan. 13, 2022, the number of Upstate vaccinations administered internally was 13,955 with an additional 442 being given to other Prisma Health associates.

Prisma Health–Upstate and GHA financial statements

Please refer to Appendix Page 31 for these FY21 financial statements.

Remain the area's employer of choice

(Compliance with lease section 3.11e)

With approximately 10,000 employed team members in Greenville County alone as of Sept. 30, 2021, Prisma Health ranks as the county's largest employer. As such, it is an economic driver for the region. Size is not all that matters, however. For many, Prisma Health is considered the employer of choice, as illustrated below.

Market wage adjustments

When Mark O'Halla arrived as Prisma Health's President and CEO in 2019, he challenged the management team to bring all job categories up to market-competitive levels by the end of FY20. These market wage adjustments were successfully made and represented an annual investment of nearly $140 million across the organization. An additional $65 million in adjustments has since been distributed in FY21 for a total of $205 million committed to attracting and retaining a high-caliber workforce.

Survey of Prisma Health team member engagement

Late in FY21, Prisma Health conducted an organization-wide team member engagement survey. This annual process allows respondents to provide valuable input to executive management on various organizational dimensions. This input is used to gauge perceptions on organizational and managerial effectiveness, and it serves as a basis for action planning of initiatives to increase engagement.

Prisma Health results as a whole appear below:

- Response rate: 68% of team members
- Engagement index: 76.8%, which met the People Pillar of goal of 76%

The most pronounced positive trend involved teamwork: Respondents believe Prisma Health teams work well together and are motivated and committed to providing high-quality care. Respondents also believe their immediate leaders are effective and care about them. However, as with many healthcare facilities across the country, response and engagement rates generally have declined since the pandemic's onset.

For the complete Pillar Performance Scorecard showing all of Prisma Health, refer to Appendix Page 36.

UPLIFT-ing news

One way Prisma Health enhances the workplace is through UPLIFT, which stands for Use Portable Lifts in Facilitating Transfers. Since launching in 2008, this initiative to prevent patient-handling and lifting injuries has saved thousands of dollars in costs incurred for compensation and missed work related to patient-handling injuries. Although the organization logged a slight increase in number of events and claims this year, recording an 8% increase in injuries related to falling patients, several positive gains occurred overall:

- 30% reduction in bed positioning injuries, including a 14% decrease in "up in bed" injuries: These gains were made possible, in part, thanks to Chief Nursing Officers who recommended purchasing Hercules repositioning beds for their areas (Greer Memorial Hospital and Hillcrest Hospital have 100% Hercules beds), along with an enterprise focus on using air products
- Nursing education standardizing our Safe Patient Handling onboarding training
- Improved coach compliance by 75%
- Car transfer training on all Upstate campuses
- Training to care for patients weighing more than 400 pounds
- 10 more of our practices have purchased equipment and trained their teams on the safe handling of patients

Employee benefits enhance workplace culture

Prisma Health is committed to being an employer of choice. As such, Prisma Health seeks to provide a culture that respects all individuals and the role they play in serving the organization's purpose, offer competitive salary and benefits, support work/life balance, and actively listen and respond to team members' suggestions or concerns.

To help remain an employer of choice, Prisma Health offers a plethora of services and benefits. Some offerings are targeted to our health plan members; some extend to family members; others are focused on all members of the health team.

Here are some of the many ways we continued to attract and retain our valued workforce throughout 2021:

- Reduced medical plan premiums from Calendar Year 2020 to 2021 – in some cases up to 20% with no premium or out-of-pocket increases or simultaneous decrease in services
- Contributed more than $47 million to retirement savings plans for Upstate team members
- Offered health plan participants 50% discounts on certain prescription medications if they have one or more of these chronic conditions: asthma, congestive heart failure, COPD, diabetes, coronary artery disease
- Reimbursed more than $2 million to Upstate team members pursuing career education and training; offered student loan debt program to assist team members with loan forgiveness, refinancing and consolidation
- Provided leadership and professional development opportunities through internal offerings, Upstate Area Health Education Center consortium and LinkedIn Learning
- Made available discounts on monthly dues for membership at area YMCAs and our Life Center® Health & Conditioning Club
- Offered full coverage for diabetes education and nutrition counseling; removed the pediatric office visit copay for those on our standard deductible plan
- Provided free Team Member Care Centers on-site to conveniently treat common medical conditions
- Afforded prompt, low-cost treatment for neck, back, shoulder, hip and knee pain through our MSK (Musculoskeletal) Program
- Expanded healthcare access through virtual care services
- Delivered financial wellness opportunities through online and in-person education
- Launched a wellness resources toolkit, which includes COVID-19 topics, through our online benefits website: www.BenefitsForMyWorld.com
- Provided free Greenlink public transit benefits

Additionally, the health company enhanced our Employee Assistance Program by partnering with Lifeworks. This partnership combines on-site counselors who know our culture with additional LifeWorks counselors and wellness programs available to team members and loved ones 24/7. With a website, personalized news feed and digital app, the LifeWorks platform can help with stress, anxiety, parenting advice, family needs and more. Services include short-term solution-focused counseling, life coaching, financial consultation, legal consultation and referrals, child care/elder care resources and referrals, and community resource referrals.

Transform healthcare

(Compliance with lease sections 3.11a, 3.11d, 3.11e)

Academics and research

Prisma Health is an academic health center with strong, strategic relationships among three universities: Clemson University, Furman University and the University of South Carolina. Additionally, our healthcare company has numerous affiliation agreements with colleges and universities across the Palmetto State. One of Prisma Health's greatest assets is the clinical learning environment, which touches approximately 8,000 students a year in clinical training, research, exploratory opportunities, shadowing and pipeline programs (more than 4,600 of those students are in the Upstate). Another strength is Prisma Health's clinically relevant research partnerships with faculty, scholars and students that improve care.

Prisma Health Academics consists of a research, teaching and innovation platform focused on advancing healthcare delivery, formulating new care models and developing our future workforce. The vibrant clinical learning environment fosters teaching and learning, creates space for innovation and ultimately presents opportunities to improve patient outcomes through research. In the Upstate alone, Prisma Health team members engaged in 1.5 million hours of teaching in FY21!

An excellent example of the dynamic nature of our academic health center relates to COVID-19. In FY21, 1,877 nursing, medical, pharmacy, physician assistant and EMT students served as vaccinators at the Prisma Health-run Kmart mass vaccination site. Other students served as patient sitters, runners or testing site helpers. These efforts proved especially beneficial during surges when staffing resources were stretched thin.

Also, a new physician training program was approved for the Upstate in FY21: Clinical Informatics, a fellowship that will be housed on the Greer campus and bring our graduate medical education program totals to 13 residencies and 16 fellowships for the region.

The bottom line? These academic programs, research innovations and other opportunities mentioned above enhance our ability to create the future healthcare workforce through enhanced access, advances in medical care and focused recruitment during a time of national shortages.

Upstate snapshots for FY21

Academics

- Residents 291
- Fellows 25
- Medical school students: 428
- Student learners: 4,633 (high school, undergraduate, graduate or professional students not listed above who rotate at Prisma Health)
- Student placement at Prisma Health: 117 departments in 240 facilities
- Pipeline programs to ignite interest in healthcare: 4, with approximately 200 participants
- 1 of only 120 academic health centers in the nation
- 1 affiliated medical school: University of South Carolina School of Medicine Greenville
- Prisma Health as a whole trains more primary care residents than all other graduate medical education programs combined in South Carolina

Research

- Number of submitted proposals requesting external funding: 127 sponsored programs* valued at $45.8 million
- Number of submitted proposals awarded external funding: 109 valued at $19.7 million
- Average active studies: 956
- Average total number of patients enrolled in clinical trials: 1,665
- Average research studies across all Prisma Health: 1,156, including 495 clinical trials

**A sponsored program is a project, normally in the form of a grant or contract or cooperative agreement, funded from external sources including federal, state and local governments or private corporations/foundations.*

Unique program nears end of third year

Prevent Cancer–Greenville is a unique Prisma Health program that strives to prevent cancer two ways: Help individuals identify and reduce their risk through recommended screenings and lifestyle changes, and conduct research to better identify cancers in the future. A yearly visit for those age 18+ includes a complete health risk analysis (with body composition measurements), education and referrals. The initial and ongoing annual visits are free, thanks to philanthropic support.

The program launched November 2018, with 359 people enrolling through December 2019. Despite the pandemic, January–September 2020 saw 112 new enrollees sign up and 150 patients return for their second visit, for a total of 262 visits. And even though the pandemic continued in FY21, 143 patients have returned for follow-up visits and 190 enrolled in the program, for a total of 333 visits.

Screening success for breast cancer

Despite a downturn in U.S. health screenings due to COVID-19, Prisma Health in the Upstate completed 49,517 screening mammograms in FY21, well above the pre-pandemic count of 40,749 in FY19 as well as last year's figure of 43,446 during the pandemic. These gains throughout the pandemic were made possible thanks to concerted efforts by our medical team.

Business Health Solutions update

Each year, our Business Health Solutions team expands our client relationships by offering additional services and broadens our reach by providing services for new business partners. Approximately 550 Upstate businesses, including occupational health and wellness/prevention clients, have partnered with Prisma Health to help improve employee health and wellness, an increase of 22 partners over the last year.

Diversity and inclusion

Rollout of diversity and inclusivity training

Prisma Health's Office of Diversity and Inclusion has developed new course content for training, coaching, and educating leaders and team members through our inclusion training suite. These 30-, 45- and 60-minute interactive, facilitator-led courses are conducted virtually to assist leaders and team members to recognize intentional and unintentional biases, increase sensitivity and empathy, and inspire respect and inclusion for all.

Inclusion training program topics include:

- Unconscious or implicit bias
- Microaggressions
- Cultural humility, sensitivity and empathy
- Bystander intervention
- Anti-racism

Business Resource Groups (BRGs)

Business Resource Groups is a diversity best practice shown to increase team member engagement and retention. BRG membership is open to all team members.

Prisma Health now has 10 BRGs that build a sense of community and foster a diverse, inclusive workplace aligned with organizational purpose, goals, business practices, and objectives:

- Young Professionals
- African American Network
- LGBTQ+ Alliance
- Veterans Association
- Levi S. Kirkland Society
- Hispanic Medical Association
- Women's Alliance Network (formerly Group of Women in Medicine and Science)
- Telecommute Workers – NEW
- Mindfulness and Emotional Intelligence – NEW
- Interfaith – NEW

Supplier Diversity Program

The healthcare supply chain continues to evolve as availability of supplies ebbs and flows in response to the pandemic. As a result, Prisma Health Supply Chain has become even more strategic in securing medical and surgical supplies.

In 2021, the organization predicted a disruption in scrubs availability through our primary supplier. In anticipation of this shortage, Prisma Health partnered with Just Cause Scrubs to ensure supplies remained accessible to our team members. Fairly new, Just Cause Scrubs is a local minority business enterprise (MBE) in the Upstate. Earlier in the year, the Director of the Prisma Health Purchasing Department had been working with Just Cause Scrubs to become business certified through a national agency. Although certification is not required to conduct business with Prisma Health, it offers great benefits to the MBE when submitting bids. By the end of FY21, Just Cause Scrubs had received certification through the Carolinas-Virginia Minority Supplier Development Council.

Prisma Health continues to identify Tier II suppliers through our distributors, a list that keeps evolving as our supplier base keeps changing. As always, the organization remains committed to proactively seeking minority, women, veteran and LGBTQ suppliers to serve the needs of our patients.

Language Services

Prisma Health Language Services is committed to bridging communication and cultures compassionately and innovatively for the patients, families and communities we serve. That's why Language Services offers free in-house services such as video interpreting options in multiple languages, interpretation, and document translation to team members and patients who need them. The department also provides an audio option with the use of Vocera for clinicians and patients, and it partners with three vendors to ensure all interpretation needs are covered in a timely fashion.

The in-house unit of trained, qualified, and certified team members includes translators, interpreters, a bilingual employee program and a trilingual team. Medical interpreters deliver services in person, over the phone or by video – totaling 159,953 encounters in the Upstate in FY21 (last year's number was 138,113).

Not surprisingly with the pandemic, in-person visits decreased while phone and video visits skyrocketed. Our interpreters work on-site at several hospitals, outpatient facilities and physician practices.

This fiscal year, interpreters:

- Facilitated 9,335 in-person interpreting encounters (down markedly from last year due to COVID-19)
- Were involved in 114,781 phone interpretations (a 25% increase from last year)
- Participated in over 35,837 video interpretations (more than double from last year)

Prisma Health is one of the select health organizations in the nation with a group of internal translators. Members translate a variety of Prisma Health documents to ensure that patients with limited or no English proficiency have access to print materials. In FY21, this group translated 505,126 words.

Language Services provides access to more than 200 languages. In addition to Spanish, commonly requested languages in the Upstate include American Sign Language, Vietnamese, Arabic and Russian.

Time, talent and treasure

Prisma Health's local nonprofit organization houses two 501(c)(3) foundations in the Upstate, along with our Prisma Health Office of Philanthropy. In spite of the pandemic, collective philanthropic efforts in FY21 totaled nearly $13 million, thanks to generous donors contributing pledges, cash and in-kind contributions to enhance local patient care.

Of that monetary amount, approximately $7.5 million was contributed to the Office of Philanthropy. Three gift highlights to that department are summarized below:

Office of Philanthropy

PICU project

In 2021, more than $500,000 was raised to help fund the upcoming construction and upfit of our Pediatric Intensive Care Unit (PICU). The construction of a new "purpose-built unit" addresses patient, family and clinical needs. When completed in 2023, the renovated PICU will offer a calming, yet high-tech environment that stimulates healing.

MedEx Academy marks 10th year

Prisma Health's Medical Experience (MedEx) Academy celebrated its 10th anniversary in 2021. To commemorate this milestone, a $1 million Endowment Campaign was launched to fund student scholarships, with more than $680,000 raised by the end of 2021. MedEx is a one-of-a-kind program developed to create interest among young people in healthcare careers. It makes health professions accessible to students from diverse cultural and socioeconomic backgrounds, and the endowment will help fund this signature pipeline program.

Paddles up for Dragon Boat Upstate Festival

September marked the 15th anniversary of the Prisma Health Dragon Boat Upstate Festival. Despite limited in-person activities due to COVID-19, more than $355,000 was raised for the Prisma Health Cancer Institute, with a grand total of $4 million being amassed since the festival's inception.

Prisma Health's Baptist Easley Hospital Foundation

In FY21, Baptist Easley Foundation continued to focus on raising funds to expand local cancer services, securing a $100,000 gift from the Brotherton Foundation for the Larry Winn, MD, Cancer Care Unit, which will open in 2022. The foundation also focused on building the Legacy Society, adding another estate gift and a Legacy Society member. The foundation raised funds for and created three "Revitalization Rooms" for healthcare team members to have a quiet moment. It also purchased $200,000 of direct patient care items, including patient beds, lab microscopes and blanket warmers.

Prisma Health's Oconee Memorial Hospital Foundation

Support for the Oconee Memorial campus has long been a priority for a generous Upstate, demonstrated by the donations highlighted below for FY21:

- The community contributed nearly $1.1 million to support Prisma Health services on Oconee campus and surrounding areas.
- The foundation's Christmas Tree Festival in December 2020 raised a net profit of $178,000 for Prisma Health Hospice of the Foothills.
- The 14th Annual Golf Classic events (tournament, online auction and ball drop) raised a net profit of $68,000 to benefit three worthy services on Oconee Memorial campus: the Emergency Department expansion, Robotic Surgical Innovation Program and the Dental Clinic. Since 2008, more than $986,000 has been generated from the foundation's Golf Classic events to enhance local healthcare.
- The community has now given more than $830,000 toward the $1 million philanthropic goal of expanding the Emergency Department. A groundbreaking ceremony was held in August for community donors. This project will be completed in 2023.
- Generous support from the community, coupled with financial support from Prisma Health, helped launch a new Robotic Assisted Surgery program at Oconee Memorial Hospital. The first surgery took place Aug. 9.

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Fast facts for the Upstate

Facilities

Medical campuses 8
Total hospitals (including specialty) 11
Physician practice sites 185
Licensed beds 1,595
Licensed NICU/Special Care bassinets 85

Prisma Health team

Total employed team members 16,888
Employed physicians (included in team members) 1,355
  Physician assistants 158
  Registered nurses 4,641
  Nurse practitioners 389
  Nurse midwives 9
Affiliated physicians (not included in team members) 1,625
Volunteers 1,414

Clinical statistics

Inpatient surgical procedures 13,105
Outpatient surgical procedures 41,084
Adult and pediatric patient days 397,509
Average inpatient daily census 1,089
Average length of stay (in days) 6.2
Hospital discharges 63,793 (8,782 pediatric)
Outpatient facility visits (includes clinic, ER, home health and hospice admissions) 1,696,639
  Clinic/facility visits 1,386,638
  Emergency services visits 264,601 (22,896 pediatric)
  Home health visits 45,400
  Hospice admissions 945
Physician practice visits (includes Prisma Health Urgent Care and virtual visits) 3,796,766
  Urgent care visits (included above) 102,475 (6,745 virtual)
Babies birthed 8,584

Note: Because this report spans a time frame in which COVID-19 protocols were in effect, some figures may differ markedly from previous years.

Clinically integrated network members

Prisma Health Upstate Network* 2,905 (1,645 physicians, which includes our employed physicians)

Note: 1,066,135 unique Prisma Health patients were treated in this network.

*In October 2021, Prisma Health Upstate Network combined with our Prisma Health Midlands Network counterpart to form the inVio Health Network.

General summary of Prisma Health–Upstate insurance coverages

Summary of Insurance Policies for FY 2021

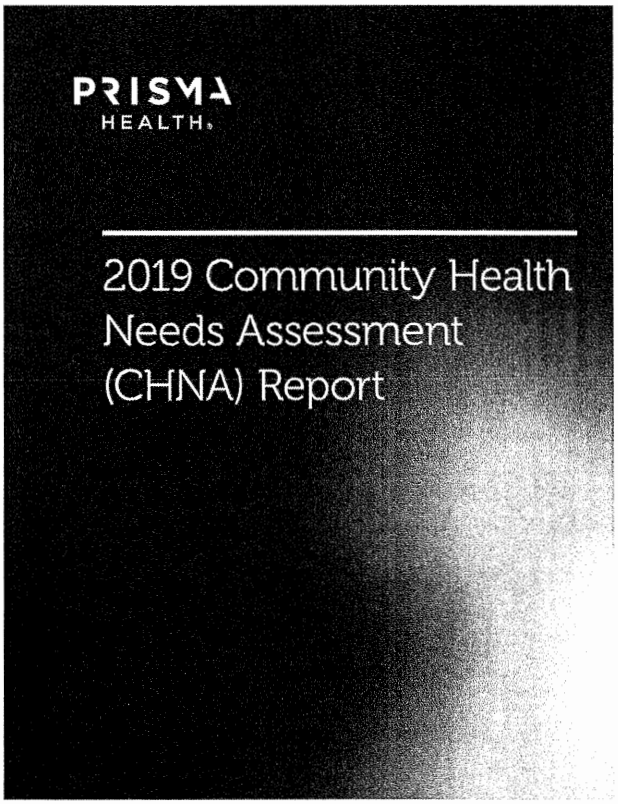
Line of Insurance Coverage	Term	Deductible/SIR	Limit
Comprehensive Property	10/01/2020 - 10/01-2021	$100,000	$ 1,500,000,000
Pollution / Environmental Legal Liability	10/01/2019 - 10/01/2022	$100,000 each incident	$ 20,000,000
General & Professional Liability Umbrella (Malpractice)	10/01/2020 - 10/01-2021	$1.2M per occurance / $35M aggregate	$ 35,000,000
Directors & Officers Liability and Employment Practices Liability	10/01/2020 - 10/01-2021	$750,000 per claim	$ 30,000,000
Fiduciary Liability	10/01/2020 - 10/01-2021	$50,000 per claim	$ 30,000,000
Cyber Liability	10/01/2020 - 10/01-2021	$750,000 each incident	$ 50,000,000
Crime	10/01/2020 - 10/01-2021	$100,000 per occurrence	$ 10,000,000
Employed Lawyers	10/01/2020 - 10/01-2021	$25,000 per claim	$ 5,000,000
Managed Care E & O	10/01/2020 - 10/01-2021	$50,000 per claim	$ 5,000,000
Kidnap & Ransom (Special Crime)	10/01/2020 - 10/01/2023	N/A	$ 10,000,000
Workers Compensation (In-State)	1/01/2021 - 1/01/2022	$750,000 per occurence	$5,000,000 per occurence
Workers Compensation (Out of State)	09/01/2020 - 09/01/2021	N/A	$1,000,000 per occurence
Business Automobile	10/01/2020 - 10/01-2021	$1,000 per occurrence	$1,000,000 per occurrence
Emergency Vehicles	10/01/2020 - 10/01-2021	$2,000 per occurrence	$1,000,000 per occurrence
Business Travel & Accident	10/01/2019 - 10/01/2022	$25,000 per occurence	$300,000 per occurence
Non-Owned Avaiation Liability	10/01/2020 - 10/01-2021	N/A	$ 20,000,000
Police Liability (Greenville Health Authority)	10/01/2020 - 05/01-2021	$10,000 per occurence	$ 1,000,000
	05/01/2021 - 10/01/2021	$10,000 per occurence	$ 5,000,000
D&O/EPL (Greenville Health Authority)	10/01/2020 - 10/01-2021	$25,000 per occurence	$ 5,000,000

2021 DHEC license renewals for Prisma Health–Upstate

Prisma Health–Upstate
Licensed bed list

LICENSED APPLICATION PROCESSING/APPLIED FOR/RENEWED			
FACILITY/PROGRAM	**# Beds**	**License Number**	**Expiration Date**
Prisma Health Greenville Memorial Hospital	**864**	**HTL- 0936**	**10/31/2022**
Greenville Memorial Hospital	746		
NICU (not included in the 846 count)	80		
Roger C. Peace Rehabilitation Hospital	53		
Marshall I. Pickens Hospital	65		
Prisma Health Patewood Hospital	**72**	**HTL-0933**	**10/31/2022**
General Hospital			
Prisma Health Laurens County Hospital	**76**	**HTL-0932**	**10/31/2022**
General Hospital			
Prisma Health Greer Memorial Hospital	**82**	**HTL-0934**	**10/31/2022**
General Hospital			
Prisma Health Hillcrest Hospital	**43**	**HTL-0931**	**10/31/2022**
General Hospital			
Prisma Health Oconee Memorial Hospital	**169**	**HTL-0937**	**10/31/2022**
General Hospital			
Prisma Health Baptist Easley Hospital	**109**	**HTL-0945**	**10/31/2022**
General Hospital			
Prisma Health Cross Creek Surgery Center	**4 OR'S**	**ASF-0132**	**10/31/2022**
Ambulatory Surgery Facility			
Prisma Health Surgery Center-Spartanburg	**2 OR'S**	**ASF-0134**	**10/31/2022**
Ambulatory Surgery Facility			
Prisma Health Patewood Outpatient Surgery Center	**6 Gen OR's / 2 GI Rms**	**ASF-0133**	**10/31/2022**
Ambulatory Surgery Facility			
Prisma Health North Greenville LTACH	**45**	**HTL-0935**	**10/31/2022**
Specialized Hospital			
Prisma Health Lila Doyle	**120**	**NCF-0990**	**10/31/2022**
Nursing Care Facility			
Prisma Health Cottingham Hospice House	**15**	**HPF-0030**	**10/31/2022**
Inpatient Hospice Facility			
Prisma Health Hospice of the Foothills	**NA**	**HPC-0212**	**10/31/2022**
Hospice Program			
Prisma Health SeniorCare PACE-Upstate	**140 Participants**	**ADC-0431**	**8/31/2022**
Adult Day Care Program			
Prisma Health Home Health-Upstate	**NA**	**HHA-0323**	**10/31/2022**
Prisma Health-Upstate Total Licensed Beds FY2022	**1595**		

2019 Community Health Needs Assessment Report



A Community Health Needs Assessment is an invaluable tool for identifying and prioritizing a community's health needs, in this case, the areas served by Prisma Health (see link below). This report includes input from individuals representing the broad interests of the community through a randomized mail survey in our service area counties (for the first time, the CHNA Report covers both Upstate and Midlands affiliates), online surveys, community focus groups and in-person interviews with community leaders.

With this input, along with support from community stakeholders and a thorough analysis of relevant data – and in accordance with regulations put forth by the Internal Revenue Service pursuant to the 2010 Patient Protection and Affordable Care Act – Prisma Health has identified three health priorities to focus on over the three-year period ending in 2022. These priorities are listed in rank order:

1. **Mental health**
2. **Obesity**
3. **Drug use/abuse**

These needs were identified using three key measures: health access needs, health status and barriers to care. Results were then grouped into priorities of health needs using a six-step process:

1. Incidence and prevalence
2. Presence and degree of disparities
3. Alignment with health system and state priorities
4. Potential for measurable, achievable outcomes
5. Support from the community
6. Existing community partnerships, programs and resources

Strategies have been crafted to address these prioritized needs through 2022, with an end goal of improving community health. Through concerted efforts and strong engagement with our patients, guests and families; area leaders; health care advocates and goodwill ambassadors; academic, business, legislative and community partners; and team members acting as one Prisma Health, our communities can become stronger and healthier – both physically and emotionally. Our *2019 Community Health Needs Assessment Report* will help guide this transformation.

SCAN ME

https://www.PrismaHealth.org/services/other-services/community-health-hub/community-health-needs-assessment

Prisma Health–Upstate FY 2021 finances

Consolidating Balance Sheet Information

(Dollars in Thousands)

As of September 30, 2021

	Prisma Health-Upstate
Assets	
Current assets:	
Cash and cash equivalents	$ (16,897)
Patient accounts receivable, net	499,980
Inventories of drugs and supplies	76,124
Other current assets	14,263
Due (to) from related parties, net	36,840
Total current assets	610,310
Assets limited as to use	–
Property and equipment, net	798,177
Right-of-use assets	227,463
Investments in joint ventures	10,005
Investments	30,065
Other assets	38,106
Total assets	$ 1,714,126
Liabilities and net assets	
Current liabilities:	
Accounts payable	$ 34,305
Accrued liabilities	240,202
Estimated third-party payor settlements	79,853
Current portion of operating lease obligations	32,923
Current portion of finance lease obligations	543
Current portion of long-term debt	8,685
Total current liabilities	396,511
Long-term operating lease obligations, net	204,687
Long-term finance lease obligations, net	33,684
Long-term debt, net	324,297
Other long-term liabilities	134,303
Total liabilities	1,093,482
Net assets:	
Without donor restrictions	565,526
With donor restrictions	55,118
Total net assets	620,644
Total liabilities and net assets	$ 1,714,126

Prisma Health–Upstate FY 2021 finances

Consolidating Statement of Operations and Changes in Net Assets Information

(Dollars in Thousands)

For the Year Ended September 30, 2021

	Prisma Health-Upstate
Revenue, gains and other support:	
Net patient service revenue	$ 3,032,730
Other revenue	331,460
Net assets released from restrictions used for operations	2,278
Total revenue, gains and other support	3,366,468
Expenses:	
Salaries, wages, benefits, and contracted labor	1,678,093
Supplies and other expenses	1,384,371
Depreciation	79,543
Interest and amortization	15,852
Total expenses	3,157,859
Operating (loss) income	208,609
Nonoperating income (expense):	
Investment income, net	3,809
Net change in value of derivative financial instruments	4,222
Contributions awarded and received, net	(5,512)
Other	(11,935)
Total nonoperating income (expense)	(9,416)
Revenues and gains greater (less) than expenses and losses	199,193
Parent/subsidiary equity transaction	47,226
Increase in interest in affiliated foundations	2,575
Net assets released from restrictions used for capital	4,647
Other	(1,139)
Increase in net assets without donor restrictions	252,502
Net assets with donor restrictions:	
Increase in interest in affiliated foundations	498
Investment income, net	622
Contributions, net	4,686
Capital contributions	5,457
Other	(64)
Net assets released from restrictions used for capital	(4,647)
Net assets released from restrictions used for operations	(2,278)
Increase in net assets with donor restrictions	4,274
Increase in net assets	256,776
Net assets at beginning of year	363,868
Net assets at end of year	$ 620,644

Greenville Health Authority FY 2021 finances

Statements of Net Position
(In Thousands)

	As of September 30	
Assets	**2021**	**2020**
Current assets:		
Cash and cash equivalents	**$ 39,980**	$ 31,769
Other current assets	**6,000**	6,000
Total current assets	**45,980**	37,769
Assets with limited use – donor restricted	**104**	144
Other assets	**94,156**	95,506
Total assets	**$ 140,240**	$ 133,419
Liabilities and net position		
Current liabilities:		
Accrued liabilities	**$ 2,461**	$ 2,336
Due to affiliates	**25,484**	17,400
Estimated third-party settlements	**15,806**	15,806
Total current liabilities	**43,751**	35,542
Other long-term liabilities	**31,448**	31,915
Total liabilities	**75,199**	67,457
Net position:		
Unrestricted	**64,937**	65,818
Restricted for specific operating purposes	**104**	144
Total net position	**65,041**	65,962
Total liabilities and net position	**$ 140,240**	$ 133,419

Greenville Health Authority FY 2021 finances

Statements of Revenues, Expenses and Changes in Net Position
(In Thousands)

	Year Ended September 30	
	2021	**2020**
Revenues		
Recoveries of accounts previously deemed uncollectible	**$ 8,593**	$ 10,610
Total operating revenues	**8,593**	10,610
Expenses		
Supplies and other costs	**124**	76
Total operating expenses	**124**	76
Operating income	**8,469**	10,534
Nonoperating activities:		
Investment income, net	**43**	467
Transactions with Prisma Health-Upstate and subsidiaries, net	**(8,512)**	(10,992)
Present value adjustment to contribution from Prisma Health-Upstate, Healthy Greenville	**4,650**	4,715
Present value adjustment to contribution to Greenville County and municipalities	**(1,533)**	(1,580)
Other	**(4,038)**	(4,302)
Total nonoperating activities	**(9,390)**	(11,692)
Excess of expenses over revenues	**(921)**	(1,158)
Net position, beginning of year	**65,962**	67,120
Net position, end of year	**$ 65,041**	$ 65,962

Greenville Health Authority FY 2021 finances

Statements of Cash Flows
(In Thousands)

	Year Ended September 30	
	2021	**2020**
Operating activities		
Cash receipts from recovery of bad debt	**$ 8,593**	$ 10,610
Cash payments to vendors and affiliated entities, net	**(427)**	(19,230)
Net cash provided by (used in) operating activities	**8,166**	(8,620)
Noncapital financing activities		
Noncapital contribution from Prisma Health-Upstate	**6,000**	6,000
Net cash provided by noncapital financing activities	**6,000**	6,000
Investing activities		
Investment income realized	**43**	467
Payments to Greenville County and municipalities	**(2,000)**	(2,000)
Payments for Healthy Greenville	**(4,038)**	(4,302)
Net cash used in investing activities	**(5,995)**	(5,835)
Net increase (decrease) in cash and cash equivalents	**8,171**	(8,455)
Cash and cash equivalents, beginning of year	**31,913**	40,368
Cash and cash equivalents, end of year	**$ 40,084**	$ 31,913
Reconciliation of cash and cash equivalents		
Cash and cash equivalents in current assets	**$ 39,980**	$ 31,769
Cash and cash equivalents in assets with limited use – donor restricted	**104**	144
	$ 40,084	$ 31,913
Reconciliation of operating income to net cash provided by (used in) operating activities		
Operating income	**$ 8,469**	$ 10,534
Adjustment to reconcile operating income to net cash provided by (used in) operating activities:		
Change in operating assets and liabilities:		
Other liabilities	**(303)**	(19,154)
Net cash provided by (used in) operating activities	**$ 8,166**	$ (8,620)

Prisma Health FY 2021 Performance Scorecard

Prisma Health Performance Scorecard (FY21)

Results thru September 2021

Pillar & Measure	Target Performance	Performance Corridor	Annual Goal (FY21)	YTD Actual (FY21)	Trend	Comments
People: Create a culture that attracts, retains and develops team members.						
Employee Engagement Index (Annual)	≥ 78% employee engagement index	≥ 76% 72.1% - 75.9% ≤ 72%	76%	76.8%	↓	Annual team member engagement survey in August-September results were lower than Pulse survey.
Service: Serve our patients and their families by providing them with an exceptional experience.						
Inpatient HCAHPS	Improve Patient Experience as measured by achieving the 60th percentile rank on 7 of 9 selected HCAHPS domain metrics across Prisma Health	≥ 7 of 9 (60th %-ile) 6 of 9 (60th %-ile) ≤ 5 of 9 (60th %-ile)	7 of 9 (60th %-ile)	2 of 9 (at or above the 60th %-ile)	→	Prior Month: 2 of 9 (at or above the 60th %-ile)
Quality: Deliver high-quality care that keeps our patients and caregivers safe.						
Clinical Excellence	Improve Clinical Excellence as measured by Quality and Patient Safety Dashboard	≥ 100 80 - 99 ≤ 79	100	101	→	Prior Month: 101
Ambulatory		≥ 100 80 - 99 ≤ 79	100	103	↓	Prior Month: 104
Acute		≥ 100 80 - 99 ≤ 79	100	101	↑	Prior Month: 99
Post-Acute		≥ 100 80 - 99 ≤ 79	100	95	→	Prior Month: 95
Finance: Achieve financial results so we may invest in our people, services, facilities and technology.						
Operating Margin ($)	Achieve an Operating Margin of $125M	> $125M $105M - $124M ≤ $104M	$125,000,000	$63,154,000	↓	Prior Month: $67,385,000
Operating Margin (%)	Achieve an Operating Margin of 2.5%	≥ 2.5% 1.5% - 2.4% ≤ 1.4%	2.5%	1.2%	↓	Prior Month: 1.5%
Workforce Management	Improve FTE's per Adjusted Discharge	≤ 34.5 34.6 - 36.2 > 36.2	34.5	32.5	→	Prior Month: 32.5

Memorandum of lease

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MEM/LEASE Book: DE 2549 Page: 4656 - 4661
October 10, 2018 04:40:41 PM
Rec: $12.00
E-FILED IN GREENVILLE COUNTY, SC

STATE OF SOUTH CAROLINA	)	**MEMORANDUM OF AMENDED AND**
	)	**RESTATED LEASE AND**
COUNTY OF GREENVILLE	)	**CONTRIBUTION AGREEMENT**

THIS MEMORANDUM OF AMENDED AND RESTATED LEASE AND CONTRIBUTION AGREEMENT ("***Memorandum***") is made and entered into as of the 19th day of October, 2018, by and between Greenville Health Authority f/k/a Greenville Health System, a political subdivision of the state of South Carolina ("***Lessor***"), and Upstate Affiliate Organization, a South Carolina nonprofit corporation ("***Lessee***").

RECITALS:

A. Greenville Health System (n/k/a Greenville Health Authority) and Lessee entered into the Lease and Contribution Agreement dated March 9, 2016 (as amended by the First Amendment to Lease and Contribution Agreement dated September 27, 2016, the Second Amendment to Lease and Contribution Agreement dated July 1, 2017, and the Third Amendment to Lease and Contribution Agreement dated April 1, 2018) (the "***Predecessor Lease***").

B. Greenville Health System (n/k/a Greenville Health Authority) and Lessee recorded in a Memorandum of Lease and Contribution Agreement in the Office of the Register of Deeds, Greenville County, South Carolina on February 27, 2017 in Book 2507 at Pages 1383-1387.

C. Lessor and Lessee have entered into that certain Amended and Restated Lease and Contribution Agreement dated October 1, 2018 (the "***Agreement***") whereby Lessor has leased to Lessee, and Lessee has leased from Lessor, certain assets, including the real estate and any improvements now or hereafter located thereon situated in Greenville County and Spartanburg County, South Carolina, more particularly described in **Exhibit A** (the "***Leased Facilities***").

D. It is the intent of the parties that the Agreement replace the Predecessor Lease in its entirety.

E. The parties desire to place this Memorandum of record to provide notice to third parties of the existence of the Agreement.

NOW, THEREFORE, the parties hereby agree and state as follows:

1. In consideration of the rent and upon the terms and conditions set forth in the Agreement, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Leased Facilities.

TO HAVE AND TO HOLD, the Leased Facilities subject to the terms, conditions, and covenants expressed and declared in the Agreement unto Lessee, its successor and assigns,

Memorandum of lease

for a term of thirty-four (34) years commencing at 12:01 a.m. on October 1, 2018 and ending at the close of business in September 30, 2052.

2. Reference is made to the Agreement for a complete statement of the rights and obligations of Lessor and Lessee thereunder.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum as of the day, month, and year first above written.

WITNESSES:

Name: Anne S. Ellefson

Name: Mary Lynn Puckett

LESSOR:

Greenville Health Authority f/k/a Greenville Health System, a political subdivision of the state of South Carolina

By:
Name: Michael Hildebrand
Title: President

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF GREENVILLE)

The foregoing instrument was acknowledged before me this 9th day of October, 2018 by Michael Hildebrand, the President of Greenville Health Authority, a political subdivision of the State of South Carolina, on behalf of Greenville Health Authority.

Notary Public, State of South Carolina
Name: Mary Lynn Puckett
My Commission Expires: 12/10/2025

Memorandum of lease

IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum as of the day, month, and year first above written.

WITNESSES:

Heather N. Donahue
Name: Heather N. Donahue

Anne S. Elletson
Name: Anne S. Elletson

LESSEE:

Upstate Affiliate Organization, a South Carolina nonprofit corporation

By: Spence M Taylor MD
Name: Spence M Taylor MD
Title: President

WITNESSES:

Anne S. Elletson
Name: Anne S. Elletson

Mary Lynn Puckett
Name: Mary Lynn Puckett

LESSEE:

Upstate Affiliate Organization, a South Carolina nonprofit corporation

By:
Name: Joseph J. Blake, Jr.
Title: Secretary

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF GREENVILLE)

The foregoing instrument was acknowledged before me this 9th day of October, 2018 by Spence M. Taylor MD, the President of Upstate Affiliate Organization, a South Carolina non-profit corporation, on behalf of Upstate Affiliate Organization.

Ann W. Lewis
Notary Public, State of South Carolina
Name: Ann W. Lewis
My Commission Expires: 6-30-2025

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF GREENVILLE)

The foregoing instrument was acknowledged before me this 10th day of October, 2018 by Joseph J. Blake, Jr., the Secretary of Upstate Affiliate Organization, a South Carolina non-profit corporation, on behalf of Upstate Affiliate Organization.

Mary Lynn Puckett
Notary Public, State of South Carolina
Name: Mary Lynn Puckett
My Commission Expires: 12/10/2025

Memorandum of lease

EXHIBIT A

All those parcels of land, with improvements thereon, owned in fee simple by Lessor and situate in the County of Greenville and County of Spartanburg, State of South Carolina, including, but not limited to, those described generally by location set forth below, together with all easements, rights, appurtenances and privileges and all strips, gores, alleys, or ways which may be related to or associated with the land. It is the intention of the parties that this lease cover and include all land and improvements owned by Lessor on the date hereof whether or not specifically listed below. Should it be determined that any parcel or tract has been inadvertently omitted from this list such parcel shall nevertheless be deemed to have been a part of this lease from its inception.

OWNED LOCATIONS:

- Greenville Memorial Medical Campus, 701 Grove Road (Grove Road & West Faris Road addresses), Greenville, SC 29605
    - Greenville Memorial Hospital
    - Roger C. Peace Hospital – Rehabilitation
    - Marshall I. Pickens Hospital – Behavioral Health
    - Employee Services Center
    - Health Sciences Education Building I USC School of Medicine Greenville
    - Central Energy Plant
    - Medical Center Clinics
    - Facilities Development and Campus Planning Building
    - Child Care Center, 872 West Faris Road
    - Institute for Translational Oncology Research (ITOR), 900-B West Faris Road
    - 515 Grove Road (Vacant-previously The Blood Connection)
    - School of Nursing, 605 Grove Road
    - Greenville Memorial Campus Parking Decks
    - Land Associated with Greenville Memorial Campus
- Greer Medical Campus, South Buncombe Road, Greer, SC 29650
    - Greer Memorial Hospital, 830 South Buncombe Road
    - Central Energy Plant, 298 Village Green Circle
    - Greer Medical Office Building-330 Medical Parkway
    - Greer Cancer Centers Building (Linear Accelerator)-340 Medical Parkway
    - Land Associated with Greer Medical Campus
- North Greenville Medical Campus, 807 N. Main Street, Hwy 276, Travelers Rest, SC 29690
    - North Greenville Hospital – Long Term Acute Care
    - EMS Building (Note: Occupied by GHS)
    - Land Associated with North Greenville Medical Campus
- Patewood Medical Campus, Patewood Drive and Enterprise Blvd., Greenville, SC 29615
    - Patewood Outpatient Center, 200 Patewood Drive
    - Patewood Memorial Hospital, 175 Patewood Drive
    - Patewood Central Energy Plant

Memorandum of lease

    - Patewood Campus Parking Garage
    - Land Associated with Patewood Medical Campus
- Simpsonville Medical Campus, 729,727, 733 & 741 SE Main Street, Simpsonville, SC 29681
    - Hillcrest Memorial Hospital, 729 SE Main Street
    - Hillcrest Medical Office Building, 727 SE Main Street
    - Hillcrest Central Energy Plant
    - EMS Building
    - Hillcrest Sleep Lab, 741 SE Main Street
    - Land Associated with Simpsonville Medical Campus
- Greenville OB/GYN Associates, 2 Memorial Medical Drive, Greenville, SC 29605
- Cancer Institute of GHS, 131 Lila Doyle Drive, Seneca, SC 29672
- Eye Clinic, Spartanburg-Eastside, 735 E. Main Street, Spartanburg, SC 29302 (Currently Vacant)
- Eye Clinic/Spartanburg Ambulatory Surgery Center – Westside – 1413 John B. White Sr. Blvd., Spartanburg, SC 29306
- 70 Lightning Bug Trail, Glenville, NC 28736
- Vacant land – 2.995 acres on International Drive, Greenville, SC 29615
- Stoney Point Land, (18.9 acres) Grove Road
- GHS Various Offices – 712 Grove Road, Greenville, SC 29605

Off-Campus Ground-Leased Land to Landlords (GHS as Ground Lessor):

- Center for Family Medicine Land, 877 W. Faris Road, Greenville, SC 29605
- Children's Center Duncan Chapel Land 415 Duncan Chapel Road, Greenville, SC 29617
- Children's Hospital Outpatient Ctr. Land, 249 N Grove Medical Park Dr., Spartanburg, SC 29303
- Eye Institute Land, 104 Simpson Street, Greenville, SC 29605
- Life Center Land, 875 W. Faris Road, Greenville, SC 29605
- Maxwell Pointe Land, 3907-3917 S. Hwy. 14, Greenville, SC 29615
- MD 360 Greer Land, 1305 South Suber Road, Greer, SC 29650
- GHS Senior Care (PACE Center) Land, 32 Centennial Drive, Greenville, SC 29605
- GHS Medical Center – Boiling Springs Land, 2400 Boiling Springs Road, Boiling Springs, SC 29316

Prisma Health–Upstate Board of Directors

Margaret Jenkins
Chair

Robert T. Nitto
Vice Chair

Michael Cumby

Charles Dalton

W. Michael Ellison

Annmarie Higgins

Rabbi Mathew Marko

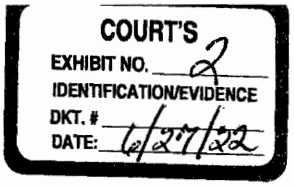
Prashant Prabhu

Ruth M. Richburg

Joe Salgado Jr.

Andrew J. White Jr.

Nancy P. Whitworth



STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
State of South Carolina	)	2021GS2306825
	)	
-vs-	)	Stipulation of Hospital
	)	Video into Evidence
Joseph Martin Swaringen	)	
	)	

Now comes the State through its representative and the Defendant through his attorneys, to stipulate the following findings of fact:

(1) Alvin Harrison, an independent contractor of Prisma, as part of his duties, pulled video relating to the Defendant coming into Prisma for treatment. His job is to pull relevant video based solely on police incident reports that he receives.

(2) This video is a true and accurate depiction of events and shall be admitted into evidence.

(3) There is no video from inside the trauma bay as those cameras were not operational at the time. Alvin Harrison did ask for those cameras to be fixed due to their inoperability.

(4) Alvin Harrison did not save all of the potentially relevant video. The video of the loading dock stops before EMTs retrieve the saddlebag from the ambulance as well as before Lisa Edmonds physically transfers the alleged contraband to Officer Todd Miller.

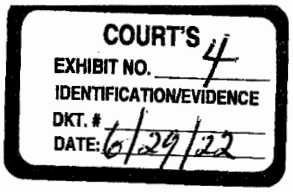
(5) After 15 to 20 days any video that was recorded by Prisma drops off their server so that any additional video is unable to be recovered.

Date: 6/27/22

Attorney for the Defendant

Date: 6/27/22

Attorney for the State



Defendant's Request to Charge № 3

In order to convict the defendant, the state is required to prove that the items seized were in fact the same items analyzed by the laboratory. To accomplish this the state is required to establish a complete chain of custody that the items seized were in fact the same items analyzed. If you find the state has not established beyond a reasonable doubt this complete chain of custody, then you are to find the defendant not guilty.

"The evidence that a saliva sample was placed in the kit simply contradicts the State's evidence negating tampering, thereby creating a factual issue. In sum, we find the evidence of a discrepancy in the contents of the kit does not render the blood sample inadmissible but goes only to its weight as credible evidence."

State v. Carter, 344 S.C. 419, 425, 544 S.E.2d 835, 837, 838 (2001)

Incident Case #: 2020-7423

File: I2020-7423(2).JPG

Description: BAGGY 1

Incident Case #: 2020-7423

File: I2020-7423(3).JPG

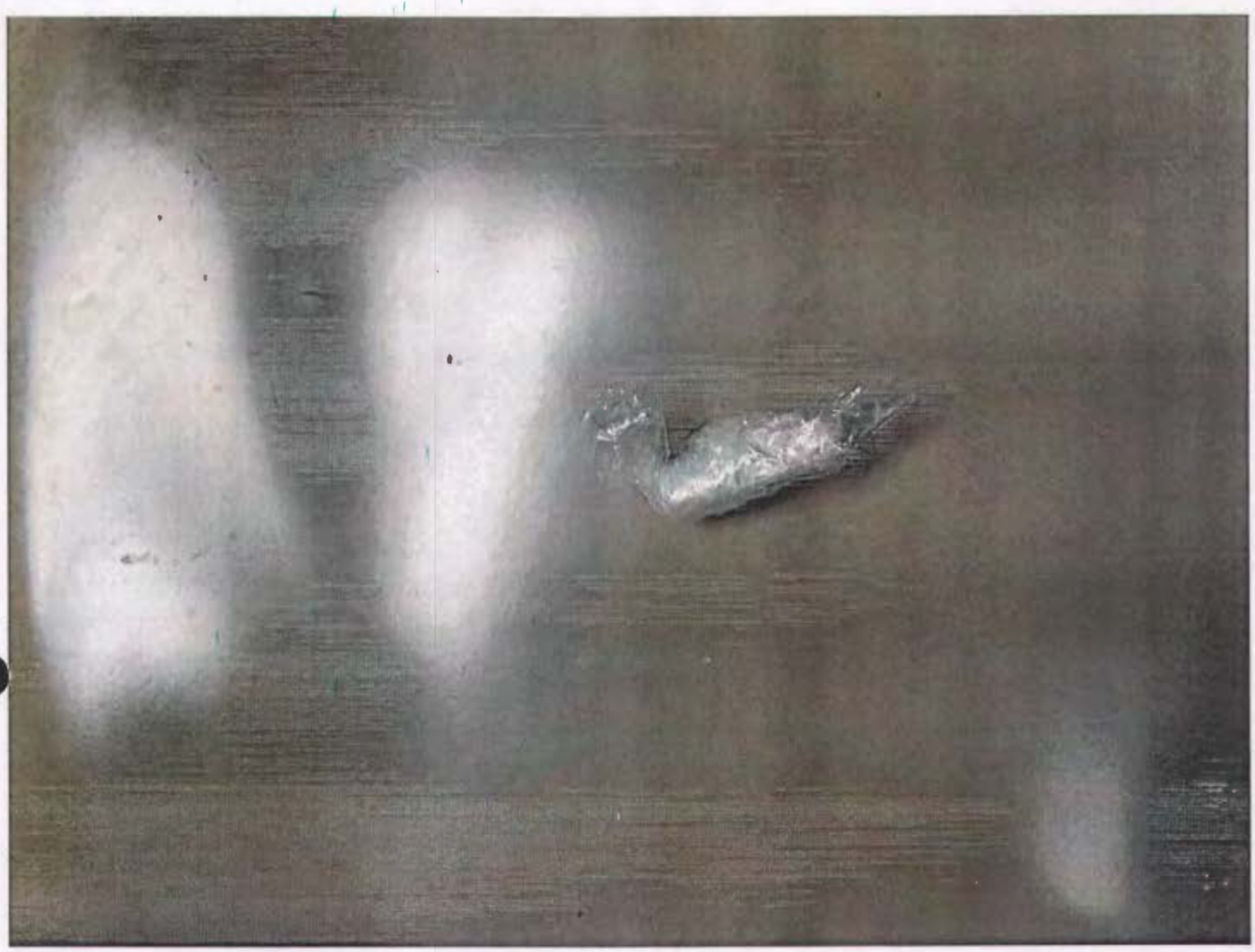
Description: BAGGY 2

PENGAD 800-631-6989
STATE'S EXHIBIT EV
3
6/28/22 SH

Incident Case #: 2020-7423

File: I2020-7423(4).JPG

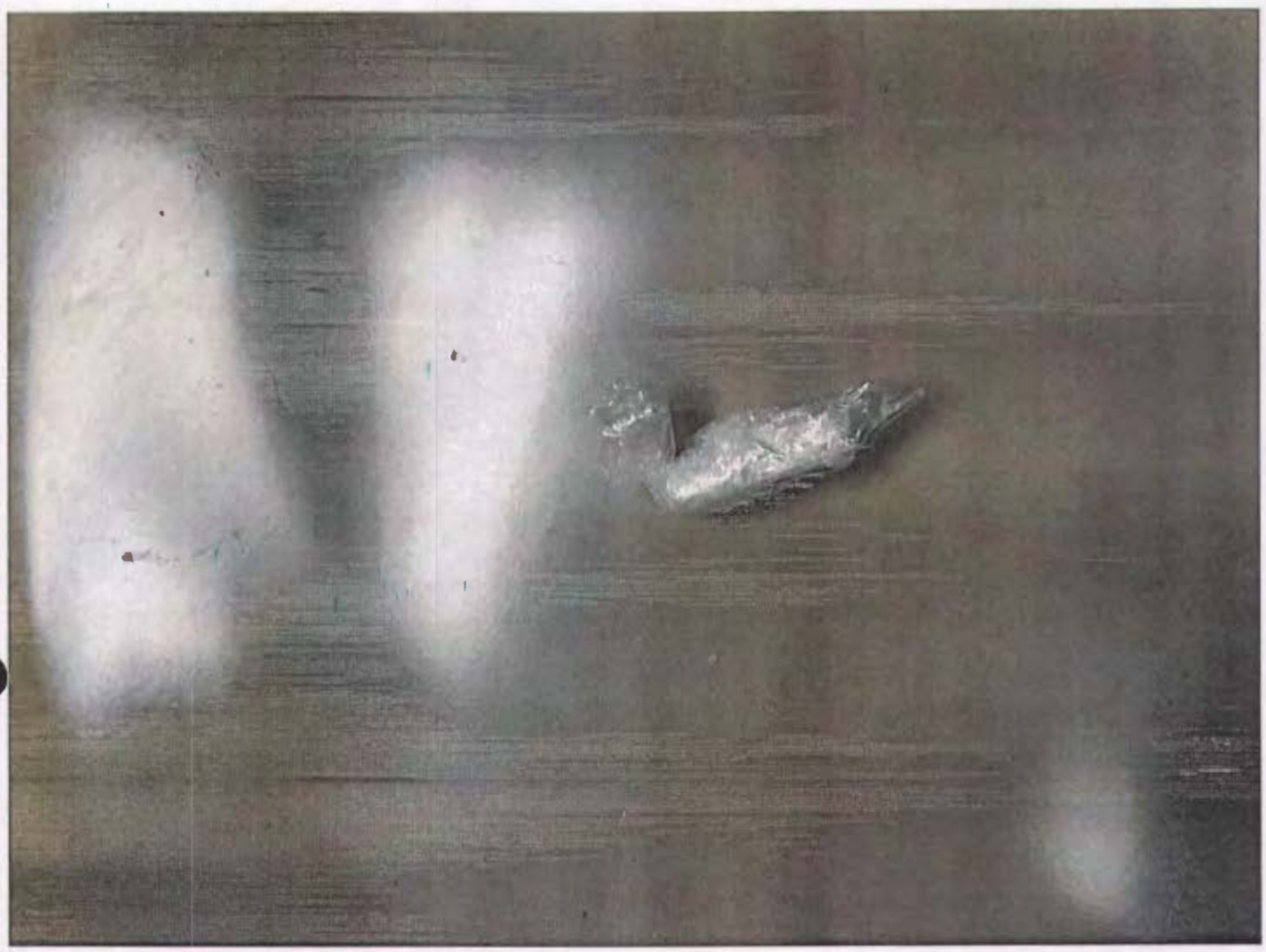
Description: BAGGY 3



Incident Case #: 2020-7423

File: I2020-7423(5).JPG

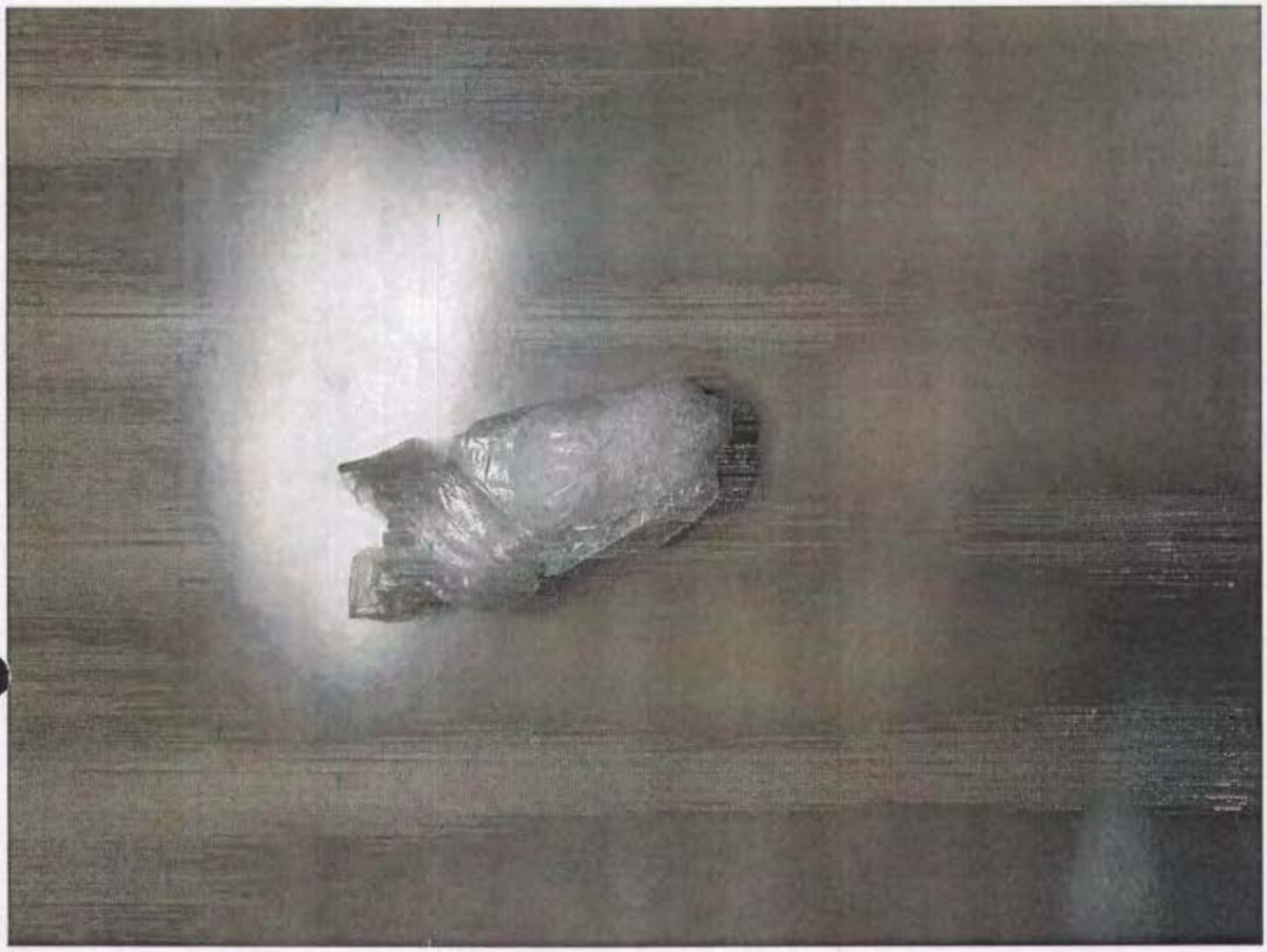
Description:



Incident Case #: 2020-7423

File: I2020-7423(6).JPG

Description: BAGGY 4



PENGAD 800-631-6989
STATE'S EXHIBIT
6/28/22 SH

Incident Case #: 2020-7423

File: I2020-7423(8).JPG

Description: SCALE WITH BAGGY 4

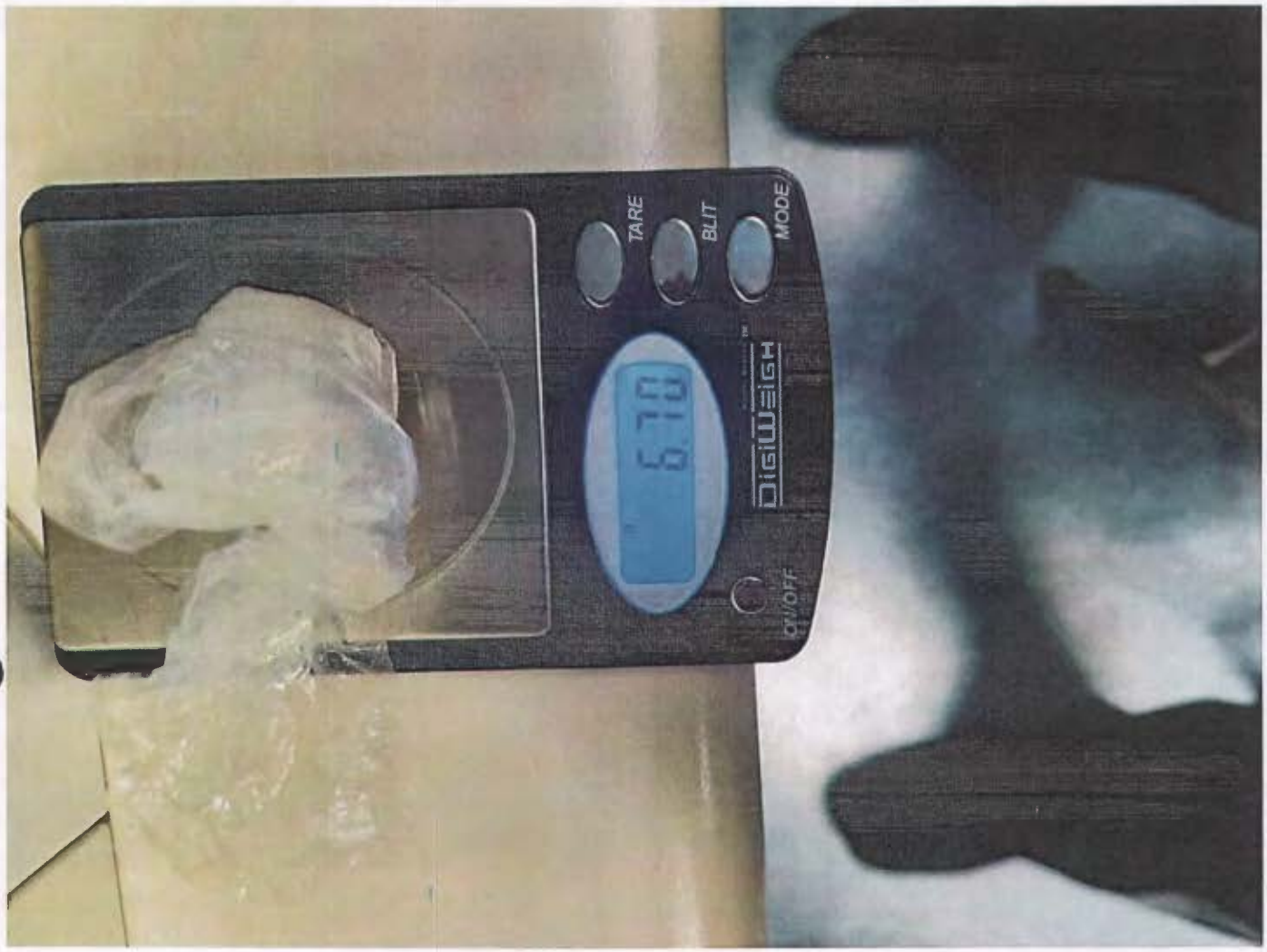
STATE'S EXHIBIT 7 6/28/22 SH

Incident Case #: 2020-7423

File: I2020-7423(9).JPG

Description: SCALE WITH BAGGY 2

STATE'S EXHIBIT 8
6/28/22 SH

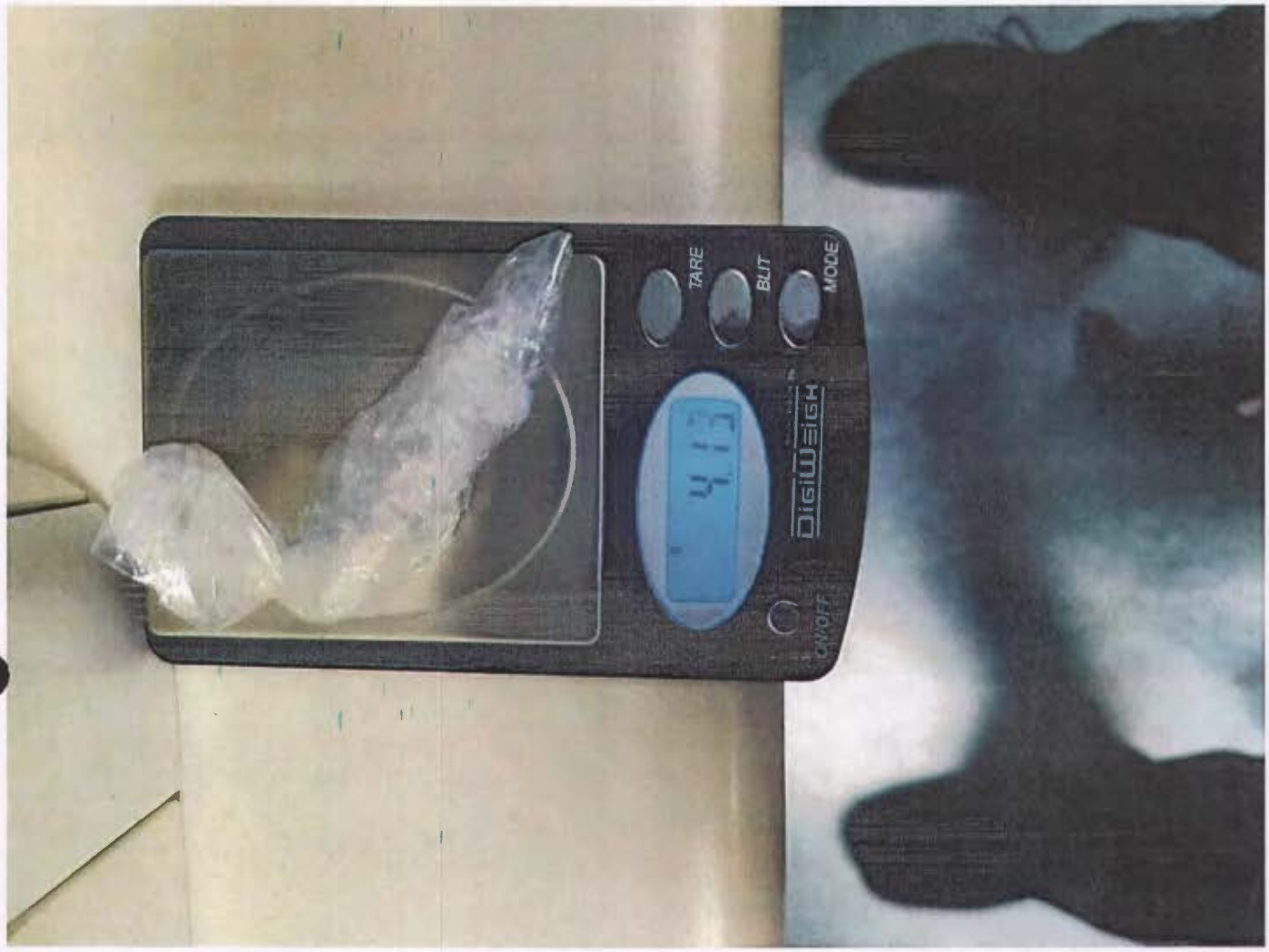


STATE'S EXHIBIT
9
6/26/22 SH
PENSAD 800-631-6989

Incident Case #: 2020-7423

File: I2020-7423(10).JPG

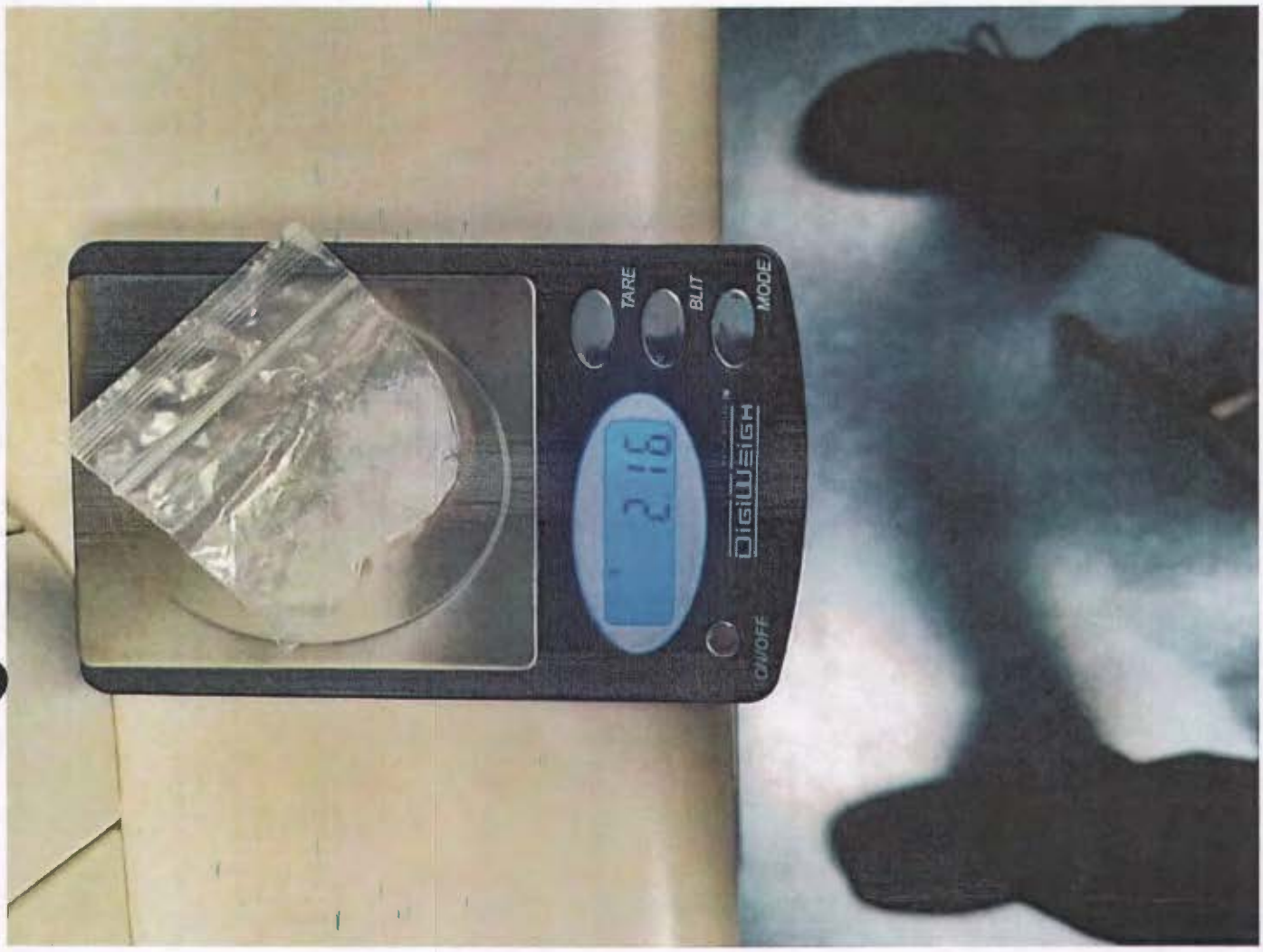
Description: SCALE WITH BAGGY 3



Incident Case #: 2020-7423

File: I2020-7423(11).JPG

Description: SCALE WITH BAGGY 1



PENGAD 800-631-6989
STATE'S EXHIBIT EV
11
6/28/22 SH

Incident Case #: 2020-7423

File: I2020-7423(15).JPG

Description: SADDLE BAG

GREENVILLE HOSPITAL SYSTEM POLICE DEPARTMENT

PROPERTY REPORT

1. Status - Check One: ☐ Recovered Property ☐ Return to Owner ☐ Destroy ☑ Evidence — INCIDENT TYPE

2. Case No. 2020-7423

3. Date and Time Impounded	4. SLED Lab No.	5. For Prop - Room Use Only	Property Sec. #
11/18/2020 2015hrs			

6. Found or Recovered From ☑ Person ☐ Place — Name: LISA M. EDMONDS

7. Where property was impounded (Give exact location - address): RESUS 2 (TRAUMA BAY) 701 GROVE RD.

8. Owner/Victim's	9. Owner/Victim's Address	10. Owner/Victim's Telephone No.

11. Suspect's Name	12. Suspect's Address	13. Charges	Warrant No.
SWARINGER, JOSEPH MARTIN	111 BAILEY ST., GREENVILLE, SC		
Additional Suspect's Name	Suspect's Address	Charges	Warrant No.

14. Item	15. Quantity	16. Description
1	4	baggies containing white crystal like substance SEND TO LAB
2	1	baggy containing 3 blue round tablets and 2 broken tablets SEND LAB
3	1	black plastic pelican case
4	1	Methamphetamine test kit

DISPOSITION OF PROPERTY AUTHORITY: JUDGE ____ DATE ____ TIME ____ | OFFICER ____ DATE ____ TIME ____ | RELEASE TO COURT ____ DATE ____ TIME ____ | RETURNED TO OWNER ____ DATE ____ TIME ____ | SOLD TO PUBLIC AUCTION ____ DATE ____ TIME ____ | DISPOSITION ____ DATE ____ TIME ____ | DESTROYED ____ DATE ____ TIME ____ | DESTROYED BY ____ DATE ____ TIME ____ | WITNESS: ____ DATE ____ TIME ____

PENGAD 800-631-6989 STATE'S EXHIBIT EV 12 6/26/22 SH

17. I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this report.

Signature X

18. Impounding Officer (Print Full Name): CHRIS T. MILLER — 19. Badge No.: L 34

20. Signature: Chris T. Miller

21. Received By	22. Reason	23. Date and Time Received
[illegible] EKey	Transported to GC Lab	12/3/20 @ 1258
EKey	Received from GCPPE	2/2/21 1134
	BB	
EKey	Removed for court purposes	6/7/22 1107
EKey	Returned from court	6/7/22 1608
EKey	Removed for court purposes	6/8/22 0838
EKey	Returned from court	6/8/22 1496
EKey	Removed for court purposes	6/22/22 0821
EKey	Returned from court	6/22/22 1225
EKey	Removed for court purposes	6/25/22 0753

WHITE or ORIGINAL - File — CANARY - Property & Evidence — PINK - Officer

Greenville County Department of Public Safety

4 McGee Street
Greenville SC 29601

STATE'S EXHIBIT 15 4/29/22 SH

CHAIN OF CUSTODY REPORT

CASE #: 112020000349
Case Type:NARCOTICS INVESTIGATION
SEALED: Yes
SUBMITTED At:COUNTER
SUSPECT:

IMPOUNDING OFFICER: REPRESENTING AGENCY OFFICER
SUBMITTING OFFICER:
INVESTIGATING OFFICER:
DATE & TIME IMPOUNDED:12/3/2020 1350
IMPOUND ADDRESS:

1487571

Item #:1 4 BAGGIES CONTAINING A WHITE CRYSTAL LIKE SUBSTANCE . CRYSTAL SUBSTANCE 34.2 GRAM

Date/Time	Logged in User	Item moved to this Location
11/30/2020 1:33:54PM	Kara Bennick2	AGENCY PRE-LOG
12/3/2020 1:13:08PM	RACHEL RIFENBURG	GREENVILLE DPS EVIDENCE INTAKE
12/3/2020 1:15:11PM	RACHEL RIFENBURG	OTHER AGENCY DRUG PROC. (STAGING)
1/6/2021 9:03:37AM	Kathy Lance	ARMSTRONG, JAMES - 8267 DPS
DRUG ANALYSIS -		james armstrong 8267
1/12/2021 8:35:39AM	RACHEL RIFENBURG	GREENVILLE DPS EVIDENCE INTAKE
1/12/2021 1:13:17PM	RACHEL RIFENBURG	GREENVILLE HOSPITAL PD BIN
2/2/2021 11:33:58AM	RACHEL RIFENBURG	RETURNED TO OTHER AGENCY
RETURNED TO OTHER AGENCY -		keiper

End Chain of Custody for Item with Barcode #: **1487571** *related to Case # 112020000349*

NOTES:

STATE'S EXHIBIT # V

County of Greenville

DEPARTMENT OF PUBLIC SAFETY - FORENSIC DIVISION

DRUG ANALYSIS REPORT

Agency: Greenville Health Authority Police Department
Agency Case #: 2020-7423
Officer: Miller, C.

Drug Lab #: G21-0045
DPS Case #: 11-2020-000349
Incident Date: 11/18/2020
Received From: Property & Evidence
Received Date: 01/06/2021

This is an official report of the Greenville County Department of Public Safety Crime Laboratory and is to be used in connection with an offical criminal investigation. These examinations were conducted under your assurance that no examinations of evidence submitted in this case have been or will be conducted by any other laboratory or agency.

John Vandermosten, Assistant County Administrator
Department of Public Safety

ITEMS OF EVIDENCE:

Item 1: Four bags with rock substance
Results: Methamphetamine (C-II) found 29.65 grams

Item 2: Bag containing three green tablets and portions of others
Results: Diazepam (C-IV) found

I am a Criminalist employed by Greenville County to perform chemical and physical examinations on evidence submitted by law enforcement agencies in criminal cases, and to testify in courts of record in the state of South Carolina on such examinations.

James W. Armstrong

James W. Armstrong

Report Date: 01/12/2021
Report #: 1

Law Enforcement Center - 4 McGee Street - Greenville, SC 29601 - Telephone (864) 467-5204

STATE'S EXHIBIT # 17 6/28/22 TH

AFFIDAVIT OF RECORDS CUSTODIAN CERTIFYING RECORDS

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Jinny Moran, Captain, having first been duly sworn according to law, makes
Name of Records Custodian

oath upon his or her personal knowledge as follows:

1. I, Captain Jinny Moran, am the duly authorized custodian of the records for the County of Greenville, Department of Public Safety (DPS) – Records Division, Greenville County Detention Center, and Health Services, Greenville County Sheriff's Office, Greenville Police Department, and in such capacity; I have authority to certify the attached records.

2. The Records Division manages law enforcement reports and local criminal history records generated by the Greenville County Sheriff's Office (GCSO) and Greenville Police Department (GPD).

3. The Records Division oversees the management and release of Greenville County Detention Center (GCDC) Records and Medical Record documents.

4. The attached documents are true certified copies of Detention Inmate property forms – regarding arrest time period: 11/19/2020 to 12/15/2020 (Jail ID 0132) for Swaringen, Joseph M. DOB: 06/26/1963 (Pack ID # 47908) that was requested via Subpoena by Hunter Blouin, Assistant Solicitor, 13th Circuit Solicitor's Office, Greenville SC. (Records provided 06/06/2022)

5. The attached records are kept in the normal course of business of the County of Greenville DPS and were prepared as a regular practice and custom. (Swaringen, Joseph ID Pack 047908)

AND FURTHER AFFIANT SAITH NOT.

Jinny Moran
AFFIANT

Sworn and subscribed to before me

This 27th day of June, 2022.

Pamela K Bingel
Notary Public of South Carolina

My commission expires: 07-30-2024

PAMELA K. BINGEL NOTARY PUBLIC My Commission Expires 07/30/2024 SOUTH CAROLINA

12/16/2020 WM/S
GCDC Records
Certified Copy
JMoran / 06/06/2022

GREENVILLE COUNTY DETENTION CENTER

INMATE PROPERTY RECORD

I/M Location: _____

Jumpsuit Size _____ Shoe Size _____

Name Swearingen Joseph ID# 132 Cash $698.25 Date 11-19-20

Sealed Inmate Garment Bag: TAG# _____ / _____

Sealed Inmate Personal Property:

BAG# 1 OF 2 SEQ# 2554355

2 OF 2 SEQ# 2554654

___ OF ___ SEQ# _____

___ OF ___ SEQ# _____

X [signature]

11/19/20 CW14989 Prop. Rel

Special Money:

Amount: _____

Description: _____

Jewelry/Miscellaneous:

WM YM

( ) ( ) Bracelet _____

( ) ( ) Earrings _____

( ) ( ) Necklace _____

( ) ( ) Pendent/Medallion _____

( ) ( ) Rings _____

( ) ( ) Watch _____

Cigarettes _____

Cell Phone/Beeper _____

Identification (DL or ID) _____

Keys

Wallet/Change Purse brown

Other cough drops, sunglasses mask, cloth, boxes

Medication:

_____

_____

_____

_____

_____

_____

Jumpsuit	1
Shirt	
Pants	
Shower Shoes	
Sheets	1
Blanket	
Towel	
Washcloth	
Inmate Handbook	

I certify that all items issued were serviceable at time of issue. Should I damage or destroy any of the items issued to me, I agree to have the cost of the item(s) deducted from my account. I have received a copy of the Inmate Rules and Regulations and Inmate Handbook.

X [signature] 11/19/20

Receiving Signature Date

	2	Shoes/Boots	black		Shorts
		Cap/Hat			Sweater
	1	Coat/Jacket	black		Skirt
		Dress			Bra
	1	Shirts	blue hosp (bloody)		Other
	1	Pants	jeans	1	chaps, black
	1	Belt	brown		

I have checked my property and money as listed and certify same to be correct. I hereby authorize the Director of the Greenville County Detention Center or his staff to check all mail addressed to and from me while I am detained. I certify I have declared and deposited with the Detention Center all money in my possession.

X [signature]

Inmate Signature

[signature] JP

Receiving Officer / Receiving Clerk

EXCESS VAULT ITEMS
Number of Items ____ of ____
Clerk's INT. _____

Large Property Items (suitcases, etc.)

black saddle bag

Inmate Release Information

Date 11-19-20 I acknowledge receipt of all property.

[signature]

Inmate Signature

R. Watkins

Releasing Clerk's Printed Name / Signature

GCDC: 210 09/10 Rev

PJPP_20
11/19/2020 3:06:37PM
Job Number 171,075.00

Greenville County Detention Center
Property Release

Inmate: SWARINGEN, JOSEPH MARTIN **Jail #:** 0132 **Pack#:** 0047908

Property Received by Anne Swaringen

ANNE (CPL NEELEY) SWARINGEN

Date Received: 11/19/20

The person whose signature appears above indicates that he/she has received the above inmate's property

DL#: [redacted]
Exp: 02/12/2028
Address: [redacted] Haven Dr.
Simpsonville, SC 29681

Phone: (864) [redacted]

Bags(2) 2554654 + 2554355
and leather case

S/DM 12/16/2020

GCDC Records
Certified Copy
JMoran / 06/06/2022

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)

IN THE COURT OF GENERAL SESSIONS

STATE
VS.
Joseph Martin Swaringen
AKA:
Race: WHITE Sex: M Age: 59
DOB: [redacted]1963 SS# [redacted]
Address: [redacted] Bailey Street
City,State,Zip: Greenville, SC 29609
DL#: [redacted] SID#:

INDICTMENT/CASE#: 2021GS2306825

A/W#: 2020A2330211265
Date of Offense: 11/18/2020
S.C. Code §: 44-53-0375(C)(2)(
CDR Code #: 0392

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Drugs / Trafficking In Meth 3rd

In violation of § 44-53-0375(C)(2)(of the S.C. Code of Laws, bearing CDR Code # 0349

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Blouin, Hunter	80145 SC Bar#	Defendant	YARBOROUGH III, WILLIAM G	10271 SC Bar#
			Attorney for Defendant	

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of life without parole days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years and/or to pay a fine of $_____ provided that upon the service of _____ days/months/years/Time Served and or payment of $ _____ , plus costs and assessments as applicable*, the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. _____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

J

STATE VS Joseph Martin Swaringen INDICTMENT/CASE#: 2021GS2306825

SPECIAL CONDITIONS: A/W#: 2020A2330211265

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing

☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning : _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		$
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____		
§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$

Clerk of Court/ Deputy Clerk: Paul B. Wickensimer

Court Reporter: Hudgins

Presiding Judge: [signature]

Judge Code: 2755

Sentence Date: 6/29/22

SCCA/217 (07/2021)

WITNESSES

Christopher Miller

Greenville Hospital System PD

11/18/2020

CM 10-5-21

ARREST WARRANT NUMBER

2020A2330211265

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-23- AOF 006825

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

October **TERM 2021**

THE STATE

vs.

JOSEPH MARTIN SWARINGEN

Indictment for

0349

TRAFFICKING METHAMPHETAMINE

VIOLATION § 44-53-0375

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
COUNTY OF GREENVILLE) TRAFFICKING METHAMPHETAMINE

At a Court of General Sessions, convened on OCT 0 5 2021 the Grand Jurors of Greenville County present upon their oath:

That JOSEPH MARTIN SWARINGEN did in Greenville County, on or about the 18th day of November 2020, knowingly sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance or otherwise aid, abet, attempt or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 28 grams, but less than 100 grams, of Methamphetamine (Crank) This is in violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR BAR # 17016

RECEIVED
Jul 01 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Hon. Perry H. Gravely, Circuit Court Judge

Indictment No. 2021GS2306825

State of South Carolina ..... **Respondent,**

vs.

Joseph Martin Swaringen ..... **Appellant.**

NOTICE OF APPEAL

Notice is hereby given that Joseph Martin Swaringen appeals the conviction and sentencing of the Indictment № 2021GS2306825. The sentencing was imposed by the Hon. Perry H. Gravely at the trial that ended and filed on June 29, 2022.

July 1, 2022

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Attorney for Respondent

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Oct 06 2023
SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
General Sessions Court
The Honorable Perry H. Gravely

Appellant Case No 2022-000928
Lower Case No. (2021GS2306825)

State of South Carolina, ... Respondent,

vs.

Joseph M. Swaringen ..... Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 4th, 2023

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Attorney for Appellant