

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

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Jan 18 2024

**APPEAL FROM YORK COUNTY
Court of Common Pleas
Heath P. Taylor, Circuit Court Judge**

S.C. SUPREME COURT

**Appellate Case No. 2023-001400
Lower Case № 2019-CP-46-3761**

Reginald Raynard White, Jr. SCDC No. 353172, ... Petitioner,

vs.

State of South Carolina Respondent.

**APPENDIX
VOLUME I**

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State of South Carolina.,)
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County of York.)
)
)
Reginald Raynard White.,)
Junior.,)
)
Applicant.,)
)
-vs-)
)
State of South Carolina.,)
)
Respondent.)
_____)

In the Common Pleas
Court of York
Case No. 2017-CP-46-01435

Transcript of Record
Post-Conviction Relief
Evidentiary Hearing

January 30, 2019
York, South Carolina

B E F O R E:

The Honorable Thomas Russo, Judge.

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I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

<u>WITNESS</u>	<u>BY:</u>	<u>PAGE NO.:</u>
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>

No Exhibits were received into the record.

1 (COURT IN SESSION WEDNESDAY, JANUARY 30, 2019, ON THE
2 RECORD AT 10:00 A.M.)

3 (BENCH CONFERENCE OFF THE RECORD AT 10:00 A.M.)

4 (APPLICANT REGINALD WHITE, BLACK MALE, ENTERS
5 COURTROOM.)

6 (COURT AT EASE/COURT LEAVES BENCH AT 10:02 A.M.)

7 (COURT BACK IN SESSION AT 10:07 A.M.)

8 THE COURT: All right. Yes, ma'am.

9 MS. GREGORY: May it please the Court, Your Honor.

10 In front of you is Reginald White. Applicant was
11 indicted at the May 2014 term of the York County Grand Jury
12 for trafficking in cocaine and possession with intent to
13 distribute crack cocaine. On August 29th, 2014 Applicant
14 was notified of the State's intention of seeking life
15 without the possibility of parole under the recidivism
16 statute if Applicant was convicted on either charge.
17 Applicant was represented by William McKinnon.

18 On January 12th, 2015 Applicant proceeded to trial
19 before Judge Couch. On January 13th, 2015 the jury found
20 Applicant guilty as indicted. Judge Couch sentenced
21 Applicant to life without the possibility of parole on each
22 charge. Applicant did appeal his conviction which was
23 affirmed by the South Carolina Court of Appeals on October
24 26th, 2016. Applicant filed a timely application for Post
25 Conviction Relief on May 17th of 2017.

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10 MR. YARBOROUGH: Good morning, your Honor.

12 MR. YARBOROUGH: Your Honor, we've outlined pretty
13 extensively the allegations that we're moving forward on
14 and I think that's on your bench. And a number of those
15 are legal issues that I was gonna bring up with Mr.
16 McKinnon and then I'm gonna let Mr. White, Mr. White has
17 some issues that he'd like to expand on at some point, but
18 I think that in the interest of time we'd go ahead and call
19 Mr. McKinnon and move forward if that's no problem.

21 All right, please come forward. Place him under oath
22 and then take the stand.

23 (WHEREUPON, WILLIAM MCKINNON,
24 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

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1 WILLIAM MCKINNON BY MR. YARBOROUGH:

2 A. Good morning.

3 Q. Good morning. Your Honor, you want to state your
4 name for the record?

5 A. Its William McKinnon.

6 Q. Okay.

7 A. I go by Bill.

8 Q. You're presently a judge in this circuit?

9 A. Yes, sir.

10 Q. And at the time that you represented Mr. White were
11 you retained or appointed?

12 A. I was appointed.

13 Q. And can you tell us a little bit about your
14 representation of Mr. White and kind of lay a foundation
15 and background?

16 A. Yes, sir. At the time I was an attorney in private
17 practice with McGowan, Hood, and Felder here in York
18 County. Going back to look -- I've got an electric case
19 file here that will help me refresh my memory. I was
20 appointed on September 17th of 2014. Mr. White had been
21 previously represented by Ashley Anderson in the Public
22 Defender's Office and my understanding is he had had some
23 difficulties with Ms. Anderson and had ask the Court to
24 relieve her and appoint another attorney and so I was at
25 least his second attorney. I don't know if he had other

1 attorneys as well but I was appointed approximately four
2 months before the trial. My recollection -- it's not in my
3 notes -- but my recollection was there was a trial date
4 pretty quickly set after I was appointed and I had to call
5 Solicitor Brackett and ask him to delay the trial so I
6 could get up to speed on the file.

7 Q. And it was -- the case was a search warrant case; is
8 that your recollection?

9 A. That's correct. And what was originally -- I mean the
10 -- this particular trial wasn't involving a criminal sexual
11 conduct matter. There was a complainant who alleged that
12 Mr. White had sexually assaulted her and search warrants
13 were obtained based on that, her statements, and then the
14 search warrants led to drugs that were found and to the
15 charges that I represented Mr. White on.

16 Q. Now the house that was searched was not Mr. White's
17 residence; is that correct?

18 A. That was one of the big issues at trial. I mean it
19 was a home -- it was a rented trailer that the mother of
20 some of his children Ms. Collins rented and Mr. White did
21 not -- he did not stay there; there was testimony from Ms.
22 Collins' girlfriend and others that he was there quite
23 regularly.

24 Q. But generally speaking it was rented in somebody
25 else's name?

1 A. That's correct.

2 Q. And that was Ms. Collins; is that correct?

3 A. That's correct.

4 Q. And did you at some point challenge the search
5 warrant of that house?

6 A. I did.

7 Q. Can you tell us the basis of that challenge?

8 A. The basis was -- can I, I'm going -- all my testimony
9 -- and this is five years ago and I'm doing the best I can
10 ---

11 Q. Sure.

12 A. --- to remember. And I've reviewed some to refresh
13 my recollection. There was a dispute as to whether the
14 address of the trailer was 809 or 817 in the numerical
15 address. And my recollection was that Mr. White and Ms.
16 Collins who rented the trailers said the trailer's address
17 was 809 and the bills they received at their house all came
18 to 809, the Silver Creek I believe, yes, Silver Creek
19 Drive. But the search warrant stated at 817 Silver Creek
20 Drive.

21 Q. So the search warrant was actually for a different
22 address than the address that the search --

23 A. The numerical address was different. Unfortunately
24 for the defense the Drug Enforcement Unit had printed out a
25 Google map, satellite map, and had circled the particular

1 trailer they wanted to search.

2 Q. And did you challenge those issues?

3 A. I did. I mean I raised that and argued the search
4 warrant should be suppressed because of the incorrect
5 number and Judge Couch disagreed.

6 Q. Okay. And were those argued pretrial?

7 A. They was -- that was argued, yes, at a motion in
8 limine.

9 Q. And pursuant to that motion in limine did you
10 challenge the validity of the search warrant as opposed to
11 the address that was on the search warrant?

12 A. I'm not sure what you mean by challenge -- you mean
13 challenge the warrant on another basis?

14 Q. Yeah. The substance of what was in the affidavit.

15 A. I did not.

16 Q. And do you recall what the substance of that
17 affidavit was?

18 A. My best recollection was that the complainant in the
19 sexual assault case stated that she had been at her home
20 with her boyfriend and that Mr. White had picked him up at
21 her home and driven them to the Silver Creek Drive address
22 and there had, I believe, get -- provided her with crack
23 cocaine and sexually assaulted her.

24 Q. And how did she identify Mr. White? Do you recall?

25 A. I don't believe she was able to. I believe the

1 police executed the search warrant on the home owner and
2 then based on Ms. Collins's written statement and Ms.
3 Collins being his -- the mother of his children and the
4 renter of the trailer, that the gentleman who lived with
5 her was Mr. White. That was how they identified him.

6 Q. But all of that was after the issuing of the search
7 warrant, correct?

8 A. That's correct, yes.

9 Q. Okay. So I guess the long and the short of the
10 answer was that the substance of the search warrant was not
11 challenged?

12 A. Well, right, because the search warrant stated that it
13 was looking for evidence of sexual assault with evidence of
14 narcotics and I did not see any legal basis to challenge
15 that given we had the statement from the sexual assault
16 complainant.

17 Q. But my question is, how did they get in the house?

18 A. With the search warrant issued based on the sexual
19 assault and drug -- reported drug use.

20 Q. Okay. But they had the wrong address, correct?

21 A. The wrong number address, yes.

22 Q. Right. And it was no substance in the affidavit that
23 directed them to Mr. White or Ms. Collins, correct?

24 Who were the --

25 A. Right. Now I understand what you're saying. The

1 search warrant was to search for evidence of sexual
2 assault or of narcotics at a particular location, and I
3 don't believe either Ms. Collins or Mr. White were
4 mentioned by name in the affidavit.

5 Q. And so did you challenge the admission of the drugs
6 based on that issue in the search warrant?

7 A. No, I didn't think there was a basis to do so.

8 Q. Okay. And did Mr. White ask you to do that?

9 A. I don't recall to be honest whether he ask me or not.

10 Q. Okay. Because throughout the trial were there not
11 questions about dominion and control of the drugs in this
12 case?

13 A. There were. That was one of the main issues in the
14 trial.

15 Q. So with that being one of the main issues in the
16 trial, looking back on it do you wish you would have
17 challenged the basis of the search warrant?

18 A. No. It seemed to me to be obviously a valid search
19 warrant. I didn't see any legal basis to challenge it.

20 Q. Okay.

21 A. Other than the number address being wrong. I mean it
22 was issued by a magistrate based on a victim stating she
23 had been raped at the home and that there had been
24 narcotics used at the home and the warrant was issued to
25 look for evidence of the rape and narcotics it seemed to me

1 obviously a valid warrant to me.

2 Q. Okay. And that was what was presented to the jury
3 in the trial of Mr. White, correct?

4 A. I'm not sure the warrant was presented at all. I
5 mean I --

6 Q. The search was but --

7 A. The search. I'm not understanding.

8 Q. During the course of the trial the officers said we
9 conducted a search at --

10 A. That's correct. Yes it is, yeah.

11 Q. And the information that was provided on the search
12 warrant was that that address was not correct?

13 A. Correct. I mean I'm not sure we ever had a
14 definitive ruling on what the correct address was. The
15 testimony of Ms. Collins who rented the trailer was -- my
16 recollection was that it was 809 Silver Creek and that she
17 had some bills that indicated it was 809 Silver Creek. The
18 warrant I believe said 817 Silver Creek but again, law
19 enforcement had a satellite picture of the property and
20 they had circled the trailer they wanted to search, and I
21 think that was Judge Couch's basis for upholding the
22 search.

23 Q. Okay. And at that point how did you -- how was Mr.
24 White tied to that location?

25 A. My recollection was upon the execution of the warrant

1 and the location of the drugs and the mother of his
2 children, Ms. Collins, was arrested at the scene; the
3 renter of the trailer, and the officers ask her who was the
4 male that she lived with and she provided a written
5 statement saying it was Mr. White and they subsequently
6 obtained an arrest warrant for Mr. White.

7 Q. And at the directed verdict stage of the trial Judge
8 Couch had a lot of problems with how Mr. White had dominion
9 and control over that house, correct?

10 A. I argued that quite vociferously.

11 Q. You did. But do you not think now that perhaps if the
12 affidavit of the search warrant would have been challenged
13 that would have given Judge Couch more reason to grant your
14 directed verdict motion?

15 A. If I've missed something in the warrant you certainly
16 can enlighten me, but I did not see any basis to challenge
17 the search warrant other than the incorrect number of the
18 trailer and it looked to me to be -- I mean there was a
19 sexual assault complainant; she said she was assaulted at
20 that address; she said there was drug use at that address
21 and the warrant was issued. It did seem to be a valid
22 warrant to me.

23 Q. Okay.

24 A. Its possible I missed something.

25 Q. Now, at different times during the trial the State

1 tried to admit either *Lyles* evidence or 404 (B) evidence;
2 is that correct?

3 A. There was evidence I was arguing as prior bad act
4 evidence. Are you talking about the two days that -- the
5 distribution of crack two days prior?

6 Q. I'm talking about -- Yeah, they used some crack two
7 days --

8 A. And I tried to keep that out unsuccessfully but yes
9 that was --

10 Q. Okay. And did you -- how did you try to keep it out?

11 A. Well again, my recollection was that, you know, there
12 -- Mr. White was facing two sets of charges. The trial was
13 on the trafficking cocaine and PWID crack based on what was
14 found at the property, but he also had outstanding the CSC
15 charge for the alleged rape.

16 Q. But he wasn't on trial for that.

17 A. He was not on trial for that but the basis for what
18 came in was he -- in his my defending himself from the rape
19 charge he had given a written statement to police saying he
20 didn't rape the woman, he had given her a hundred piece of
21 it. It didn't say crack; it said a hundred piece to
22 smoke, and so obviously -- and that alleged event occurred
23 two days prior to the execution of the search warrant and
24 that was what they wanted to bring in and I tried to keep
25 it out but I was unsuccessful.

1 Q. And did you -- you tried to keep it out how?

2 A. I argued it was prejudicial. I mean I argued it was
3 improper bad act evidence and it's prejudicial under Rule
4 403. Like I said that's my recollection. If you can point
5 me to the traffic, I've got the trial transcript here.

6 Q. Sure. I think my question becomes that you argued
7 that pretrial?

8 A. Correct.

9 Q. And throughout the trial you did not continue to
10 renew your objection under *Lyle* or 404(B); is that correct?

11 A. That's correct.

12 Q. Okay. And are you familiar with the South Carolina
13 Supreme Court opinion in this case where they say that the
14 in limine motion is not final; the losing party must renew
15 those objections at trial when the evidence is presented in
16 order to preserve the issue for appeal?

17 A. I am.

18 Q. And so that issue of there being this drug use a
19 couple of days before the issuing of the search warrant was
20 not preserved for appeal; is that correct?

21 A. That's correct. That's my understanding.

22 Q. And Judge Couch during his -- during your argument --
23 strong argument for a directed verdict, kept referring back
24 to that issue and so, Judge Couch in his ruling said that
25 well there has to be some amount of evidence for me to send

1 it to the jury and here we don't -- we're having trouble
2 with dominion and control but he had these two -- or two
3 days that he was -- two days before he had been involved in
4 drugs with this woman; is that correct?

5 A. That's correct. That's my understanding.

6 Q. Okay. And so Judge Couch used that evidence in his
7 directed verdict motion; is that correct?

8 A. That's correct.

9 Q. And should the -- you have continued to renew your
10 Motion in Limine or in 404(B) that issue as well would have
11 been preserved for the South Carolina Supreme Court; is
12 that correct?

13 A. I should have, yes.

14 Q. And could of would of should of we all in trial don't
15 get everything we want; is that correct?

16 A. That's correct. I mean I had argued it extensively
17 pretrial and it's an error in the heat of the battle for
18 not -- and I should have made another objection when they
19 attempted to introduce the statement. I don't think it
20 would have made any difference. I think Judge Couch is
21 probably right to let it in in looking at it. But I should
22 have objected.

23 Q. Are there not a number of South Carolina Supreme
24 Court cases, now that you say you should have let it in,
25 but perhaps that type of evidence is not admissible today?

1 A. My recollection of his ruling was that it was a
2 statement from the Defendant saying he had distributed
3 crack at that particular address two days prior to the
4 location of the drugs at the address. And I think -- I
5 mean if you're asking me my opinion I think the probative
6 value of that evidence is fairly strong. But if you know
7 of a case that says it should be excluded I'd be happy to
8 be enlightened.

9 Q. Sure. I mean if -- we'll go there.

10 A. Sure.

11 Q. But the long and short was it was not; it was not
12 protected for appeal; is that correct?

13 A. That's correct.

14 Q. And that's what the South Carolina Supreme Court
15 said?

16 A. Correct. Well, the Court of Appeals I think.

17 Q. The Court of Appeals, I'm sorry. And when you went to
18 the directed verdict stage can you kind of tell me about
19 your argument there?

20 A. Obviously Mr. White wasn't home when the drugs were
21 found so it was a constructive possession case. The drugs
22 were located and my recollection was that they were in
23 glass jar in the air vent in the master bedroom. And the
24 drugs were located and so since it's a constructive
25 possession case the State has to prove knowledge of the

1 drugs and dominion and control over the property and my
2 belief was that the evidence of dominion and control was
3 the weakest link in the State's case and that's what I
4 attacked. They had -- I'll let you --

5 Q. Okay. And at that point you argued *State versus*
6 *Mohammad*? Do you remember that?

7 A. Yes, sir, I think *State versus Heath* maybe I think
8 was the other one.

9 Q. And the series of cases that have come down since
10 then and before then, correct?

11 A. Yes, sir.

12 Q. And Judge Couch kept going back to but we had this
13 distribution and so that was not protected for the record?

14 A. I'm not sure what you're asking.

15 Q. The fact that the distribution had not been protected
16 for the record on appeal the issue as far as directed
17 verdict was not protected under that scenario; is that
18 correct?

19 A. Well I did not make a contemporaneous objection to
20 the admission of the statement regarding the distribution
21 two days prior and so that was not protected on appeal.

22 Q. And I think we've talked about that enough.

23 A. It was a mistake.

24 Q. We've talked about the search warrant. Okay. Now,
25 during the trial are you familiar with the testimony of

1 investigator Walter Becks?

2 A. Generally. I reread the transcript last night but,
3 yes, generally.

4 Q. And originally you objected to him testifying as an
5 expert; is that correct?

6 A. That's correct.

7 Q. Okay. And that was that he should not be allowed
8 to testify about how drug deals are set up and marked money
9 and all that; is that correct?

10 A. Right.

11 Q. And the judge upheld that objection, correct?

12 A. I think he said he would delay ruling on it was my
13 recollection.

14 Q. And did he -- did he eventually testify to controlled
15 buys, marked money, how drugs are sold; what type of
16 mechanism the police go about in looking at this type of
17 evidence; he testified to all of that, correct?

18 A. Over my objection is my recollection, yes.

19 Q. Okay. And did -- during the pretrial hearing on that
20 did Judge Couch not tell you that you could renew that
21 objection later in the trial about his testimony?

22 A. My recollection is I did renew the objection at trial.

23 Q. But do you recall where that was?

24 A. My recollection of what I did at trial was I
25 stipulated to his expertise in those areas but I objected

1 to his testimony on the basis of relevance.

2 Q. Okay. I think that was my -- my point is that you
3 stipulated that his expertise and so at that point Judge
4 Couch let him testify to that.

5 Q. Right. My thinking on that was it was totally
6 irrelevant and so I was gonna make the relevance objection.
7 I mean there were no marked -- there was no confidential
8 informant, there was no marked money and there were no
9 control buys. I mean Detective Beck is an experienced
10 detective and I didn't want him going through all his
11 qualifications in front of the jury but I felt like that I
12 was gonna stipulate to those qualifications and then object
13 on the basis of relevance because the testimony was not
14 relevant.

15 Q. But they let it in because of the lack of objection
16 to his qualifications, correct?

17 A. I stipulated to his expertise in two areas what I
18 think would have been to marked money and control buys for
19 the two areas which were two areas that literally had no
20 relevance whatsoever to this case, and so, I just thought
21 it would not give them a chance to go through his
22 qualifications on the record and those two areas were
23 totally irrelevant to the case.

24 Q. Right. And there was not a whole lot of -- there
25 wasn't a whole lot of evidence against Mr. White in this

1 case, correct?

2 A. I would agree. Well I mean the drugs were there so
3 there's no questions the drugs belonged to someone but I
4 would agree it was a very circumstantial case.

5 Q. Okay.

6 A. There was no physical evidence tying Mr. White to the
7 drugs.

8 Q. Okay. And you ask Investigator Beck questions about
9 how drugs are controlled, how they're sold, on your cross-
10 examination, correct?

11 A. I don't recall --

12 Q. You ask him about constructive possession?

13 A. Yes, I did. Yes, I think and --

14 Q. Okay. And did that not at some point open the door
15 for that type of prejudicial argument by the Solicitor in
16 that case?

17 A. I don't know what you're referring to.

18 Q. If you went back and looked at the argument and the
19 Solicitor he talks about Investigator Beck and his
20 testimony during the trial. Do you recall that?

21 A. Again, I don't in particular. I mean, no, I don't
22 know.

23 Q. Okay. But it's safe to say you didn't object to that
24 during his closing argument?

25 A. I don't recall making any objections during closing.

1 Q. Okay. Do you remember Agent Beck saying other people
2 said that Mr. White was living there?

3 A. I do.

4 Q. And did you -- before Agent Beck testified to that
5 that was clearly hearsay, correct?

6 A. Oh, yes, it was clearly hearsay but it was in
7 response ---

8 Q. Okay. But did you ---

9 A. --- to my own question.

10 Q. But that's what I'm saying. You opened the door for
11 Agent Beck -- I mean Investigator Beck to testify to what
12 other people said that Mr. White lived at that residence?

13 A. No, I did not. My question was specific to what
14 physical evidence the State had and then he ---

15 Q. And he said --

16 a. --- threw in oh, well, other people told me because
17 not the question I asked him. And in fact later on we
18 raised that issue with the judge and the judge said I had
19 not opened the door and that was -- Mr. Shelton conceded
20 that I had limited my question and it was --

21 Q. But the testimony still got before the jury.

22 A. His statement and other ---

23 Q. His statement.

24 A. --- other people --

25 Q. Yeah, that statement other people.

1 A. Yes. I mean the jury was there when he said it.

2 Q. Correct.

3 A. I mean it was -- it was not responsive to my
4 question.

5 Q. It wasn't responsive but it was extremely damaging.

6 A. No. I mean the jury -- Mr. White had told the police
7 that he lived there. Ms. Collins had told the police there
8 -- that he lived there and given a written statement he
9 lived there; neighbors said he lived there. I mean a
10 single sentence that unstated other people said he lived
11 there I didn't think was damaging at all.

12 Q. But still the question before the Court was that Mr.
13 White took the position that he did not have dominion and
14 control over that house, correct?

15 A. That's correct.

16 Q. Okay. And there wasn't -- I mean didn't have
17 dominion and control over that house and didn't have
18 dominion and control of the drugs in that house?

19 A. That's correct. That was our position at trial.

20 Q. And so anything that went towards that was
21 prejudicial, correct?

22 A. Sure. I mean, again, I mean it wasn't favorable
23 testimony but again, it was a single sentence that unnamed
24 other people thought Mr. White lived there when he had told
25 the police he lived there; Ms. Collins had told the police

1 he lived there, and neighbors said they had seen his car
2 there. I don't think that made any difference at all but
3 it was not favorable testimony.

4 Q. Ms. Collins said that she lived there and he
5 frequently visited there; isn't that correct?

6 A. I don't remember her exact wording.

7 Q. And the neighbor said that they saw a silver car
8 there.

9 A. Correct.

10 Q. And there was some testimony that the silver car may
11 have belonged to Mr. White?

12 A. That's correct.

13 Q. And that neighbor was unsure when she had last seen
14 Mr. White there; isn't that correct?

15 A. That's correct.

16 Q. And there was another person that Ms. Collins said
17 those drugs belonged to?

18 A. That's correct. She testified that there was -- she
19 had another boyfriend named Mr. Peoples who was a drug
20 dealer. I'm not sure she -- I don't recall her exact
21 saying that they were his drugs. And she may have. I
22 don't recall but she said she had -- that Mr. Peoples who
23 was a drug dealer lived at the residence.

24 Q. Okay. And she said she didn't know whose drugs
25 they were?

1 A. That is my recollection.

2 Q. Right. Okay. Then she didn't know whose drugs they
3 were but Mr. Peoples lived there; was there, had dominion
4 and control of the place and he was the drug dealer?

5 A. That's my recollection.

6 Q. Okay. And did you have any other, or did you have
7 any other testimony about Mr. Peoples being available or
8 having dominion and control over that house?

9 A. I don't -- I believe the only testimony on that issue
10 came from Ms. Collins.

11 Q. Okay. And were you able to do any other research
12 before trial about that?

13 A. No, I was not.

14 Q. Okay. And was Mr. -- at that point Mr. Peoples'
15 under indictment in Rock Hill or York for distribution of
16 cocaine and crack cocaine?

17 A. I don't remember the exact charges but he had pending
18 drug charges.

19 Q. And did you at all try to have that information
20 presented to a jury?

21 A. It was presented to the jury. Ms. Collins --

22 Q. I mean besides just Ms. Collins' testimony?

23 A. No, I actually think it came out -- I thought one of
24 the law enforcement officers confirmed it but I may be
25 wrong about that but I think, you know.

1 Q. I could have missed it.

2 A. I thought -- I mean I remember Mr. Shelton objecting
3 to me asking questions on Mr. Peoples. I think it came --
4 I think they at least said that he -- my recollection was
5 it was some testimony about Mr. Peoples from one of the law
6 enforcement officers but I'm not positive.

7 Q. And just a last couple of questions. Did the -- do
8 you recall the solicitor going through and making arguments
9 along the line of trust the truth of the evidence, the
10 truth of the witness statements; just and true, do you him
11 using those types of terms during his closing argument?

12 A. No, but very easily could have. I just don't
13 remember those terms in particular.

14 Q. Did you object to him saying return a verdict that
15 speaks the truth?

16 A. I did not ob -- my recollection was, I could be
17 wrong, my recollection was I did not make any objections to
18 the closing argument.

19 Q. Okay. And also along the lines of him arguing accept
20 or reject any evidence before the court?

21 A. Again, I don't think I made any. I mean I don't
22 remember making any objections at all during -- my typical
23 practice is not to make objections during closing unless
24 it's extraordinarily egregious.

25 Q. Okay. And you've reviewed the Appealate order in

1 this case?

2 A. I'll be honest, I did not review it last night. I
3 reviewed -- when it came out of course I read it, but I did
4 not review that order last night.

5 MR. YARBOROUGH: May I approach, your Honor.

6 THE COURT: Yes, sir.

7 MR. YARBOROUGH: Thanks.

8 Q. You've got it in your packet I think. Can you just
9 -- just going back on that can you refer to No. 1 -- State
10 1?

11 A. Yes. I see that, yes.

12 Q. And does that state that the motion in limine was not
13 objected to throughout trial and so it wasn't preserved?

14 A. It does.

15 Q. It was not preserved for the record?

16 A. As I said, that was an error.

17 Q. Yeah. And we all make errors.

18 And, also in Part II, your Honor, just in that order,
19 and I'll ask a question though. Just referring to it, do
20 you recall that order talking about the existence or non-
21 existence of evidence that was before the court in that
22 weight, do you remember that?

23 A. Yes. I didn't look at the second paragraph, one you
24 just handed it to me, I'm not really sure.

25 Q. But it deals with the directed verdict that you --

1 about the weight of the evidence.

2 A. I'm sorry. What was the question?

3 Q. Do you recall that they said that the review is
4 limited to considering the existence or non-existence of
5 the evidence, not it's weight?

6 A. Yes, sir. It was a string cite of a bunch of cases
7 involving ---

8 Q. Sure.

9 A. ---- constructive possession.

10 Q. And Judge Couch during trial said that he was looking
11 at the weight from the fact that there were these two
12 issues with fifty cent pieces a couple of days before; is
13 that correct?

14 A. Yes, sir.

15 Q. And what he was on trial for was trafficking the
16 drugs that were found in that house, correct?

17 A. Correct. It was a trafficking cocaine, I believe, and
18 possession with intent to distribute crack. Trafficking
19 powder and possession with intent to distribute crack based
20 on --

21 Q. Which was who had dominion and control over the stuff
22 found in the ceiling?

23 A. Correct. The floor paneling.

24 Q. The floor paneling, okay.

25 A. Yeah.

1 Q. Gotcha.

2 MR. YARBOROUGH: I don't have any --

3 Well just one second, your Honor.

4 (PAUSE.)

5 BY MR. YARBOROUGH:

6 Q. Can you recall in the closing argument by the
7 Solicitor if he was attempted to shift the burden from the
8 state to you?

9 A. I don't recall that. But I've got it here if you
10 want to direct me to --

11 Q. Just where it -- where he talks about they're free to
12 accept and reject arguments.

13 A. Do you have a page number, Mr. Yarborough?

14 Q. I tell you what, I'll find it. I'll come back to it.
15 Your Honor, can I come back on that one and I'll just
16 let her go at this point?

17 THE COURT: Yeah. I'm gonna give you an opportunity
18 to redirect.

19 MR. YARBOROUGH: Okay. Great. Thank you.

20 MR. MCKINNON: Yes, sir.

21 THE COURT: All right.

22 CROSS-EXAMINATION

23 WILLIAM MCKINNON BY MS. GREGORY:

24 Q. How many times did you meet with Mr. White prior to
25 trial?

1 A. I believe three. Give me just one second.

2 Q. Sure.

3 A. I believe I meet with him three -- Okay. Yes. Based
4 on my notes it appeared I met with him November 20th,
5 September 17th, November right around then when I was
6 appointed when again on November 20th and December 17th.
7 And I also wrote him six letters that were fairly detailed.

8 Q. Was he cooperative during the meetings?

9 A. He's very smart and we had discussions, but he was
10 unwilling to take my advice, so I would say in the end he
11 was uncooperative.

12 Q. Were there any plea offers extended to Mr. White?

13 A. There were. There were multiple plea offers extended
14 when Ms. Anderson represented Mr. White from the PD's
15 office. And the final one she had received she had
16 negotiated a fourteen-year-plea offer that would resolve
17 not only these drug charges but also the pending criminal
18 sexual conduct charges and he would not have had to
19 register as a sex offender. And that offer had been
20 revoked, and when I was appointed, but Mr. Shelton was
21 gracious enough to reextend it to me when I was new on the
22 case. And I conveyed that to Mr. White; he rejected that
23 offer. We had an offer rejection hearing on the record and
24 at that hearing Mr. Shelton ask me what would Mr. White
25 accept and based on my experience in dealing with Mr.

1 Shelton as a very reasonable solicitor that indicated to me
2 he was willing to come off the fourteen years at least
3 slightly. In my mind he might have dropped to twelve but I
4 ask Mr. White I said can we make a counter offer to Mr.
5 Shelton and he said probation. And so I reported to Mr.
6 Shelton that the counter offer was probation and that ended
7 the discussions.

8 Q. And was it Mr. White's decision to go to trial; to
9 proceed to trial?

10 A. It was. I communicated exactly what Mr. White
11 instructed me to communicate.

12 Q. What would have been your recommendation?

13 A. My recommendation in very strong terms to Mr. White
14 in letters that I wrote to him in jail using all capital
15 letters was take the plea or you will spend the rest of
16 your life in jail.

17 Q. Did you file *Rule 5* and *Brady* motions in this case?

18 A. Yeah. I can't find the actual motion I filed in my
19 record but I had all the discovery and Mr. Shelton actually
20 in the trial transcript said he responded to my motions so
21 it was my practice to file the motions but in going through
22 my file I actually couldn't find the actual motion that I
23 filed.

24 Q. Do you recall reviewing that discovery with Mr.
25 White?

1 A. I reviewed the discovery with Mr. White and provided
2 him with a copy of it.

3 Q. I know we've kind of gone over the facts of the case
4 but this was a constructive possession case.

5 A. Yes, ma'am.

6 Q. And what evidence did the State have that Mr. White
7 lived at the residence that was searched where the drugs
8 were found?

9 A. Well it was -- I guess the biggest evidence was the
10 trailer was rented by Ms. Collins who was the father, I
11 believe, five of his -- four or five of his children. He
12 had a number of children. She was some -- she was the
13 mother of four or five of his children who lived at that
14 address. And in addition to that there was an old pill
15 bottle with his name on it that law enforcement found.
16 There were a couple of bank statements with his name on it
17 that law enforcement found. There was men's clothing at
18 the residence that wasn't particularly tied to Mr. White
19 but there was clearly some gentleman was staying there
20 because there were men's clothes at the residence.

21 And then there was a neighbor who said that she had
22 seen a car there though she misidentified the color and I
23 tried to use that at trial. I believe Mr. White's car was
24 in fact green and she claimed it was silver but there was a
25 neighbor that saw that. And then of course the most

1 damaging Mr. White's statement to the police or alleged
2 statement that was he lived there. And then Ms. White's
3 written statement to the police that he was there a lot.

4 Q. I'm sorry, whose written statement to police?

5 A. Ms. Collins.

6 Q. Ms. Collins. Okay. What were your trial strategy?

7 A. My trial strategy was to basically say that there's
8 no proof it was Mr. White's cocaine. Obviously the
9 cocaine and crack were found but he was not there. Ms.
10 Collins wasn't even present when they first executed the
11 warrant. We had good evidence that at least the best we
12 could come up with that he lived elsewhere. His driver's
13 license listed an address in York but I believe it was his
14 sister's address. His DMV records listed his sister's
15 address in York as his residence. He had various other
16 girlfriends around town and he spent lots of time in other
17 places, so I thought we had pretty good evidence we could
18 show that, you know, he didn't live there.

19 I thought the State's -- I mean an old pill bottle
20 and a couple of bank statements I thought was pretty weak.
21 The men's clothing, I mean, it was -- there wasn't any
22 testimony even it was Mr. White's size clothing or anything
23 like that; it was just that it was men's clothing at the
24 residence. So my -- I mean of course there was no physical
25 evidence connecting him to the drugs and I tried to make a

1 big deal out of that. There was no DNA or fingerprints or
2 hair; there was no forensic connection between him and the
3 drugs, and so I just argued that there was no evidence that
4 he had dominion -- the legal argument was he had dominion
5 and control over the property.

6 So basically the laymen's terms argument was they
7 couldn't prove they were his drugs. And they could prove
8 there were drugs found in his girlfriend's trailer and that
9 wasn't enough.

10 Q. And Mr. White made several statements to law
11 enforcement one written and at least one oral statement?

12 A. Unfortunately he made a statement to law enforcement
13 where he admitted to being a crack dealer and he admitted
14 -- I mean he had a discussion with law enforcement about
15 the price of crack and what he bought it for. And then he
16 also, and I believe, he made a statement that he lived
17 there. And then he made a very very damaging written
18 statement that stated that -- you know, I understand why he
19 did it. He was defending himself from a sexual assault
20 charge but I don't think he understood that when he wrote
21 that statement saying he did not rape this woman; he had
22 sex with her in exchange for a hundred piece, that that was
23 unfortunately very damaging evidence on drug charges.

24 Q. Because that occurred just two days before that
25 interview?

1 A. Correct. And that was the basis for the search
2 warrant that was executed on the property.

3 Q. And he also in that statement told them exactly what
4 drugs they would find in the trailer?

5 A. Yes. I'm sorry, I had forgotten that. He said -- he
6 never mentioned the location of the drugs but he did say
7 that Oxycodone, powder cocaine, and crack cocaine would be
8 found and those in fact were the three drugs that were
9 found in the trailer.

10 Q. And I know you mentioned this on direct regarding the
11 prior distribution, there was a *Jackson v. Denno* hearing of
12 sorts regarding the voluntariness of that statement?

13 A. Correct.

14 Q. And what was the outcome of that?

15 A. The outcome is it was denied and we called it a
16 *Jackson v. Denno* hearing, I really wasn't objecting too
17 much of the voluntariness. He had been Marandized with
18 these statements but I was more agreeable to Rule 403 and
19 other *Lyle* and other arguments to keep the statements out.
20 And the outcome was that my motions were denied.

21 Q. And the ruling was that the State could prove intent
22 even if they have a prima facie case showing intent that
23 it's revokable presumption?

24 A. That's exactly -- Mr. Shelton made a very good
25 argument. I was trying to argue that since they had above

1 the inference level on crack, and they had above the
2 trafficking level on the powder cocaine, intent was not an
3 issue. But Mr. Shelton said that on the crack it was a
4 rebuttable presumption and he made a very good argument
5 that he was entitled to prove his case how he chose and
6 intent was relevant.

7 Q. And that led to the probative versus prejudicial

8 ---

9 A. That's --

10 Q. --- analysis that Judge Couch then allowed the
11 statement in?

12 A. He did allow it in, that's correct.

13 Q. And under direct you said that was probably the proper
14 ruling?

15 A. I don't know if I should say that. I think it's hard
16 -- I won't say it's hard, I mean, maybe there's a case I
17 don't know of but given those circumstances I think it's
18 hard to argue with Judge Couch's ruling looking back.
19 Obviously at the time I did everything I could to keep it
20 out.

21 Q. And so the State was able to bring that up during
22 their case in chief?

23 A. They were.

24 Q. Did you cross examine the witnesses regarding the
25 prior direct distribution at that residence?

1 A. Cross examine which witness?

2 Q. I believe it was investigators that testified to the
3 statements that Mr. White made.

4 A. I did. My recollection of my cross was I was just
5 trying to point out that there wasn't any evidence that --
6 I think my -- yeah, I can't -- it was either an argument to
7 the jury or during cross that I said, you know, Mr. White
8 easily could have had a small amount of crack in his pocket
9 and when he gave it to this woman that the fact that he
10 gave her cocaine in the trailer doesn't mean it was the
11 cocaine that was found in the air vent.

12 Q. Okay. Looking at the search warrant very quickly,
13 we've covered that a lot on your direct. If you had seen
14 additional grounds to challenge the search warrant would
15 you have?

16 A. Absolutely. And again, there may be a law I'm
17 missing. I did not see any basis to challenge the warrants
18 other than the incorrect or possibly incorrect numbering
19 of the house.

20 Q. Okay. And regarding Investigator Beck's testimony,
21 you testified that you stipulated to his knowledge of
22 controlled buys and the value of drugs and the marked money
23 because it was irrelevant to your case?

24 A. My thinking was, again, it was on the fly decision
25 at trial. Sometimes those are wrong. My thinking was that

1 if I didn't stipulate then there's a chance that the court
2 was going to allow Mr. Shelton to question Investigator
3 Beck and go through his resume and how many cases he had
4 done and how great a detective he was and I thought that
5 would be not helpful testimony. And given that I didn't
6 think those issues were all relevant in the case, I thought
7 the easiest thing would be to stipulate that he was an
8 expert in those areas.

9 Q. Okay. And on cross-examination of Investigator Beck
10 did you get him to admit that it was completely irrelevant
11 to your case? It's on page 237.

12 A. I believe -- I think I said something like isn't it
13 true that marked money and controlled buys and all that
14 have nothing whatsoever to do with the case but I'll see.

15 Yes. My question is: You gave a lot of testimony
16 that I ended up objecting to about control buys and
17 informants and where an informant goes and buys cocaine or
18 crack from someone who had marked the bills. That has
19 nothing whatsoever to do with this case; is that correct?

20 That didn't happen in this case.

21 And then his response is, that didn't happen in this
22 case.

23 Q. Okay. And regarding his statement that he gave to
24 you that was not responsive to your question regarding
25 other people told us the applicant was living at the

1 residence. Your response was let's talk about the
2 evidence. It's on page 240 if you want to look at it.

3 A. Yes, ma'am. What I was trying to elicit from him
4 was the physical evidence pointing to Mr. White living at
5 the house was very weak when they had the pill bottle a
6 couple ---

7 Q. Right.

8 A. --- of bank statements and that he, on his own, threw
9 in, he said, let me see. Right. He says we have other
10 information that he was living there. Other people had
11 told us he was living there. And I said, other people,
12 okay. And let's talk about evidence. Do you know they are
13 his clothes? And he says, - -

14 Q. Okay. If you hold onto that for just a second.

15 A. Sorry.

16 Q. On page 247 the state did try to use that response
17 that other people lived in this house, other people told us
18 that the applicant lived in the house. They tried to use
19 that response to go further into basically him living there
20 trying to elicit that kind of testimony from other
21 witnesses. The judge denied that response; istc

22 A. That's correct.

23 Q. The judge believed you did not open the door to that
24 kind of rebuttal from the State?

25 A. That's correct.

1 Q. Okay. So the directed verdict motion that you've
2 talked about Mr. White has alleged that you failed to
3 correct the Court to reliance on a couple of things during
4 that directed verdict motion. One of those things is the
5 pill bottle. Mr. White has alleged that the court said in
6 their denial of your directed verdict that there were
7 recently dated pill bottles. On page 353, 354 which I
8 believe is following, do you recall the judge
9 misrepresenting anything about the pill bottles in his
10 directed verdict motion?

11 A. My recollection was that the judge said he wasn't
12 sure whether the pill bottles were old or new. What page
13 should I go to?

14 Q. 353 and 354.

15 A. The mention of the pill bottle I see is at the bottom
16 of page 353 and he says the pill bottle was present. The
17 pill bottle that was found on the night stand, the dresser,
18 and I don't see he characterized it.

19 Q. With a date.

20 A. Right.

21 Q. It doesn't say anything about being recently dated.

22 A. Right. He says -- he mentions the bank records are
23 recent which my recollection is that is correct.

24 Q. Right. Prior to the directed verdict -- during your
25 argument for the directed verdict motion you mentioned as

1 you did here today that the pill bottle was old. That you
2 had seen photographs of the pill bottle and you had
3 communicated it to the judge that it was old and there's
4 nothing in the directed verdict motion indicating that he
5 took that as recent pill bottles or anything like that?

6 A. No. I don't ever remember him saying that the pill
7 bottles were recent. He just kind of counted it that the
8 bank records are recent.

9 Q. Okay. Going over the jury instructions did the judge
10 say "return a verdict that is just and true?"

11 A. I believe that he did.

12 Q. And you did not object?

13 A. I did not.

14 Q. Did the judge properly instruct the jury on burden of
15 proof; that the state has the burden of proof?

16 A. He -- I thought the jury instructions were
17 unobjectionable. Had those instructions been given today
18 and I was still in private practice I would have objected
19 to the instructions based on the 2018 cases saying that the
20 search for the truth that language is improper. But at the
21 time of this trial in 2015 I did not think the language was
22 objectionable and I think it pretty much came straight out
23 of the bench book that the judges had.

24 Q. And the closing arguments by the State, did you feel
25 anything was objectionable that was said?

1 A. I don't -- my practice is to not object. I think
2 jury's don't like attorneys objecting to the other
3 attorney's closing. And also you certainly expect the same
4 curtesy from opposing counsel. So my typical practice is
5 unless something is said in closing is exceptionally
6 egregious rising to the level of something where I think
7 the judge will grant me a mistrial I do not make objections
8 in closing. And so my recollection is nothing rose to
9 that level in this closing, Mr. Shelton's closing.

10 Q. Okay. And looking at Mr. White's criminal history,
11 he has alleged that you should have provided a more
12 substantial objection to his prior convictions be used per
13 his prior strikes. Do you recall that his sentence was
14 appropriately?

15 A. I do. I mean I basically made a proforma objection
16 to protect that for the record. I believe Judge Couch's
17 ruling was correct. The issue was Mr. White, his two prior
18 strikes, or offenses under the three strike law, were an
19 arrest that occurred on the same day, but the underlying
20 conduct that the arrest were based on two different
21 incidents and my understanding of the law was that that
22 satisfied that you could count that as two separate
23 strikes.

24 Q. And the judge looked at that. There was an ---

25 A. I did.

1 Q. --- analysis --

2 A. I did object but my -- mainly it was a proformer
3 objection so I believe that Judge Couch was correct and I
4 just wanted to protect that for the record in case it was
5 an issue later on.

6 Q. Okay. I have no further questions, your Honor.

7 MR. YARBOROUGH: Briefly, your Honor.

8 THE COURT: Yes, sir.

9 REDIRECT EXAMINATION

10 WILLIAM MCKINNON BY MR. YARBOROUGH:

11 Q. Like you said, if you would have objected to those
12 series of remarks during the charge that would have been -
13 would have been improper and they would have been able to
14 appeal that; that's correct?

15 A. I'm sorry, I'm not following you. You talking about

16 Q. Where the Solicitor says speak the truth, just and
17 true, truth of the witness statements, accept or reject.
18 There were four different places in his that
19 was not objected to, correct?

20 A. That's correct.

21 Q. And that -- those were overturned in a case in 2017;
22 that's correct?

23 A. 2017 or 2018. Had that argument been made today and
24 had I still been in private practice today I certainly
25 would have objected.

1 Q. Sure. And if it would have been objected to and at
2 this time that might have been the case they would have
3 over turned it; is that correct? I mean it was very close
4 to that period of time.

5 A. And it's -- I mean it's conceivable.

6 Q. It was very close in time.

7 A. Its conceivable.

8 Q. Okay.

9 A. But I do want to say, my understanding is -- I mean
10 that language was straight out of the bench book pretty
11 much and that -- and the cases that came out, the Beatty
12 and in 2017 or 2108 they even acknowledged that it was
13 coming out of -- that the judge was charging out of the
14 bench book that the Supreme Court provided.

15 Q. They also acknowledged it was improper?

16 A. They did.

17 Q. Oh, did you object to his prior record being used
18 to enhance him?

19 A. I don't think so.

20 Q. Yeah. Did you challenge either one of the previous
21 convictions?

22 A. I mean -- I don't recall. My recollection -- my best
23 recollection was the State had certified copies of the
24 convictions and they appeared to be in order to me and I
25 did not challenge them.

1 Q. Okay. And did you discuss that with him the
2 possibility he could get a life sentence?

3 A. Oh, the possibility he was gonna get a life sentence?

4 Q. Yeah.

5 A. Oh, absolutely. I wrote him at least one letter and
6 I think multiple letters saying that he took this case to
7 trial I believed he'd be sentenced to life in prison. We
8 would loose at trial.

9 Q. And did you object to any burden shifting arguments
10 during the solicitor's closing argument?

11 A. I don't believe I made any objections that I recall.

12 Q. Okay. And he keeps asking me to ask you about it and
13 I apologize. Prior to the case going to trial had this
14 case gone to the Grand Jury?

15 A. Yes.

16 Q. Okay. And do you recall what name it went to the
17 Grand Jury in?

18 MS. GREGORY: Objection, your Honor. This is not one
19 of the allegations that's listed in his application. There
20 is no allegation regarding the Grand Jury.

21 BY MR. YARBOROUGH:

22 Q. Do you remember the indictment, was it - did it have
23 his name or did it have his father's name? Did he tell you
24 about that?

25 MS. GREGORY: Again, your Honor, this isn't an

1 allegation.

2 THE COURT: All right. I sustain the objection.

3 MS. GREGORY: Thank you.

4 MR. YARBOROUGH: Okay.

5 Q. Do you remember Mr. White asking you to file a motion
6 to quash the indictment?

7 MS. GREGORY: Your Honor, this isn't an allegation.
8 There is nothing --

9 MR. YARBOROUGH: It would bear under ineffect -- in
10 Allegation 1.

11 A. I don't have any recollection of that but I remember
12 at the preliminary hearings Mr. White had various
13 objections to my representation. And the judge ask him --
14 I made a bunch of motions on the first day of trial and the
15 judge ask Mr. White were there any more motions he wanted
16 me to make and I believe he answered no and so.

17 Q. Okay.

18 MR. YARBOROUGH: Nothing further. Thank you.

19 THE COURT: Anything further for this witness?

20 MS. GREGORY: No, thank you.

21 THE COURT: Thank you very much, sir.

22 MR. MCKINNON: Thank you, your Honor.

23 (WITNESS LEAVES WITNESS STAND.)

24 MR. YARBOROUGH: We call Mr. White.

25 THE COURT: All right, Mr. White. Sir, if you'd

1 please come around and be sworn.

2 (WHEREUPON, REGINALD WHITE, BEING
3 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

4 DIRECT EXAMINATION

5 REGINALD WHITE BY MR. YARBOROUGH:

6 Q. Will you state your name for the record?

7 A. Reginald Renard White.

8 Q. And you're presently incarcerated. Who represented
9 you?

10 A. Mr. William McKinnon.

11 Q. And did you have counsel before then?

12 A. Yes. Ashley Anderson.

13 Q. But Mr. McKinnon was who tried your case?

14 A. Yes, sir.

15 Q. Were you please with how he represented you?

16 A. Like he made some good arguments and I was convinced
17 that he did a good job but now that I see what he done I'm
18 not.

19 Q. When you talk about what he did now that you've had
20 a chance to research your case, is that what you're talking
21 about?

22 A. Yes, sir.

23 Q. Can you tell the Court what you're displeased with?

24 A. First off before trial started the judge constructed
25 me -- amended my indictment and he ask was Mr. McKinnon do

1 you have any problem with me constructive amending this
2 indictment and he said, no, your Honor. And that's when
3 they proceeded to trial. That was one issue.

4 Q. You're talking about on the front of your indictment
5 where it says Reginald Renard White, A/K/A Reginald Renard
6 White, Junior?

7 A. Yes, sir. I think he should a made them go back to
8 the Grand Jury stage and let them indict the right person.

9 Q. And are you familiar with the arguments that we've
10 made in here today about what went on at trial and I think
11 you brought up some of the burden shifting issues that you
12 felt were inappropriate?

13 A. Yes. But before that the prior bad act --

14 Q. Okay. Well let's go to burden shifting and then we'll
15 get to prior bad acts. I know you wanted to bring up
16 burden shifting and I'll get you there.

17 A. The judge he went and charged -- when he did the jury
18 instruction he shifted the burden of proof from the state
19 to the defense.

20 Q. Okay.

21 A. And that right there was very prejudice.

22 Q. And would you have like to have had that objected to?

23 A. Yes, sir.

24 Q. And would you have liked to have raised that issue on
25 appeal?

1 A. Yes, sir.

2 Q. And now if you look back on it you've researched it
3 and you understand that if the law could change you believe
4 that at that point you would have won?

5 A. Yes, sir.

6 Q. Okay. And were you trained in the law that you
7 understand that at that point?

8 A. No, sir.

9 Q. But you've researched it now and you realize that that
10 would be -- would have been a good issue?

11 A. Yes, sir.

12 Q. Okay. And let's talk about what happened with -
13 did you live in that house?

14 A. No, sir.

15 Q. Did you tell your lawyer you didn't live in that
16 house?

17 A. Yes, sir, I told him I didn't live there and I told
18 him other stuff too also.

19 Q. About who lived there?

20 A. Yes, sir.

21 Q. And what did you tell him?

22 A. I told him Jessica lived there and her two children
23 lived there and I said also another guy lived there and
24 that he also had been - he had an incident there with the
25 police being involved.

1 Q. Right. And did you want him to investigate that?

2 A. Yes, sir.

3 Q. Okay. And what would that investigation to your
4 knowledge have shown?

5 A. That right there would a shown that another person --
6 that another person could a had dominion and control or the
7 right to exercise dominion and control over that premises
8 or the drugs that was found and that evidence, sir.

9 Q. Okay. And that was always your argument was that this
10 wasn't your stuff, right?

11 A. Yes, sir. And I was like letting them know that
12 that's the reason why I didn't want to take the fourteen
13 years because like I was telling him, sir, it doesn't have
14 my fingerprints, it's not even drugs, like obviously
15 somebody fingerprints is on the drugs and they said they
16 got men clothing at the house. Obviously they somebody
17 clothing but -- and I heard 'em say that the State offered
18 me another deal that I never heard about.

19 Q. Tell us about that while you're there.

20 A The only thing on the record that they offered me - -

21 Q. But go ahead and back up and tell us about what they
22 offered you. What did you hear that they offered you that
23 you - or you did not recall being offered before?

24 A. He just said that the state offered another deal.

25 The only thing on the record, your Honorable, is the

1 fourteen years. That's the only thing on the record that I
2 been offered.

3 Q. You were not aware that anything else had ever been
4 offered?

5 A. No, sir.

6 Q. Okay. And let me ask you this. Did you feel like
7 you were well represented at trial?

8 A. Yeah. No. No, for what I know today, never.

9 Q. Okay. Well tell the court what you know today. You
10 know your case pretty well.

11 A. Today I know that it's no way that they can prove
12 that I had dominion and control over the house or the drugs
13 that was found. There was no physical evidence linking me
14 to the drugs or this house. And also that prior bad act --

15 Q. Well we're gonna talk about that now.

16 A. Okay.

17 Q. What -- do you recall sitting down and talking to the
18 police?

19 A. Yes. Yes I did. That was my second -- that was my
20 second interview with the police.

21 Q. Okay. And tell us about that.

22 A. Okay. I want to go over the first. The first one --

23 Q. Okay. Go ahead and do the first one.

24 A. The first interview they had me -- they had me in a
25 room asking me questions but I didn't want to talk because

1 they didn't read me my rights. And I been telling them it
2 was like One o'clock in the morning and they had me in
3 there. They got me from a residence, 30 Hudson Street,
4 where I sleep and they had me in a room and wouldn't let me
5 go. Kept trying to ask me questions but they was asking me
6 questions and they was writing stuff down when I wouldn't
7 tell me like speak to them actually. Like I say stuff like
8 I need a lawyer so they write stuff down. But then the
9 second interview was from Detective Neely and he threatened
10 me that I can get a life sentence for a CSC and this and
11 that. And I was like sir, excuse me, but I did not rape
12 nobody and that's when that statement came out. He was
13 like I hope you didn't do that now. I make sure that these
14 charges get dropped on you we need a mouth swab, we need to
15 check your phone records, because I told them that these
16 statements I got all my proof inside my phone and my text
17 messages. And I signed over --

18 Q. So you cooperated with them?

19 A. Yes, sir, I cooperated with them and he did not do
20 what he say he was gonna do.

21 Q. Okay. Did you tell him about some incident where
22 - with a two fifty cent pieces?

23 A. Yes, sir. And that statement right there I signed
24 that statement because I gave that statement but the first
25 statement was not --

1 Q. Did that have anything to do with the drugs in that
2 house?

3 A. No. That was for a CSC and he told me this is
4 strictly for a CSC and I need to protect myself but not a
5 CSC carries a life sentence.

6 Q. Were you surprised when the drug information came
7 out at trial?

8 A. I was very surprised, sir. And that's what I was
9 asking my lawyer. I was telling him how can they do that
10 like I was tricked. He told me that this right here ain't
11 go nothing to do with nothing else but the CSC.

12 Q. Right. And did you feel like that it was improper
13 for them to admit that information about two fifty cents
14 pieces during the course of the trial?

15 A. That was very improper. That prejudiced my whole
16 case, sir.

17 Q. Right. And did you appeal that issue?

18 A. Did I appeal it? Yes, sir, I appealed it.

19 Q. Was that issue preserved on appeal?

20 A. No, sir. And that crushed me.

21 Q. They said it wasn't preserved because it had not
22 been objected to all the way through the trial. Was that
23 your understanding?

24 A. Correct.

25 Q. That's in the order that you -- your case?

1 A. Yes, sir, it say he should a made another objection
2 in front of -- when he came in front of the jury.

3 Q. Well, and you're not a lawyer. Do you know if he
4 could have made an objection with the judge before that and
5 it could have been sustained at that point?

6 A. Actually he -- actually he made a good argument about
7 the prior bad act and how it would prejudice me and the
8 judge -- the judge ruled that the prior bad act would be
9 more prejudicial to me and hurt my case and he said that in
10 the transcript page 138, l -- 8 through 18. The judge
11 agreed with Mr. McKinnon because he gave a great argument
12 about that prior bad act would prejudice my whole case and
13 the judge said, okay, you right, transcript page 138, lines
14 8 through 18 and he said you right but he did not --

15 Q. But it came in anyway, right?

16 A. Yes. I guess he forgot to make an objection or he
17 just --

18 Q. Who forgot to make an objection?

19 A. William McKinnon.

20 Q. He forgot to make the next objection and so ---

21 A. Yeah.

22 Q. --- the Supreme Court or the Court of Appeals said it
23 was not protected on the record; is that correct?

24 A. That's correct, sir.

25 Q. Okay. And did you feel like that prejudiced your

1 case?

2 A. Yes, sir, that prejudiced my case very bad.

3 Q. Did it also prejudice your case during the directed
4 verdict stage or your trial?

5 A. Yes, sir. They talked about that incident right
6 there numerous times in my direct verdict.

7 Q. Okay. Can you tell us about that? Do you remember
8 it?

9 A. No, I ain't got the pages but they kept saying -- they
10 kept saying -- the judge kept saying well -- he's speaking
11 up on the dominion and control he's like well it's hard to
12 say he's got dominion and control but he did say he gave
13 two individuals something to smoke.

14 Q. And that's two days prior ---

15 A. Yeah, yes, sir.

16 Q. --- to the search of that house?

17 A. And their like there was a big reason he denied
18 my direct verdict because of that right there. He kept
19 bringing that up when he denied my direct verdict.

20 Q. And you would have liked for that to have been
21 objected to throughout trial?

22 A. Yes, sir.

23 Q. And so you think it both would have affected your
24 right to appeal and your motion in limine or 404(B) and it
25 also affected your directed verdict argument?

1 A. Yes, sir.

2 Q. Okay. And do you feel like the opinion that was
3 issued by the South Carolina Court of Appeals substantiates
4 what you just said?

5 A. Yes, sir.

6 Q. Okay. And are you familiar with *State versus*
7 *Mohammad*? Are you familiar with that case?

8 A. Yes. State versus Mohammad where they talked about
9 a key and a pad lock?

10 Q. Right.

11 A. Yes, sir, I'm very familiar with that case. I read
12 that case a hundred times after -- after it got the Court
13 of Appeals decision.

14 Q. Correct. And do you feel like that directly had an
15 implication in your case here?

16 A. I think it didn't have nothing to do with the facts
17 of my case.

18 Q. Right. But the facts wouldn't but the legal argument?

19 A. The legal argument? Like?

20 Q. About the directed verdict.

21 A. Yeah. Like I didn't understand you. Say it one more
22 time.

23 Q. Yeah. Explain to the court why you think that legal
24 argument would have helped you.

25 A. About the prior bad act?

1 Q. No. About the State versus Mohammad. I'm sorry, I
2 think we've already gone -- I think we've hit prior bad
3 acts.

4 A. The State versus Mohammad like I feel if *State versus*
5 *Mohammad* ain't had nothing to do with my case because he
6 talked about a key. In my case they talked about a key
7 but it was testimony that I didn't have a key to the
8 residence.

9 Q. Right. Okay. That's what I mean. That's right.

10 A. Yeah, I didn't have a key to the residence. I didn't
11 have the key.

12 Q. What you're saying is that you think that would have
13 helped your directed verdict argument, is that correct?

14 A. Yes. Yes, if he'd a spoke up on that and let 'em
15 know that the person with the key is the one that exercised
16 dominion and control over the property.

17 Q. Okay. Are there other areas that you would like to
18 tell the judge about that you feel like there was
19 ineffective assistance of counsel?

20 A. Yes. Speaking about the testimony or evidence
21 because the affidavit is testimony or evidence that the
22 State used against me at trial when they didn't prove --
23 when they didn't produce the complainant's last informant
24 to testify at trial.

25 Q. Did you want your lawyer to produce that?

1 A. Yes, sir.

2 Q. You're talking about the search warrant issue; is
3 that correct?

4 A. Yeah, the affidavit. The affidavit search warrant?

5 Q. Right.

6 A. Yes. Because that right there I didn't have a right
7 to cross examine my accuser.

8 Q. Okay. And you felt like that was ineffective
9 assistance of counsel and your rights were violated?

10 A. Yes, sir.

11 Q. Okay. Now are there other areas? I want you to be
12 able to tell the court what you want.

13 A. Yes, sir. Also he didn't object to the judge when
14 he constructive -- I mean when the judge shifted the
15 burden of ---

16 Q. Shifted the burden.

17 A. --- of proof. That was one issue but the other issue
18 was search warrant upon the rule -- upon the *Fourth*
19 *Amendment* violation.

20 Q. Okay.

21 A. Where when they tried to establish probable cause in
22 trial the officer never gave testimony about a witness, now
23 credible the witness was. They never produced a witness at
24 trial, established the probable cause.

25 Q. And you wished that you all would have challenged the

1 search warrant at that point and forced them to do that,
2 correct?

3 A. Yes, sir. That right there would a helped me out a
4 whole lot in my case.

5 Q. Okay. And all of those would have been issues you
6 could have raised on appeal?

7 A. Yes, sir.

8 Q. You feel like you were properly represented?

9 A. No, sir.

10 Q. Do you have anything else you want to tell the court?

11 A. Oh, with the life sentence.

12 Q. A life sentence.

13 A. Life sentence. I done some research on that. He
14 didn't like make a good argument on life sentence and
15 didn't properly object to it because the interpretation of
16 the judge was error because it was supposed to been read
17 17-25-45(F) supposed to be read together with 17-25-50 upon
18 the recidivist statute because in order to give a life
19 sentence they got to be -- they got to be -- they got to
20 give me a conviction. After conviction all my charges was
21 one adjudication on one day and I pled guilty at one time,
22 one term of court. If I had fifty charges on one day and
23 plead guilty that's considered as one strike, one
24 conviction up under them two statutes read together. And
25 that right there was very prejudice to me.

1 Q. You don't feel like that was raised?

2 A. Yeah, it wasn't properly raised or properly objected
3 to.

4 Q. Okay. Is that everything you got?

5 A. Yes, sir.

6 Q. Okay.

7 MR. YARBOROUGH: Answer any questions the Attorney
8 General may have.

9 A. Okay.

10 CROSS-EXAMINATION

11 REGINALD WHITE BY MS. GREGORY:

12 Q. Good morning, Mr. White.

13 A. Good morning.

14 Q. How many times did you meet with your attorney prior
15 to your trial?

16 A. If you count the day of trial that would be like two
17 or three times.

18 Q. Okay. Do you recall getting letters from him as well
19 as in person meetings?

20 A. I got like three letters from him.

21 Q. Okay. Do you recall what the nature of those letters
22 were?

23 A. He told me that I need to take the fourteen years
24 because he can't - this is the strongest case he ever seen
25 and I would loose at trial.

1 Q. Do you recall reviewing the discovery with Mr.
2 McKinnon?

3 A. No.

4 Q. Do you recall discussing any possible defenses with
5 him, anything regarding your case? Did you give him any
6 witnesses to interview or anything like that?

7 A. Oh, yeah, yeah, yeah. Yes, ma'am.

8 Q. You did? Okay. Do you recall being notified by the
9 state that they were going to be seeking life?

10 A. Yes, ma'am.

11 Q. Okay. And it was still your decision to proceed to
12 trial and not take the plea agreement that was offered?

13 A. The fourteen years?

14 Q. Correct.

15 A. Yes.

16 Q. All right. And in rebuttal to the fourteen years did
17 you say that you would take probation?

18 A. I said -- I said -- Like I told him, I said, if you
19 could, get me single digit I bite the bullet, I take
20 something like that on probation. Yes I ask him that.

21 Q. And you made several statements to law enforcement.
22 Do you recall admitting that you live there?

23 A. No, I made one statement that I signed to.

24 Q. Okay.

25 A. And like I said today that I gave.

1 Q. Okay.

2 A. But them other statements wasn't marandized. I didn't
3 sign it, I didn't write it, it wasn't video, audio,
4 nothing.

5 Q. Do you remember telling law enforcement the drugs
6 that they would find in the residence?

7 A. No that's the ---

8 Q. Okay.

9 A. --- that's the same statement that the police say I
10 gave.

11 Q. And you have even said here that you recall your
12 attorney making good arguments on your behalf and that at
13 some point you were convinced that the drugs were yours
14 during trial as well?

15 A. No. No, no, no. I say - I said I thought he done a
16 good job until I researched my case.

17 Q. Okay. So you don't recall telling the judge that the
18 solicitor made good arguments too and that they had
19 convinced -- they had you convinced that they were your
20 drugs as well? On page 471, do you have your transcript to
21 review?

22 A. No I don't have my transcript to review.

23 MS. GREGORY: May I approach the witness, your Honor?

24 THE COURT: Yes, ma'am.

25 BY MS. GREGORY:

1 Q. Just review that page.

2 A. What page, which --

3 Q. 471. Just read what you said to the court.

4 A. This don't have nothing to do with the issues that
5 I'm arguing.

6 Q. I'm just asking you if you said ---

7 A. And that don't ---

8 Q. --- that they had --

9 A. --- have nothing to do with the issues I'm arguing
10 now, ma'am.

11 MS. GREGORY: No further questions, your Honor.

12 THE COURT: Anything further?

13 MR. YARBOROUGH: No, sir, your Honor.

14 THE COURT: Thank you, sir, you may step down.

15 (WITNESS LEAVES WITNESS STAND.)

16 THE COURT: All right, anything further then from the
17 State?

18 MS. GREGORY: No, sir.

19 THE COURT: All right. Would you all like to make
20 a small closing argument or?

21 Mr. Yarborough, I'll be happy to hear from you, sir.

22 MR. YARBOROUGH: Thank you. And I think it's outlined
23 pretty well in the supplemental PCR that we filed. I think
24 htat outlines very strongly what our case is and we do
25 think that the testimony that ended up coming out under the

1 404(b) and the Lyle statement about the use of drugs a
2 couple of days before that was not objected to and would
3 have made a difference in the trial. It may have made a
4 difference in the directed verdict motion and because of
5 that it was not properly preserved on appeal and the
6 Appellate Court said, look, we can't rule on this because
7 it was not finally argued or objected to at trial. And we
8 think that issue alone is enough for a post conviction
9 relief to be granted.

10 We also think the arguments in regards to the closing
11 argument should those objections been made during that that
12 case would have - Mr. White's case would have been reversed
13 as opposed to the one that came down nine months later so
14 with both of those issues I think that that clearly would
15 substantiate a post conviction relief application being
16 granted.

17 The third issue, your Honor, is that the trial judge
18 had a really hard time with what wasn't enough evidence to
19 get past dominion and control and all this other smoke as
20 the judge said that hadn't been objected to and that
21 actually came in was enough for him to send it to the jury
22 and I think all of that tended to sway the fact that Mr.
23 White didn't get a fair trial.

24 And based on that that was not -- that was the burden
25 of his trial counsel and so we'd ask the court to grant the

1 PCR.

2 THE COURT: Thank you, Mr. Yarborough.

3 Yes, ma'am.

4 MS. GREGORY: Briefly, your Honor. Mr. Yarborough
5 hammered pretty hard on the prior bad acts not being
6 preserved for appeal. It's our position that they failed
7 to show any prejudice because those were properly admitted.
8 The State had the right to prove intent and Judge Couch's
9 ruling on that issue as you will see in the record allowed
10 the State to prove that through the prior bad acts which
11 was any statement by the applicant.

12 And in the *Jackson v. Denno* there was really no
13 argument that they were not voluntary statements. Looking
14 at the other allegations I'll just hit a couple.

15 The directed verdict allegations regarding the pill
16 bottles and the neighbors testimony completely meritless.
17 Page 352 to 355 if you would read that that shows that the
18 jury instructions there is no burden shifting. The jury
19 instructions included at least three times indicating that
20 the State had the burden of proof. And just over all, your
21 Honor, they have failed ot meet their burden as set forth
22 in *Strickland* and there is absolutely no prejudice here and
23 we'd ask that you deny and dismiss this application.

24 THE COURT: All right. Folks, you've given me a lot
25 to look at. I'm gonna take it under advisement; give me an

1 opportunity to go through the transcript and to read those
2 things, so I will do that and have a response for you very
3 shortly.

4 MR. YARBOROUGH: Thank you.

5 MS. GREGORY: Thank you, your Honor.

6 THE COURT: Thank you.

7 (END OF TRANSCRIPT OF RECORD.)

8 (COURT IN RECESS AT 11:32 A.M.)

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Court Reporter and Notary Public for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for York County, South Carolina, on the 30th day of January, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda S. Nelson, CVR-M
Certified Verbatim Reporter,
Circuit Court Reporter for the
The State of South Carolina,
Retired.

DATE: _____/_____/_____

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

JAN 25 2016

APPEAL FROM YORK COUNTY

SC Court of Appeals

Roger L. Couch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

REGINALD RAYNARD WHITE a/k/a REGINALD RAYNARD WHITE, JR.

APPELLANT

APPELLATE CASE NO. 2015-000171

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBITS # 1-6 (PHOTOGRAPHS);
STATE'S EXHIBIT # 8 (CORRESPONDENCE); STATE'S EXHIBIT # 10 (AFFIDAVIT)

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 REGINALD RAYNARD WHITE,) 2014-GS-46-01499
JR.,) 2014-GS-46-01500
7) JANUARY 12, 2015
8 DEFENDANT.) YORK, SOUTH CAROLINA

9
10 (VOLUME I)

11
12 B E F O R E:

13 THE HONORABLE ROGER L. COUCH, JUDGE. ; And a Jury.
14
15

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

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18 CHRISTOPHER EPTING, ASSISTANT SOLICITOR
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23 MICHAEL R. WATTS
24 CIRCUIT COURT REPORTER.
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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3

4 THE STATE)

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6 REGINALD RAYNARD WHITE,
7 JR.,

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) JANUARY 13, 2015

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YORK, SOUTH CAROLINA

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(VOLUME II)

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1 (PROCEEDINGS, JANUARY 13, 2015)

2 (Photograph marked as State's Exhibit No. 1 for
3 identification).

4 (Photograph marked as State's Exhibit No. 2 for
5 identification).

6 (Photograph marked as State's Exhibit No. 3 for
7 identification).

8 (Photograph marked as State's Exhibit No. 4 for
9 identification).

10 (Photograph marked as State's Exhibit No. 5 for
11 identification).

12 (Photograph marked as State's Exhibit No. 6 for
13 identification).

14 (Drugs marked as State's Exhibit No. 7 for
15 identification)

16 (Correspondence marked as State's Exhibit No. 8
17 for identification)

18 (Digital Scales marked as State's Exhibit No. 9
19 for identification0.

20 (Affidavit marked as State's Exhibit No. 10 for
21 identification).

22 (Drug Report marked as State's Exhibit No. 11 for
23 identification).

24 MR. SHELTON: Your Honor, may it please court?

25 THE COURT: Yes, sir.

1 MR. SHELTON: Your Honor, the State is ready to
2 proceed with pretrial matters, as we discussed yesterday
3 afternoon.

4 I think the first probably the easiest motion for
5 us to deal with is dealing with the search warrant.

6 THE COURT: Yes.

7 MR. SHELTON: I have spoken with Mr. McKinnon
8 after court yesterday --

9 THE COURT: Yes, sir.

10 MR. SHELTON: -- to clarify the nature of that
11 motion, and, Mr. McKinnon, correct me if I'm misstating
12 this, please, he's indicated to me that the only thing the
13 defense is challenging is on the face of the search warrant
14 application, the actual search warrant, is the address of
15 the premises to be searched, to be -- for the court's
16 information, you will see in a moment there is an address as
17 well as directions and there was a map included referencing
18 all that information, but to go ahead -- we are prepared to
19 go ahead and proffer testimony from the affiant, Detective
20 Neely.

21 THE COURT: You may call the first --
22 Is that a correct statement of your concern?

23 MR. MCKINNON: We are challenging the
24 identification of the property, Your Honor.

25 THE COURT: Okay. All right.

1 MR. SHELTON: The first witness is Detective
2 Carson Neely.

3 THE COURT: Come forward and be sworn, please.

4 DETECTIVE CARSON NEELY, having been first duly
5 sworn, testified as follows:

6 THE COURT: Have a seat on the witness stand.

7 And once you are seated, state your name for me,
8 sir.

9 THE WITNESS: Yes, sir.

10 My name is Carson Neely.

11 THE COURT: Your witness, counselor.

12 DIRECT EXAMINATION BY MR. SHELTON:

13 Q. Detective, do you work for the sheriff's department?

14 A. Yes, sir, I do.

15 Q. How long have you been a detective?

16 A. Since 2000 -- December 2005.

17 Q. And how long have you been in law enforcement?

18 A. Since 1998.

19 Q. During your tenure as an officer, have you had
20 experience in application -- preparation and application for
21 search warrants?

22 A. Yes, sir.

23 Q. And specifically related to searches of property?

24 A. Yes, sir.

25 Q. Did you apply for a search warrant in reference to this

1 case for an address you believed to be

2 in Clover, York County, South Carolina?

3 A. Yes, sir, that's correct.

4 Q. Was that application made on February 26th, 2014?

5 A. Yes, sir.

6 Q. And did you apply before Magistrate Lynn Benfield?

7 A. Yes, sir.

8 Q. Was that here in her office or her courtroom at Moss

9 Justice Center?

10 A. That's correct.

11 Q. Does Magistrate Benfield have county-wide jurisdiction?

12 A. Yes, sir.

13 Q. And did she ultimately grant your request for a search
14 warrant?

15 A. Yes, sir, she did.

16 Q. Okay.

17 MR. SHELTON: Your Honor, I would like to have
18 this marked as a Court's Exhibit for identification.

19 THE COURT: Any objection?

20 MR. MCKINNON: None, Your Honor.

21 THE COURT: All right.

22 MR. SHELTON: This would be Court Exhibit No. 1.

23 THE COURT: This is for I.D. purposes.

24 I'm sorry. Go ahead.

25 (Search Warrant marked as Court's Exhibit No. 1

1 for identification).

2 BY MR. SHELTON:

3 Q. Detective, I'm handing you what's been marked for
4 identification as Court's Exhibit No. 1. If you would take
5 a moment to look at that.

6 A. Yes, sir.

7 Q. And are you familiar with that document?

8 A. I am.

9 Q. Please tell the court what it is.

10 A. This is a search warrant pertaining to a search of a
11 residence located in York County in reference to drug
12 activity.

13 Q. And is that the search warrant in question?

14 A. Yes, sir.

15 Q. Is that the original?

16 A. Yes, sir, it is.

17 Q. Does it include a return?

18 A. It does.

19 Q. Does it include your affidavit of probable cause?

20 A. Yes, sir, it does.

21 Q. And a map referencing the location of this residence?

22 A. That's correct.

23 MR. SHELTON: I move this in as a Court's Exhibit
24 No. 1.

25 THE COURT: Any objection?

1 MR. MCKINNON: None, Your Honor.

2 THE COURT: It would be received into evidence as
3 it's been marked. You may proceed.

4 (Whereupon, Court's Exhibit No. 1 was entered into
5 the record for this suppression hearing)

6 BY MR. SHELTON:

7 Q. Detective, please explain to the court briefly why you
8 applied for this search warrant.

9 A. I received information from complainant about illegal
10 drug usage and packaging at a certain address. The exact
11 numbers of the address was not known by this complainant at
12 the time. I show a Google map on an I-phone when talking to
13 the complainant originally and she knew how to get there,
14 but, of course, like a lot of us don't know specific
15 addresses. And when talking to the complainant, she
16 pinpointed the exact home she was referencing where the drug
17 activity was that had taken place. That was initially how
18 it started.

19 Q. And was there another allegation that's not relevant to
20 this case included in your affidavit of probable cause?

21 A. That's correct, yes, sir.

22 Q. And is all the probable cause and search and support of
23 your search warrant, is that included on your affidavit?

24 A. Yes, sir, it is.

25 Q. And the magistrate reviewed all of that before issuing

1 the search warrant?

2 A. That's correct.

3 Q. You are the affiant on this search warrant?

4 A. Yes, sir.

5 Q. And you filled out that application?

6 A. Yes, sir.

7 Q. And the affidavit of probable cause?

8 A. Yes, sir.

9 Q. And was that after speaking with the informant
10 complainant?

11 A. Correct.

12 Q. Did you find that person to be reliable?

13 A. Yes, sir.

14 Q. Did you include in the affidavit or in the application
15 packet a description of the property sought?

16 A. I did.

17 Q. Specifically what was the description provided?

18 A. Any and all evidence relating to -- do I need to go
19 into that part?

20 Q. Yes, specifically it says description of property
21 sought.

22 A. Yes, sir.

23 Q. And also I will need to talk about the description of
24 the premises to be searched.

25 A. Okay. Property sought was any and all evidence related

1 to a sexual assault of Chelsea Masius that occurred on
2 February 24th, 2014, at the address of

3 in Clover, South Carolina. This would include, but
4 not limited to, DNA, hair, fiber, bodily fluids, or any
5 evidence that would result from the sexual assault. Also
6 crack, crack cocaine, crack paraphernalia, mobile phones,
7 records, receipts, currency, and any other items pertaining
8 to storing and shipping crack cocaine. Also photographs of
9 the residence.

10 And the premise, description of premises to be searched
11 is , Clover, County of York, South
12 Carolina. It's a mobile home located on the same lot and
13 behind the mobile home of in Clover.
14 Traveling from Highway 5, which is Black Highway, turn left
15 on Cedar Grove Road. Then left onto King Road. And dirt
16 drive runs off King Road just prior to Silver Creek Drive.
17 A white mobile home -- I'm sorry, a white mobile with rust
18 colored shutters. A small covered front porch. Any and all
19 buildings and vehicles at this residence.

20 Q. Did you include a map or target residence to be
21 searched?

22 A. I did.

23 Q. And why did you include that map?

24 A. When I got the description of the residence, it was --
25 it was difficult then, and even now, to determine exact

1 numbers of the residence. I printed out a Google map, which
2 is a source we commonly use. And also I used GIS, which is
3 another resource we use when determining addresses.

4 I took this map I printed out to the judge to show her
5 so she would know exactly which home we was referring to,
6 because it's not uncommon to have multiple mobile homes on
7 the same lot and addresses to be unsure of.

8 Q. And did you specifically point to the magistrate which
9 residence you were referring in the face of the application?

10 A. Yes, sir. I even circled the mobile home that we are
11 talking about and presented it to her.

12 Q. And is that the mobile home that was, in fact,
13 searched?

14 A. Yes, sir.

15 Q. That was searched?

16 A. Yes, sir.

17 Q. In your experience with Google maps and GIS, did you
18 find those to be reliable and accurate sources of
19 information?

20 A. Yes, sir.

21 Q. So at the time did you have a reasonable belief that
22 817 was the address number for the residence?

23 A. That's correct.

24 Q. And that's in York County?

25 A. Yes, sir.

1 Q. After this search warrant was issued and executed, did
2 it come to your attention that the address number may not,
3 in fact, be 817?

4 A. That's correct, yes, sir.

5 Q. Could it, in fact, be 809?

6 A. It could be.

7 Q. To this day are you certain as to what the address
8 number is?

9 A. No, sir, I'm not.

10 Q. However, are the directions to the house true and
11 accurate?

12 A. They are, because I did surveillance prior to her
13 signing the search warrant. I rode out there myself and
14 looked at the mobile home to verify how to get there and the
15 description of the mobile home.

16 Q. And so was that also a way for you to verify the
17 information given to you by the complainant?

18 A. Correct.

19 Q. And were you able to get close enough to the residence
20 to read any numbers on the residence?

21 A. No, sir, I didn't see any numbers as I recall.

22 Q. So before you applied for the search warrant, was there
23 any information you had at hand that may lead you to believe
24 otherwise that this was not, in fact,

25 A. No, sir.

1 Q. Did you omit any relevant details in your factual
2 summary and support of probable cause for the search warrant
3 that you gave the magistrate?

4 A. No, sir.

5 Q. Was it your belief that the information provided in the
6 affidavit was credible and reliable?

7 A. Yes, sir.

8 Q. Did you swear or affirm to the magistrate that that
9 information in the affidavit was true and accurate?

10 A. Yes, sir.

11 Q. Did you sign the affidavit indicating that you were
12 telling the magistrate the truth?

13 A. Yes, sir.

14 Q. And did York County Magistrate Judge Lynn Benfield sign
15 the search warrant making it effective?

16 A. Yes, sir.

17 MR. SHELTON: Judge, if you want to take a look at
18 the search warrant before we pass it over to the defense?

19 THE COURT: All right.

20 MR. SHELTON: I have no further questions.

21 MR. MCKINNON: None for the detective, Your Honor,
22 but I have a witness that I would like to call.

23 THE COURT: Well, he may not be finished. Let me
24 see if the State --

25 MR. SHELTON: Your Honor, that's our proffer as to

1 this specific --

2 THE COURT: So you don't have any questions of
3 this witness?

4 MR. MCKINNON: I do not, Your Honor.

5 THE COURT: You may step down.

6 THE WITNESS: Thank you, sir.

7 THE COURT: Thank you very much.

8 MR. MCKINNON: Your Honor, the defense would call
9 Jessica Collins.

10 THE COURT: Come forward, please.

11 MR. SHELTON: Judge, I guess for the record we
12 don't have any other witnesses at this time on this issue,
13 so we would pass the baton to the defense.

14 THE COURT: Okay. Thank you.

15 Ma'am, if you will come forward, please, to the
16 clerk's stand right in front of me to be sworn.

17 JESSICA COLLINS, having been first duly sworn,
18 testified as follows:

19 THE COURT: Step around to the witness stand
20 please, ma'am, and have a seat.

21 Once you are seated, I would ask that you please
22 state your name, please.

23 THE WITNESS: Jessica Collins.

24 THE COURT: Thank you.

25 Mr. McKinnon, your witness.

1 MR. MCKINNON: Thank you, Your Honor.

2 DIRECT EXAMINATION BY MR. MCKINNON:

3 Q. Ms. Collins, on the date this search warrant was
4 executed, on February the 26th, 2014, what was your address?

5 A. Clover.

6 Q. And was that, in fact, the trailer where the search
7 warrant was executed?

8 A. Where the --

9 Q. Where the --

10 A. -- detectives came?

11 Q. Yes, where the police came.

12 A. Yes.

13 Q. And you were present at that time?

14 A. Yes.

15 Q. Okay. And how do you know the address is

16

17 A. Because it's on my light bill, my mailbox. All my mail
18 was coming there.

19 MR. MCKINNON: Your Honor, may I approach?

20 THE COURT: You may.

21 MR. MCKINNON: Any objection?

22 MR. SHELTON: No objection.

23 THE COURT: Do you want to admit that?

24 MR. MCKINNON: Yes, sir, we'll go ahead and admit
25 it.

1 THE COURT: Without objection, it would be
2 admitted, is that correct from the State?

3 MR. SHELTON: Yes, sir. As a Court's Exhibit,
4 correct?

5 THE COURT: For the purposes of this hearing, yes.

6 (Power Bill marked and entered into the record for
7 this hearing as Court's Exhibit No. 2 for this suppression
8 hearing)

9 BY MR. MCKINNON:

10 Q. Ms. Collins, do you recognize what I just handed you?

11 A. Yes.

12 Q. Is that a copy of a power bill that you received in
13 September of this year?

14 A. Yes.

15 Q. Okay. And what is the address at the top right on that
16 bill?

17 A. On the bottom --

18 Q. The top right, I believe, Ms. Collins, is where it
19 gives the address.

20 That one, yeah? That's the return statement, and it's
21 up here.

22 A. Oh, 809 Silver Creek Road.

23 Q. Okay. And is that the address of the trailer?

24 A. Yes.

25 Q. Okay. Ms. Collins, how would you describe the color of

1 the trailer when you stayed on Silver Creek Drive?

2 A. I think it was like a whitish grayish color, like a
3 grayish color, because it was an old trailer.

4 Q. Okay. And were the shutters rust colored?

5 A. I can't remember. I don't think they were.

6 Q. Okay.

7 A. I just remember three shutters. I just remember it was
8 one in the front and two in the back.

9 Q. Okay.

10 MR. MCKINNON: Your Honor, that's all I have of
11 her.

12 THE COURT: The State may cross-examine.

13 MR. SHELTON: Briefly.

14 THE COURT: Yes, sir.

15 MR. SHELTON: Your Honor, may I hold the Court's
16 Exhibit No. 1?

17 Okay, thank you, sir.

18 CROSS EXAMINATION BY MR. SHELTON:

19 Q. Ms. Collins, I'm going to show you what's been marked
20 as Court's Exhibit No. 1 referencing the map here. Can you
21 tell the little outline here around the top trailer on this
22 map?

23 A. Yes.

24 Q. Is that the trailer where you were living with Reggie?

25 A. Yes.

1 Q. Okay. Thank you.

2 MR. SHELTON: Nothing further.

3 THE COURT: Anything further from the witness?

4 MR. MCKINNON: None, Your Honor.

5 Yes, ma'am, I believe the witness --

6 THE WITNESS: Yeah, I'm sorry, I meant to say me
7 and Reggie was not living together.

8 MR. MCKINNON: That was the trailer where you were
9 staying?

10 THE WITNESS: That's where I was staying, yes.

11 MR. MCKINNON: Okay. Nothing further, Your Honor.

12 THE COURT: All right. Do you wish to ask any
13 further questions?

14 MR. SHELTON: No, sir.

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

16 You may step outside the courtroom. Thank you
17 very much.

18 MR. SHELTON: Your Honor, the State is ready for
19 any argument at this point.

20 THE COURT: Let's see if he has another witness.

21 MR. SHELTON: Yes, sir.

22 THE COURT: Do you have any other witness?

23 MR. MCKINNON: I do not, Your Honor.

24 THE COURT: All right. Now, since it's your
25 motion, I'll let you go first.

1 MR. MCKINNON: Your Honor, as you heard, the State
2 can't even say that 817 was the correct address. The power
3 bill goes to 809. Ms. Collins identified the address as
4 809. The address on the search warrant is wrong, Your
5 Honor, and it should be suppressed.

6 THE COURT: Yes, sir.

7 MR. SHELTON: Judge, as you heard from Detective
8 Neely, the affiant on the search warrant, there is a
9 reasonable good faith belief that the address was 817 Silver
10 Creek Drive. He checked with reliable resources, Google
11 Maps and GIS to verify the address.

12 The informant, who gave him specific directions to
13 the residence, that he verified for himself before applying
14 for the search warrant, didn't know the address number. So
15 the only information he had to rely on was information from
16 Google Maps and GIS. The State argues that that's a
17 reasonable belief.

18 There is no question the actual residence that's
19 being discussed here in court and it's on the face of the
20 search warrant. There was sufficient directions on the face
21 of the search warrant that was authorized by the magistrate,
22 plus the detective included a map of the residence in
23 question.

24 THE COURT: That's just an aerial photo is what it
25 looks like.

1 MR. SHELTON: Yes, sir, it's an aerial photo
2 through Google Maps that he noted to the magistrate was the
3 residence in question that was the property to be searched.

4 So for the sake of argument, Your Honor, from
5 understanding the defense argument, the address number is
6 wrong. Strike out the address number and the face of the
7 search warrant still takes you right to that front door
8 step, especially when you consider the map in conjunction
9 with this.

10 THE COURT: Anything further?

11 MR. MCKINNON: No, Your Honor.

12 THE COURT: All right. I have read the warrant,
13 gone over it. I do find that there was an error made in the
14 number address. However, there is a -- there are directions
15 specifically leading to the trailer that was searched, as
16 well as attached to the affidavit was an aerial photograph
17 or picture from Google Maps in which the premises that was
18 searched was circled and shown to the magistrate.

19 While there appears to be a scrivener's error as
20 to the address number, I do find that that error was in good
21 faith and that the other information given, more specific
22 information, actually, leads directly to the trailer in
23 question, and, in fact, identifies the trailer directly from
24 an aerial photo, so I'm going to deny the motion.

25 MR. MCKINNON: Thank you, Your Honor.

1 THE COURT: Now, is there a Jackson v. Denno
2 issue?

3 MR. SHELTON: Yes, sir, Your Honor.

4 MR. MCKINNON: Yes.

5 MR. SHELTON: Your Honor, our first witness will
6 be Officer Logan McGarity of the Drug Unit.

7 THE COURT: All right, sir, if I will come forward
8 to the clerk and be sworn, please.

9 INVESTIGATOR LOGAN MCGARITY, having been first
10 duly sworn, testified as follows:

11 THE COURT: Step around to the witness stand, sir,
12 and once you are seated, please state your name.

13 THE WITNESS: My name is Matthew Logan McGarity.

14 THE COURT: Thank you.

15 Counselor, your witness.

16 MR. SHELTON: Thank you, Your Honor.

17 THE COURT: Yes, sir..

18 MR. SHELTON: May it please the court.

19 DIRECT EXAMINATION BY MR. SHELTON:

20 Q. Mr. McGarity, what is your job or occupation?

21 A. I'm an officer at the Clover Police Department
22 currently assigned to the York County Multi-Jurisdictional
23 Drug Enforcement Unit.

24 Q. How long have you been with the Drug Unit?

25 A. I have been with the Drug Unit almost two years.

1 Q. And how long have you been in law enforcement?

2 A. About six years, going on seven years.

3 Q. So is it fair to say that you are familiar with Miranda
4 Warnings?

5 A. Yes.

6 Q. Did you have occasion to advise defendant Reginald
7 Reggie White of those rights?

8 A. Yes, sir.

9 Q. Is Mr. White present in the courtroom?

10 A. Yes.

11 Q. Please point him out for the court.

12 A. (Witness pointing).

13 MR. SHELTON: Your Honor, please let the record
14 reflect and please note that he's pointing to the defendant
15 sitting next to his attorney Mr. McKinnon.

16 THE COURT: The record will reflect that that's
17 what occurred.

18 You may proceed.

19 BY MR. SHELTON:

20 Q. And Officer McGarity, did you advise Mr. White of his
21 Miranda Warnings on February 27th, 2014?

22 A. Yes.

23 Q. And was that during the investigation of this case?

24 A. Yes.

25 Q. And specifically how did you advise him of his rights?

1 A. From a Miranda card that I carry in my wallet.

2 Q. I'm going to hand to you --

3 MR. SHELTON: Actually first I'm going to mark
4 this as a Court's Exhibit.

5 (Miranda Rights Form marked as Court's Exhibit No.
6 3 for identification)

7 BY MR. SHELTON:

8 Q. I'm going to hand to you, officer, what's been marked
9 for identification as Court's Exhibit No. 3. Do you
10 recognize that document?

11 A. Yes.

12 Q. What is it?

13 A. That's my Miranda card, a copy of my Miranda card.

14 Q. And is that a copy of the same card that specifically
15 the rights that you advised Mr. White the night in question?

16 A. Yes.

17 Q. How do you know?

18 A. I have had the card since I started law enforcement.

19 Q. And did you also photocopy that card in conjunction
20 with this case?

21 A. Yes.

22 Q. Was that for your case file?

23 A. Yes.

24 Q. Did you include some sort of markings or writing at the
25 bottom of that photocopy?

1 A. Yes, it's common practice when we make a copy of this
2 to put what date it was read and who read it.

3 Q. And is that to make sure that you all remember who
4 advised Miranda Rights?

5 A. Yes, and what the case was about.

6 Q. And what specifically was advised?

7 A. Yes.

8 Q. And is that -- so your testimony is that that was the
9 rights advised to Mr. White on the day in question?

10 A. Yes.

11 MR. SHELTON: I move these in as Court's Exhibit
12 No. 3, Your Honor.

13 THE COURT: Any objection?

14 MR. MCKINNON: Not as a Court's Exhibit, Your
15 Honor.

16 THE COURT: All right. It would be made an
17 exhibit as marked. You may proceed.

18 (Whereupon, Court's Exhibit No. 3 was entered into
19 the record for this suppression hearing)

20 BY MR. SHELTON:

21 Q. And, officer, you verbally conveyed these rights to Mr.
22 White?

23 A. Yes.

24 Q. Where were you and the defendant when you advised him
25 of his rights?

1 A. It was just after he was arrested.

2 Q. Okay. Specifically, if you would, please, tell the
3 court exactly what you advised him.

4 A. I advised him from this card that "you have the right
5 to remain silent.

6 "Anything you say can and will be used against you in a
7 court of law.

8 "You have the right to talk to an attorney of have him
9 or her present with you while you are being questioned.

10 "If you cannot afford to hire an attorney, one will be
11 appointed to represent you before any questions, if you
12 want.

13 "You can decide at any time to exercise these rights
14 and not answer any questions or make any statements."

15 Then followed by the two questions:

16 "Do you understand the rights that I have explained to
17 you?

18 "And having these rights in mind, do you wish to talk
19 to us now?"

20 Q. And I may have asked you this already, but where was
21 this when you advised him of his rights?

22 A. On -- right after he was placed in handcuffs and
23 arrested on Hudson Street.

24 Q. And that was later in the night after midnight on the
25 date of the search warrant execution?

1 A. Yes.

2 Q. Was anyone else present with you when you advised him
3 of his rights?

4 A. Officer Doty was.

5 Q. And White was under arrest at that time?

6 A. Yes.

7 Q. Was he in handcuffs?

8 A. Yes.

9 Q. Was he free to leave?

10 A. No.

11 Q. Did you threaten him in any way?

12 A. No.

13 Q. Were you carrying a weapon?

14 A. Yes.

15 Q. Was your weapon pulled or in your holster?

16 A. In my holster.

17 Q. Did White know that you were a police officer?

18 A. Yes.

19 Q. Did you identify yourself as such?

20 A. Yes.

21 Q. Were you in uniform or in plainclothes?

22 A. Plainclothes with a badge on my hip and weapon.

23 Q. Was the badge visible?

24 A. Yes.

25 Q. Did you promise White anything in exchange for talking

1 with you or any other officers?

2 A. No.

3 Q. Did he appear to be under the influence of drugs and or
4 alcohol at the time?

5 A. No.

6 Q. Was he coherent and did he appear to understand his
7 rights?

8 A. Yes.

9 Q. Did he indicate that he understood his rights?

10 A. Yes.

11 Q. Did he ask you for an attorney?

12 A. No.

13 Q. Did he ask you any questions about his rights?

14 A. No.

15 Q. And did he indicate whether or not he was willing to
16 answer any questions or talk with any officers at that time?

17 A. Yes, he said he would speak with us.

18 Q. And did you talk with him?

19 A. Yes, we did later on once we got back.

20 Q. Got back to the Drug Unit?

21 A. Yeah, got back to our office.

22 Q. And is that here in Moss Justice Center?

23 A. Yes, it's at the Moss Justice Center, just outside --
24 it's a little room just outside of the narcotics office.

25 Q. And was that before or after he had been booked into

1 the detention center?

2 A. That was before.

3 Q. And during that process were you all filling out the
4 booking paperwork and so on?

5 A. Yes, we go to that room and fill out the booking forms,
6 the medical forms, and get general information from him.

7 Q. And were you part of the booking -- were you part of
8 the process of filling out booking information?

9 A. Yes.

10 Q. Did Mr. White indicate to you that he lived at the
11 residence y'all believed was

12 A. Yes.

13 Q. Yes, he did indicate that he lived there?

14 A. Yes.

15 Q. And did he indicate who lived or stayed there with him?

16 A. Yes, Ms. Collins.

17 Q. And did he indicate what relation she is to him?

18 A. That they have a child together.

19 Q. And did you ask him what y'all would find if you
20 searched the Silver Creek residence?

21 A. Yes, I asked him what we would find if we had searched
22 the house.

23 Q. Did he respond to that question?

24 A. He did.

25 Q. What did he say?

1 A. He said that we would find crack, Oxycodone --

2 Q. It appears that you are having a little bit of trouble
3 recalling specifically?

4 A. I'm trying --

5 Q. Did you document your conversation with him anywhere?

6 A. I did. It should be in my summary.

7 Q. Okay. The just General Sessions case file summary that
8 you prepared in conjunction with this case?

9 A. Yes.

10 Q. I'm going to hand you a copy of that summary. If you
11 would take a second.

12 Well, let me ask you real quick if referring to that
13 summary would possibly help you refresh your recollection?

14 A. Yes.

15 Q. If you would, please take a look and see if that helps
16 you.

17 A. Okay.

18 Q. Did that help?

19 A. Yes.

20 Q. Do you remember specifically what Mr. White responded
21 to your question?

22 A. The crack, cocaine, and Oxycodone pills.

23 Q. The three different types of drugs?

24 A. Yes.

25 Q. And is that exactly what was found at the residence?

1 A. Yes, that was exactly what was found.

2 Q. And did any other officers talk with Mr. White at the
3 Drug Unit prior to booking?

4 A. Yes, in the room while we were doing booking it was
5 myself, Officer Beck and Officer Doty.

6 Q. Okay. So was it Beck who talked with him in a little
7 more detail?

8 A. Yes.

9 Q. Were you present during that conversation?

10 A. I was.

11 Q. Were you participating in it?

12 A. Somewhat. I was asking booking questions as well
13 during it.

14 Q. But Beck was the primary officer that followed up with
15 more specific questions?

16 A. Yes, Beck was the primary asking questions to the
17 defendant.

18 MR. SHELTON: Nothing further of this witness,
19 Your Honor.

20 THE COURT: Mr. McKinnon?

21 CROSS EXAMINATION BY MR. MCKINNON:

22 Q. Detective, did you give a written Miranda waiver to my
23 client Mr. White?

24 A. No.

25 Q. Did you record the statement with audiotape or

1 anything?

2 A. No.

3 Q. So the only evidence we have that you mirandized him is
4 your testimony?

5 A. Yes.

6 Q. This conversation that you alleged that you had with
7 Mr. White regarding drugs found at the residence, did you
8 ask him whose they were?

9 A. I can't recall if I asked him exactly if they were his.

10 Q. Did he say they were his?

11 A. I can't recall.

12 Q. So your testimony is Mr. White had knowledge of the
13 drugs at the residence and that's it?

14 A. Yes.

15 MR. MCKINNON: Nothing further, Your Honor.

16 THE COURT: Anything further from the witness?

17 MR. SHELTON: No further questions of this
18 witness, but it does go on.

19 THE COURT: I understand.

20 You may step down, sir. Please leave the exhibit
21 with the court reporter.

22 You may call your next witness.

23 MR. SHELTON: Thank you, Your Honor.

24 The next witness would be Detective Walter Beck.

25 DETECTIVE WALTER BECK, having been first duly

1 sworn, testified as follows:

2 THE COURT: Sir, have a seat on the witness stand.
3 Once you are seated, please state your name for the record.

4 THE WITNESS: Walter Beck.

5 THE COURT: All right, counselor, your witness.

6 DIRECT EXAMINATION BY MR. SHELTON:

7 Q. Detective, what's your present job or occupation?

8 A. I'm a property crimes detective with the York County
9 Sheriff's Office.

10 Q. And have you ever worked with the Drug Unit?

11 A. I have.

12 Q. How long did you work with them?

13 A. Six years, nine months and one week.

14 Q. When did you switch to property crimes, detective?

15 A. The first week of October of this year -- or, I'm
16 sorry, 2014.

17 Q. So in February of 2014 you were still with the Drug
18 Unit?

19 A. I was.

20 Q. Did you participate in the investigation of this case?

21 A. I did.

22 Q. Specifically, did you participate in a conversation or
23 interview with Mr. White at the Drug Unit on February 27th,
24 2014?

25 A. I did.

1 Q. Had Mr. White been advised of his Miranda Rights prior
2 to you talking to him?

3 A. He had by Officer McGarity.

4 Q. And how did you know that Officer McGarity had advised
5 him of his rights?

6 A. Officer McGarity told me he did.

7 Q. Did you speak with Mr. White after you learned that
8 fact?

9 A. I did.

10 Q. And he was willing to talk with you?

11 A. He was.

12 Q. Is Mr. White present in the courtroom?

13 A. He is.

14 Q. Please point him out for the court.

15 A. (Witness pointing).

16 MR. SHELTON: Your Honor, please let the record
17 reflect that this witness pointed to the same individual,
18 the defendant sitting next to Mr. McKinnon?

19 THE COURT: The record shall so reflect.

20 You may proceed.

21 BY MR. SHELTON:

22 Q. Detective, did you make Mr. White any promises or
23 threats to get him to talk with you?

24 A. I did not.

25 Q. Were you carrying a weapon?

1 A. I was.

2 Q. Was your weapon pulled or in its holster?

3 A. It was in the holster.

4 Q. Did Mr. White know you were a police officer?

5 A. He did.

6 Q. Did you identify yourself as such?

7 A. I did.

8 Q. Was your badge visible?

9 A. It was.

10 Q. Were you in uniform or in plainclothes?

11 A. Plainclothes.

12 Q. Is that a common practice for the Drug Unit to dress in
13 plain clothing?

14 A. It is.

15 Q. Did Mr. White appear to be under the influence of any
16 drugs and/or alcohol at that time?

17 A. He did not.

18 Q. Did he appear coherent?

19 A. He did.

20 Q. Did he appear to understand his rights?

21 A. He did.

22 Q. Did he indicate to you that he had understood his
23 rights?

24 A. He did not. I did not specifically ask him about his
25 Miranda Rights.

1 Q. Did he ask for an attorney at any point while you were
2 talking with him?

3 A. He did not.

4 Q. Did he invoke any of his rights while you were talking
5 with him?

6 A. At one point he remained silent after a question.

7 Q. We will get to that in just a moment.

8 Was he willing to speak with you and answer your
9 questions, other than that one point?

10 A. He was.

11 Q. Okay. Was anyone else present?

12 A. Officer McGarity was present at one point, and then
13 Officer McGarity and Doty were present at another point
14 while I was speaking with him.

15 Q. Do you recall specifically what he said to you?

16 A. I remember talking to him about drugs and his dealings
17 in the drug trade, buying and selling drugs, specifically
18 cocaine.

19 Q. It sounds like you are a little fuzzy on the detail?

20 A. I typed up some notes after my interview. Those would
21 help my recollection.

22 Q. Okay. I'm going to go ahead and hand you those
23 interview notes.

24 A. Thank you.

25 Q. Take a look at them and see if that helps you out.

1 A. I just want to be sure I say exactly.

2 These are my notes that I typed up. These help.

3 Q. Okay. Specifically, what date and time was this
4 conversation?

5 A. February 27th, 2014, beginning at 1:45 a.m..

6 Q. And was there a subsequent conversation about a half
7 hour later?

8 A. Yes, sir, I spoke with him for about five minutes at
9 1:45 a.m.. I got done at one -- approximately --
10 approximately 1:50 a.m.. I Then went back at approximately
11 2:15 a.m. and spoke with him a little bit more.

12 Q. During the first conversation what did y'all speak
13 about and specifically what did he say to you?

14 A. I talked with him about how long he had been involved
15 in the drug trade. He said approximately two months.

16 He said that he was trying to find -- hadn't been able
17 to find a job and was worried about having to pay child
18 support and didn't want to end up in jail because of that.
19 He said that he had been selling for a couple of months. It
20 was normal for him to buy a half ounce to an ounce.

21 Q. And half ounce to an ounce of what in particular? What
22 were y'all talking about?

23 A. Well, at that point I went back and talked with him
24 later to clarify and I asked him if he normally buys hard or
25 powder. Hard refers to crack cocaine or cocaine base.

1 Powder meaning cocaine. Those are normal street terms.

2 He told me that he normally buys hard, meaning crack.

3 I asked him if he ever bought powder and then cooked I
4 it into hard and he said that he didn't.

5 I asked him how much an ounce of hard would cost,
6 meaning crack, and he said that normally it cost him \$1,300
7 an ounce for crack.

8 Q. And did you ask him if he had ever used any?

9 A. I did.

10 Q. Is that the question that he refused to answer?

11 A. That's correct.

12 Q. And did you ask him where he normally buys drugs?

13 A. I did.

14 Q. And what did he say?

15 A. York, South Carolina.

16 Q. And based on your training and experience, are you
17 familiar with the drug trade?

18 A. I am.

19 Q. In York County, the going rate of crack cocaine and
20 cocaine?

21 A. I am.

22 Q. And did this -- did his statement seem consistent with
23 your --

24 MR. MCKINNON: I'm going to object to that
25 question, Your Honor. He's trying to solicit expert

1 testimony.

2 THE COURT: I'll hear from the State on that.

3 MR. SHELTON: Your Honor, in front of the jury I
4 intend to expound upon Detective Beck's prior experience.

5 My question simply for the court's review is was
6 this consistent -- did this -- did these numbers appear
7 consistent to him. The purpose of it is to gauge whether
8 he -- you know, I think it's relevant to gauge whether he of
9 his own independent information could corroborate the value
10 of an ounce of crack, which I think is important to gauge
11 that the defendant here had knowledge of the drug trade in
12 York County, South Carolina.

13 I intend to expand upon that more in front of the
14 jury. I think we probably would have to have a pre-trial --
15 an in-camera hearing before we get to that, but my question
16 specifically here is just to determine if he of his own
17 independent knowledge was able to corroborate that value.

18 MR. MCKINNON: Your Honor, so long as it's limited
19 to the detective's own knowledge of drug pricing in York
20 County.

21 THE COURT: I'll let you ask that question.

22 BY MR. SHELTON:

23 Q. I'll renew the question.

24 Did this appear to be consistent with your independent
25 knowledge of the drug trade in York County?

1 A. Yes, sir.

2 Q. And did you -- was this conversation reduced to any
3 kind of a written statement that Mr. White signed?

4 A. There was no written statement.

5 Q. Did you attempt to obtain a written statement?

6 A. I did not.

7 Q. Was this recorded in any way?

8 A. It was not.

9 Q. Was this a sit-down interview under the spotlights, or
10 more of a casual conversation?

11 A. This was a casual conversation, a quick five minute
12 conversation while they were handling some of his booking
13 paperwork, and then a few minutes later about three minute
14 followup.

15 MR. SHELTON: Nothing further at this time.

16 THE COURT: Your witness, counsel.

17 MR. MCKINNON: Thank you, Your Honor.

18 CROSS EXAMINATION BY MR. MCKINNON:

19 Q. Detective, is it fair to say this was a possession case
20 charge against Mr. White?

21 A. Yes, sir.

22 Q. In other words -- and the basis for the trafficking
23 charge and the possession with intent to distribute, the
24 sole basis for those charges is the amount of drugs, is that
25 correct?

1 A. For trafficking, it's the sole basis.

2 Q. Right.

3 A. With possession with intent to distribute, there is not
4 a magical number as far as if it's this amount it must be.

5 Q. Right.

6 Are you not relying on the inference level for
7 possession with intent to distribute?

8 A. There is an inference. That's one part of it.

9 Q. Okay. Well, my question is what is it other part of
10 intent to distribute? What's the other evidence that you
11 have?

12 A. The other part of intent to distribute is showing that
13 they actually have an intent to distribute those drugs.

14 Q. Correct.

15 A. Those drugs are not merely for personal use.

16 Q. Right.

17 But what we are arguing about today, is it not, is did
18 Mr. White possess any drugs, isn't it?

19 MR. SHELTON: Your Honor, I would object.

20 THE COURT: The issue of this hearing is whether
21 or not he gave a voluntary statement. This is not a
22 discovery hearing.

23 MR. MCKINNON: Well, Your Honor, my argument would
24 be --

25 THE COURT: It's to determine whether or not the

1 statements were given voluntarily or not. That's --

2 MR. MCKINNON: But my argument would be they
3 should be excluded, Your Honor, under Rule 403 and Lyle.
4 That's where I'm going.

5 THE COURT: That's not what your motion is right
6 now, I don't think, is it?

7 MR. MCKINNON: I thought we were arguing them
8 together, Your Honor, so I apologize if I'm going off the
9 reservation.

10 MR. SHELTON: Judge, we did agree yesterday to
11 deal with these kind of part and parcel.

12 I think for clarity purposes we need to first
13 determine if they are freely and voluntarily given. Then
14 the next step after the court makes that --

15 THE COURT: Well, I'll let him ask the question if
16 we are going to deal with both of them together.

17 Go ahead.

18 MR. MCKINNON: Sure.

19 BY MR. MCKINNON:

20 Q. So the basis for --

21 Well, did you discuss with Mr. White the drugs that
22 were found at ?

23 A. Those drugs specifically, no, I did not.

24 Q. Did you ask him whether they were his drugs?

25 A. No, sir.

1 Q. Do you have any evidence at all, based on your
2 conversation, they were his drugs?

3 A. Based off the conversation alone?

4 Q. Correct, the conversation we are talking about.

5 A. That he lives there and that he was very familiar with
6 the drug trade I think show that there is some correlation
7 there, I would believe, just based off my conversation
8 alone.

9 Q. Does the fact he was familiar with the drug trade mean
10 the particular drugs you found in the air vent of his
11 girlfriend's trailer belonged to him?

12 A. I believe -- I'm having a hard time with the question.

13 Q. Sure.

14 My question is are you asserting that the fact he is
15 familiar with drug pricing or the drug trade in York County,
16 is that evidence that the drugs found in his girlfriend's
17 trailer's air vent belonged to him?

18 A. I would say based on the fact that he says that he buys
19 drugs, normally large amounts, dealer quantities, and that
20 the home that he lives in had drugs found in it, I think
21 those raise a certain level of suspicion.

22 Q. Right.

23 A. Just based off that interview alone.

24 Q. Okay. But in your interview you didn't discuss the
25 drugs that were found?

1 A. No, sir.

2 Q. Okay.

3 MR. MCKINNON: Nothing further, Your Honor.

4 THE COURT: Any other questions?

5 REDIRECT EXAMINATION BY MR. SHELTON:

6 Q. Detective, the fact that he says he sells drugs, he's
7 been selling for two months, that he normally buys in York,
8 and how much he normally pays, that he normally buys hard
9 meaning crack cocaine, buys an ounce or half ounce at a
10 time, pays \$1,300 for an ounce, are those all relevant
11 statements to the question of intent and possession?

12 A. I believe they are.

13 MR. SHELTON: Nothing further.

14 THE COURT: You may ask any other questions, Mr.
15 McKinnon.

16 MR. MCKINNON: None, Your Honor.

17 THE COURT: Any followup?

18 MR. MCKINNON: No.

19 THE COURT: You may step down, sir. Thank you
20 very much.

21 The State may call its next witness.

22 MR. SHELTON: Your Honor, the next witness is
23 Detective Carson Neely.

24 THE COURT: Get him from outside, Mr. Bailiff.
25 Thank you.

1 MR. MCKINNON: Your Honor, Mr. White has just
2 informed me that the young lady sitting behind me is his
3 sister. They would be subject to the sequester orders that
4 you issued.

5 THE COURT: They need to leave the courtroom.

6 (Off the record)

7 (Back on the record)

8 MR. SHELTON: Your Honor, I think there is some
9 confusion. If Your Honor could ask this young lady her
10 name?

11 THE COURT: Why don't we do that?

12 Ma'am, your name is?

13 RONDREVIA SIMPSON: Rondrevia Simpson.

14 THE COURT: I'm sorry?

15 RONDREVIA SIMPSON: Rondrevia Simpson.

16 THE COURT: All right. Is she listed on your
17 witness list?

18 MR. MCKINNON: She is, Your Honor.

19 RONDREVIA SIMPSON: Oh, I am? Okay.

20 THE COURT: Ma'am, you have been listed as a
21 witness in the case and I have asked that all witnesses
22 remain outside and not discuss this case with anyone until
23 the end of the trial. So if you will step outside. Thank
24 you very much.

25 RONDREVIA SIMPSON: All right.

1 MR. SHELTON: Your Honor, I'm not sure if
2 Detective Neely was sworn in before.

3 THE WITNESS: I was.

4 THE CLERK: He was.

5 THE COURT: He got by my attention, but state your
6 name, sir.

7 THE WITNESS: Carson Neely.

8 THE COURT: Thank you.

9 Yes, sir.

10 THE WITNESS: I was sworn in.

11 DIRECT EXAMINATION BY MR. SHELTON:

12 Q. Mr. Neely, what's your current job or occupation?

13 A. Detective at York County Sheriff's Office.

14 Q. How long have you been a detective?

15 A. Since December of 2005.

16 Q. Do you have any prior law enforcement experience?

17 A. Military police. Nothing civilian.

18 Q. And in your career as a law enforcement officer,
19 specifically a detective, have you participated in
20 interviews of defendants?

21 A. Yes, sir.

22 Q. Or suspects?

23 A. Yes, sir.

24 Q. Are you familiar with Miranda Rights?

25 A. That's correct, yes, sir.

1 Q. Did you have occasion to interview Reginald White the
2 afternoon of 2-27-14?

3 A. Yes, sir.

4 Q. And is Mr. White present in the courtroom?

5 A. Yes, sir, he is.

6 Q. Please point him out for the court.

7 A. Yes, sir, sitting in the brown jacket on that side, red
8 shirt.

9 MR. SHELTON: Your Honor, please let the record
10 reflect that Detective Neely pointed to the same individual
11 as the previous witness.

12 THE COURT: All right, it will so reflect.

13 You may proceed.

14 BY MR. SHELTON:

15 Q. Detective Neely, was White first advised of his Miranda
16 rights before you spoke with him?

17 A. Yes, sir. After greeting, yes, sir.

18 Q. And who advised him of those rights?

19 A. I did.

20 (Waiver of Rights Form marked as Court's Exhibit
21 No. 4 for identification)

22 BY MR. SHELTON:

23 Q. I'm going to hand you what's been marked for
24 identification as Court's Exhibit No. 4.

25 A. Yes, sir.

1 Q. Do you recognize that document?

2 A. I do.

3 Q. What is it?

4 A. It's a York County Sheriff's Office Waiver of Rights
5 Form.

6 Q. And is that in connection with this case and
7 specifically your interview of White?

8 A. It is.

9 Q. On February 27th of 2014?

10 A. That's correct.

11 Q. Approximately what time did this advisement and
12 interview occur?

13 A. 15:40. 3:40 p.m..

14 Q. And where was it?

15 A. The Moss Justice Center detention center.

16 Q. Okay. And did you sign this form indicating that you
17 had advised Mr. White of his rights and he was waiving his
18 rights?

19 A. Yes, sir.

20 Q. And did Mr. White sign as well?

21 A. That's correct.

22 Q. Did he also initial indicating he understood each of
23 the rights that you have explained to him?

24 A. Yes, sir, he did.

25 Q. Specifically -- well, hang on just a second.

1 Is this a true and accurate document?

2 A. It is.

3 MR. SHELTON: Your Honor, I would go ahead and
4 move this in as a court's exhibit.

5 THE COURT: Any objection?

6 MR. MCKINNON: None, Your Honor.

7 THE COURT: It would be admitted as a court's
8 exhibit for purposes of the hearing.

9 Hand it to the court reporter and let him mark it.

10 COURT REPORTER: It's been marked.

11 THE COURT: It's marked?

12 COURT REPORTER: Yes, sir.

13 THE COURT: It's going to be admitted as marked.

14 (Whereupon, Court's Exhibit No. 4 was entered into
15 the record for the purposes of this suppression hearing).

16 THE COURT: You may proceed.

17 MR. SHELTON: Thank you, Your Honor.

18 May it please the court?

19 THE COURT: Yes, sir.

20 BY MR. SHELTON:

21 Q. Detective, please tell the court specifically what you
22 advised -- what rights that you advised Mr. White.

23 A. I advised him "you have the right to remain silent.

24 "Anything you say can and will be used against you in a
25 court of law.

1 "You have a right to talk to an attorney and have him
2 or her present with you while you are being questioned.

3 "If you cannot afford to hire an attorney, one will be
4 appointed to represent you before any questioning, if you
5 wish.

6 "You can decide at any time to exercise these rights
7 and not answer any questions or make any statements.

8 "Do you understand these rights I have explained to
9 you?"

10 Q. And he indicated by his initials that he understood?

11 A. Yes, sir.

12 Q. And that he signed acknowledging that he had been
13 advised and understood?

14 A. Yes, sir.

15 Q. And is that dated February 27th, 2014?

16 A. It is.

17 Q. Did you make any threats or promises in exchange for
18 him talking with you?

19 A. No, sir.

20 Q. Were you carrying a weapon?

21 A. No, sir.

22 Q. And this was in the detention center, so you weren't
23 allowed to take a weapon, were you?

24 A. That's correct.

25 Q. Did you identify yourself as an officer?

1 A. I did.

2 Q. Were you wearing a uniform or plainclothes?

3 A. Plainclothes. I don't remember specifically what I was
4 wearing, but plainclothes.

5 Q. Did you have a badge visible?

6 A. Yes, sir.

7 Q. Did Mr. White appear to be under the influence at the
8 time of any alcohol and/or drugs?

9 A. No, sir.

10 Q. Did he appear to be coherent?

11 A. Yes, sir.

12 Q. Did he appear to understand his rights?

13 A. Yes, sir.

14 Q. Did he ask for an attorney?

15 A. No, sir.

16 Q. Did he ask you any questions about his rights?

17 A. No, sir.

18 Q. Was he willing to answer any of your questions?

19 A. Yes, sir.

20 Q. And you interviewed him?

21 A. Yes, sir.

22 Q. Was anyone else present?

23 A. No, sir.

24 Q. Did you audio or video record this interview?

25 A. No, sir.

1 Q. Why not?

2 A. Standard procedure at the sheriff's office, we don't
3 record interviews.

4 Q. And would you -- would be -- I'm sorry, I didn't mean
5 to interrupt you.

6 A. I mean, these -- these specific interviews.

7 Interviews with children, of course, of a victim
8 nature, that's different, but --

9 Q. Would you have been allowed to take any audio or video
10 recording equipment into the detention center?

11 A. No, sir.

12 Q. Did you ask any questions of the defendant?

13 A. Yes, sir.

14 Q. And did he give you any responses?

15 A. Yes, sir.

16 Q. And did he also give you a written statement?

17 A. Yes, sir.

18 Q. Did you write out the statement, or did he write out
19 the statement?

20 A. At his request I wrote it out and he told me verbal
21 what to write down. I wrote it down as he talked.

22 Q. And did you also document as part of your case file a
23 summary of your conversation with him?

24 A. Yes, sir.

25 Q. This has been almost a year ago and looking at that

1 summary possibly help refresh or make certain that you
2 remember the details of that conversation?

3 A. Yes, sir, it would.

4 Q. I'll hand you a copy of what I believe is your notes on
5 this interview.

6 A. Yes, sir.

7 Q. Detective, before I ask you any questions about what
8 Mr. White said in the interview and the circumstances, was
9 this interview about a separate matter as well?

10 A. Correct.

11 Q. So it was about the CSC allegation, as well as the drug
12 complaint --

13 A. Yes.

14 Q. -- and the drugs found?

15 A. Yes, sir, that's correct.

16 Q. And that was after Mr. White had been arrested and
17 charged with drugs, after the drugs had been found at the
18 residence on Silver Creek?

19 A. Yes.

20 Q. Did Mr. White indicate to you where he was living or
21 staying?

22 A. On Silver Creek, yes, sir, with Jessica, Ms. Collins,
23 and his children, two children there.

24 Q. And the context of your discussion with him, were you
25 specifically asking him questions about events that occurred

1 at that residence?

2 A. Yes, sir.

3 Q. And in conjunction with the separate allegation, were
4 you speaking of the date of February 24th, 2014?

5 A. That's correct.

6 Q. And did he indicate to you anything drug related that
7 occurred on that date at that residence?

8 A. Yeah, he did indicate that he gave two people crack and
9 they smoked it.

10 Q. Did he indicate how much crack he had given them?

11 A. Looking at -- I may have to look at his statement. I
12 don't want to speak out of --

13 Q. Okay.

14 A. But a statement that was wrote out, I believe I know.
15 I don't want to speak unless --

16 Q. I'm going to hand you what I believe is a copy of his
17 statement.

18 A. Yes, sir.

19 Q. Take a second to look at that, please.

20 A. He refers to 50, a 50 piece of crack with a quantity --
21 I don't know the quantity of that.

22 Q. Okay.

23 A. I'm sorry, let me read this.

24 He gave Chelsea a 100 piece and they smoked it and
25 split it, which would be 50/50.

1 Q. And does that statement -- is the majority of that
2 statement in reference with the CSC case?

3 A. Yes, sir.

4 Q. So the admission of distributing or giving crack
5 cocaine to these others is in that context?

6 A. Yes, sir.

7 Q. On February 24th?

8 A. Correct.

9 Q. And in your opinion as an officer, is that relevant to
10 this case?

11 A. Yes, sir.

12 Q. Does that statement go to knowledge and intent to
13 distribute, especially given that crack cocaine was found in
14 the residence less than 48 hours later?

15 A. Yes, sir.

16 Q. And so that written-out statement, did Mr. White sign
17 it?

18 A. Yes, he did.

19 Q. Was he given an opportunity to review it before signing
20 it?

21 A. Yes, sir, he was.

22 Q. Did he -- was he advised that he could make any
23 omissions or any additions to that statement before signing
24 it?

25 A. That's correct.

1 Q. And did he elect to do so?

2 A. No, sir.

3 Q. And does that statement include Silver Creek Drive as
4 his residence?

5 A. Silver Creek Road, yes, sir.

6 Q. Silver Creek Road.

7 Does it have a specific house number up there?

8 A. No, sir.

9 Q. It just says Silver Creek?

10 A. Correct.

11 Q. But the context of this conversation was the residence
12 search pursuant to the search warrant?

13 A. That's correct.

14 Q. And just to be clear, that's also the residence where
15 the sex complainant alleged that the prior case happened and
16 the drug distribution occurred?

17 A. That's correct, yes, sir.

18 MR. SHELTON: Your Honor, I would like to mark
19 this, the statement, as a Court's Exhibit and move it in as
20 an exhibit for the record.

21 THE COURT: Any objection?

22 MR. MCKINNON: For the hearing, no, Your Honor.

23 THE COURT: Okay. It would be marked as a Court's
24 Exhibit and made part of the record for this hearing.

25 (Voluntary Statement of Mr. Reginald Raynard White

1 marked and received into evidence as Court's Exhibit No. 5
2 for this suppression hearing)

3 MR. SHELTON: Nothing further at this point.

4 THE COURT: Mr. McKinnon, your witness.

5 MR. MCKINNON: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION BY MR. MCKINNON:

8 Q. Detective, did Mr. White ever ask for counsel during
9 his conversations with you?

10 A. No, sir.

11 Q. The voluntary statement that I'm going to show you is a
12 copy. Do you recognize it as the one that you just
13 testified about?

14 A. Yes, sir.

15 Q. Whose handwriting is on the voluntary statement?

16 A. From lines 1 through 16, that is my handwriting. He
17 asked me to write it for him. He told me verbally what to
18 write, yes, sir.

19 Q. Okay. And whose handwriting is that at the top?

20 A. Mine. I asked him questions about where lives, his
21 name and birth date and things like that, yes, sir.

22 Q. Okay. But the part at the top where it says the
23 address has Silver Creek Road, you wrote that in, correct?

24 A. Yes, sir.

25 Q. And that is not, in fact, a part of the statement, is

1 it?

2 A. It's on the form. It's not up under the voluntary
3 statement part, no, sir.

4 Q. Right.

5 There is a part of the form that says "having decided
6 to answer questions, I made the following statement in the
7 text", and the address is not part of that, correct?

8 A. Correct, the address is not wrote down in the --

9 Q. Okay. So that's not what Mr. White signed and said was
10 true?

11 A. He -- as far as my opinion and when I present the form
12 when he signed it, he signed it to the truth of the whole
13 form.

14 Q. That's not what it said, though. It says the
15 statement.

16 A. It specifically said "the statement above consists of
17 one page. This is made of my own free will. No one has
18 threatened me in any way and promised any special treatment
19 to cause me to make this statement. I am signing my name in
20 the space below to show that it's my statement and is true."

21 Q. And the statement, it clearly says the part starting
22 with line 1 is the statement, right?

23 A. I guess different opinions, yes, sir. I would assume
24 it means the whole form, but --

25 Q. But does it say anywhere on there that he's signing

1 confirming everything on the form is correct?

2 A. No, sir, you are right.

3 Q. Okay. Just so we are clear, these are allegations
4 about events that occurred on the 24th, is that correct?

5 A. That's correct.

6 Q. Okay. So according to this statement, Mr. White
7 distributed a \$100 piece of something smokeable to two
8 different people on February 24th, right?

9 A. Correct.

10 Q. And they smoked it, correct?

11 A. Uh-huh. Yes, sir.

12 Q. It's gone?

13 A. Yes, sir.

14 Q. There is -- it's gone?

15 A. Yes.

16 Q. Do you have any evidence that this -- that these drugs
17 or this whatever \$100 piece was came from what was stored at

18

19 A. Do I physically have any evidence?

20 Q. Correct.

21 A. This was just the interview. I didn't have any
22 evidence with me in hand to talk about, no, sir.

23 Q. Right.

24 I mean, this -- whatever this smokeable stuff was, it's
25 gone, right?

1 A. I assume, or there could have been some residue left.

2 Q. Right.

3 You don't have it, do you? There was no residue?

4 Y'all don't have any evidence from this?

5 A. Well, evidence was collected, but I don't know if it's
6 the same as this.

7 Q. Okay. So you have evidence -- you have -- this -- you
8 have residue from this incident?

9 A. No, sir, that's what I'm saying, I don't know.

10 Q. Okay. So my question is just there is no -- I mean,
11 this is what we call prior bad act, right? This is -- this
12 is supposedly distribution of crack that's not charged on
13 this indictment that occurred days before what we are
14 talking about, correct?

15 A. He talked about giving them a 100 piece.

16 I'm not sure I understand your question. I don't want
17 to --

18 Q. Sure.

19 My question is Mr. White is under indictment for drugs
20 that were found on ?

21 A. Uh-huh.

22 Q. He's not under indictment for these allegations, is
23 that correct?

24 A. He talks about giving them a piece. That piece had to
25 come from somewhere, so I assume it came from the crack

1 cocaine that was at his house.

2 Q. You assume that. Do you have any evidence of that?

3 A. We collected evidence at his house that was crack
4 cocaine, yes, sir.

5 Q. Yes, detective, by my question again -- I'm sorry if
6 I'm not -- I got to ask you, do you have any evidence at all
7 that this crack that was given came from the drugs that were
8 found at ?

9 A. We would have to probably believe it was.

10 Q. I understand that is what you believed, detective.

11 A. Right.

12 Q. My question is --

13 THE COURT: I think you are arguing about the
14 inferences that can be drawn from circumstantial evidence
15 and that's up to whoever.

16 MR. MCKINNON: Thank you, Your Honor.

17 THE COURT: I understand the point, but the point
18 has been made that perhaps no one saw it taken from that
19 drug and given or sold on that occasion.

20 MR. MCKINNON: And this is uncharged conduct, Your
21 Honor, at different dates. And this is --

22 THE COURT: Well --

23 MR. MCKINNON: This would be a Lyle --

24 THE COURT: The question is whether or not it
25 would qualify as Lyle evidence and that has to do with

1 whether it appears to be part of a common plan, scheme,
2 course of conduct. We will weigh all those things.

3 MR. MCKINNON: Thank you, Your Honor.

4 I have nothing further, Your Honor.

5 THE COURT: All right.

6 MR. SHELTON: Nothing further of this witness.

7 THE COURT: You may step down, sir.

8 MR. SHELTON: Your Honor, that would be the
9 State's proffer as to the Denno Hearing, as well as I
10 believe we can incorporate the facts into the other matter
11 dealing with admissibility of the statement.

12 THE COURT: Okay. I'll hear from the defense
13 motion to suppress.

14 Yes, sir.

15 MR. MCKINNON: Your Honor, I guess my -- what
16 particularly would you like to hear from me on right now,
17 Your Honor?

18 THE COURT: Whatever you would like to argue, if
19 we could.

20 MR. MCKINNON: All right.

21 THE COURT: Your motion. I'm listening.

22 MR. MCKINNON: Your Honor, I'm not going to argue
23 much about the voluntariness of the statement, the testimony
24 of what the officer said. However, Your Honor, I believe
25 all the statements should be suppressed.

1 First, Your Honor, referring to what we just spoke
2 about, what Detective Neely alleged voluntary statement
3 where Mr. White discusses giving a \$100 of some smokeable
4 material on the 24th to Ms. Masius and Johnny, who I believe
5 is her boyfriend, that's a prior bad act under Lyle, Your
6 Honor, and it is uncharged conduct. If you remember, the
7 solicitor yesterday said he intends to directly indict that
8 conduct at some future date, so it's a prior bad act under
9 Lyle, Your Honor. There is no connection whatsoever with
10 the drugs in this case. I mean, they could have charged Mr.
11 White with that offense. They have not yet, but the
12 statement about what happened on the 24th, Your Honor, is an
13 entirely different event, uncharged. It's prior bad acts.
14 There is no connection between those drugs and what's
15 charged in this case.

16 Further, Your Honor, because these are -- the
17 State is relying on the presumptive limits, Your Honor. On
18 the trafficking case, there is no intent element at all on
19 the trafficking charge. They can't claim it's relevant on
20 intent.

21 On the possession with intent to distribute crack,
22 Your Honor, they are above the one gram limits. They have
23 presumptive intent already, Your Honor, based on the amount.
24 We are -- I am certainly not going to argue personal use,
25 Your Honor, so they have prima facie proven that element.

1 That makes -- this statement is far more prejudicial than
2 it's probative, Your Honor. With that said, there is no
3 intent element at all on the trafficking charge. And on the
4 PWID crack, they have already got -- there is more than --
5 there is five grams of crack, Your Honor, that was tested.
6 That's way over the inference amount. They have got prima
7 facie inference on intent. That makes whatever value this
8 is on intent is far outweighed by the prejudice to my
9 client, Your Honor, letting it in.

10 The question for this jury is is the crack that
11 was found in the air vent, is that his? Is the powdered
12 cocaine his. The statement is extraordinarily prejudicial
13 and the probative value is certainly minimal, Your Honor.

14 THE COURT: Yes, sir.

15 MR. SHELTON: Your Honor, first off the State is
16 entitled to prove its case. One of the elements is intent
17 to distribute. One of the parts that we would have to prove
18 in proving possession for both charges is that the defendant
19 was knowingly in possession. This is a constructive
20 possession case. I think these statements clearly go to the
21 key issue that we will be arguing in front of this jury.
22 Regardless of what Mr. McKinnon says he's going to argue, I
23 think very clearly my assessment in this case it turns on
24 constructive possession. Knowledge and intent are very
25 clear as to knowledge of the drugs, his intent to control

1 them, dispose of their use.

2 If I understand Mr. McKinnon's argument, the only
3 statement he's challenging is pertaining to the 2-24
4 distribution statement that Detective Neely --

5 MR. MCKINNON: Take them one at a time.

6 MR. SHELTON: Okay. He's just indicated to me
7 he's going to argue just -- I think this argument --

8 THE COURT: I'm sorry?

9 MR. SHELTON: I'm sorry, he just --

10 THE COURT: Go ahead.

11 MR. SHELTON: I'm sorry, Your Honor.

12 He just indicated to me that --

13 THE COURT: I didn't hear what you said.

14 MR. SHELTON: I'm sorry to keep interrupting, Your
15 Honor.

16 He just -- Mr. McKinnon just told me he would
17 intend to argue the statements one at a time, this being the
18 first one. I think this argument applies to all of them.

19 The statements of the defendant that he was
20 selling drugs for two months, that he commonly buys them in
21 York, how much he pays for them. He normally buys hard,
22 meaning crack cocaine. He normally pays \$1,300 for it.
23 Couple that with what he told Detective Neely, he admitted
24 that he had sold crack cocaine at that residence less than
25 48 hours before they found it pursuant to a search warrant.

1 And I would point out for the court the
2 information that Detective Neely had was relevant for the
3 facts and probable cause in the search warrant. So we are
4 really talking about an overlapping investigation. For the
5 purpose of the trial we are going to carve out the CSC
6 allegation that the distribution was tied to.

7 We are not attempting to prove that Mr. White sold
8 crack on February 24th, 2014. We are simply offering it to
9 show that he told the detective he did, which goes to his
10 knowledge that there is drugs at that house, that could --
11 through that knowledge that he sold -- his admission that he
12 sold them, it could be inferred, and should be inferred I
13 would argue by this jury, that's up to them, that the drugs
14 found were his. And it certainly goes to his intent. What
15 better evidence of his intent to use and dispose of the
16 crack cocaine than his own words saying "yes, I sell crack.
17 I sold it two days earlier," or distributed it, or delivered
18 it.

19 THE COURT: I don't recall that was a sale. I
20 think he said he gave some to somebody.

21 MR. SHELTON: Yes, sir, but I would couch that as
22 just simply --

23 THE COURT: It's a distribution.

24 MR. SHELTON: Distribution, yes, sir. It's all
25 one in the same. Regardless, he gave -- he admitted to

1 giving crack to one or two other people less than 48 hours
2 at the same residence where the drugs were found, within
3 close temporal proximity, time frame.

4 So, you know, if we were talking -- I would argue
5 to Your Honor, if we were talking about something six months
6 ago, I think the State has a very weak argument that this
7 should come in as a part of a common scheme. But the
8 inquiry, of course, before the court is the probative value,
9 does it outweigh any prejudicial impact; and more
10 specifically, an unfair prejudicial impact. We are
11 determining the voluntariness of his statements to begin
12 with. And then, of course, the secondary inquiry being
13 could he still get a fair trial from this jury if those
14 statements come in.

15 I think the State has met its burden of
16 establishing to the court. I think this is very relevant,
17 very probative. Of course it's prejudicial. All evidence
18 is. Is it unfairly prejudicial to the defendant?

19 THE COURT: All right. Mr. McKinnon?

20 MR. MCKINNON: Very briefly.

21 THE COURT: You get the last bite at the apple and
22 we will try to make a ruling.

23 MR. MCKINNON: Okay. Your Honor, it's different
24 crimes. Your Honor, the State is trying to have it both
25 ways. They could have charged him. In fact, Mr. Shelton

1 said yesterday they plan to charge him with that incident.
2 But instead of trying him on that today --

3 THE COURT: We are going to assume there was a
4 prior bad act.

5 MR. MCKINNON: Okay. Your Honor, then the only
6 possible way it comes in under Lyle is intentional, Your
7 Honor. And as far as there is no intent element on the
8 trafficking statute. That's one of the two charges against
9 my client.

10 The other charge is possession with intent to
11 distribute crack, where there is an intent element. But,
12 Your Honor, because of the amount, they have prima facie
13 proven that element because of the five gram amount.

14 THE COURT: Do you have the right to limit their
15 proof on that element, or do they have the right to prove it
16 however they choose to prove it?

17 MR. MCKINNON: Well, they have a right to prove
18 however they choose, Your Honor, but it fits into the
19 prejudice analysis, because, Your Honor, you are weighing
20 the probative value versus the prejudice. And when they
21 already have prima facie proven the intent element, that
22 makes their --

23 THE COURT: Well, it may go to the weight of the
24 their evidence as to intent, and obviously --

25 MR. MCKINNON: But I would argue, Your Honor --

1 THE COURT: I'm sure you may argue the weight of
2 their evidence as to that element.

3 MR. MCKINNON: But, Your Honor, it's what you
4 weigh against the prejudice. And obviously it --

5 THE COURT: That's right, and that's what we are
6 doing.

7 MR. MCKINNON: If the jury sees a statement from
8 Mr. White saying he gave crack to two people two days before
9 the drug offense here, that is extraordinarily prejudicial.

10 And on the probative side, they have already prima
11 facie proof that there is intent here because of the amount.

12 I am not going to argue personal use to the jury.
13 I'll stipulate to that, Your Honor. So the additional value
14 to the State is minimal. The reason they want this in is to
15 prejudice the jury. They could have tried him -- they could
16 charge him tomorrow. They said they were going to, but they
17 haven't. They are trying to back-door it in and use an
18 uncharged Lyle conduct to get the jury to believe the drugs
19 were found were his.

20 THE COURT: All right. Anything further?

21 MR. MCKINNON: Not on that statement, Your Honor.

22 MR. SHELTON: Your Honor, I do want to put one
23 thing on the record as to one statement that the State
24 intends to directly indict. I made the court aware of that
25 yesterday. And for the record purposes to simply illustrate

1 that we are dealing with -- we are dealing with two separate
2 incidents.

3 THE COURT: I told him I was going to treat this
4 as a Lyle issue --

5 MR. SHELTON: Yes, sir.

6 THE COURT: -- or prior bad act.

7 MR. SHELTON: I didn't -- the State didn't want
8 them on back end -- regardless of the outcome in this case,
9 the State didn't want the defense on the back end saying the
10 solicitor's office was being vindictive or seeking some sort
11 of retribution. We made that decision before calling this
12 case.

13 THE COURT: Okay. All right.

14 Just one other thing, Mr. McKinnon. Do you have
15 any cases that support the proposition that once they can
16 prove intent by the amount, that they are not -- that they
17 would somehow -- that would lessen their need to show intent
18 by other means?

19 MR. MCKINNON: I don't have any case law on that
20 point, Your Honor, but I think it follows under Rule 403
21 balancing analysis that the evidence they are attempting to
22 offer is just cumulative, is just icing on the cake. That
23 means the court, I would argue, should be much more
24 skeptical in when weighing that against --

25 THE COURT: Well, I don't look at it necessarily

1 as icing on the cake. There is a couple of ways that you
2 can prove intent. One is by amount, and that's a
3 presumption --

4 MR. MCKINNON: Correct.

5 THE COURT: -- which means it's rebuttal. That's
6 not -- the fact that they show a certain amount doesn't mean
7 they have won their case.

8 MR. MCKINNON: My reading of the case law, Your
9 Honor, is that it's prima facie proof, unless I offer
10 rebuttal evidence --

11 THE COURT: You can rebut that. It's rebuttable.

12 MR. MCKINNON: Correct, Your Honor, but I'm not
13 going to offer personal use evidence. That's not --

14 THE COURT: I don't know -- I don't know that I
15 could limit you as to what you can offer or what you can
16 argue, and so where we are is that I do find that it goes
17 toward intent. I do think the State has the right to
18 present evidence as to intent. It is otherwise a
19 constructive possession case, and certainly you called into
20 question constructive possession several times in the
21 hearing this morning.

22 MR. MCKINNON: Absolutely, Your Honor.

23 THE COURT: And apparently you intend to do that
24 during trial, and I'm not going to try to stop you. You
25 have a right to call that into question. So then it becomes

1 a question then -- the intent becomes a very important issue
2 in the case. There are two ways to prove intent. Again, by
3 the amount, which is a rebuttable presumption, and then also
4 by actions that would go toward intent. And in this case I
5 find that this is an important issue.

6 The evidence that's been presented, I find the
7 prejudicial effect does not outweigh its probative value on
8 that point, so I'm going to deny the motion at this point in
9 time and allow the evidence to come in.

10 And as far as the voluntariness of the statement,
11 I don't think there is a serious challenge as to that, but I
12 would find independently that the statements were
13 voluntarily given.

14 MR. MCKINNON: Your Honor, if I could just turn
15 briefly to the other statements, Your Honor?

16 THE COURT: Yes, sir.

17 MR. MCKINNON: And these would be the statements
18 based on Officer McGarity and Officer Beck with regard to --
19 I understand, Your Honor, the knowledge is going to come in.
20 I mean, there is no -- I mean, Officer McGarity testified
21 that Mr. White has knowledge of the drugs. That's going to
22 come in, but everything else, Your Honor, statements from
23 Officer McGarity and Officer Beck, just related in general
24 knowledge of the drug trade. I mean, Mr. White testified
25 that he had been a drug dealer for two months, that he

1 bought hard cocaine at \$1,300 an ounce. Those statements,
2 Your Honor, are not relevant to whether the drugs found in
3 the trailer were his. That's the issue in this case, and
4 the sort of background -- I mean, Mr. White, they could have
5 found him driving a dump truck full of crack down on the
6 streets of York, you know, ten days ago, but the question is
7 is the stuff that was found in the air vent in that trailer,
8 did that belong to Mr. White. And none of the stuff about
9 he knows the price of crack, or even that he's a dealer in
10 some other circumstances, that is not -- that is not
11 relevant to what a constructive possession case. And to the
12 extent that it is, it's intenerated evidence. It's weak
13 evidence, Your Honor. And, again, the prejudice to the
14 client of the jury hearing he knows the price of crack, you
15 know, that he's been dealing drugs for two years, the
16 prejudice is extraordinary, Your Honor. And I believe --
17 and so I understand the statement about the knowledge of the
18 drugs, that's going to come in, but my argument on
19 everything else should be excluded on this.

20 THE COURT: Counselor?

21 MR. SHELTON: These statements are similar to the
22 February 24th one. The State's argument is that they go to
23 knowledge and intent. What better evidence is there to
24 prove -- for the State to prove his knowledge of the drugs,
25 his knowledge of intent than for him to admit to the

1 officers that he has been dealing drugs for a period of
2 time, that he specifically deals with hard, which they know
3 to be crack cocaine, and how much he paid for it. He
4 obtains it in York. All of those things are relevant. So
5 to the questions of fact this jury has to determine for the
6 same reasons I started earlier, they go to knowledge and
7 intent.

8 My recollection of the detective's and the
9 officer's testimony was they were specifically talking with
10 him after he had been arrested on charges stemming from the
11 search warrant. They had already found the drugs at the
12 residence. They were talking with him about the residence.
13 So it's in connection with this investigation.

14 If you look at these statements in a vacuum, if we
15 were just to walk up to Mr. White on the street and say
16 "hey, are you a drug dealer," then maybe the defense's
17 argument holds water, but this is specifically framed in the
18 context of this investigation pertaining to the search of
19 the Silver Creek residence that he told them he lived at, or
20 stayed at, or laid his head there, or had access to, however
21 the defense wants to categorize that aspect of the statement
22 with the mother of his children Jessica Collins. So all of
23 that goes to his access, his ability to assert dominion and
24 control, his intent. That's his -- he says that's his
25 business. He's a drug dealer. He sells drugs, and he buys

1 it for \$1,300. He's attempting to turn a profit off of
2 that.

3 I'll posit to the court, and we will flesh this
4 out a later hearing, that the crack is worth more than
5 \$1,300 per ounce street level. So there is a profit margin
6 available for him through which he can make money. It goes
7 to knowledge and intent.

8 THE COURT: I have a little bit more of a problem
9 with that particular evidence, because it doesn't go to his
10 possession of the drugs at that particular location. It
11 doesn't go to his distribution either on the prior occasion
12 or on this occasion.

13 I will find that the prejudicial effect of that
14 testimony would outweigh its probative value and I will
15 refuse to allow that in.

16 Now, as to his statement that what drugs were at
17 the house, I'll let that -- that's coming in.

18 MR. MCKINNON: Thank you, Your Honor.

19 THE COURT: Uh-huh.

20 MR. SHELTON: Your Honor, we would specifically
21 ask for a ruling as to the admissibility of other parts of
22 his statement that the defense hasn't challenged in the
23 interview or the conversation with Detective Beck.

24 THE COURT: If you want to go over it line by
25 line, we will, but --

1 MR. SHELTON: Specifically there are some other
2 things that we think are relevant, become relevant.

3 THE COURT: Let's talk about them. That's what we
4 are here for.

5 MR. SHLETON: Number one --

6 THE COURT: Do you want me to turn the jury loose
7 until this afternoon, or are we going to be able to do this
8 this morning?

9 MR. SHELTON: No, sir, I think this will be brief.

10 THE COURT: Okay. Thank you.

11 MR. SHELTON: Number one being that Mr. White told
12 Detective Beck he didn't have a job and that he is having to
13 pay child support, that he has nine children with two on the
14 way. I would ask the court to make an inquiry as to whether
15 those are probative. I would argue that the State can argue
16 that it goes to his intent to sell drugs. There is an
17 inference level. We would have to prove, you know,
18 establish the value of the drugs, so on and so forth, if he
19 doesn't have a job and has child support obligations.

20 I think we could limit it to the fact that he
21 doesn't have a job and he has child support obligations. I
22 think it's probably going the next step and saying he's
23 worried about being put in jail.

24 THE COURT: I don't consider the fact that you
25 don't have a job a bad act. I don't consider the fact that

1 you have child support obligations a bad act. I don't know
2 if there is a Lyle issue there or not.

3 MR. MCKINNON: Your Honor, I don't believe there
4 is.

5 I would -- I believe what the solicitor is
6 offering is to keep out the fact that Mr. White has eleven
7 children, and I would argue that that particular fact is
8 prejudicial. As long as the solicitor is willing to say he
9 has child support obligations and no job, we would be okay
10 on that.

11 MR. SHELTON: I mean, I think that's what I'm
12 asking the court to -- and specifically the defense has
13 exception to it. It could be construed by -- the jury could
14 hold that against him. You know, I don't really know how to
15 categorize that, but I do think it's something that we might
16 should flesh out.

17 THE COURT: Are you planning on putting in that he
18 has eleven children? Yes or no?

19 MR. SHELTON: No, sir.

20 THE COURT: Okay, then that answers your question.

21 MR. SHELTON: We would specifically say --

22 MR. MCKINNON: Thank you, Your Honor.

23 MR. SHELTON: -- he admitted he doesn't have a job
24 and has child support obligations.

25 THE COURT: There we go. I'll let that in.

1 MR. MCKINNON: Your Honor, I just want -- my
2 client informs me there are no child support orders, so I
3 think --

4 THE COURT: Well, apparently he said that to
5 somebody. I think -- is that in one of the statements? So,
6 I mean, he certainly has a right to contest what they say he
7 said. I don't know how I could --

8 MR. MCKINNON: Your Honor, and maybe I'm --

9 THE COURT: I can't direct them to say they can't
10 argue -- for them to say they didn't hear that, if that's
11 what their testimony is.

12 MR. MCKINNON: Yes, sir, and I think it may just
13 mean what Mr. White said he has children he supports, but I
14 think he's wanting me to say that there is no order against
15 him in the Family Court.

16 THE COURT: Well, again, I'm going to allow them
17 to testify as to what they heard; what their testimony is.
18 If there is evidence to the contrary, you certainly have the
19 right to show that they have incorrect information.

20 MR. MCKINNON: Thank you, Your Honor.

21 THE COURT: And it doesn't require your -- I'm not
22 requiring your client to testify. I'm sure there are other
23 people in the world who know the number of children he has.

24 MR. MCKINNON: Yes, sir.

25 THE COURT: And what obligations he may have to

1 support them. As a matter of fact, that's a matter of
2 public record probably.

3 MR. MCKINNON: I believe that's everything.

4 THE COURT: Is that everything that we need to
5 cover?

6 MR. EPTING: I think that's --

7 MR. MCKINNON: Yes.

8 THE COURT: All right. We are going to take about
9 a five, ten minute break and then we will come back and get
10 started with the trial.

11 Court is in recess.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened)

14 THE COURT: All right. Is the State ready to
15 proceed?

16 MR. SHELTON: Yes, Your Honor.

17 THE COURT: Defense ready?

18 MR. MCKINNON: We are, Your Honor.

19 THE COURT: All right. Let's bring the jury in.

20 (The following takes place in the presence of the
21 jury panel)

22 THE COURT: All right, the record will reflect
23 that the jury has returned to the courtroom.

24 I owe you an apology this morning. I had you come
25 in a little earlier than you were needed. I'm sorry for

1 that. I will make you aware that we did have one matter
2 that came up, an emergency matter that I had to deal with,
3 that has nothing to do with this case or the case that's
4 before you, but we had to take care of that before we could
5 get started this morning, which delayed us a little bit, but
6 thank you for your patience in regard to our delay this
7 morning.

8 Before I begin, I want to inquire of you -- and
9 I'll remind you you remain under oath concerning your
10 responses to the court throughout the trial. Yesterday I
11 gave you some instructions as to how you should behave
12 during your absence from the courthouse. If there was any
13 member of the jury panel who was unable to follow my
14 instructions, please stand.

15 (No response).

16 THE COURT: It appears that all jurors have
17 complied with my instructions thus far.

18 Now, I told you that upon your return to the
19 courthouse you would be taking an oath concerning your
20 duties and responsibilities in this case, and so at this
21 time I'm going to ask that the clerk administer the oath
22 concerning those responsibilities.

23 Madam Clerk.

24 THE CLERK: Ladies and gentlemen of the jury,
25 please stand and raise your right hand.

1 You shall well and truly try and in true
2 deliverance make between the State of South Carolina and the
3 defendant at the bar whom you shall have in charge and a
4 true verdict give, according to the evidence and the law so
5 help you God. Please acknowledge by saying I will.

6 JURY PANEL: (Collectively said I will).

7 THE CLERK: Let the record show all affirmed.

8 THE COURT: Thank you very much. You can be
9 seated.

10 Now, before we begin the actual trial of the case
11 there is some things that I want to go over with you. I'm
12 going to do this primarily because it's my belief that for
13 most of you this is your first experience in actually
14 sitting on a jury in the trial of a criminal case. Some of
15 you may have been in this position before, but probably for
16 most of you you have never been in this position before, and
17 there is some things that I would like to go over with you
18 concerning the duties and responsibilities that we have
19 during this trial and the procedure that we will follow in
20 handling this case, so you will perhaps better understand
21 what's going on as the trial moves forward.

22 If you have never been in this position before,
23 probably what you might know about what jurors do or how
24 they behave or how courtrooms functions you would have
25 learned from television shows that you have watched, or

1 maybe movies that you have read -- perhaps books that you
2 have read or movies that you have seen, things of that
3 nature. And while all those sources of information are
4 interesting, I want to make you aware that they are full of
5 high drama, intense action and riveting circumstances, but
6 the reason is they are there to entertain you. I tell
7 juries it never ceases to amaze me on television you can
8 have an event occur, the case can be prepared, tried and
9 ended in the space of an hour and they still have time to
10 stop for commercials about five times. And I hope you would
11 realize then that what you see on television or in the
12 movies involves what they call literary license. That means
13 the person who wrote the script for that changed the way
14 courts work and how they work so that it fits the story
15 line. It makes the story more interesting. That's because,
16 again, those things are intended for your entertainment.

17 I'm going to explain to you today that what you
18 are involved in in this trial is intended for anything but
19 your entertainment. I hope you understand that you are
20 involved in a fundamental part of our government and our
21 republic, and that is that in most countries in this world
22 if you were to go around the world and look at the judicial
23 systems of most countries in the world, you would find that
24 those systems do not allow the direct participation by
25 citizens in the important decision-making process that goes

1 on in the courtrooms of those countries. We are different.
2 We are in the minority in that respect, because our
3 Constitution, and our state and in the United States,
4 guarantees every citizen the right to a trial by a jury of
5 one's peers. I explained to you yesterday that right goes
6 back 800 years this year to a document signed in the year
7 1215. It's a right that many people have fought and died
8 for. I hope we always maintain the right for citizens to be
9 tried by their fellow citizens, but, again, by a jury of
10 one's peers.

11 What you are engaged in here is a search for the
12 truth. It's an effort to see that justice is done between
13 the parties that are before the court. And in this case the
14 parties that are in front of this court are the State of
15 South Carolina, who have brought a charge against one of its
16 citizens, the defendant in this case.

17 I hope that you understand that searching for the
18 truth or trying to do justice is sometimes a slow process,
19 as you found out this morning. Sometimes it's deliberate.
20 Sometimes you will find that it might be even repetitive as
21 we go through the evidence. It's going to be the opposite
22 of what you might see on television.

23 I want you to understand that this courtroom also
24 is a place of honor. It's dedicated to the preservation of
25 citizens rights through that document that I mentioned a few

1 minutes ago, those documents being the Constitution of this
2 state and of the United States, and the right to a trial by
3 jury is preserved in our Bill of Rights contained in the
4 first ten amendments to our Constitution.

5 Now, the attorneys who are going to be here
6 representing their clients in this case are here to present
7 their client's cases before you and they are here to
8 represent their client's interests. I will tell you,
9 however, first and foremost they are also officers of this
10 court. At some point in time they appeared before some
11 tribunal in this state. They took an oath and that oath is
12 referred to as the attorneys oath in the court rules. Part
13 of that oath is that they will assist you in your search for
14 the truth during this trial. For that reason you can expect
15 that the attorneys will act in a reasonable, a professional,
16 and an ethical manner in the discharge of their duties in
17 this courtroom during this trial.

18 I'm going to remind you, too, that you came in
19 front of this court this morning. You took an oath. Your
20 oath is to decide this case based solely upon the law and
21 the evidence that's presented during this trial. So,
22 therefore, you too are expected to act in a reasonable, a
23 professional and an ethical manner in the discharge of your
24 duties as jurors in this case. And, again, I want to thank
25 you very much for your willingness to accept the important

1 responsibility of jury service in our system today.

2 Now, what I'm telling you now is not intended to
3 serve as a charge on the law. It is intended to serve as an
4 introduction concerning the trial of this case. I will
5 charge you on the law later on when we finish all the
6 evidence and all the arguments. At that time I will explain
7 the law to you and charge you the law that you are to apply
8 in this case. Again, I'm trying to explain to you the
9 duties we have and the procedures that we will follow.

10 Now, yesterday when we did jury selection I went
11 over with you two documents. Those documents are
12 indictments. The indictments, again, are the documents that
13 bring the case in front of this court. I have these two
14 documents here. They explain to this court and to you the
15 charges that are to be tried. It explains to the defendant
16 or informs the defendant of the charges lodged against the
17 defendant. They aren't evidence. They can't be used by a
18 jury in any manner in directly determining the guilt or the
19 innocence of someone charged in the document, and I'm not
20 going to read them to you again. I will explain to you that
21 the two charges are trafficking in cocaine and possession
22 with the intent to distribute in crack cocaine. So those
23 are the two charges and I will go over the indictments in
24 more detail with you later on when I charge you concerning
25 the law. But, again, it is simply the charge that brings

1 the case into the court.

2 Now, to those charges the defendant has pled not
3 guilty. And under the laws and the Constitution of this
4 state and the United States that plea places the burden of
5 proof in this case solely upon the State and that burden of
6 proof is to prove the elements of the crimes alleged in the
7 indictments to you by proof beyond a reasonable doubt. And
8 I will tell you at the close of the trial it's your duty to
9 determine whether or not the State has met its burden of
10 proof in regards to the allegations that are before this
11 court. So your purpose as jurors is to find and determine
12 the facts in this case. And I will tell you that in every
13 case tried in this court before a jury, the jury is the sole
14 and exclusive judge of the facts.

15 I will tell you that the same law that makes you
16 the sole and exclusive judge of the facts makes me the sole
17 and exclusive judge of the law. You see, I'm not allowed to
18 have an opinion concerning how you determine the facts in
19 this case and I'm not allowed to disagree with you
20 concerning how you determine the facts in this case. And
21 that same law that does not allow you to disagree with me
22 concerning the law to be applied in this case. The law as I
23 give it to you at the close of the trial is the only law
24 that you can use in deciding the case, and I will caution
25 you if you came into the courtroom with a notion as to what

1 law is, or you have some opinion as to what the law ought to
2 be, those notions should be left outside of the jury room
3 before you begin your deliberations. It's your job to
4 decide the facts as you determine the facts to be and then
5 apply the law as I give it to you to those facts. That
6 should put you in a position to reach a just and a true
7 verdict in this case.

8 You are to determine the facts from the testimony
9 you hear and from any other evidence that comes into the
10 record through that testimony. It's up to you to determine
11 what inferences you feel may be properly drawn from the
12 evidence that you hear in the case. And it's especially
13 important that you do your job diligently and
14 conscientiously, because I will tell you that under our
15 system of justice ordinarily there is no means by which an
16 erroneous determination of facts made by a jury can ever be
17 changed.

18 Now, as I indicated to you that I am the sole
19 judge of the law in this case and I will charge you on the
20 law at the end of the trial.

21 Now, I want to caution you about a couple of
22 things. You are to decide this case based upon the evidence
23 and the law according to your oath. The only evidence you
24 are going to hear in this case will be the testimony of
25 witnesses who have been sworn to tell the truth. They are

1 going to testify from this witness stand over here to my
2 right. And that testimony itself is evidence, and whatever
3 documents or other pieces of evidence are admitted into the
4 record through that testimony constitutes the evidence in
5 the case. So you are to decide this case based upon the
6 evidence, that testimony and what comes into the record
7 through that testimony and then the law, and that is the law
8 that I will charge you at the close of the trial.

9 So, therefore, I will reemphasize what I told you
10 yesterday. You must decide this case based solely upon the
11 evidence presented inside the courtroom. You should not
12 attempt to gather any information on your own concerning the
13 case. You shouldn't listen to, watch, or read any media
14 reports during the trial. You shouldn't discuss the case
15 with anyone as the trial proceeds. Again, it's your
16 obligation to decide the case based on what goes on in this
17 courtroom before you in the form of evidence and law as
18 given to you by the court.

19 Now, at the close of the trial it's going to be
20 your solemn responsibility to determine the guilt or the
21 innocence of the defendant of the charges that are before
22 the court, and your verdict should be based solely upon the
23 evidence presented during the trial.

24 Now, in a few minutes we are going to start this
25 trial and I'm going to allow the attorneys to make what's

1 called an opening argument or opening statement to you and
2 they will tell you perhaps what the case is about, perhaps
3 what they intend to prove during the trial. It will be your
4 introduction to the trial. And then at the close of the
5 trial I will allow the attorneys again to make an argument
6 or a statement to you, a summation it's referred to on some
7 occasions, and at that time they will be allowed to sum up
8 the evidence that you have heard or seen from their client's
9 perspective.

10 I will tell you now that statements made by
11 lawyers during a trial themselves do not constitute evidence
12 and can't be used by a jury directly in determining the
13 guilt or the innocence of the defendant. The statements
14 generally are to ask you to draw certain inferences from the
15 evidence that you have heard. And we only allow the
16 attorneys to directly address the jury twice during the
17 trial; that's at the beginning of the trial in the opening
18 statement and then at the close of the trial during the
19 closing statement, but I will caution you those statements
20 in and of themselves do not constitute evidence.

21 From time to time during the trial there may be an
22 issue between the attorneys as to what is admissible into
23 evidence or what is not admissible. Perhaps there will be
24 an issue concerning the appropriateness of questions that
25 are being asked, and there are Rules of Evidence that govern

1 the admission of testimony or evidence into the record. And
2 so if they raise that type of issue and it becomes my belief
3 that that discussion may go into an area that would not be
4 admissible into evidence or a matter that should not be
5 considered by you in reaching a verdict, if I think the
6 discussion is going in that direction, I will ask you to
7 leave the courtroom while I have those discussions. I'm
8 going to caution you don't think that because I am asking
9 you to leave the courtroom that I have an opinion one way or
10 the other as to how you determine the facts or that I'm
11 trying to influence your decision concerning the facts. I
12 hope you realize it's just me doing my job. My job is to
13 see that you decide this case based upon evidence that's
14 been properly admitted under the Rules of Evidence that
15 govern the admission of those matters. When I have made my
16 decision, I will ask you to come back in the courtroom.
17 I'll announce whatever decision I have made to you and we
18 will proceed with the trial, but don't read anything else
19 into that discussion other than I'm trying to make a
20 decision as to what properly should be placed into the
21 record of the case. So that may happen from time to time,
22 so don't think it's unusual that I might ask you to do that.

23 Now, I have told you that your job is to determine
24 what the true facts are in the case, and I will tell you
25 that that job as a matter of necessity involves you

1 determining the credibility or the believability of the
2 evidence that you hear in the case. And I will tell you to
3 use your good common sense in determining which witnesses
4 you choose to believe and what they are saying that you
5 choose to believe and those that you choose not to believe.
6 I'm not asking to you check your common sense at the door as
7 you come in. I'll ask you to use that in that regard,
8 because every day you make common sensical decisions as to
9 what you choose to believe and what you choose not to
10 believe. Service on a jury is no different than any other
11 day in your life in that regard.

12 I want to ask you to pay close attention to what
13 goes on in the courtroom. Listen carefully to what's being
14 said. Put yourself in the position to judge the credibility
15 or the believability of what you hear from the witness
16 stand.

17 As the sole judge of the facts, you have the right
18 to believe all of, part of, or none of what a particular
19 witness might say. You can believe one against all the
20 others who testify, or you can believe all the others
21 against one. You see, you are the sole judges of the facts.
22 That makes you the sole judge of the credibility of the
23 witnesses. That also makes you the sole judge of the weight
24 you choose to assign to the testimony that you hear. Using
25 your common sense you have the right to consider such

1 factors as to whether or not a witness might have a stake in
2 the outcome of a trial; whether or not a witness may have a
3 bias or prejudice for or against one side or the other;
4 whether or not a witness actually has the ability to know
5 the facts about which the witness is testifying; and perhaps
6 most importantly of all, and I tell people that, you know, I
7 have been in courtrooms now for about forty years, and every
8 courtroom I have ever been in, and I have been in a lot of
9 them, the witness stand is always in front of the jury box
10 so that you can watch the witnesses as they testify, the way
11 they deliver their testimony. Pay attention to everything
12 that goes on in the courtroom. You have the right to use
13 anything that's in the record of the case to make a
14 determination as to the credibility or the believability of
15 the testimony you hear.

16 Again, try not to let your thoughts wander. Try
17 to pay close attention to what's going on in the courtroom.
18 Be in a position to discuss the credibility of the testimony
19 that you have heard with your fellow jurors when I ask you
20 to do that in deliberations at the close of the trial.

21 Now, I know on television they always appoint the
22 foreperson of the jury at the beginning of the trial, and I
23 have never done that. I always appoint the foreperson when
24 I charge you concerning the law. So don't think that I have
25 forgotten about that. I haven't forgotten about it. I do

1 that for a reason. I do that because I like to stress to
2 jurors that when I turn the case over to you for your
3 decision, I will tell you that your verdict has to be
4 unanimous. Each and every one of you must agree upon the
5 verdict before the jury has reached a verdict in the case.
6 So no juror has more importance than any other juror and no
7 juror has any greater duty to pay attention, to be in a
8 position to lead discussions than any other juror. You have
9 an equal responsibility to be in that position. So I want
10 everybody over there to think you might be the foreperson of
11 the jury and you might be the person who is responsible to
12 lead the discussions during the deliberations and that you
13 need to be prepared to be in that position.

14 Now, at the close of the trial I'll pick one of
15 you as the foreperson, but that doesn't mean that anybody
16 has any greater responsibility on the jury than anyone else.
17 You all are equally important in reaching a verdict. That
18 means each and every one of you must agree on the verdict
19 before it is the verdict of the jury.

20 Now, I want to be sure that I haven't violated
21 anyone's rights from what I have told you thus far.

22 Does the State have an objection to any of my
23 opening comments?

24 MR. SHELTON: No, sir, Your Honor.

25 THE COURT: Defense have any objections?

1 MR. MCKINNON: No, Your Honor.

2 THE COURT: All right. Now, ladies and gentlemen,
3 I explained to you that the defendant's plea of not guilty
4 places the burden of proof on the State. Now, that means
5 that we allow the State to go first with its opening
6 comments, followed by the defense. The State then would be
7 allowed to go first in the presentation of its evidence;
8 again, followed by any evidence the defense wishes to put
9 up. Once that's been completed, once the presentation of
10 evidence has been completed, then the attorneys will do the
11 closing arguments. Once closing arguments have been
12 finished, I'll charge you concerning the law. And once I
13 have completed my charge on the law, the case will be in
14 your hands then in order for you to deliberate and reach a
15 verdict in the case. So those are the steps we will go
16 through as we proceed through the trial.

17 The first step then is opening comments from the
18 State.

19 You may proceed.

20 MR. SHELTON: May it please the court?

21 THE COURT: Yes, sir.

22 MR. SHELTON: Good morning.

23 THE JURY: (Collectively said good morning).

24 MR. SHELTON: Ladies and gentlemen, the defendant
25 in this case is Reginald White. He's represented by Mr.

1 Bill McKinnon of the York County Bar.

2 Mr. White stands here today accused of two crimes,
3 as Judge Couch has indicated to you earlier; trafficking
4 cocaine, the weight of ten or more grams, and possession
5 with intent to distribute crack cocaine. They are two
6 separate things, two separate charges.

7 The State has the burden of proving what's called
8 the elements of those charges to all twelve of you
9 unanimously beyond a reasonable doubt. That's the burden of
10 proof. You may have heard in civil court or you may have
11 participated in civil court. The standard is a little bit
12 lower in civil court kind of 51/49 standard. In criminal
13 court it's a high burden and it's because these are
14 Constitutional Rights that are involved and criminal
15 allegations. The State embraces the burden of proof in this
16 case. That is what our system is designed for, is to ensure
17 that the State and the defendant get a fair trial and you
18 twelve are firmly convinced that the evidence presented in
19 this case leads to the conclusion about guilt.

20 Now, if you are not firmly convinced, you find him
21 not guilty, but it's my job and the job of the officers to
22 present the evidence to you and to argue for you why your
23 logical conclusion will lead you to finding him guilty as to
24 both charges.

25 The elements in both of these cases, both of these

1 charges, one of the things deals with possession. There is
2 two different types of possession called constructive
3 possession and actual possession. You are going to hear
4 Judge Couch explain that to you more in his charge. I will
5 posit to you this is a constructive possession case. So
6 actual is if it's -- if somebody is holding onto it.
7 Constructive is if somebody has the right or authority,
8 what's known as dominion and control over this specific
9 property, allegedly drugs in this particular case.

10 One of the other things as to the trafficking
11 cocaine charge, the State has to prove to you it's cocaine
12 and it's 10 or more grams.

13 As to the possession with intent to distribute
14 crack cocaine charge, we have to prove to you it's a
15 quantity of crack cocaine and that Mr. White possessed it
16 constructively with the intent to distribute it. So it's an
17 extra element on the crack charge that's not there for the
18 cocaine charge. And we also have to prove that this entire
19 case occurred in York County and that the defendant was
20 involved and knowingly involved.

21 So you are going to hear testimony from several
22 officers involved in this investigation. You are going to
23 hear testimony from at least a chain witness, perhaps two,
24 establishing the reliability of the evidence, and you are
25 going to hear from the State's chemist who tested the

1 alleged drugs in this case. You may hear from some other
2 people, but I can tell you those are the core folks that you
3 are going to hear from in the State's presentation.

4 And you are going to hear about how these charges
5 originated from the search warrant that was executed on a
6 residence, at a residence on Silver Creek Drive in Clover,
7 York County, South Carolina, on February 26th, 2014. Law
8 enforcement learned through their investigation, and the
9 State will prove to you that Mr. White lived there, stayed
10 there, had access to that place, however you want to
11 categorize it. You are the finders of fact. The bottom
12 line is the State will establish to you, at minimum, that
13 Mr. White had access to the residence in question where the
14 drugs were found during the execution of the search warrant.

15 You are the triers of facts in this case. You are
16 going to -- as the judge told, you have to assess the
17 credibility of witnesses. You will be presented photographs
18 of this circumstances at the residence during the search
19 warrant. You will be shown tangible evidence recovered
20 during the search warrant. You will hear from individuals
21 involved. And you will most likely hear about circumstances
22 around the investigation that led the police to believe it
23 was Mr. White that was in constructive possession. Mr.
24 White was not there at the residence at the time the drugs
25 were found, but law enforcement's investigation in the

1 State's case will establish to you that he had constructive
2 possession of the drugs that were found.

3 It's your job to assess the credibility of the
4 evidence and to render a verdict that speaks the truth. At
5 the end of this case I will argue -- get an opportunity to
6 argue to you the State's position, perception of the case.
7 Mr. McKinnon will get to do the same thing about the
8 defendant's position or perception of the case, but it's
9 your decision, so I would reinforce what Judge Couch said.
10 Please pay close attention. Please use your common sense
11 and good judgment when evaluating the testimony and evidence
12 presented, and at the end of this case I'm confident you
13 will render a verdict that speaks the truth. Thank you.

14 THE COURT: Mr. McKinnon, for the defense. You
15 may proceed, sir.

16 MR. MCKINNON: Good morning, ladies and gentlemen.

17 JURY PANEL: (Collectively said good morning).

18 MR. MCKINNON: Ladies and gentlemen, you are here
19 today because the government, the government found some
20 crack cocaine and some powdered cocaine in Mr. White's
21 friend's trailer, Jessica Collins.

22 Now, Ms. Collins and Mr. White have a
23 relationship. She is the mother of four of his children.
24 They are still friends. He goes over to the trailer. He
25 sees his children. He's got four kids he loves and cares

1 about. He goes over there and sees them, but the drugs were
2 not found at his trailer. They are found at Jessica's
3 trailer. Jessica was arrested and has the same charges
4 pending against her. They arrested her. They arrested Mr.
5 White later. It was not his trailer. It was not his air
6 vent in the trailer where the drugs were found. He wasn't
7 there when they found it.

8 There is no physical evidence at all, no forensic
9 evidence linking Mr. White to the drugs that were found in
10 Jessica Collins trailer. There is no fingerprints. There
11 is no hair. There is no DNA. There was no physical
12 evidence at all linking Mr. White with those drugs in
13 Jessica Collins trailer.

14 The government's case, you are going to hear their
15 evidence. They are basically going to say "we found these
16 drugs in his girlfriend's trailer. It's his girlfriend, or
17 his former girlfriend. He was over there some, so we
18 arrested him too." They are not going to be able to prove
19 by a reasonable doubt that those drugs were Mr. White's.

20 I'm going to talk about the burden of proof a
21 little because it's extraordinarily important. I am
22 primarily a civil lawyer. That means most of the cases I do
23 involve lawsuits where someone is suing someone like over a
24 car wreck, or something like that. In that case, those
25 kinds of cases money is at stake. You know, you are in a

1 car wreck and someone sues you, or you sue somebody, what
2 the jury is deciding in that case is who gets money. Either
3 the person who caused the wreck has to pay, or they don't.
4 In those cases the burden of proof is what's called the
5 preponderance of the evidence. Now, if you can envision the
6 Scales of Justice.. They were exercising the scales of
7 justice, the old fashion scale. If the scales tip slightly,
8 then that person wins. Another way to think about it is 51
9 percent.

10 The next level of burden of proof is, again, in
11 money cases, civil cases, but where there is an argument to
12 punish someone. Say it's a car wreck and there is a drunk
13 driver and we call it punitive damages, where it's still
14 money is at stake, but the jury is asked to punish that
15 person for doing something extraordinarily bad. And those
16 cases the burden of proof is much higher. It's called clear
17 and convincing proof, meaning you have got to be really
18 sure, but that's still money.

19 In this case Mr. White's freedom is at stake, and
20 so this is the highest burden of proof of all. You, ladies
21 and gentlemen, have to decide beyond a reasonable doubt that
22 he is guilty of these charges, or your obligation, your
23 responsibility is to let him go free. That is our system.

24 What is reasonable doubt? There is a little funny
25 story that my brother came up with that I would like to

1 tell, so I'll give a little levity here explaining what
2 reasonable doubt means, okay?

3 Say I have got a box, like one of those boxes
4 paper comes in. I put a cat in it. I put a mouse in it. I
5 tape the box up. I hear rattling and shaking and the cat is
6 meowing and you open it up and the cat has got blood on its
7 whiskers and there is mouse fur everywhere. That is beyond
8 a reasonable doubt the cat ate that mouse. There is no
9 other plausible explanation. The cat is sitting there with
10 a big grin on its face. You see some blood. There is
11 nothing -- there is nothing else that could have happened.

12 Reasonable doubt means if you see that happen and
13 your friend walks up and says you know what? There a little
14 hole in the bottom of that box. You still got the cat with
15 the grin on its face. You still got some blood with him.
16 You still got mouse hairs and you still got no mouse, but
17 that little tiny hole in the box, that's reasonable doubt,
18 because maybe the cat still did eat the mouse. Maybe the
19 cat probably ate the mouse. Maybe you are pretty sure the
20 cat ate the mouse, but it's not beyond a reasonable doubt.
21 If there was a way the mouse could have gotten out and the
22 cat didn't eat him, then you don't know beyond a reasonable
23 doubt. And that's what that means. You have to have no
24 reasonable doubt remaining to convict Mr. White.

25 Let me talk a little bit about a couple more

1 important principles. You heard the judge say the burden of
2 proof is on the government. That means Mr. White does not
3 even have to respond to these charges. In the American
4 system, which is the best system of justice in the world, we
5 have the right to remain silent. Mr. White can choose not
6 to respond at all to these charges. And the government,
7 they have an obligation to prove these charges beyond a
8 reasonable doubt. Mr. White does not even have to answer
9 them. The burden of proof is entirely on the prosecution.

10 Secondly, we have a presumption of innocence in
11 this system. This is another extraordinarily important
12 feature of the American justice system. Mr. White is
13 presumed innocent. He is innocent. He is innocent now. He
14 is innocent through this trial. He is innocent through jury
15 deliberations. And the only way he's not innocent is if you
16 ladies and gentlemen vote after deliberations and decide
17 that he is not.

18 You, ladies and gentlemen, are going to hear from
19 a parade of witnesses. You are going to hear about the
20 search of Ms. Collins trailer and how they searched it and
21 they were really thorough. And they opened up that air vent
22 and you are going to hear they found a little baggy of crack
23 and a little baggy of powdered cocaine.

24 You are going to hear a chemist. Their chemist
25 will come in and say they tested the two substances and it's

1 powdered cocaine and it's crack.

2 You will hear from all these law enforcement
3 witnesses come in and they will testify of the procedure.
4 It will be very impressive, you know.

5 You will even hear probably that Mr. White a few
6 days before this gave someone some kind of smokeable drug a
7 few days before this.

8 You will hear that Mr. White may have known there
9 were drugs in the house, but, ladies and gentlemen, that's
10 all you will hear. You will not hear any direct evidence
11 that these were his drugs. These were -- this was not his
12 home. This was not his air vent. This was just a place he
13 visited to see his kids and to see his friend Ms. Collins.
14 None of the witnesses you will hear when you hear direct
15 evidence that they were his drugs. There is no physical
16 evidence.

17 Ladies and gentlemen, I trust you. I thank you
18 for your service. My client's freedom is in your hands.

19 I have one main request of you, that as you hear
20 the prosecution witnesses get up and tell what happened and
21 tell their story, that every time in your mind you ask one
22 question: Does that prove that those two cellophane bags of
23 drugs belonged to Mr. White and not someone else? That's
24 what they are not going to be able to prove to you. Thank
25 you.

1 THE COURT: The State may call its first witness.

2 MR. SHELTON: May it please the court, Your Honor,
3 the State first will call Officer Logan McGarity.

4 THE COURT: Ask him to step into the courtroom.

5 Sir, if you will come down to the clerk and be
6 sworn, please.

7 INVESTIGATOR LOGAN MCGARITY, having been first
8 duly sworn, testified as follows:

9 THE COURT: Have a seat on the witness stand,
10 please.

11 State your name.

12 THE WITNESS: Matthew Logan McGarity.

13 THE COURT: Thank you.

14 Counselor, your witness.

15 MR. SHELTON: Thank you, Your Honor.

16 May it please the court?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION BY MR. SHELTON:

19 Q. Officer McGarity, what is your current job or
20 occupation?

21 A. I am an officer with the Clover Police Department
22 currently assigned to the York County Multi-Jurisdictional
23 Drug Enforcement Unit.

24 Q. And how long have you been in law enforcement?

25 A. A little over six years.

1 Q. How long have you been with the Drug Unit?

2 A. About two years.

3 Q. Did you participate in the execution of a search
4 warrant at a residence located on Silver Creek Drive in
5 Clover, York County, South Carolina?

6 A. Yes.

7 Q. And was the address number -- at the time that did you
8 all believe the address number was

9 A. That's correct.

10 Q. And was this search warrant executed on February 26th,
11 2014, at approximately six p.m.?

12 A. Yes.

13 Q. Were other officers present with you during the
14 execution of the search warrant?

15 A. Yes.

16 Q. What other officers?

17 A. Officer Beck, Officer Neely. I can't recall every
18 officer, though.

19 Q. Were there more than just those two officers?

20 A. Yes.

21 Q. And did you prepare some sort of General Sessions case
22 file summary?

23 A. I did and I listed them on there.

24 Q. Would looking back at that summary refresh your
25 recollection as to who all was there?

1 A. Yes.

2 Q. I'll hand you a copy of your summary. If you would
3 take a second to see if that refreshes you.

4 A. Yes.

5 Q. Okay. Whenever you are ready, please answer my
6 question.

7 A. Myself, Officer Doty, Officer Beck, Lieutenant Ligon,
8 Deputy Moore, Detective Neely, Detective Yeager, and Officer
9 Weeks with the Forensics Unit.

10 Q. Okay. And, officer, was this case file summary
11 prepared shortly after the investigation on February 26th?

12 A. Yes.

13 Q. And is the purpose of those to record and document what
14 took place?

15 A. Yes.

16 Q. Have you dealt with any cases since this?

17 A. Yes.

18 Q. A few, or many?

19 A. Many.

20 Q. Were you the officer who obtained the search warrant?

21 A. No.

22 Q. Which officer -- which one of the officers obtained it?

23 A. Detective Neely.

24 Q. And, to your knowledge, did he obtain that from a York
25 County magistrate?

1 A. Yes.

2 Q. So, to your knowledge, was it valid and legally
3 obtained for the residence in question?

4 A. Yes.

5 Q. You were assigned to the Drug Unit at the time, is that
6 correct?

7 A. That's correct.

8 Q. So was the subject matter of this search warrant drugs?

9 A. Yes.

10 Q. Was the residence a trailer?

11 A. Yes, it was.

12 Q. And is there more than one trailer on that particular
13 piece of property?

14 A. Yes, there were two.

15 Q. Was the search warrant specific as to which trailer?

16 A. It was.

17 Q. Officer, I'm handing to you what's been marked for
18 identification as State's Exhibit No. 1. If you would,
19 please, take a look at that.

20 Do you recognize that item?

21 A. Yes.

22 Q. What is it?

23 A. It's an aerial photograph of the property.

24 Q. Is it two separate photographs?

25 A. Yes, from two different angles.

1 Q. And is that the property in question?

2 A. Yes.

3 Q. Is it true and accurate?

4 A. It is.

5 MR. SHELTON: Your Honor, I would move to admit as
6 State's Exhibit No. 1.

7 THE COURT: Any objection?

8 MR. MCKINNON: None, Your Honor.

9 THE COURT: Without objection, State's Exhibit
10 No. 1 is admitted in the record.

11 (Whereupon, State's Exhibit No. 1 was entered into
12 the record as evidence)

13 THE COURT: You may proceed.

14 MR. SHELTON: At this time, Your Honor, I would
15 like to publish State's Exhibit No. 1 to the jury.

16 THE COURT: You may do so.

17 By publish. That's courtroom talk to show it to
18 you, so I'll allow him to do that.

19 MR. SHELTON: Madam Clerk, would you please dim
20 the lights?

21 BY MR. SHELTON:

22 Q. Officer McGarity, if you would, please, with the
23 court's permission step down for a moment?

24 THE COURT: You may do so. Step down, sir.

25 THE WITNESS: Okay.

1 (Witness off the witness stand)

2 BY MR. SHELTON:

3 Q. There is a laser pointer on here. If you would, please
4 illustrate for the jury which one of these two residences
5 that we are talking about.

6 A. This is the property right here.

7 Q. From the second photo below, the different vantage
8 point?

9 A. Yes, the -- there.

10 Q. And that was the property that was the subject of the
11 search warrant?

12 A. That's correct.

13 Q. And that was the property that was, in fact, searched
14 pursuant to the search warrant?

15 A. That's correct.

16 Q. Okay. Thank you.

17 (Witness back on the witness stand)

18 BY MR. SHELTON:

19 Q. Officer, has it come your attention since the execution
20 of the search warrant that the address number may be
21 different than

22 A. Yes.

23 Q. But at this point do you have any specific knowledge as
24 to whether that's an incorrect address number or not?

25 A. No, I don't.

1 Q. Could it, in fact, be 809 Silver Creek?

2 A. It could be.

3 Q. But there is no question as to which residence was the
4 subject of the search warrant and was, in fact, searched?

5 A. No.

6 Q. Who lived at that residence?

7 A. The defendant and Heather Collins.

8 Q. Jessica Collins?

9 A. Jessica Collins, I apologize.

10 Q. Was anyone other than the officers that you have named
11 present during the execution of the search warrant?

12 A. I'm sorry, say that again.

13 Q. I'm sorry, let me -- was anyone else, other than the
14 officers you have named, present during the execution of the
15 search warrant?

16 A. No.

17 Q. Did anyone show up while you were there executing the
18 search warrant?

19 A. No.

20 Q. Are you sure Ms. Collins didn't show up during the
21 search warrant?

22 A. She -- she showed up as we were executing.

23 Q. Okay. I think we had a miscommunication.

24 A. Yes.

25 Q. So while you were searching, Ms. Collins came to the

1 residence, is that correct?

2 A. Yeah, we arrived, began to execute the search warrant.
3 She arrived in a vehicle at the time.

4 Q. Okay. And was White present during the search at any
5 time?

6 A. No.

7 Q. Was a copy of the search warrant left at the residence,
8 as required by law?

9 A. Yes.

10 Q. And were there any children living at that residence?

11 A. Yes.

12 Q. Did you enter the residence during the search?

13 A. I did.

14 Q. Please describe the layout of the residence.

15 A. It's a -- the trailer, we entered through a door that's
16 close to where the vehicles park. When you enter that door,
17 I guess it could be considered the front door, directly to
18 the right there is like a bedroom, like a storage -- there
19 was a bedroom kind of used for storage.

20 If you make a left, it goes into a living room,
21 kitchen, a hallway.

22 And as you are going down the hallway, there is like a
23 children's room. It had children's stuff in it, a bathroom,
24 and then a bedroom in the very back directly at the end of
25 the hallway, and that was like where it would be living in.

1 Q. Was there an adult-sized bed in that back bedroom?

2 A. Yes.

3 Q. And is it fair to say that that was the master bedroom?

4 A. Yes.

5 Q. And did you find anything you suspected was illegal
6 drugs or evidence of illegal drug activity inside the
7 residence?

8 A. I did.

9 Q. What did you find and where?

10 A. If I -- evidence in order?

11 Q. Did you prepare an evidence inventory sheet in
12 conjunction with this investigation?

13 A. I did.

14 Q. And did you specifically document what you found and
15 where you found it?

16 A. I did and which order.

17 Q. And referring to that, would that help make clear your
18 testimony?

19 A. Yes.

20 Q. If you would just take a look at that sheet, please.

21 A. Okay.

22 Q. And whenever you are ready, tell this jury what you
23 found and where you found it.

24 A. Okay. The first item on the list was four Oxycodone
25 pills found in the right bedroom dresser top drawer, the

1 right bedroom being the one I described in --

2 MR. MCKINNON: I'm going to have to object, Your
3 Honor.

4 THE COURT: Yes, sir.

5 MR. MCKINNON: Based on our motion in limine, Your
6 Honor, I believe we agreed that no drugs would be identified
7 without testimony versus the State's chemist. No substances
8 to be identified.

9 THE COURT: Ladies and gentlemen, I'm going to ask
10 you to step back to the jury room while I discuss it with
11 the lawyers.

12 You will find every time when you leave the
13 courtroom I'm going to give you specific instructions not to
14 discuss anything about this case until I ask you to do so.

15 You may retire.

16 (The following takes place outside the presence of
17 the jury panel)

18 THE COURT: I'm not sure I recall that being a
19 stipulation.

20 MR. MCKINNON: We did agree that it was on my
21 motion in limine, Your Honor. It was -- I apologize, Your
22 Honor.

23 I remember Mr. Shelton said that -- he said we
24 would call it alleged crack or powder. So, I mean, we would
25 be --

1 THE COURT: I do recall him saying that.

2 MR. MCKINNON: And this witness said it was
3 Oxycontin.

4 MR. SHELTON: Judge, I think the motion from the
5 defense specifically related to crack cocaine and powdered
6 cocaine until it's sufficiently identified. Those are the
7 drugs in question.

8 I guess the court could instruct Officer McGarity
9 if he's speaking alleged substances, that's what it appeared
10 to be and I can qualify that.

11 THE COURT: That would I think square more with
12 our agreement.

13 MR. MCKINNON: Yes, sir, Your Honor.

14 THE COURT: So I will caution the witness at this
15 point in time it's okay for you to state that you found what
16 appeared to be a certain type of drug, but you can't
17 identify it as a specific type of drug. That would be up to
18 our chemist to determine exactly what it would have been,
19 because I think --

20 THE WITNESS: Yes, sir.

21 THE COURT: -- powdered cocaine would look like
22 various kinds of powder, not necessarily cocaine. So I'll
23 instruct the witness to follow that procedure.

24 MR. MCKINNON: Thank you, Your Honor.

25 THE COURT: All right. Bring the jury back.

1 THE BAILIFF: Yes, sir, Your Honor.

2 (The following takes place in the presence of the
3 jury panel)

4 THE COURT: All right. The record will reflect
5 the jury has returned to the courtroom.

6 I have given the witness specific instructions as
7 to how to proceed in compliance with my previous rulings.

8 You may proceed.

9 MR. SHELTON: Thank you, Your Honor.

10 May it please the court?

11 THE COURT: Yes, sir.

12 BY MR. SHELTON:

13 Q. Officer, let me rephrase my question.

14 As to item number one, you testified that there were
15 four pills found in the right bedroom on the dresser?

16 A. Yes.

17 Q. What do those pills appear to be, based on your
18 training and experience?

19 A. They appeared to be Oxycodone pills.

20 Q. Please proceed with the inventory.

21 A. The second item was some correspondence listed as
22 White's correspondence on the right side bedroom top of
23 dresser.

24 Item three is four -- what appeared to be four burnt
25 marijuana cigarettes in an ashtray in the living room.

1 Item four was a glass jar that appeared to contain one
2 bag of what appeared to be crack and three bags of what
3 appeared to be cocaine in the back bedroom floor vent inside
4 the air floor vent.

5 The fifth item was a black digital scale found on the
6 kitchen table.

7 Item six was what appeared to be a pill grinder
8 containing a white powder. That was in the back bedroom
9 under the bed.

10 Item seven was a black tracphone cellphone. That was
11 recovered from Ms. Collins hand.

12 Item eight was appeared to be marijuana recovered from
13 Ms. Collins purse.

14 Item nine was a cellphone, a Samsung cellphone that was
15 recovered behind the couch in the living room.

16 Q. And during your search of the residence did you see
17 anything else that was relevant to this investigation?

18 A. Not that I can recall.

19 Q. Did you take some photographs?

20 A. I did.

21 Q. And things that you photographed, were they, in your
22 opinion, training and experience relevant to this
23 investigation?

24 A. Yes.

25 Q. Did you see any men's clothing --

1 A. I did.

2 Q. -- in the residence?

3 A. I did.

4 Q. Any men's shoes?

5 A. Yes.

6 Q. Any woman's clothing and shoes?

7 A. Yes.

8 Q. Did you see any prescription pill bottles with names on
9 them?

10 A. I did.

11 Q. And was that in the master bedroom on the dresser next
12 to the bed?

13 A. Yes.

14 Q. Did you see any photographs with White in them?

15 A. I did.

16 Q. And the correspondence that you referred to, item
17 number two, did that appear to be some sort of bank
18 statements?

19 A. Yeah, I believe it was bank statements of White's.

20 Q. I'm going to show you a handful of exhibits. I'm
21 showing you what's been premarked for identification as
22 State's Exhibit No. 2 through 6.

23 Please take just a moment to look through those.

24 A. (Witness examining photographs).

25 Q. Officer, do you recognize those items?

1 A. I do.

2 Q. And what are they?

3 A. Different items that I took pictures of.

4 Q. During the search?

5 A. Yes.

6 Q. Are they true and accurate?

7 A. They are.

8 MR. SHELTON: Your Honor, at this time I would
9 move to admit State's Exhibit 2 through 6 as evidence in
10 this case.

11 THE COURT: Any objection?

12 MR. MCKINNON: None, Your Honor.

13 THE COURT: Exhibits 2 through 6 then will be
14 admitted into the record as they have been marked.

15 (Whereupon, State's Exhibit No. 2 was entered into
16 the record as evidence).

17 (Whereupon, State's Exhibit No. 3 was entered into
18 the record as evidence).

19 (Whereupon, State's Exhibit No. 4 was entered into
20 the record as evidence).

21 (Whereupon, State's Exhibit No. 5 was entered into
22 the record as evidence).

23 (Whereupon, State's Exhibit No. 6 was entered into
24 the record as evidence)

25 THE COURT: You may proceed.

1 MR. SHELTON: Thank you, Your Honor.

2 Your Honor, at this time I would request to show
3 or publish.

4 THE COURT: You can publish it.

5 MR. SHELTON: Madam Clerk?

6 BY MR. SHELTON:

7 Q. All right.

8 THE COURT: If you need to step down to point
9 those out, you may do so.

10 MR. SHELTON: Yeah, please come on down.

11 (Witness off the witness stand)

12 BY MR. SHELTON:

13 Q. Officer, I'm going to give you back this laser pointer.

14 I would ask you to explain to the jury what these
15 photographs are, and -- what it is, where it was found, that
16 sort of thing. Just paint the picture on what these
17 pictures represent.

18 A. Okay. This is the jar that contained what was believed
19 to be cocaine and believed to be crack. This item was found
20 inside of -- this is the floor vent. The vent had been
21 removed. The hole was blocked. It was found under boards
22 inside under the floor vent.

23 Q. This is?

24 A. This is a photograph that was taken of the contents of
25 that jar.

1 Q. And can you point out specifically what in your
2 training and experience you believed these items to be?

3 A. I believe these to be bags that it appeared to be
4 cocaine in them.

5 Q. Which one -- which ones appeared to be the cocaine and
6 which ones appeared to be the crack?

7 A. These appeared to be cocaine. This appeared to be
8 crack.

9 Q. And next to the jar, what's that little fuzzy thing?

10 A. That's packaging material.

11 Q. Next?

12 A. This is a black digital scales that was found on the --
13 in the -- I believe it was the kitchen area.

14 This was in the back bedroom or the master bedroom.

15 This was an overview taken of this and it was a pill bottle
16 on the corner with Reginald White's name on it. It was
17 directly beside of the master bed here.

18 Q. And, detective, did you -- or excuse me, I called you
19 detective. Officer, did you have any reason to take those
20 items into evidence under the suspicion that they were
21 illegally possessed?

22 A. No, I didn't have any reason to seize the items. I
23 just photographed them.

24 Q. And there is two pill boils there. Are Reginald
25 White's name on both of them?

1 A. This one was Reginald White and the one to the right
2 was Ms. Collins.

3 Q. And the photograph here on the right and on the left,
4 is this how you found the items in that room?

5 A. Yes, they weren't moved.

6 Q. Okay. Go ahead.

7 A. This was the refrigerator in the kitchen, the picture
8 of Mr. White, and also there was another picture of Mr.
9 White that was found in the kitchen area.

10 Q. It looks like there is some sort of sticky note there
11 on the bottom off the right. Is there handwriting there
12 that you can make out?

13 A. It looks like Reggie or Reginald. I have to get clear.

14 Q. Do you specifically recall what that note read?

15 A. I don't recall specifically.

16 Q. It appears to be some sort of a note with Reggie's name
17 on it?

18 A. Yes.

19 Q. Attached to the refrigerator?

20 A. Yes.

21 (Witness back on the witness stand).

22 BY MR. SHELTON:

23 Q. Officer, you noted that the jar of suspected drugs were
24 found in the floor vent in the master bedroom?

25 A. Yes.

1 Q. What made you think to look in the floor vent?

2 A. It's actually a common location that we have found
3 drugs in floor vents before.

4 Q. And in your training and experience is it common or
5 uncommon for people to hide their stash of drugs?

6 A. It's common.

7 Q. Officer, I'm going to show you now what's been marked
8 for identification as State's Exhibit No. 7. Do you
9 recognize this item?

10 A. I do.

11 Q. What is it?

12 A. It's the jar that was recovered with the contents.

13 Q. And did you recover this as evidence in the case we are
14 talking about?

15 A. I did.

16 Q. What did you do with it when it came to be in your
17 possession?

18 A. Once it was in my possession it was bagged and sealed
19 and turned into the York County evidence drop here at the
20 Moss Justice Center.

21 Q. And you specifically recovered this as the evidence?

22 A. I did.

23 Q. And this is what you found in the floor vent?

24 A. Yes.

25 Q. That you described in that previous picture?

1 A. Yes.

2 Q. And those two previous pictures, is this the same --
3 the actual item that was photographed in the first two
4 pictures?

5 A. It is.

6 Q. So when you submitted it, did you put it in some sort
7 of evidence drop location?

8 A. Yes, there is a secured drop that it's locked that I
9 dropped it in.

10 Q. Do you have any access to that drop box once you put
11 evidence in?

12 A. No, only the technicians that work in evidence have
13 access to it.

14 Q. And are Jimmy Stiles and Patrick Patterson technicians
15 who work with the sheriff's department in evidence?

16 A. They are.

17 Q. So when you submitted it, was the contents sealed
18 inside of the evidence bag?

19 A. It was.

20 Q. And specifically all of the contents as you found them
21 were put in the bag and sealed up as evidence?

22 A. Yes.

23 Q. You can set that off to the side.

24 Was Jessica Collins arrested the evening of the search
25 warrant?

1 A. Yes.

2 Q. Was she charged with possession with intent to
3 distribute crack cocaine?

4 A. I can't recall all her charges.

5 Q. Was she charged with trafficking cocaine, to your
6 knowledge?

7 A. I can't recall her exact charges.

8 Q. Was Reginald White a suspect in the criminal charges
9 for the drugs found?

10 A. Yes.

11 Q. And did you recover the correspondence or bank
12 statements as well as the scales as evidence in this case?

13 A. The bank statements, yes.

14 Q. What about the digital scales found on the --

15 A. Yes, and the digital scales from the table.

16 Q. All right. I'm going to show you what's been marked
17 for identification as State's No. 8 and 9 for what's been
18 marked for identification. Do you recognize those items?

19 A. I do.

20 Q. What are they?

21 A. It's the digital scales I recovered and the packaging
22 and the correspondence.

23 Q. And did you recover those items as evidence in this
24 search?

25 A. I did.

1 Q. Did you put them in sealed bags, submit them in the
2 evidence drop, along with the other item?

3 A. Yes.

4 MR. SHELTON: Your Honor, I would move to admit
5 these as evidence.

6 THE COURT: Any objection?

7 MR. MCKINNON: None, Your Honor.

8 THE COURT: Without objection they will be
9 admitted.

10 I believe they have been marked, is that right?

11 MR. SHELTON: Yes, sir.

12 THE COURT: They have been marked.

13 MR. SHELTON: Yes.

14 (Whereupon, State's Exhibit No. 8 was entered into
15 the record as evidence).

16 (Whereupon, State's Exhibit No. 9 was entered into
17 the record as evidence)

18 THE COURT: You may proceed.

19 MR. SHELTON: Your Honor, at this time I would
20 request to show the bank statements or correspondence,
21 State's Exhibit 8, to the jury.

22 THE COURT: All right.

23 BY MR. SHELTON:

24 Q. Officer, if you need to open State's No. 8 to verify
25 the contents, if you would do so, please.

1 And please narrate for the jury what is contained
2 inside State's No. 8 as part of State's 8?

3 A. There is two documents here, both having Reginald R.
4 White at the top of both of them. They are two separate
5 bank statements for -- it looks -- it appears to be the same
6 day for two different dollar amounts. They are not
7 identical. They are different.

8 It looks like the date that this one was February 3rd,
9 2014, at 12:40 p.m.. The other one was the same date at
10 12:38 p.m..

11 Q. And these statements have the name of Reginald R. White
12 at the top of both of them?

13 A. They do.

14 Q. As well as the date --

15 A. Yes.

16 Q. -- of February 3rd, 2014?

17 A. Yes.

18 Q. Thank you. You can put those back into the envelope
19 and set that off to the side.

20 Officer, did you find any drug paraphernalia?

21 A. Yes.

22 Q. For what kind of drug?

23 A. I had a pill grinder containing some white powder.

24 Q. And would the suspected marijuana roaches or burnt
25 marijuana cigarettes be considered paraphernalia?

1 A. Yes.

2 Q. Was there any paraphernalia recovered or seen or
3 documented during this search specifically related to the
4 consumption of crack cocaine or powdered cocaine?

5 A. I believe there was some photographs taken of some
6 different items.

7 MR. SHELTON: Beg the court's indulgence, Your
8 Honor.

9 THE COURT: Yes, sir.

10 (Off the record)

11 (Back on the record)

12 BY MR. SHELTON:

13 Q. Officer, did you take a number of other photographs
14 that have not been admitted as evidence?

15 A. I did.

16 Q. And were those photographs of the residence, how things
17 appeared in the residence?

18 A. Yeah.

19 Q. And those may not be directly relevant to the questions
20 at hand?

21 A. Yes.

22 Q. But would looking at those pictures as a whole help to
23 refresh your recollection as to whether you documented
24 anything related to crack cocaine or cocaine paraphernalia?

25 A. Yes.

1 Q. Okay. If you would take a moment to look through
2 these.

3 A. (Witness examining documents).

4 Q. Does that refresh your recollection?

5 A. Yes.

6 Q. Was there any crack cocaine or cocaine paraphernalia?

7 A. No.

8 Q. Officer, what's the significance of digital scales?
9 Why were they seized?

10 A. Digital scales are used to measure out the weights of
11 drugs.

12 Q. And could those be used by folks that are distributing
13 drugs?

14 A. Yes.

15 Q. Is it common or uncommon for folks to use scales in
16 distributing drugs?

17 MR. MCKINNON: I'm going to object to that, Your
18 Honor.

19 THE COURT: I beg your pardon?

20 MR. MCKINNON: I'm going to object to that, Your
21 Honor.

22 THE COURT: I'll ask that you lay a better
23 foundation for that.

24 MR. SHELTON: Okay.

25 THE COURT: I sustain the objection at this time.

1 MR. SHELTON: I'll withdraw the question for this
2 witness, Your Honor.

3 THE COURT: All right. Thank you.

4 BY MR. SHELTON:

5 Q. Officer, was Reginald White later taken into custody as
6 a suspect in relation to the drugs found during the search
7 warrant?

8 A. Yes, he was.

9 Q. Was that later the same night after midnight?

10 A. Yes.

11 Q. So it was February 26th, into the 27th, 2014?

12 A. Yes.

13 Q. And do you recall where he was located?

14 A. In a residence off of Hudson Street in York, South
15 Carolina.

16 Q. Do you see Reginald White present in the courtroom?

17 A. I do.

18 Q. Could you please identify him for the jury?

19 A. (Witness pointing to defendant).

20 MR. SHELTON: Please let the record reflect he's
21 pointed to the individual sitting next to Mr. McKinnon.

22 THE COURT: The record shall so reflect.

23 You may proceed.

24 BY MR. SHELTON:

25 Q. Officer, did you advise Mr. White of his Miranda

1 Rights?

2 A. I did.

3 Q. Where?

4 A. After he was taken into custody at Hudson Street.

5 Q. Was anyone else present at that time?

6 A. Yes, Officer Doty.

7 Q. Did you identify yourself to Mr. White as being a
8 police officer?

9 A. I did.

10 Q. Were you wearing a uniform?

11 A. No.

12 Q. Why is that?

13 A. On the narcotics unit we operate in plainclothes with a
14 badge and a gun.

15 Q. Okay. Was your badge visible?

16 A. Yes.

17 Q. Were you carrying a gun?

18 A. Yes.

19 Q. Was it visible?

20 A. Yes.

21 Q. Was it in its holster?

22 A. Yes.

23 Q. Did you at any time draw your weapon while you were
24 speaking with Mr. White?

25 A. No.

1 Q. Did you read him his Miranda Rights out loud from a
2 card?

3 A. I did.

4 Q. Where did you get the card from?

5 A. It's in -- I carry it in my wallet.

6 Q. Do you have it with you now?

7 A. I do.

8 Q. Is it standard practice for you to advise individuals
9 of their Miranda Rights from the card that you carry in your
10 wallet?

11 A. Yes.

12 Q. Would you please tell the jury exactly the rights that
13 you advised him?

14 A. I can read it from my card.

15 Q. Sure. Pull your card out from your wallet, just like
16 you would in the field.

17 A. All right. "You have the right to remain silent.

18 "Anything you say can and will be used against you in a
19 court of law.

20 "You have the right to talk to an attorney or have him
21 or her present with you while you are being questioned.

22 "If you cannot afford to hire an attorney, one will be
23 appointed to represent you before any questioning, if you
24 want.

25 "You can decide at any time to exercise these rights

1 and not answer any questions or make any statements."

2 This is followed by two questions.

3 "Do you understand these rights that I have explained
4 to you?

5 "Having these rights in mind, do you wish to talk to us
6 now?"

7 Q. Did White appear to understand his rights?

8 A. He did.

9 Q. Did he ask you any questions about his rights?

10 A. No.

11 Q. Did he invoke or exercise any of his rights at that
12 time?

13 A. No.

14 Q. Did you threaten him in any way to get him to talk with
15 you or any other officers?

16 A. No.

17 Q. Did you promise him anything in exchange for talking
18 with you or any other officers?

19 A. No.

20 Q. Did you later talk with Mr. White?

21 A. Yes.

22 Q. Where was that?

23 A. In a room just outside of our narcotics office here at
24 the Moss Justice Center.

25 Q. Is that downstairs?

1 A. Yes.

2 Q. And was this shortly after he was taken into custody
3 from Hudson Street?

4 A. Yeah, he was brought from Hudson Street to that room.

5 Q. And during your conversation with him, did White
6 acknowledge whether or not he lived or stayed at the
7 searched residence on Silver Creek Drive?

8 A. Yes, he said that he lived at that residence.

9 Q. Did he indicate anyone else lived there?

10 A. Yeah, Ms. Collins.

11 Q. And did he indicate who she is in relation to him?

12 A. They have a child in common.

13 Q. And did you ask him what y'all would find if you
14 searched the house?

15 A. I did.

16 Q. And did he answer?

17 A. He did.

18 Q. What did he say?

19 A. He said that cocaine, crack, and pills, Oxycodone pills
20 would be found in the residence.

21 Q. Did any other officer or officers talk with him later
22 that night?

23 A. Yes, while we were in that room I was present, Officer
24 Beck and Officer Doty.

25 Q. And what was your primary role in that room?

1 A. I was working on the booking process, filling out the
2 booking sheets and the medical sheets to be taken into the
3 jail.

4 Q. And you said -- did Detective Beck ever talk with him?

5 A. Yes, he was speaking with him.

6 Q. And had you made Beck aware that you had advised White
7 of his Miranda Rights?

8 A. Yes.

9 Q. Did you tell him that in person?

10 A. Yes.

11 Q. Did all of these events occur in York County, South
12 Carolina?

13 A. They did.

14 Q. Okay.

15 MR. SHELTON: No further questions of this witness
16 at this time.

17 THE COURT: You may cross-minute.

18 MR. MCKINNON: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 CROSS EXAMINATION BY MR. MCKINNON:

21 Q. Officer McGarity, could you provide the jury what the
22 address was on the search warrant?

23 A. 817.

24 Q. Silver Creek Drive, Clover?

25 A. Yes.

1 Q. As it turns out, you are not sure that's a correct
2 address, right?

3 A. No.

4 Q. Whose trailer -- who rented the trailer where you
5 executed the search warrant?

6 A. I can't recall whose name is on the rent.

7 Q. You don't know?

8 A. I can't recall.

9 Q. Okay. Do we have any information that it's not Jessica
10 Collins?

11 A. I can't recall whose name is on the trailer.

12 Q. If I represented to you it was Jessica Collins, do you
13 have any reason to believe that that's not true?

14 A. No.

15 Q. Okay. And who, in fact, was arrested at the trailer
16 when you executed the search warrant?

17 A. Collins.

18 Q. Ms. Collins?

19 A. Yes.

20 Q. Jessica Collins?

21 A. Yes.

22 Q. And was Mr. White present at the trailer when you --

23 A. No, he was not.

24 Q. Approximately during what time were you actually at the
25 Silver Creek Drive trailer?

1 A. I would have to see the search warrant to know the
2 exact time. I can't recall. It was in the daytime.

3 Q. Okay. Do you know -- how long did you stay?

4 A. I don't know the amount of time I was there.

5 Q. Okay. Mr. White wasn't there?

6 A. No, he wasn't.

7 MR. SHELTON: Your Honor, we may need to take up a
8 matter outside the presence of the jury.

9 THE COURT: All right. Ladies and gentlemen of
10 the jury, I'll ask you to step back to the jury room. Don't
11 begin any discussions about the case until I have asked you
12 to do so. You may retire.

13 (The following takes place outside the presence of
14 the jury panel)

15 THE COURT: Yes, sir.

16 MR. MCKINNON: Your Honor, I expressed to the
17 State my intention was to question the officer about Mr.
18 White's driving record and his license plate registration.
19 Both of these documents were obtained through the State's
20 discovery. They were obtained by the State as part of their
21 investigative process and they are business records, Your
22 Honor. I'm just going to ask Officer McGarity about them.

23 MR. SHELTON: Your Honor, my objection is that
24 Officer McGarity is not the custodian of records for the
25 Department of Motor Vehicles. It's hearsay. Even though

1 it's in the State's file, he obtained it through DMV, he
2 couldn't come in here and authenticate those documents that
3 he is seeking to introduce as evidence.

4 I take exception with Mr. McKinnon trying to
5 cross-examine him based on documents he has no custody and
6 control of. They may be in his file, but that's simply for
7 documentation purposes.

8 MR. MCKINNON: Your Honor, I don't understand what
9 it means for something to be in the file but not for
10 documentation purposes.

11 They obtained these documents as part of their
12 investigation, Your Honor. I'm not asking to introduce them
13 into evidence. I just want to question Officer McGarity
14 about them.

15 THE COURT: I'm going to allow him to question him
16 about them if it came from the State's file.

17 Probably you ought to lay a foundation as to
18 whether or not it's part of the investigation of the
19 documents were obtained.

20 MR. MCKINNON: Yes, sir.

21 THE COURT: And were they in the file and then
22 were they documents that were considered during the
23 investigation.

24 MR. MCKINNON: Thank you, Your Honor. I will do
25 that.

1 THE COURT: That's the way I would suggest that we
2 proceed.

3 Bring the jury back.

4 THE BAILIFF: Yes, sir, Your Honor.

5 THE COURT: My understanding is you are not trying
6 to introduce the documents themselves?

7 MR. MCKINNON: That's correct, Your Honor.

8 THE COURT: All right. Basis of my ruling.

9 (The following takes place in the presence of the
10 jury panel)

11 THE COURT: All right, the jury has returned to
12 the courtroom.

13 I will allow the defense to proceed with its
14 cross-examination.

15 MR. MCKINNON: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 Subject to my instructions.

18 BY MR. MCKINNON:

19 Q. Detective McGarity, I have just handed you a document.
20 Do you recognize what that is?

21 A. Yes, sir.

22 Q. What is that document?

23 A. The uncertified copy of a driving record.

24 Q. And whose driving record is it?

25 A. It says Reginald Raynard White.

1 Q. Okay. And was that obtained by officers at the DEU as
2 part of their investigation?

3 A. Yes, it was put in the case file.

4 Q. Part by the DEU officers?

5 A. What?

6 Q. By DEU officers?

7 A. Yes.

8 Q. And that would be Mr. White, my client's case file?

9 A. Yes.

10 Q. Okay. My question, detective, is what is the address
11 on Mr. White's driver's license, according to that document?

12 A. According to this document, it's
13 , York, South Carolina.

14 Q. So not Silver Creek Drive where the search warrant was
15 executed?

16 A. No.

17 Q. Okay. Thank you, detective.

18 I'm going to hand you another document there. Do you
19 recognize what that document is, detective?

20 A. Yes.

21 Q. And what is that document?

22 A. It is a copy of a printout of a license plate for -- it
23 says here Reginald White.

24 Q. So would that be a copy of a license plate registration
25 with the DMV?

1 A. Yes.

2 Q. Was that obtained by officers of the York County DEU as
3 part of your investigation of Mr. White?

4 A. Yes.

5 Q. And does that appear to be the license plate
6 registration for Mr. White's Honda?

7 A. Yes, his Honda Accord EX.

8 Q. Okay. And what is the address given to the DMV for the
9 license plate registration?

10 A. , York, South
11 Carolina.

12 Q. Which would be in York?

13 A. Yes.

14 Q. Not at the address in this case where the warrant was
15 executed?

16 A. No.

17 Q. Thank you, detective.

18 Detective; who was present when the warrant was
19 executed?

20 A. I have read it out earlier.

21 Q. I apologize. I meant as far as --

22 Who was arrested is a better question, and I don't mean
23 which officers were present..

24 MR. SHELTON: Your Honor, asked and answered.

25 THE COURT: I'm allow him to ask the question.

1 Go ahead.

2 A. Can you rephrase it? I apologize.

3 THE COURT: There's a little confusion here, so
4 I'm going to let you ask the question. Okay.

5 BY MR. MCKINNON:

6 Q. Yeah, just because we had the break.

7 A. Yes.

8 Q. Which individual was arrested at the trailer when you
9 executed the warrant?

10 A. Ms. Collins.

11 Q. Thank you.

12 And Mr. White was arrested in York later that night?

13 A. Yes.

14 Q. Did Mr. White have any drugs in his possession when he
15 was arrested?

16 A. No.

17 Q. Okay. Did Ms. Collins, the trailer was, have any drugs
18 in her -- what appeared to be narcotics in her possession
19 when she was arrested?

20 A. Yes.

21 Q. And what did she have that appeared to be an illegal
22 substance?

23 A. She had what appeared to be marijuana in her purse.

24 Q. Okay. Did your officers do any forensic testing of any
25 of the items that you recovered at the trailer?

1 A. Yes.

2 Q. And in your forensic testing were you able to link
3 anything with Mr. White?

4 A. No.

5 MR. MCKINNON: Nothing further, Your Honor.

6 THE COURT: Redirect?

7 MR. SHELTON: Yes, sir.

8 May it please the court?

9 THE COURT: Yes, sir.

10 REDIRECT EXAMINATION BY MR. SHELTON:

11 Q. Officer, do you recall where that Honda that he just
12 asked you about was found?

13 A. I can't recall.

14 Q. Would it be in your case file?

15 A. It should be.

16 Q. Would looking back at your case file help refresh your
17 memory, possibly?

18 A. Yes.

19 Q. Take a look.

20 A. (Witness reviewing document).

21 Q. Did you find it?

22 A. Yes.

23 Q. Okay. Where was the Honda found?

24 A. It was -- according to the incident report, it was
25 located at in York.

1 Q. And are you aware of who lives there?

2 A. I can't recall who specifically lived at that
3 residence.

4 Q. Okay. Let me ask you this. On the 27th of February
5 where was Mr. White found?

6 A. He was found on Hudson Street when he was arrested.

7 Q. Is that in York?

8 A. Yes, that's in York.

9 Q. The house number is

10 A. Yes.

11 Q. At this point we have Mr. White connected to four
12 residences?

13 A. Yes.

14 Q. Okay.

15 MR. SHELTON: Nothing further.

16 THE COURT: Recross?

17 MR. MCKINNON: Nothing from the defense, Your
18 Honor.

19 THE COURT: Sir, you may step down.

20 All right, ladies and gentlemen of the jury, we
21 are about five minutes from 12:30. That's when I normally
22 break for lunch, so I'm going to do that. I'm going to
23 allow you to have lunch on your own.

24 You are again leaving the courthouse, so my usual
25 instructions when you do that will apply; that is, not for

1 THE COURT: So I'll urge the witnesses to speak
2 up.

3 I'm going to ask you to have a seat where this
4 gentleman in the green sweater is and that will get you a
5 little closer to where the witnesses are.

6 All right, that communication will be made a
7 Court's Exhibit for the record.

8 (Juror Note marked as Court's Exhibit No. 6 for
9 identification)

10 THE COURT: Is the State ready to call its next
11 witness?

12 MR. SHELTON: Yes, sir, Your Honor.

13 THE COURT: You may do so.

14 MR. SHELTON: May it please the court, Your Honor,
15 the State calls Detective Walter Beck.

16 INVESTIGATOR WALTER BECK, having been first duly
17 sworn, testified as follows:

18 THE COURT: Have a seat on the stand, sir.
19 State your name for the record.

20 THE WITNESS: Walter Beck.

21 THE COURT: Thank you very much.
22 Counselor, your witness.

23 MR. SHELTON: Thank you.

24 THE COURT: Yes, sir.

25

1 DIRECT EXAMINATION BY MR. SHELTON:

2 Q. Detective Beck, what is your current job or occupation?

3 A. I'm a detective with the York County Sheriff's Office
4 assigned to the Property Crimes Division.

5 Q. How long have you been in law enforcement?

6 A. Ten years.

7 Q. Were you formerly assigned to the Drug Unit?

8 A. I was.

9 Q. How long were you there?

10 A. Six years, nine months and one week.

11 Q. When was your last day with the Drug Unit?

12 A. The first week of October, 2014.

13 Q. And did you then go and become a detective with the
14 Property Crimes Unit from there?

15 A. I did.

16 Q. What is the Drug Unit?

17 A. The York County Multi-Jurisdictional Drug Enforcement
18 Unit, or Drug Unit, or DEU, is a multi-jurisdictional unit
19 made up of all the police departments in York County, the
20 sheriff's office and Sixteenth Circuit Solicitor's Office.
21 Together all the officers from those agencies work on one
22 Drug Unit and they work drug investigations in York County,
23 focusing on drug dealers, drug users, drug traffickers.
24 Anything -- any kind of investigation to stop the illegal
25 drug trade in York County.

1 Q. Were you involved in the investigation of this
2 particular case?

3 A. I was.

4 Q. Did this entire investigation -- excuse me, did this
5 entire investigation occur in York County, South Carolina?

6 A. It did.

7 Q. Specifically were you involved in the execution of the
8 search warrant?

9 A. I was.

10 Q. And that was at the address y'all believed to be 817
11 Silver Creek Road in Clover?

12 A. Yes, sir.

13 Q. And was that on February 26th of 2014?

14 A. It was.

15 Q. And approximately what time was that?

16 A. I want to say like four or five o'clock in the
17 afternoon.

18 Q. And were you present when Officer McGarity found
19 secured jars of suspected drugs?

20 A. I was inside the mobile home, yes, sir.

21 Q. And did he indicate to you where those drugs had been
22 found?

23 A. He did.

24 Q. And where is that?

25 A. They were found in a floor vent, air conditioning duct

1 in the floor vent, kind of hidden underneath to where you
2 couldn't see down and see in it. You kind of had to reach
3 in -- take the vent off, reach in and get to it.

4 Q. And was that in a bedroom?

5 A. Yes, sir.

6 Q. Which one?

7 A. Facing the mobile home from King Road, which I know is
8 kind of hard to -- this isn't laid out or numbered very
9 well, but the driveway comes off of King Road. When you
10 look at the mobile home from King Road, the bedroom on the
11 far left of the mobile home.

12 Q. So is that the one with the adult-sized bed in it?

13 A. Yes, sir, what would commonly be known as a master
14 bedroom in a single-wide mobile home.

15 Q. And is that the room where the pill bottles were found
16 on the nightstand?

17 A. Yes, sir.

18 Q. Was a set of digital scales also recovered from the
19 kitchen table?

20 A. Yes, sir.

21 Q. And correspondence or bank statements with Mr. White's
22 name on them?

23 A. That's correct.

24 Q. And was any loose crack cocaine or powdered cocaine, or
25 what appeared to be loose crack cocaine or powdered cocaine

1 residue of any sort found in the residence during the
2 search?

3 A. No, sir, nothing other than what was in the floor vent.

4 Q. What about any drug paraphernalia for using -- commonly
5 used in consuming crack cocaine or cocaine?

6 A. No, no cut straws, no pipes, no nothing of that sort
7 for the use or consumption of crack or cocaine.

8 Q. Would evidence such as those things, would that have
9 been documented and recovered as evidence in this search?

10 A. It would have been.

11 Q. Are you sure y'all wouldn't have just seen it and just
12 left it sitting there?

13 A. No, sir, especially not in a home where children are
14 present, we wouldn't do that.

15 Q. To your knowledge, were the jar found in the floor and
16 the digital scales found on the kitchen counter referred to
17 the Forensic Service Unit for processing?

18 A. They were.

19 Q. And were any latent prints recovered from those items?

20 A. Actually yes.

21 Q. What does that mean latent prints, do you know?

22 A. In laymen's terms a latent print is a fancy way to say
23 fingerprints. They were actually able to recover a latent
24 fingerprint off of one of the bags, I believe.

25 Q. Were those prints useable in any way?

1 A. They were not. There was not enough ridge detail in
2 that print to positively identify it to any person. You
3 have to be able to match so many points on the ridge detail
4 of that fingerprint to positively link it to a person.

5 Q. And so those were prints that had been developed from
6 the jar and the scales? They were prints but they can't
7 link them to anyone?

8 A. Yes, sir, we tried. Our forensics unit tried and
9 unfortunately there is not enough there to positively
10 identify it.

11 Q. So it's apparent that someone handled the items? We
12 just can't say who?

13 A. That's correct.

14 Q. Was Reginald White taken into custody later the same
15 night as the search warrant?

16 A. Yes, he was.

17 Q. Was that after midnight on the 27th of February?

18 A. Yes, sir.

19 Q. Was he a suspect in relation to the drugs found at the
20 residence?

21 A. He was.

22 Q. Were you present when he was taken into custody?

23 A. I was not.

24 Q. Do you know where he was taken into custody, where he
25 was --

1 A. Yes, I was -- I was in the area. I wasn't actually at
2 the address. I was conducting surveillance on the house.

3 Q. What address was he located at?

4 A. York.

5 Q. Who lives there?

6 A. Brittany McConnell lives there. We knew for a fact she
7 lived there.

8 Q. And who is she to Mr. White?

9 A. At that time she was pregnant with one of his children
10 is what we had learned.

11 Q. There was at least some sort of relationship between
12 the two of them?

13 A. Yes, sir.

14 Q. Where was White taken from the Hudson Street address?

15 A. He was brought to the Drug Enforcement Unit at the Moss
16 Justice Center here where we are now.

17 Q. And was White's Honda found somewhere else?

18 A. Yes, it was.

19 Q. Where was it found?

20 A. It was located the next afternoon, I believe the
21 27th -- the 27th, or --

22 Q. Do you recall the address where it was found?

23 A. Yes.

24 Q. What is that?

25 A. in York.

1 Q. And do you know who lives there?

2 A. Yes.

3 Q. Who is that?

4 A. It's a female by the name of Jashiba that Mr. White has
5 a child with.

6 Q. And have you -- in conjunction with this investigation,
7 have you had occasion to review Mr. White's DMV records?

8 A. I have.

9 Q. And three years prior to this did he have any other
10 addresses listed?

11 A. He certainly did.

12 Q. Okay. What address -- how many of those?

13 A. There were five different addresses that he had within
14 a three year span that he reported to DMV.

15 Q. And the most recent one, when the information was ran
16 on the 26th of February, was East Jefferson Street in York?

17 A. That's correct.

18 Q. And what was the most recent change of address?

19 A. About three weeks prior he had changed his address from
20 in York.

21 Q. I'm going to show you what's been entered as State's
22 Exhibit No. 5. Do you recognize that picture?

23 A. Yes, sir.

24 Q. What's that a picture of?

25 A. It's actually two photos on one piece of paper. It's

1 from the master bedroom at the mobile home we searched on
2 Silver Creek. This is a chest of drawers, like a nightstand
3 with drawers right beside the bed, and a close-up picture of
4 one of Reginald White's pill bottles there beside the bed.

5 Q. Is there an address on that pill bottle?

6 A. There is.

7 Q. What's that address?

8 A. York.

9 Q. Thank you.

10 Was Reginald White booked in at Moss Justice Center?

11 A. He was.

12 Q. To your knowledge, was he first taken before a
13 magistrate judge and screened to determine whether or not he
14 qualified for a court-appointed attorney?

15 A. He was.

16 Q. Was an affidavit of indigency filled out during that
17 process?

18 A. It was.

19 Q. And are you familiar with what those documents look
20 like?

21 A. I am.

22 Q. And are those filed with the Clerk of Court's office?

23 A. They are.

24 Q. I hand to you what's been premarked for identification
25 as State Exhibit No. 10. If you would take a moment to

1 peruse that document.

2 A. Yes, sir.

3 Q. What does that document appear to be?

4 A. It appears to be a public defender application.

5 Q. And who does it pretend to -- who does it appear to
6 relate to?

7 A. Reginald Raynard White.

8 Q. Is that the name of the defendant in this case?

9 A. It is.

10 Q. Is there a date on that application?

11 A. There is.

12 Q. What's the date?

13 A. It is February 28th, 2014.

14 Q. And are you familiar with Magistrate Judge Lynn
15 Benfield's signature?

16 A. I am.

17 Q. Is her signature on that document?

18 A. Yes, sir.

19 Q. Does it appear that she's the magistrate who took this
20 application?

21 A. Yes, sir.

22 Q. Does it also appear to be signed by an individual --

23 A. Yes, sir.

24 Q. -- a separate individual.

25 Who does it appear signed that document?

1 A. It appears to be signed by Reginald White.

2 Q. And does that document you hold in your hand contain a
3 raised seal certifying this is a true and accurate copy from
4 the Clerk of Court's office for York County?

5 A. Yes, sir, on every page.

6 MR. SHELTON: Your Honor, I would move to admit
7 this as self-authenticating public record.

8 THE COURT: Any objection?

9 MR. MCKINNON: None, Your Honor.

10 THE COURT: Without objection it would be
11 admitted.

12 Has it been marked yet?

13 COURT REPORTER: Yes, sir.

14 THE COURT: As marked.

15 (Whereupon, State's Exhibit No. 10 was entered
16 into the record as evidence).

17 THE COURT: You may proceed.

18 BY MR. SHELTON:

19 Q. Detective, on the face of the document does it appear
20 that White's signature incorporates the information
21 contained in the document? And what I mean by that, the
22 language of the document, is that what it suggested by
23 signing it he's agreeing that the information included is
24 true and accurate?

25 A. Yes, sir.

1 Q. And is there an address listed on this document for Mr.
2 White?

3 A. Yes, sir, there is.

4 Q. What address is that?

5 A. , Clover, South Carolina.

6 Q. And just to be clear, is that the residence that was
7 the subject of the search warrant on the 26th of February?

8 A. Yes, sir.

9 Q. You can set that off to the side, please.

10 Detective, did you talk with White at the Drug Unit at
11 the Moss Center before he was booked in at the detention
12 center?

13 A. I did.

14 Q. And describe the layout of where you spoke with him.

15 A. The layout of the office?

16 Q. Yes, sir.

17 A. It's -- it used to be -- it used to be a paralegal's
18 office that we've re-purposed for our use. There is a
19 table, four chairs, filing cabinet, another table with a
20 computer on it and printer. It's a little bit smaller than
21 the jury box.

22 Q. And did you talk with him about the search of the
23 Silver Creek residence on the 26th?

24 A. I did.

25 Q. And was anyone else present with you while you were

1 speaking with White?

2 A. Officer McGarity was present at one point, and then at
3 another point Officer McGarity and Officer Doty were both
4 present.

5 Q. What were those officers doing during that period of
6 time?

7 A. Filling out his booking paperwork, intake triage
8 medical form. Doing a -- paperwork for the jail so that he
9 could be processed in, once he was brought over there.

10 Q. And, to your knowledge, had Mr. White been advised of
11 his Miranda Rights before you talked with him?

12 A. Yes.

13 Q. And how do you know?

14 A. I was informed of that by Officer McGarity before I
15 spoke with Mr. White.

16 Q. And who did he say advised him of his rights?

17 A. Officer McGarity told me that he, himself, had read his
18 Miranda Rights to Mr. White.

19 Q. Did you threaten Mr. White in any way to get him to
20 talk with you?

21 A. No.

22 Q. Did you make any promises in exchange for him talking
23 to you?

24 A. No.

25 Q. Did you identify yourself to him as a police officer?

1 A. I did.

2 Q. Were you wearing a uniform?

3 A. I was not.

4 Q. What were you wearing?

5 A. Plainclothes. And by plainclothes, normally I would
6 wear blue jeans or BDU pants and a polo shirt with a pin
7 tucked in the front and my gun and my badge on my belt.

8 Q. So your badge is visible?

9 A. It was.

10 Q. Did you have a firearm with you?

11 A. I did.

12 Q. Was it visible?

13 A. I do not recall if I had any shirt tucked in or tucked
14 out that day.

15 Q. Was it in your holster?

16 A. It was in the holster.

17 Q. Did you ever take your firearm out of your holster at
18 any time?

19 A. No, sir.

20 Q. Did White appear to understand what was going on?

21 A. He did.

22 Q. Did he ask you any questions about his rights?

23 A. He did not.

24 Q. Did he invoke or exercise any of his rights when you
25 began speaking with him?

1 A. When I began, no.

2 Q. And did you ask him if he had a job?

3 A. I didn't -- actually I did. Yes, I did.

4 Q. Did he answer your question?

5 A. He said he was unemployed.

6 Q. And did you ask him if he had any financial
7 obligations?

8 A. I did.

9 Q. Namely, did you ask him about any child support
10 obligation?

11 A. I did, yes.

12 Q. And what did he answer?

13 A. He replied that he did have financial obligations to
14 his children.

15 Q. Did you ask him whether or not the drugs found during
16 the search warrant were his?

17 A. No.

18 Q. Why not?

19 A. Officer McGarity had already covered that with him when
20 Officer McGarity spoke with him about what was going to be
21 found in the house. And when Mr. White told him cocaine,
22 crack and Oxycodone, I didn't feel the need to go back in
23 there and reiterate that with him further.

24 Q. During your time with the Drug Unit did you receive any
25 specialized training or have any experience in narcotics

1 investigation and interdiction?

2 A. Yes.

3 Q. In fact, is that exclusively what you did in your six
4 years with the Drug Unit?

5 A. That's what my job was.

6 Q. Did you receive any training and experience in
7 identifying narcotics?

8 A. I did.

9 Q. Or suspected drugs?

10 A. Yes.

11 Q. Drug paraphernalia?

12 A. Yes, I did.

13 Q. Of all kinds?

14 A. Of all kinds, from all the main drugs that we see;
15 heroin, crack, cocaine, pills, marijuana, methamphetamine.

16 Q. What about packaging of drugs?

17 A. Yes.

18 Q. What about the street value of drugs?

19 A. Yes.

20 Q. What about how drugs are bought and sold?

21 A. Yes.

22 Q. Did you participate in any controlled buys during your
23 time with the Drug Unit?

24 A. Many.

25 Q. What does that mean?

1 A. A controlled buy is where we either use a confidential
2 informant or an undercover police officer to buy drugs from
3 drug dealers. We do that utilizing identifiable government
4 funds, money that we provide them that we are able to
5 identify. You probably heard it called marked money, or
6 something like that. We use that.

7 We use audio and video surveillance equipment known
8 commonly as body wires and stuff like that. We do that to
9 record the deals and to hear the deals as they are
10 happening. They are recorded audio, video, where they
11 will -- either the undercover police officer, or the
12 confidential informant, or sometimes both, go out and meet
13 with a drug dealer, purchase drugs from that drug dealer and
14 then come back and meet with us and we then go over what
15 happened, review the video. Of course, we were listening to
16 it as it happened and present those cases.

17 Q. Have you ever been involved in narcotics investigations
18 where you were an undercover officer going out to buy drugs?

19 A. Yes.

20 Q. On more than one occasion?

21 A. Yes.

22 Q. How many, roughly?

23 A. Probably about five.

24 Q. And you talked about buy money. What's the
25 significance of buy money in a controlled delivery --

1 controlled buy, I mean?

2 A. The buy money is key. Very few drug dealers just give
3 away drugs. That defeats the entire purpose of the
4 endeavor. It is a money making operation. That's why
5 people do it.

6 That money is controlled. It is audited regularly on
7 determined times and undetermined times. That money is used
8 as say to control exactly what happens, and that's the only
9 money that is used in these deals. It's our money that is
10 our buy money, or marked money, or government money,
11 whatever term that you want to use.

12 Q. So specifically with buy money, when you are giving it
13 to an undercover agent, whether it's an officer or a
14 confidential informant, you know exactly how much --

15 MR. MCKINNON: Your Honor, I'm going to have to
16 object. I'm trying to be patient with the solicitor. I
17 just don't know where this is going. There is no evidence
18 whatsoever in this case about controlled buys, or marked
19 money, or anything of the sorts. I just don't know where we
20 are going with it. I mean --

21 THE COURT: Purpose of the testimony?

22 MR. SHELTON: Lay a foundation, Your Honor, as to
23 his training and experience.

24 MR. MCKINNON: But these are not controlled buys.
25 None of that is the issue in this case, Your Honor.

1 THE COURT: Are you going to stipulate that he has
2 certain knowledge that he --

3 MR. MCKINNON: I'll stipulate he has knowledge
4 about controlled buys and marked money, which there is no
5 evidence of that at all in this case.

6 MR. SHELTON: Your Honor --

7 THE COURT: What are you offering it for?

8 MR. SHELTON: My next question is going to be to
9 establish that he knows what drugs go for on the street.

10 THE COURT: For value?

11 MR. SHELTON: The value of the drugs on the
12 street, yes, sir.

13 THE COURT: Are you stipulating to that?

14 MR. MCKINNON: Sure, I'll stipulate that he's
15 aware of the street value of drugs, Your Honor.

16 THE COURT: Okay. You may proceed and ask the
17 questions then.

18 MR. SHELTON: Thank you, Your Honor.

19 BY MR. SHELTON:

20 Q. How is crack cocaine typically sold on the street
21 level?

22 A. The street level from the dealer to the user typically
23 is sold by the rock, which a rock would be a tenth of a
24 gram.

25 Q. And is that a big piece of -- is that a big item? How

1 much is a tenth of a gram?

2 A. It's very small. It's -- I have very small
3 fingernails, but, you know, the size of my pinky nail. You
4 are talking a tenth of a gram, so it's not very big at all.

5 Q. And what does crack cocaine look like?

6 A. The best way I can describe it is like a rock, an
7 off-white rock, and hence the term crack rock.

8 Q. So what is the average weight of an intoxicating dose
9 of crack?

10 A. A tenth of a gram.

11 Q. And what is a tenth of a gram, an intoxicating dose,
12 usually sold for to a user?

13 A. \$20.

14 Q. And if it's sold to a dealer, is there some sort of a
15 break for getting it wholesale?

16 A. Oh, absolutely, just like with any other product you
17 buy.

18 Q. What's the break? Say if someone buys a gram of crack,
19 what would they get it for?

20 A. If somebody wanted to buy a gram, dealers probably buy
21 it for a hundred bucks.

22 Q. So the money is made breaking it down into dosages and
23 selling it to users?

24 A. Right, that's where your profit margin lies.

25 Q. So if you buy a gram at wholesale and you sell it by

1 the tenth of a gram, you are going to double your money?

2 A. That's correct.

3 Q. How is crack commonly used or consumed?

4 A. It's normally smoked. The common thing used is what
5 they call a crack pipe, which could be a homemade device,
6 such as a glass cylinder, a glass pipe. That typically
7 would be how it would be used.

8 Q. If you heard the slang term piece in the context of
9 describing crack, what would that indicate?

10 A. That would be a rock.

11 Q. And how many doses of crack would a user typically have
12 in his or her possession at one time?

13 A. A crack user?

14 Q. Yes.

15 A. They would have about one rock until they can go smoke
16 it.

17 Q. Is it common or uncommon for users to have more than a
18 hit or two at a time in their possession?

19 A. That's very uncommon.

20 Q. Let's talk real quick about powdered cocaine. What is
21 powdered cocaine typically sold for at the street level?

22 A. Sold by the tenth of a gram, you are talking \$20.

23 Q. And if it were sold by the gram?

24 A. A gram of coke, hundred bucks.

25 Q. So crack cocaine and powdered cocaine are pretty much

1 synonymous in their wholesale and street value?

2 A. Yes.

3 Q. We talked about crack cocaine and powdered cocaine.
4 What's the difference between the two?

5 A. Crack cocaine is cocaine base. Crack cocaine is just
6 cocaine that has been cooked down into a smokeable form in a
7 hard substance.

8 Cocaine -- powdered cocaine is the way it sounds. It's
9 powder. Generally it's snorted up somebody's nose through a
10 cut straw or something like that.

11 Q. What does powdered cocaine look like?

12 A. The best way I can describe it is it looks like powder.
13 It looks like white powder. Generally in a corner baggy.
14 It just looks like white powder.

15 Q. A set of digital scales were found in this case. Is
16 there any significance of a set of digital scales being
17 found, in your training and experience?

18 A. Absolutely.

19 Q. What is that?

20 A. Digital scales are commonly used by drug dealers to
21 weigh their drugs that they distribute. Drug are bought by
22 weight, particularly cocaine and crack. If you are buying,
23 let's say an eight ball of crack, or an eight ball of
24 cocaine, that refers to 3.5 grams or an eighth of a ounce,
25 hence eight ball. So you would want to be able to weigh

1 that out so that you are not eyeballing it, because we are
2 talking about tenths of a gram here with the profit margins,
3 so digital scales are vital. It's one of the tools of the
4 trade for a drug dealer.

5 Q. How is powdered cocaine typically used or consumed?

6 A. It's typically snorted.

7 Q. And some sort of apparatus used to accomplish that?

8 A. Normally a cut straw. That's the most general --
9 that's the most common piece of paraphernalia we see.

10 Q. Could one roll up a dollar bill?

11 A. Yes.

12 Q. Or a post-it note, or anything like that?

13 A. Yes, sir.

14 Q. How much powdered cocaine, in your training and
15 experience, would an average user normally have in his or
16 her possession at one time?

17 A. Powdered cocaine, you are talking -- a user, that's --
18 just a user is typically going to have a couple tenths, a
19 tenth, maybe two tenths.

20 Q. So a couple hits?

21 A. That's right.

22 Q. Are you able to estimate the amount of crack cocaine
23 found, or suspected crack cocaine found at the residence
24 during this search?

25 A. Yes, sir.

1 Q. Approximately how much?

2 A. Approximately five and a half grams.

3 Q. And was that an unofficial weight?

4 A. Yes, it's unofficial. It's done in our office on our
5 scales.

6 Q. But the State's chemist gives the certified true
7 weight?

8 A. She does.

9 Q. And what about the powdered cocaine? Were you able to
10 approximate how much powdered cocaine, suspected powder
11 cocaine was found?

12 A. Yes, sir.

13 Q. And what was that?

14 A. I believe 11 grams, 11 and a half.

15 Q. So give or take on both of those numbers, those are
16 estimates, correct?

17 A. Yes, sir.

18 Q. And ballpark figure, what are those -- what would those
19 suspected drugs be worth?

20 A. You are talking 11 grams of cocaine at \$20 a tenth,
21 \$2,200.

22 Q. What about the crack?

23 A. Five and a half grams, you are looking at 1,100 bucks.

24 Q. So even if it's sold by the gram, you are still dealing
25 with more than a \$1,000 worth of crack and more than a

1 \$1,000 worth of cocaine?

2 A. Oh, yes, sir.

3 Q. And these suspected drugs were found hidden in a glass
4 jar in the floor vent of the master bedroom?

5 A. That's correct.

6 MR. SHELTON: Nothing further of this witness at
7 this time.

8 THE COURT: Your witness, Mr. McKinnon.

9 CROSS EXAMINATION BY MR. MCKINNON:

10 Q. Mr. Beck, let me start by asking you about one thing in
11 detail here. Did I understand you correctly that you said
12 people often buy drugs in eight -- what you call an eight
13 ball?

14 A. No, sir, I think you may have misheard me.

15 Q. Okay.

16 A. Dealers will commonly buy an eight ball.

17 Q. Oh, so users don't buy eight balls?

18 A. Well, they can, but it's very rare.

19 Q. Okay. What do you base that on?

20 A. My experience in buying drugs and being involved in
21 drugs buys. It's not common for a user to buy that large of
22 a quantity. You are talking, you know, 35 hits basically.

23 Q. Right.

24 A. That's not common at all for somebody who is a user.

25 That's a dealer weight. That's somebody who is going in

1 general to buy and distribute.

2 Q. You gave a lot of testimony that I ended up objecting
3 to about controlled buys where an undercover informant goes
4 and buys cocaine or crack from someone in marked bills.
5 That has nothing whatsoever to do with this case, is that
6 correct? That didn't happen in this case?

7 A. That didn't happen in this case.

8 Q. I just wanted to make sure we were all on the same page
9 there.

10 Let me get back to something that you said. The
11 solicitor asked you why did you not ask Mr. White if the
12 drugs were his. Do you remember what you said?

13 A. Because that fact had already been established by
14 Officer McGarity.

15 Q. Really? When a -- tell me, you said that fact had
16 already been established. What exactly did Officer McGarity
17 ask?

18 A. What we were going to find in that house.

19 Q. Okay. So your opinion is knowing some drugs are there
20 is the same as it being yours?

21 A. Hidden in that spot like that --

22 Q. Whose trailer was it?

23 A. Well --

24 Q. Did Mr. White rent the trailer?

25 A. Who rented the trailer?

1 Q. Yeah, that's what I'm asking.

2 A. I have no clue who rented that trailer.

3 Q. You didn't bother to investigate that?

4 A. Because that doesn't matter.

5 Q. Oh, it doesn't matter who owns it?

6 Does it matter who rents the trailer?

7 A. No, not at all.

8 Q. The sole basis for the drugs is you found them in the
9 trailer. You don't care who --

10 THE COURT: Hold it. I'm going to ask you to let
11 him finish his answer before you ask the next question.

12 MR. MCKINNON: Yes, sir. Thank you, Your Honor.

13 A. The renter does not matter.

14 What does matter is did he live there. And without a
15 doubt we -- I mean, his stuff -- his clothes were there.
16 His stuff was there. His mail was -- his correspondence was
17 there. At that point no doubt about it.

18 Based on the whole investigation and the other facts
19 that we had learned, we had no reason to doubt that he was
20 not living there.

21 BY MR. MCKINNON:

22 Q. You say you have no reason to doubt he's living there.
23 So you found two pieces of paper with a bank statement and a
24 pill bottle from years ago and that's your evidence he was
25 living there? Is that not -- am I hearing you right?

1 A. That's not all of it. Those are just simply parts of
2 it.

3 Q. Okay. But that's the -- the only thing with his name
4 on it was an ancient pill bottle and two pieces of bank
5 statement?

6 MR. SHELTON: Object, Your Honor.

7 A. I don't know about ancient.

8 MR. SHELTON: Never mind. I'll withdraw it.

9 THE COURT: I'll allow the witness to answer the
10 question. You can go ahead and finish your answer, sir.

11 A. I'm not sure what the date on the pill bottle is.

12 BY MR. MCKINNON:

13 Q. Have you ever -- I'm sorry, I don't mean to interrupt
14 you.

15 A. No problem.

16 I don't know that it was ancient, because we are not
17 talking about a pill bottle that was found hidden underneath
18 stuff. We are talking about a pill bottle that's laying
19 right there beside the master bed. That would indicate to
20 believe that this is something that is being used regularly.

21 Q. And were there pills in the bottle?

22 A. I have no idea.

23 Q. You didn't open it?

24 A. No, sir, I did not. I was not -- I didn't photograph
25 it. I didn't open it. I didn't recover any evidence in the

1 house. That was Officer McGarity. He was the evidence
2 technician.

3 Q. Okay. But let me -- so you are -- the evidence that
4 you say that Mr. White lived there is a pill bottle and some
5 couple pieces of paper with bank information on it and some
6 men's clothes? Is that your evidence?

7 A. We have other information also that he was living
8 there. Other people had told us that he was living there.

9 Q. Other people. Okay.

10 Let's talk about evidence. Did you -- do you know they
11 are his clothes?

12 A. Specifically, no, sir.

13 Q. Right.

14 So they are just men's -- some man was living there?

15 A. Yes, sir, those clothes were men's clothes.

16 Q. Well, I understand that, but there are other men in
17 York County, are there not?

18 A. Yes, sir.

19 Q. Okay. So let's go back to the statement that Officer
20 McGarity claims he heard, which wasn't recorded, wasn't
21 written down, was that Mr. White knew there was some drugs
22 in the house?

23 A. Not just that he knew there were drugs in the house.
24 He specifically knew what kind of drugs.

25 Q. Sure.

1 A. And the only kinds of drugs that were found hidden in
2 that spot.

3 Q. Knowing what drugs -- or knowing there are certain
4 drugs in the house, is that against the law?

5 A. Knowledge of drugs being in a house --

6 Q. Correct.

7 A. -- no, sir, that alone is not.

8 Q. So why didn't you ask him if they were his drugs?

9 A. As I said earlier, I -- that fact had already been
10 established. My purpose was determining his intent with
11 those drugs.

12 Q. But Jessica Collins rented that trailer, didn't she?

13 A. I don't know from the -- I don't know who the landlord
14 is. I don't know who actually is on lease agreements.

15 Q. Y'all didn't bother to find that out?

16 A. Just because he's not listed on the lease doesn't mean
17 he doesn't live there. That's --

18 Q. But you arrested Jessica Collins there and charged her
19 with having those drugs, didn't you?

20 A. She was charged also, yes, sir.

21 Q. Because that's her trailer?

22 A. Because she lives there also, yes, sir.

23 Q. Correct.

24 And so you arrested her. And when you arrested her,
25 did she have any substances on her that appeared to be

1 drugs?

2 A. She did, sir.

3 Q. What did she have on her?

4 A. Appeared to have marijuana on her in her purse.

5 Q. Okay. And when you arrested Mr. White, did Mr. White
6 have any narcotics that you found on him?

7 A. When he was arrested by the officers --

8 Q. That's correct.

9 A. -- they did not find any other drugs on him, sir.

10 Q. Okay. And was Mr. White arrested in Clover where the
11 trailer was, or was he arrested in York?

12 A. He was arrested in the city limits of York.

13 Q. Okay. All right.

14 And the solicitor mentioned the DMV records very
15 briefly, and the DMV records, if I remember, they both say
16 his license, registration and the driver's license both
17 stated Mr. White lived in York, is that correct?

18 A. That's correct.

19 Q. Okay. And, in fact, that was very recent. I believe
20 you said within like, what, three months of the arrest he
21 had said his correct address?

22 A. Within three weeks, sir.

23 Q. Very -- he had updated his address very recently and
24 that address was in York, not at this trailer in Clover?

25 A. Yes, sir, I believe at his sister's residence.

1 Q. Okay. And as far as physical evidence, you gave the
2 jury a good explanation of latent prints, and I'll just
3 clarify, there were prints that you pulled off the glass
4 bottle, but those prints didn't match -- you were not able
5 to match those with anything?

6 A. Just to clarify -- thank you. But to clarify, I did
7 not. Those were handled by our Forensic Services Unit. My
8 specialty is drug investigations, not pulling prints and
9 analyzing prints. It was done, though, just not by me.

10 Q. Sure, I didn't mean to suggest that you did it
11 personally, but --

12 A. Yes, sir.

13 Q. -- as part of the investigation of the Drug Unit, there
14 were -- latent prints were identified, but they were not
15 able to be matched to anyone else?

16 A. Yes, sir. Yes, sir.

17 Q. Okay. One final thing. One of the very first things
18 the solicitor asked you about is he pulled out the public
19 defender application that, you know, where Mr. White said he
20 was indigent and you listed -- you talked about the address
21 on that public defender application. Have you ever seen one
22 of the those applications to be filled out in bond court?

23 A. No, sir.

24 Q. Okay. So is it your understanding that -- do you
25 understand that the judge often writes that address in?

1 A. Yes, sir.

2 Q. Okay. So the fact that that form has
3 on it doesn't mean that Mr. White wrote that in,
4 correct?

5 A. No, sir.

6 Q. Okay. And, in fact, isn't there evidence the real
7 address is

8 A. There is a lot of confusion about exactly what that
9 address is.

10 Q. Is there any evidence that Mr. White ever claimed the
11 address of that trailer was 817 instead of 809?

12 A. On -- let me make sure I hear your question correctly.

13 Q. Right.

14 A. Are you asking me if he ever indicated that 817 was
15 that address?

16 Q. Correct. I mean, yeah.

17 A. Can I refer to this exhibit?

18 Q. Absolutely.

19 A. By reading this form -- if I could read this
20 verbatim --

21 Q. Sure, please do.

22 A. -- if you don't mind.

23 "I do solemnly swear that the account by me delivered
24 into this court with my application for counsel does contain
25 a true and full account of all my real and personal estate,

1 debts, credits, and effects whatsoever without exception."

2 Q. Full account of his finances, though, correct?

3 A. Yes, sir.

4 Q. And the judge filled out the address?

5 A. Yes, sir.

6 Q. Okay. And to clarify, I mean, Mr. White and his -- and
7 Ms. Collins referred to that trailer as 809, not 817, is
8 that your understanding?

9 A. That's my understanding.

10 Q. Okay.

11 MR. MCKINNON: I don't have anything further.

12 THE COURT: Redirect?

13 MR. SHELTON: Yes, sir, Your Honor, if it please
14 the court.

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION BY MR. SHELTON:

17 Q. Detective, didn't Mr. White tell Officer McGarity, you
18 and Officer Doty that he lived at the Silver Creek
19 residence?

20 A. That's correct.

21 MR. SHELTON: Judge, may we approach?

22 THE COURT: You may.

23 (Whereupon, the lawyers approached the bench for
24 an off-the-record discussion)

25 THE COURT: Ladies and gentlemen, I think there is

1 a matter that I will need to take up outside of your
2 presence, so I'm going to ask you to step back to the jury
3 room. And also when you do that I'll request that you not
4 discuss anything about the case until I ask you to do so.

5 (The following takes place outside the presence of
6 the jury panel)

7 THE COURT: Yes, sir.

8 MR. SHELTON: Your Honor, the matter that I
9 addressed in the side bar was that I just wanted to be
10 cautious because I don't want to affect this in any way. I
11 think that's why we wanted to send the jury out.

12 It's the State's position that when Mr. McKinnon
13 was cross-examining Detective Beck as to information that
14 led them to believe that Mr. White lived at this Silver
15 Creek residence, there was a response that other people --
16 "other people told us she was living there."

17 Of course, Mr. McKinnon said "oh, really."

18 Your Honor, it's the State's position that he has
19 opened the door to the State being able to follow up and ask
20 Detective Beck who, in fact, who else had indicated to him
21 that Mr. White was living there, one of those people being
22 Jessica Collins.

23 MR. MCKINNON: Your Honor, my question was limited
24 to physical evidence. And then after Detective Beck said
25 that, I said "again, let's limit it to physical evidence."

1 I asked it twice, so my question was limited to physical
2 evidence, Your Honor.

3 And, additionally, Your Honor, I will be calling
4 Ms. Collins as part of my case in chief and the State will
5 certainly be able to cross-examine her about the statements
6 she gave.

7 MR. SHELTON: I'll concede the point that -- I
8 mean, I don't recall him couching it, but I trust Mr.
9 McKinnon.

10 THE COURT: I'm going to leave the ruling as it
11 is. We are not going to let you go into that. However, if
12 Ms. Collins, in fact, does testify and she's made prior
13 statements that are not consistent with her court testimony,
14 there is a rule that deals with that.

15 MR. MCKINNON: That's not likely be the case, Your
16 Honor.

17 THE COURT: We will follow the rules.

18 MR. MCKINNON: Your Honor, and while we are
19 speaking about Ms. Collins, Your Honor, there is something I
20 wanted to make Your Honor aware of. She is a co-defendant
21 on these matters and she is pro-se, Your Honor.

22 THE COURT: Is that right?

23 MR. SHELTON: Yeah, absolutely. If she does, in
24 fact, testify for the defense, we would specifically ask the
25 court to re-advise her, like you would any other indicted

1 defendant.

2 THE COURT: Oh, absolutely, we will advise her of
3 her right to remain silent and right the to counsel and
4 other things.

5 MR. SHELTON: Yes, sir.

6 THE COURT: Okay.

7 MR. MCKINNON: Thank you, Your Honor.

8 THE COURT: All right. Are we ready to proceed?

9 MR. SHELTON: Yes, sir.

10 THE COURT: Bring the jury back.

11 (The following takes place in the presence of the
12 jury panel)

13 THE COURT: All right, the State may proceed.

14 MR. SHELTON: Your Honor, I have no further
15 questions of this particular witness.

16 THE COURT: Any further questions?

17 MR. MCKINNON: None, Your Honor.

18 THE COURT: Sir, you may step down.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you very much.

21 The State may call its next witness.

22 MR. SHELTON: Thank you, Your Honor.

23 The next witness the State calls is Detective
24 Carson Neely.

25 THE COURT: Sir, please come forward and be sworn

1 in front of the clerk, please.

2 DETECTIVE CARSON NEELY, having been first duly
3 sworn, testified as follows:.

4 THE CLERK: Have a seat on the witness stand,
5 please.

6 THE COURT: State your name, please.

7 THE WITNESS: Carson Neely.

8 THE COURT: Thank you.

9 Your witness.

10 MR. SHELTON: Thank you, Your Honor.

11 May it please the court?

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION BY MR. SHELTON:

14 Q. Please state your job or occupation.

15 A. I'm a detective at the York County sheriff's office.

16 Q. How long have you been with the sheriff's office?

17 A. Since 1998.

18 Q. And how long have you been a detective?

19 A. Since December of 2005.

20 Q. What does your job as detective with the sheriff's
21 office entail?

22 A. Conducting investigations, violent crimes. Whatever
23 type of criminal investigations are assigned to me.

24 Q. Okay. And were you involved in the investigation of
25 this particular case?

1 A. Yes, sir, I was.

2 Q. Did you present -- let me back up just a second.

3 As a detective with the sheriff's office are you
4 familiar with obtaining, applying for, and executing search
5 warrants?

6 A. Yes, I am.

7 Q. And did you present sworn testimony to Magistrate Judge
8 Benfield on February 26th, 2014 for the purpose of securing
9 a search warrant in this case?

10 A. Yes, sir, I did.

11 Q. Was the search warrant for residence on Silver Creek
12 Drive in Clover, York County, South Carolina?

13 A. Yes, sir, correct.

14 Q. And at the time did you have reason to believe that the
15 address number was 817?

16 A. That's correct, yes.

17 Q. And at the time was that information, to your
18 knowledge, reliable and accurate information?

19 A. Yes, sir.

20 Q. Did you use any other -- did you use any tools or
21 resources to verify the location of the premises to be
22 searched?

23 A. Yes, sir, a couple of resources we use and commonly we
24 use is Google Map and also our York County GIS, which gives
25 tax records and addresses and things like that.

1 Q. And did you include a map with the search warrant
2 specifically relating to the address in question?

3 A. Yes, sir, I did aerial photographs of the residence.

4 Q. And prior to applying for the search warrant had you
5 driven by the residence?

6 A. I did, yes, sir.

7 Q. Were you able to tell any address numbers from your
8 investigation?

9 A. Not numbers, just description of the residence.

10 Q. And did you point out to Magistrate Benfield when you
11 were applying for the search warrant the exact location?

12 A. Yes, sir, I showed her a map and circled the home that
13 we would be investigating and issuing the search warrant.

14 Q. Did it later come to your attention that the address
15 number 817 may not be correct?

16 A. It may not be. To this date I'm not a hundred percent
17 sure what the address is.

18 Q. Did the search warrant include direction on the face of
19 the search warrant along with the map on how to get to the
20 particular residence?

21 A. Yes, sir, it did.

22 Q. And I'm going to refer you to State's Exhibit No. 1.

23 MR. SHELTON: If you could, Madam Clerk.

24 BY MR. SHELTON:

25 Q. This top picture here, there is two trailers?

1 A. Yes, sir.

2 Q. This top one, is this the residence in question?

3 A. That is correct.

4 Q. Do you know who lives here?

5 A. I did talk to her. I forget her name offhand. Yes,
6 sir, I did speak with her.

7 Q. Was that would Ms. Kinley?

8 A. Kinley, yes, sir, thank you.

9 Q. You and another detective talked with her?

10 A. That's correct.

11 Q. That evening?

12 A. Yes, sir, that's correct.

13 Q. And Magistrate Benfield signed the search warrant
14 application?

15 A. She did.

16 Q. And had you sworn that the application was true and
17 accurate?

18 A. Yes, sir, correct.

19 Q. So once you signed it, was it a valid and legally
20 obtained search warrant?

21 A. Yes, sir.

22 Q. And to be clear what that means, that search warrant
23 gives you and other officers the legal authority to search
24 the residence on Silver Creek Drive?

25 A. Correct, right.

1 Q. Did you meet with any of the officers involved in this
2 investigation prior to going out to the residence?

3 A. Yes, sir, prior to executing the search warrant we did
4 have a briefing, kind of like standard operating procedure,
5 who was going to do what when we get there, who is assigned
6 certain tasks.

7 Q. And you made it clear what residence you all were going
8 to?

9 A. Showed them the matter, yes, sir, talked about the
10 case.

11 Q. And assigned who would collect evidence and take
12 pictures and so on and so forth?

13 A. Correct, yeah.

14 Q. And was White taken into custody later the night of --
15 later on the night of February 26th into the 27th?

16 A. That's correct.

17 Q. Did you have occasion to talk with him on the 27th that
18 afternoon?

19 A. Yes, sir. 27th, yes, sir.

20 Q. Do you see Reginald White present in the courtroom?

21 A. Yes, I do.

22 Q. Could you please point him out?

23 A. The brown coat, red shirt, striped tie.

24 MR. SHELTON: Please let the record reflect, Your
25 Honor.

1 THE COURT: It would so reflect that he identified
2 the defendant.

3 BY MR. SHELTON:

4 Q. And where did your conversation with Mr. White take
5 place?

6 A. At the Moss Justice Center detention center.

7 Q. Did you record that interview?

8 A. No, sir, I did not.

9 Q. Why not?

10 A. It's standard procedure we don't use audio recording
11 devices for conducting interviews.

12 Q. Would you have been allowed to take audio recording
13 equipment into the jail anyway?

14 A. Not into the jail cell, no phones or things of that
15 matter.

16 Q. Was White advised of his Miranda Rights first?

17 A. Yes, sir, he was.

18 Q. By whom?

19 A. By me.

20 Q. And how did you advise him?

21 A. Used a York County Sheriff's Office Miranda form,
22 standard issued form.

23 Q. And did you advise him of his standard rights?

24 A. Yes, sir, I did.

25 Q. Did you make him any promises or threats to get him to

1 talk with you?

2 A. No, sir, I did not.

3 Q. Were you carrying a weapon at that time?

4 A. No, sir, we're not allowed to carry one in the
5 detention center.

6 Q. Did you identify yourself as a police officer?

7 A. I did.

8 Q. Were you wearing a uniform or plainclothes?

9 A. Plainclothes.

10 Q. Was your badge visible?

11 A. Yes, badge and ID card.

12 Q. Did White appear to be under the influence of drugs
13 and/or alcohol at that time?

14 A. No, sir.

15 Q. Did he appear to be coherent?

16 A. Yes, sir.

17 Q. Did he appear to understand what was going on?

18 A. Yes, sir.

19 Q. Did he appear to understand his rights that you advised
20 him.

21 A. Yes, sir, he did.

22 Q. Did he indicate to you that he did understand his
23 rights?

24 A. He did.

25 Q. Did he ask for an attorney?

- 1 A. No, sir, he did not.
- 2 Q. Did he ask you any questions about his rights?
- 3 A. No, sir.
- 4 Q. Was he willing to talk with you?
- 5 A. He was.
- 6 Q. And did you talk with him?
- 7 A. Yes, sir, I did.
- 8 Q. Was anyone else present?
- 9 A. No, sir.
- 10 Q. Did White indicate to you where he was living?
- 11 A. Yes, sir.
- 12 Q. Where did he say he was living?
- 13 A. Silver Creek Road is what I have, the information I
- 14 have.
- 15 Q. And is that the residence in question?
- 16 A. That's the residence in question, yes.
- 17 Q. In fact, is that where you specifically talking with
- 18 him about the current -- that residence?
- 19 A. That's correct.
- 20 Q. Did he tell you anything else relevant about this drug
- 21 investigation?
- 22 A. Yes, sir, we talked about the -- he had provided some
- 23 crack to two other individuals on the 24th at his residence.
- 24 Q. At the Silver Creek residence?
- 25 A. Silver Creek, yes, sir.

1 Q. Did he indicate it was a \$100 piece?

2 A. A 100 piece, yes, sir.

3 Q. 100 piece?

4 A. Yes, sir.

5 Q. And did you take that to mean a quantity of crack
6 cocaine?

7 A. Correct, yes.

8 Q. And did all of this occur in York County, South
9 Carolina?

10 A. It did, yes, sir.

11 MR. SHELTON: Nothing further.

12 THE COURT: Your witness, counsel.

13 MR. MCKINNON: Thank you, Your Honor.

14 CROSS EXAMINATION BY MR. MCKINNON:

15 Q. Detective, I'm just going to be very brief.

16 A. Yes, sir.

17 Q. The gist of what you just said basically was at a prior
18 date during all this search warrant stuff happened you think
19 Mr. White allegedly told you that he had given a piece of
20 crack to two individuals, is that correct?

21 A. He told me he provided two pieces of crack, one to a
22 female and to a male, yes, sir.

23 Q. Before all this stuff happened we are here about today?

24 A. It happened on the 24th, yes, sir.

25 Q. And if what you are telling me is true, that's against

1 the law, isn't it, providing crack to two people?

2 A. Yes, sir.

3 Q. But he's not charged with that crime, isn't that true?

4 A. I -- to be honest, I'm not sure the full extent of the
5 charges he's charged with right now.

6 Q. You are not involved with any charges about what he
7 supposedly told you?

8 A. As far as the crack aspect, I didn't sign any warrants
9 dealing with that, those charges.

10 Q. Do you have any knowledge he's charged with that crime?

11 A. My understanding that's why he's here.

12 Q. Whoa, whoa, whoa now.

13 I'm asking you about you said he gave --

14 A. I did not sign any warrants.

15 Q. -- he gave crack to two people before this search
16 warrant was brought here about today.

17 A. Right.

18 Q. And my question is do you have any information that
19 he's been charged with that crime, distribution of crack on
20 that date?

21 A. Are you -- so I'm clear, are you asking me if is he
22 charged with distribution of crack cocaine?

23 Q. On the 24th, the date that you say he did it.

24 A. Was he charged then, is that what you are asking?

25 Q. I'm asking is there a charge pending against him?

1 A. I don't know, sir.

2 Q. But -- okay.

3 A. Of that crime. There are different elements. I'm
4 same, I just don't know about -- I don't know, no, sir.

5 Q. I think I'm asking a very simple question. Are you
6 saying Mr. White prior to the search warrant on a different
7 day gave crack to two people?

8 A. That's correct.

9 Q. My understanding is he's not been charged with that
10 crime, and I'm asking you do you have any information that
11 I'm wrong?

12 A. I'm not a hundred sure I'm understanding your question,
13 but I don't -- I don't think so.

14 Q. Okay.

15 A. I -- okay.

16 Q. Okay. Thank you.

17 THE COURT: Nothing further from the witness.

18 MR. SHELTON: Briefly.

19 REDIRECT EXAMINATION BY MR. SHELTON:

20 Q. Detective, the crack involved in the admission by Mr.
21 White on February 24th --

22 A. Right.

23 Q. -- that he gave crack to two other people --

24 A. Right.

25 Q. Did your understanding that that crack was smoked?

1 A. Yes, sir.

2 MR. SHELTON: Nothing further.

3 MR. MCKINNON: Nothing further, Your Honor.

4 THE COURT: All right. You may step down.

5 THE WITNESS: Thank you, sir.

6 MR. SHELTON: Your Honor, might I propose this
7 would be a good time for a short recess?

8 THE COURT: All right, we will take about a five
9 to ten minutes recess. You have had some breaks, but we
10 haven't in the courtroom, so we will take a short recess.

11 If you will step back to the jury room. Don't
12 begin any discussions again until I ask you to do so. You
13 may retire at this time. Thank you very much.

14 (The following takes place outside the presence of
15 the jury panel)

16 THE COURT: We are in recess at this time.

17 (Whereupon, proceedings were recessed)

18 (Whereupon, proceedings were reconvened)

19 THE COURT: Yes, sir, Mr. McKinnon?

20 MR. MCKINNON: Your Honor, this is Rondrevia
21 Simpson, defendant's sister.

22 THE COURT: Yes, sir.

23 MR. MCKINNON: She's on my witness list, but I
24 have decided not call her.

25 THE COURT: So you do not intend to use her as a

1 witness?

2 MR. MCKINNON: I do not, Your Honor. She would
3 like to sit in.

4 THE COURT: Does the State intend to use that
5 person as a witness?

6 MR. SHELTON: No, sir. The only caution, we would
7 just ask the court to caution her. I think she is connected
8 with some of the people on the defense witness list. She
9 just needs to be cautioned she can't communicate --

10 THE COURT: I will caution her that she cannot
11 discuss anything about this case with any potential witness.

12 Do you understand that, ma'am.

13 RONDREVIA SIMPSON: Yes, sir.

14 THE COURT: All right. Thank you very much.

15 Is the State ready to proceed?

16 MR. SHELTON: Yes, sir.

17 THE COURT: Defense ready?

18 MR. MCKINNON: Yes, Your Honor.

19 THE COURT: Bring the jury in.

20 (The following takes place in the presence of the
21 jury panel)

22 THE COURT: All right, let the record reflect the
23 jury has returned to the courtroom.

24 The State may call its next witness.

25 MR. SHELTON: Thank you, Your Honor.

1 May it please the court, the State calls Kimberly
2 Kinley.

3 KIMBERLY ANN KINLEY, having been first duly sworn,
4 testified as follows:

5 THE COURT: Step up into the witness box, please.

6 THE WITNESS: Yes, sir.

7 By the say, I like your tie.

8 THE COURT: Thank you, ma'am.

9 THE WITNESS: It's the blue.

10 THE COURT: State your name, please, ma'am.

11 THE WITNESS: Kimberly A. Kinley. That's

12 K-I-N-L-E-Y.

13 THE COURT: Thank you.

14 Your witness, counselor..

15 MR. SHELTON: Thank you, Your Honor.

16 May it please the court?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION BY MR. SHELTON:

19 Q. Ms. Kinley, where do you live?

20 A.

21 Q. And did you used -- two properties -- two --

22 A. Trailers on one property, yes, sir.

23 Q. Did you used to live on the other trailer?

24 A. Yes, sir, which is 801.

25 Q. Okay. Did somebody else used to live at 809 Silver

1 Creek?

2 A. Jessica and Reggie White.

3 Q. Jessica Collins and Reggie White?

4 A. Reggie White. I wasn't sure about Jessica's last
5 name --

6 Q. Okay.

7 A. -- but I seen her out there.

8 Q. Okay. Do they have -- do you know if they have kids in
9 common?

10 A. Yes, I think they have three kids, because I think you
11 have got a couple of different daddies, but as far as I know
12 she's got five kids all in all.

13 Q. Okay. And specifically were Jessica and Reggie at that
14 residence in 2014? February of last year?

15 A. Yes, they were there.

16 Q. Would you say that you are friends with Reggie, or just
17 more acquaintances?

18 A. Acquaintances. I just seen him come and go.

19 Q. Are you familiar with the car he drives?

20 A. I know he had a silver car, but I don't know what model
21 or name of the vehicle, but I know -- if I ain't mistaken,
22 the driver handle part was damaged or something --

23 Q. Okay.

24 A. -- or inside of the door panel.

25 Q. Well, the car that you know him to drive, would you see

1 that over at the residence overnight there?

2 A. Yes, sir.

3 Q. Okay. And that was around this time frame, January or
4 February of last year?

5 A. I ain't precise of the month, but I know it was in
6 2014.

7 Q. Okay.

8 MR. SHELTON: No further questions.

9 THE COURT: Your witness.

10 CROSS EXAMINATION BY MR. MCKINNON:

11 Q. Hello, Ms. Kinley.

12 A. Hello, sir.

13 Q. Just a couple of questions.

14 A. That's fine.

15 Q. Okay. You are living at the trailer now that used to
16 be Ms. Jessica Collins trailer, right?

17 A. Yes, sir.

18 Q. And the address on that trailer is 809, not 817, is
19 that correct?

20 A. Correct.

21 Q. Okay. Who rented that trailer before you moved in?

22 A. Jessica.

23 Q. It was Jessica's trailer?

24 A. (Shaking head yes).

25 Q. Okay. And you mentioned that --

1 THE COURT: You have to answer that verbally.

2 THE WITNESS: Oh, I'm sorry.

3 A. Yes, sir.

4 THE COURT: Thank you, ma'am. That's all right.

5 Go ahead.

6 MR. MCKINNON: Thank you, Your Honor.

7 BY MR. MCKINNON:

8 Q. And you mentioned that you saw a silver car there
9 sometimes?

10 A. Yeah, sometimes they drove a green vehicle van too.

11 Q. But not a green Honda?

12 A. Is it a four door?

13 Q. Well, I'm just asking -- no green Honda?

14 A. Oh, I ain't for sure.

15 Q. Okay. Ms. Kinley, you said that Reggie lived there.

16 Now, my question to you is, now he has kids that are
17 there that are him and Ms. Collins kids, right, but he came
18 to visit. How do you know that he was living there and not
19 just visiting his kids?

20 A. Because his car would be there sometimes during the day
21 every day sometimes and at night sometimes, but like I said,
22 I have known him to be playing the field, so to speak.

23 Q. So the reason that you think he lived there was there
24 was a silver car there?

25 A. Yes, sir.

1 MR. MCKINNON: Nothing further, Your Honor.

2 THE COURT: All right. Anything further from the
3 State?

4 MR. SHELTON: No, sir.

5 THE COURT: All right, you may step down, ma'am.

6 THE WITNESS: Thank you, sir.

7 THE COURT: Do you wish to excuse the witness?

8 MR. SHELTON: Yes.

9 THE COURT: Any objection?

10 MR. MCKINNON: None, Your Honor.

11 THE COURT: All right, ma'am, you are free to go.

12 THE WITNESS: All right.

13 THE COURT: Thank you for coming.

14 THE WITNESS: Yes, sir.

15 THE COURT: The State may call its next witness.

16 MR. SHELTON: Thank you, Your Honor.

17 The next witness for the State is Jimmy Stiles.

18 THE COURT: Come forward to the clerk here and be
19 sworn in, please.

20 JIMMY STILES, having been first duly sworn,
21 testified as follows:

22 THE COURT: Once you are seated on the witness
23 stand, please state your name, please.

24 THE WITNESS: Okay.

25 THE COURT: Thank you.

1 THE WITNESS: Jimmy Stiles.

2 THE COURT: Thank you.

3 Your witness, counselor.

4 MR. SHELTON: Thank you, Your Honor.

5 DIRECT EXAMINATION BY MR. SHELTON:

6 Q. Mr. Stiles, what's your current job or occupation?

7 A. Evidence tech, York County Sheriff's Office.

8 Q. And how long have you had that job?

9 A. It will be four years March.

10 Q. Okay. And do you work here at the Moss Justice Center?

11 A. That's correct.

12 Q. And is there an evidence room here downstairs below the
13 sheriff's department?

14 A. Yes.

15 Q. Is that where you work?

16 A. Yes, sir.

17 Q. What are your present duties as an evidence tech?

18 A. Present duties is to collect and secure evidence after
19 collection. It's also enter it in a computer for storage
20 data and chain of custody data.

21 Q. And as a part of this collection, you sometimes recover
22 evidence from law enforcement drop sites throughout the
23 county?

24 A. Yes.

25 Q. And is one of these drop locations here at Moss Justice

1 Center?

2 A. Yes, we have one outside the evidence room.

3 Q. I'm going to hand you what's been marked for
4 identification as State's Exhibit No. 7. If you would, take
5 a moment to inspect this item.

6 Do you recognize the items you hold in your hand?

7 A. Yes.

8 Q. How do you recognize it?

9 A. By my signature.

10 Q. How did it first come to be in your possession and
11 control?

12 A. This was dropped in our drop box outside the evidence
13 room, a secure drop box, by Officer McGarity on 2-26, and I
14 retrieved it 2-27 of '14.

15 Q. The evidence contained in that item, was it sealed
16 inside of an evidence bag when you recovered it?

17 A. Yes, sir.

18 Q. Did the seal when you recovered it appear to have been
19 tampered with in any way?

20 A. No, sir.

21 Q. What did you do with the sealed bag of evidence while
22 it was in your possession?

23 A. Once I collect the evidence, I'll enter it into a
24 computer system, my computer system, and then I'll take it
25 and put it in storage until time to be tested.

1 Q. So you say that you recovered it from a drop location
2 here at the Moss Justice Center?

3 A. Yes.

4 Q. And then from there did you take it to the evidence
5 room to log it in the computer system?

6 A. That's correct.

7 Q. And then put it into storage?

8 A. Yes.

9 Q. And while it was in your possession and control, while
10 it -- was it continuously under your care and control while
11 in your possession?

12 A. That's correct.

13 Q. Who all has access to the evidence room at the Moss
14 Justice Center?

15 A. We have a lieutenant and another co-worker has access.

16 Q. And who are those individuals?

17 A. Lieutenant Clyde Mitchum and Patrick Patterson.

18 Q. And what about to the evidence drop locations, who all
19 has access to those locations?

20 A. All three of us.

21 Q. And are those drop locations under lock and key?

22 A. Yes.

23 Q. And is the evidence room at Moss Justice Center under
24 lock and key?

25 A. That's correct, and alarmed.

1 Q. What?

2 A. And alarmed.

3 Q. And alarmed?

4 A. That's right.

5 Q. Thank you, sir.

6 Was the item that you hold in your hand marked as
7 State's 7, was that submitted to the State's chemist, Ms.
8 Cynthia Mitchum, for chemical testing and analysis?

9 A. Yes, sir, on 3-11-14 at 1100 hours by my co-worker
10 Patrick Patterson.

11 Q. And is his name written on the chain as being the one
12 that gave it to her?

13 A. Yes.

14 Q. And are you familiar with his handwriting and his
15 signature?

16 A. Yes.

17 MR. SHELTON: No further questions.

18 THE COURT: Your witness, counsel.

19 MR. MCKINNON: No questions, Your Honor.

20 THE COURT: You may step down, sir. Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: Do you wish to excuse the witness?

23 MR. SHELTON: Yes, Your Honor.

24 THE COURT: Any objection?

25 MR. MCKINNON: None, Your Honor.

1 THE COURT: You are free to go, sir.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Thank you, sir.

4 Yes, sir.

5 MR. SHELTON: The next witness would be Ms.

6 Cynthia Mitchum.

7 THE COURT: All right.

8 Come forward, ma'am, to the clerk and she will
9 swear you.

10 CYNTHIA MITCHUM, having been first duly sworn,
11 testified as follows:

12 THE COURT: Have a seat on the witness stand,
13 please.

14 And once seated, state your name for me.

15 THE WITNESS: Cynthia Mitchum, M-I-T-C-H-U-M.

16 THE COURT: Your witness.

17 MR. SHELTON: Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION BY MR. SHELTON:

20 Q. Ms. Mitchum, what is your current job and occupation?

21 A. I'm a drug chemist and I work at the York County
22 Sheriff's Office in the drug analysis laboratory.

23 Q. How long have you had that job?

24 A. I have been there since May of 2000.

25 And prior to that I worked at the South Carolina Law

1 Enforcement Division, also known as SLED, in Columbia, South
2 Carolina for seven and a half years.

3 Q. What type of duties do you perform on your job?

4 A. I receive evidence from the officers and I will analyze
5 the evidence for controlled and non-controlled substances.

6 Q. Did you receive any education and training or have any
7 job experience qualifying you in that field?

8 A. Yes, I do.

9 Q. Would you please explain?

10 A. I have a Bachelor of Science in Chemistry that I
11 received from Winthrop University in 1990.

12 And then I have also gone through various instrumental
13 classes for instrumentation and also for the analysis of
14 drugs.

15 Q. And you have been doing this for 20 plus years?

16 A. That's correct.

17 Q. Have you ever been qualified in a court of law as an
18 expert in the field of chemical and/or drug analysis and
19 identification?

20 A. Yes, I have.

21 Q. Approximately how many times?

22 A. In excess of two hundred times.

23 Q. And during your career, approximately how many samples
24 have you analyzed and tested?

25 A. Typically I do about 2,000 samples a year. So take

1 that and multiply that by 20 years, so many samples.

2 Q. 2,000 samples?

3 A. Yes.

4 Q. And just to be clear, do you analyze substance, such as
5 narcotics and illegal drugs, crack cocaine, cocaine, part of
6 your job duties?

7 A. Yes, I do.

8 MR. SHELTON: Your Honor, at this time I would
9 offer Ms. Mitchum as an expert in the field of chemical
10 analysis and identification of substances.

11 THE COURT: Any objection?

12 MR. MCKINNON: None, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, let
14 me explain to you what we are doing right now. It's a
15 little different. I want to be sure that you have an
16 understanding of this.

17 Under the Rules of Evidence generally lay
18 witnesses are not allowed to state opinions. They must
19 testify about facts within their knowledge. There is an
20 exception to that general rule for a witness who is declared
21 to be an expert within some field or profession. And as to
22 witnesses that the court declares to be an expert within a
23 field, those witnesses are allowed to state their opinions
24 concerning matters within matters that are within their
25 expertise. And they also are then allowed to state the

1 reasons upon which they base those opinions.

2 Later on when I charge you concerning the law I
3 will give you some additional information about how you can
4 consider or treat testimony given by an expert, but at this
5 time without objection this witness will be qualified as an
6 expert within the area of chemical analysis and drugs, and
7 so she will be allowed to state her opinion within that
8 field and the reasons why she holds those opinions.

9 Counselor, you may proceed.

10 MR. SHELTON: Thank you, Your Honor.

11 May it please the court?

12 THE COURT: Yes, sir.

13 BY MR. SHELTON:

14 Q. Ms. Mitchum, I'm going to show you what's been marked
15 for identification as State's Exhibit No. 7. If you would
16 take a moment to inspect that.

17 A. Okay.

18 Q. Ma'am, have you ever seen that item before?

19 A. Yes, I have.

20 Q. And how do you recognize it?

21 A. I can recognize it through my signature in the chain of
22 custody, and also when I checked the bag when I first
23 received it, that I have got my initials and the date when I
24 received it.

25 Q. And on what date did you receive it?

1 A. I received this on 3-11 of 2014.

2 Q. And were you assigned to analyze and test the contents
3 of the bag?

4 A. Yes, I was.

5 Q. Please describe how it came into your possession that
6 day.

7 A. It came from Patrick Patterson. He is an evidence
8 person in the evidence department at the sheriff's office
9 and he gave it to me in person.

10 Q. What condition was the evidence bag in when you
11 received it?

12 A. When I first received it, it was inside of this blue
13 filigree bag that's inside this outer bag and that was
14 sealed, and I know this because I have go "okay", the date
15 and my initials on it. That means I checked all the seals
16 on that bag to make sure it had not been tampered with.

17 Q. So the contents of the evidence was inside of the bag
18 that's now inside of an outer bag?

19 A. That is correct.

20 Q. But that seal was intact when you received it?

21 A. Yes.

22 Q. Had the seal been tampered with in any way?

23 A. No.

24 Q. What did you do with it when you got it?

25 A. Once I receive it, then I have a lock box that's within

1 the drug laboratory that I will put my evidence in and keep
2 it there until I have a chance to do my analysis on it.

3 Q. And is your laboratory here at Moss Justice Center?

4 A. Yes, it is.

5 Q. Is it, in fact, right around the corner from the
6 evidence room?

7 A. Yes, it is.

8 Q. And so it's under lock and key. Who all has access to
9 that location?

10 A. Just me and the evidence people have it, and then the
11 person that works with me now part-time.

12 Q. And was that person working with you when you received
13 and tested the contents?

14 A. No, she was not.

15 Q. So other than the evidence people, you were the only
16 one with access to this item while it was in your custody
17 and control?

18 A. Now, for the item itself when it's in my control, I
19 have the only access to that, because it's inside of a
20 locked locker.

21 Q. Okay. I wanted to be clear on that. So once you take
22 it and put in it a locked locker, nobody else can get to it?

23 A. Right, that's correct.

24 Q. So it was continuously under your custody and control
25 while you had it?

1 A. Yes.

2 Q. Did you analyze and test the substances in the bag?

3 A. Yes, I did.

4 Q. Can you explain how you did that?

5 A. Basically what I will do is I will open the bottom of
6 the bag, which is folded over in here, and I'll remove the
7 substances and then I'll take this out and take my samples
8 for what's called a spot test, where I do a chemical test on
9 it, and then I'll take my samples for an instrumental test.

10 Q. And is that pursuant to your training?

11 A. Yes.

12 Q. Is that how you commonly test substances believed to be
13 drugs?

14 A. Yes.

15 Q. Did you use rubber gloves when handling the jar and
16 baggy and the substances inside?

17 A. Yes, I always use latex gloves, rubber gloves any time
18 I do an analysis, because we don't have any idea where the
19 substances came from.

20 Q. And after you tested the substances, did you return all
21 of the contents back to the evidence bag?

22 A. Yes, I did.

23 Q. And what did you do from there?

24 A. It was sealed on 3-25-2014. That seal is still intact
25 here at the bottom. And then I returned it back to evidence

1 on August the 28th of 2014 to Patrick Patterson.

2 Q. So to be clear, do you put evidence back in -- the
3 contents in a secondary bag and you reseal it up?

4 A. Yes, this clear bag here, I put the evidence in there
5 and then heat seal it at the bottom. It's one continuous
6 bag and heat seal it at the bottom. This one has been
7 opened since I returned it.

8 Q. Yes, ma'am, I notice there is tape up at the top.

9 A. Yes.

10 Q. Do you recognize what that's for?

11 A. I do believe from who signed it out it was for --
12 checked out for latents.

13 Q. Fingerprints?

14 A. Yes.

15 Q. And was that before or after your analysis?

16 A. That was after my analysis.

17 Q. So you had already made your findings as to what the
18 substances in the bag are?

19 A. That's correct.

20 Q. And what condition was the bag in when it left your
21 possession?

22 A. It was sealed in this outer bag. And then, again, this
23 outer plastic bag and that has got my initials.

24 Turn it over.

25 That's got sealed, the date and my initials right into

1 the heat seal, so I know that has not been tampered with.

2 Q. And then you returned it to the evidence folks?

3 A. That's correct.

4 Q. Were you able to make a determination as to what the
5 substances -- what are the substances in the bag?

6 A. Yes.

7 Q. What was your determination?

8 A. Okay. State's Exhibit No. 7, which is item number 4,
9 what I did when I opened the jar here and got the bags out,
10 I noticed that one was a rock substance and one was a powder
11 substance, so I separated those out for testing.

12 So item 4 was found to be cocaine base, also known as
13 crack, in the amount of 5.11 grams, or 78.84 grains,
14 Controlled II substance.

15 And then item 4.1, which was a sub-item of 4, was a
16 powder substance found to be cocaine, a total weight of
17 10.77 grams, or 1.6618 grains, Controlled II substance.

18 Q. Did you prepare a report of your findings?

19 A. Yes.

20 Q. And is that what you are holding in your hand what's
21 been marked for identification as State's 11?

22 A. That is correct.

23 Q. Is it true and accurate as to your findings?

24 A. Yes.

25 MR. SHELTON: Your Honor, at this time I would

1 offer State's No. 7 and State's No. 11 as evidence.

2 THE COURT: Any objections?

3 MR. MCKINNON: None, Your Honor.

4 THE COURT: Without objection, they will be
5 admitted as they have been marked.

6 (Whereupon, State's Exhibit No. 7 was entered into
7 the record as evidence).

8 (Whereupon, State's Exhibit No. 11 was entered
9 into the record as evidence)

10 THE COURT: You may proceed.

11 MR. SHELTON: Nothing further.

12 THE COURT: Your witness, counsel.

13 MR. MCKINNON: No questions, Your Honor.

14 THE COURT: All right, ma'am, you may step down.

15 Do you wish to excuse the witness?

16 MR. EPTING: Yes, Your Honor.

17 THE COURT: Any objections?

18 MR. MCKINNON: None, Your Honor.

19 THE COURT: You are free to go at this time. Just
20 leave the exhibits with us. Thank you, ma'am.

21 The State may call its next witness.

22 MR. SHELTON: Your Honor, at this time the State
23 rests its case in chief.

24 THE COURT: All right. Ladies and gentlemen,
25 there are some matters that I need to take up with the

1 do.

2 In the meantime, during your absence from the
3 courthouse, the same instructions I have given you before.
4 Don't attempt to gather any information. Don't listen to,
5 watch, or read media reports. Don't discuss the case with
6 anyone, and don't allow anyone to discuss it with you.

7 9:30 in the morning call the number that the
8 bailiff is going to give you. We should be able to give you
9 additional instructions from that point forward.

10 Thank you for your cooperation. I hope we all
11 stay safe in the morning.

12 (The following takes place outside the presence of
13 the jury panel.)

14 THE COURT: All right. The State has rested.
15 Any motions at this point in time?

16 MR. MCKINNON: Yes, Your Honor.

17 THE COURT: Yes, sir.

18 MR. MCKINNON: Your Honor, the defense would move
19 for directed verdicts, Your Honor. The basis for my
20 motion -- Your Honor, I apologize for my cough, Your Honor.

21 THE COURT: That's quite all right.

22 MR. MCKINNON: The basis for my motion, Your
23 Honor, is the State has introduced no evidence whatsoever
24 over the issue of dominion and control. They have offered
25 evidence that Mr. White stays there. The solicitor said

1 that he stayed there, however you want to phrase it. He
2 will he stays there, lives there, or whatever, Your Honor,
3 but there is no evidence whatsoever he is exercising
4 dominion or control, Your Honor, and certainly not over that
5 vent in that back bedroom. They could have called Ms.
6 Collins, who owned the place, asked if he had a key, asked
7 if -- you know, who rented it. They didn't even investigate
8 who rented the place, Your Honor. The only evidence in the
9 record is he had access to the house and may have stayed
10 there, Your Honor.

11 And, Your Honor, State v. Heath is a Supreme Court
12 case from 2006, our Supreme Court. That was a case where a
13 gentleman was washing the car in front of the house. The
14 police roll up, he runs in the house and they find a car
15 washing mitt in the garbage with 48 grams of crack in it.
16 And the Supreme Court reversed the conviction and said all
17 you can show is he had access to the house, that's not
18 enough.

19 You know, along the same lines, Your Honor, I mean
20 one of the big concerns of the court recently has been
21 circumstantial evidence, Your Honor. And the evidence of
22 possession as a whole is entirely circumstantial. And the
23 evidence -- for circumstantial evidence to support a
24 conviction, it's got to be substantial, Your Honor. This is
25 not substantial.

1 To give Your Honor one example from a recent case,
2 State v. Bostic in the South Carolina Supreme Court case, it
3 was an arson case. Investigators -- and I'm quoting from
4 the case, "investigators found personal items belonging to
5 the victim, including a watch and two sets of car keys in a
6 burn pile. The defendant's shoes containing the pattern
7 that matched the gasoline and investigators found blood on
8 the clothes," and the Supreme Court reversed and said that's
9 circumstantial and is not enough to support a conviction,
10 Your Honor.

11 What we have here is a statement supposedly that
12 Mr. White gave crack to two different people unrelated to
13 this defendant, Your Honor -- I mean to Ms. Collins two days
14 prior to the search warrant.

15 And we also have his statement that he had
16 knowledge crack was in the house, Your Honor.

17 That neither of those statements supports dominion
18 and control over the crack that was found in the air vent is
19 what he's charged with today, Your Honor. We would submit a
20 directed verdict is appropriate.

21 THE COURT: I'll hear from the State.

22 MR. SHELTON: Thank you, Your Honor.

23 May it please the court, obviously this is a
24 constructive possession case. You have heard all the
25 evidence.

1 In the light most favorable to the State, this is
2 a question that the jury needs to decide. It's a question
3 of fact.

4 What the cases Mr. McKinnon didn't point out are
5 -- or, excuse me, the cases that Mr. McKinnon pointed out,
6 the substantial circumstantial evidence cases, what they
7 don't have is what we do have in this case; admissions of
8 the defendant as to knowledge and intent. He specifically
9 knows what's hidden in the air vent of that residence where
10 he's -- you have heard an independent witness, the neighbor
11 who has no dog in this fight, saying she knows him to live
12 there with Jessica. They have a child in common. She has
13 seen his vehicle there overnight. He's been there during
14 this time -- he was there during this time frame.

15 The fact that these drugs are hidden under the air
16 vent and that he knows exactly what is in the house goes to
17 his specific knowledge as to what's there. The weights
18 speak to intent in and of itself as to the crack. Of
19 course, there is no intent element in the trafficking
20 charge, but the statement about his admission of selling to
21 two others less than 48 hours before again goes to knowledge
22 of the drugs. The fact that he was associated with that
23 residence, not just had access to it, but was actually
24 selling or distributing drugs out of that residence less
25 than 48 hours before.

1 THE COURT: The testimony concerning his prior --
2 the smoking material he had given to somebody earlier, that
3 was how many days before this occurred?

4 MR. SHELTON: This was --

5 THE COURT: Two days?

6 MR. SHELTON: Yes, sir.

7 MR. MCKINNON: Yes.

8 THE COURT: That's what I heard.

9 MR. SHELTON: Two days. 48 hours. Two days.

10 THE COURT: Okay.

11 MR. SHELTON: And also, Your Honor, the evidence
12 found during the search warrant, a pill bottle in the master
13 bedroom, one with Reggie White's name on it and one with
14 Jessica Collins' name on it; bank statements --

15 THE COURT: That was on the nightstand beside the
16 bed.

17 MR. SHELTON: Yes, sir.

18 The recent bank statements from earlier that month
19 found in -- the fact that there is men's clothing, not
20 uncommon, but taking all things considered supports the
21 proposition --

22 THE COURT: I think I'm required to look at the
23 totality of the --

24 MR. SHELTON: Yes, sir, I believe so as well.
25 This certainly is a totality analysis.

1 I mean, you heard -- judge, you hear all the
2 evidence. It's abundantly clear that this needs to go to
3 the jury and it's up to them to determine what to make of
4 all these facts, what weight to give the evidence, but the
5 State has satisfied its burden to move to the next phase and
6 I would request that you deny the directed verdict motion.

7 THE COURT: Yes, sir.

8 MR. MCKINNON: Your Honor, if I could just argue
9 briefly.

10 If Your Honor wouldn't mind, I would to pass up
11 the Heath case. It's extremely short, Your Honor. It's not
12 going to take much of your time.

13 THE COURT: Which case is that?

14 MR. MCKINNON: Your Honor, this is State v. Heath,
15 South Carolina Supreme Court, August 2006.

16 THE COURT: And what is the --

17 MR. MCKINNON: Your Honor, this is the case I
18 mentioned with the gentlemen who was washing the car with
19 48 grams of crack in the car washing mitt, but, Your Honor,
20 it's right on point. It says -- the court says appellant
21 who lived in the home where the crack was found, that is not
22 enough. It's just access. They have to show --

23 THE COURT: Yes, sir, but in this case, though, we
24 have your client who independently describes what they will
25 find when they search and is accurate in his description.

1 MR. MCKINNON: And Your Honor --

2 THE COURT: And we have his admission that within
3 48 hours he had been dispensing or distributing, I don't
4 know how you want to put it, substances to people from that
5 same location.

6 MR. MCKINNON: Your Honor, I would say first
7 knowledge and possession, as to the Heath case, is a
8 separate element from dominion or control. There is no
9 question there is evidence on knowledge, Your Honor. I'm
10 not arguing that, but there is no evidence at all of
11 dominion or control. He's just at most living --

12 THE COURT: Well, if he is distributing it or
13 dispensing an illegal substance, that may show he has some
14 control over it. Again, I don't know if there is any
15 evidence that that's the specific drug. I think I know what
16 you are going to say next.

17 MR. MCKINNON: Yes, Your Honor, I would just say
18 there is no evidence at all that came out of this stash.

19 THE COURT: When you add all that together, I'm
20 having to look at the totality of the circumstances as
21 opposed to looking at just cherry picking it. I think
22 that's -- I'm required to look at the whole thing.

23 MR. MCKINNON: Your Honor, I think it's undisputed
24 they must show evidence of dominion and control over the
25 drugs he's charged with possessing, and there is no evidence

1 at all on that point, Your Honor.

2 MR. SHELTON: Your Honor, if I may have a
3 response, I will point the court's attention to State v.
4 Kimbrell, K-I-M-B-R-E-L-L, 294 S.C. 51, 362 S.E. 2d 630. It
5 looks like a South Carolina Supreme Court case from 1987.

6 I also reference the State v. Lane, 271 S.C. 68,
7 also 248 S.E. 2d 114 from 1978, and the footnote is from
8 Ralph King Anderson Charge Book. I haven't pulled the case
9 yet, but I think this will direct the court to the case on
10 point declaring that "because actual knowledge of the
11 presence of drugs is strong evidence of intent to control
12 its disposition or use, knowledge may be equated with or
13 substituted for the intent element." I think it's very
14 clear from that line of case law that knowledge --

15 THE COURT: That was my understanding of the law.

16 MR. SHELTON: Yes.

17 THE COURT: I was going to ask you about that.

18 MR. SHELTON: And we would -- we will be
19 requesting a charge consistent with this case law at the
20 appropriate time, if you don't already have one in your
21 repertoire.

22 THE COURT: I think it was in -- I was going to my
23 charges to look that up, because I know that's in my
24 charges.

25 MR. SHELTON: And, Your Honor, overnight we will

1 double check on that to make sure that that's still a good
2 charge. My knowledge right now is that this is the state of
3 the law.

4 THE COURT: All right.

5 MR. MCKINNON: Your Honor, may I hand up the Heath
6 case?

7 THE COURT: Please do. That will be fine.

8 MR. EPTING: And, Your Honor, could we get a cite
9 to that?

10 THE COURT: The Heath case is 370 S.C. 326.

11 MR. EPTING: Thank you, Your Honor.

12 THE COURT: Can you give me the case that the
13 Ralph King Anderson quote comes from?

14 MR. SHELTON: Yes, sir, State v. Kimbrell.

15 THE COURT: And give me the cite so we can run it
16 up here right quick?

17 MR. SHELTON: Yes, sir, 294 S.C. 51.

18 MR. MCKINNON: Your Honor, very briefly?

19 THE COURT: Yes, sir.

20 MR. MCKINNON: I'm not familiar with the case
21 cited by the solicitor, but just reading the blurb there it
22 appears to say that knowledge can supply the intent element,
23 but that's different than dominion and control, if I'm not
24 mistaken. I mean, that's --

25 MR. SHELTON: I think dominion and control is one

1 of the same as intent. The intent to exercise dominion and
2 control, I think it's kind of synonymous.

3 THE COURT: I'll read the whole quote.

4 MR. MCKINNON: There is not even an intent element
5 at all in the trafficking case, Your Honor.

6 The possession is what we are arguing about here.
7 Before he can possess with intent to distribute, he's got to
8 possess it, and possess it he's got to have dominion and
9 control over it, Your Honor. That would be my argument.
10 Intent doesn't even come into it.

11 MR. SHELTON: We are dealing with constructive
12 possession, so the intent to come back for the drug is the
13 State's argument here. The intent to maintain dominion and
14 control over it. And its disposition, I believe there is
15 some case law on that effect as well.

16 MR. MCKINNON: Your Honor, I think dominion and
17 control in constructive possession cases is an entirely
18 separate element than intent.

19 THE COURT: Now, the case that you gave me, Heath,
20 this was found outside the house.

21 MR. MCKINNON: Yes, sir.

22 THE COURT: Wasn't it --

23 MR. MCKINNON: Wasn't it found in the trash or
24 something like that?

25 THE COURT: Yeah.

1 MR. MCKINNON: But they said he had access to it.
2 I mean, that's --

3 THE COURT: That's a little bit different, because
4 it goes on to say "the defendant's knowledge and possession
5 may be inferred if the substance is found on the premises
6 under his control. In the present case the police
7 discovered the crack in a car washing mitt in a recycling
8 bin outside the back door of the house."

9 MR. MCKINNON: That he had access to, and
10 that's --

11 THE COURT: I don't believe -- I didn't see that
12 language to --

13 MR. MCKINNON: Isn't that in the last paragraph,
14 Your Honor, it says mere access?

15 THE COURT: "The State presented no direct or
16 circumstantial evidence linking the appellant to the crack.
17 As the result, the question becomes whether the appellant
18 had dominion and control over the property where the crack
19 was found."

20 MR. MCKINNON: That's correct. That's -- I mean,
21 that's -- the court said --

22 THE COURT: No, that's not the same.

23 Now, what they are saying is that these drugs were
24 found outside of the dwelling that he was there.

25 MR. MCKINNON: Right.

1 THE COURT: It was in a recycling bin outside.

2 MR. MCKINNON: But the question is whether he had
3 dominion or control, or just access, Your Honor.

4 I'm not saying the facts are exactly the same, but
5 the point is access is not enough that --

6 I guess I would ask the solicitor what is the
7 evidence of dominion and control in this case?

8 THE COURT: Well, again, here is what they say.
9 I'm going to read from the case that you gave me. "The
10 defendant's knowledge and possession may be inferred."

11 Now, of course, in this case they are alleging
12 that he had direct knowledge --

13 MR. MCKINNON: Right.

14 THE COURT: -- because he stayed there.

15 "The defendant's knowledge and possession may be
16 inferred if the substance was found on the premises, on the
17 premises under his control," and they, in fact, highlighted
18 his control.

19 MR. MCKINNON: That's where the evidence --

20 THE COURT: They found it outside the house, not
21 in the house.

22 MR. MCKINNON: I mean, I agree the facts are not a
23 hundred percent analogous, but my argument, Your Honor, is
24 that --

25 THE COURT: I think that's a big point.

1 MR. MCKINNON: But, Your Honor, it has to be
2 control.

3 THE COURT: You know, if I'm sitting in my house
4 and somebody finds drugs out in the trash can in the back of
5 my yard there, that's interesting, but anybody could throw
6 stuff in my trash can in back of the yard.

7 MR. MCKINNON: Anybody could throw stuff in my air
8 vent.

9 THE COURT: Well, I don't know about that.

10 MR. MCKINNON: But I think --

11 THE COURT: That might be a stretch, but at any
12 rate --

13 MR. MCKINNON: I think the solicitor would agree
14 there the dominion and control element in constructive
15 possession, and that's where I make --

16 THE COURT: Yes, sir, there is no question about
17 that. And here what we have got is a -- there certainly is
18 circumstantial evidence, maybe even direct evidence, because
19 the lady testified that she lived next door and he was
20 living there.

21 MR. MCKINNON: But that's just access, Your Honor.
22 Living is not control. That's what Heath says.

23 THE COURT: No, there is control of the premises.
24 In other words, if you -- it's controlling the premises on
25 which it's found. Who controlled those premises?

1 MR. MCKINNON: But Heath says that living at the
2 place is not enough.

3 THE COURT: Who said that?

4 MR. MCKINNON: Isn't that what Heath -- and, Your
5 Honor, I could be misreading it.

6 My reading of the Heath case is that the court
7 clearly says that the defendant lived at the house and that
8 was not enough.

9 THE COURT: Let me read it again. I didn't pick
10 that up. Let me see that.

11 MR. MCKINNON: I'm very confident on that, Your
12 Honor.

13 Your Honor, I have one more case.

14 THE COURT: Sure.

15 MR. MCKINNON: Just for the solicitor's office,
16 it's State v. Muhammed, 2000. This is a Court of Appeals
17 case, Your Honor, dealing with what level of evidence was
18 sufficient on a constructive possession case to withstand
19 the motion for a directed verdict.

20 Your Honor, on this case they found a directed
21 verdict was inappropriate, but because the defendant had a
22 key to the bedroom on his person and unrestricted access to
23 the house, Your Honor. That's -- neither which is shown in
24 this case.

25 MR. SHELTON: Your Honor, could we have a citation

1 for that, please?

2 THE COURT: 338 S.C. 22.

3 MR. SHELTON: Thank you, judge.

4 THE COURT: All right, I'll hear from the State.
5 Anything that you want to say?

6 MR. SHELTON: Nothing particularly on the case,
7 but we did look back up Kimbrell as to whether that line of
8 cases can be used in a jury charge considered in a directed
9 verdict, but State v. Cheek recently warned us about using
10 the strong evidence language in the jury charge, arguing it
11 goes to the weight. It's the court instructing -- putting
12 more weight on evidence. We can talk about that at the
13 charge conference. I just wanted to point that out since I
14 told you we may be asking for a charge.

15 THE COURT: Well, what the defense is saying that
16 constructive possession requires dominion and control.
17 That's their argument.

18 MR. SHELTON: Sure.

19 THE COURT: And I guess my question is as to the
20 drugs that were in the vent --

21 MR. SHELTON: Uh-huh.

22 THE COURT: -- what evidence is that there he had
23 dominion and control?

24 MR. SHELTON: The thing that have already been --

25 THE COURT: Reading the Heath case, I'll point out

1 that the court, that was a Supreme Court case, said that
2 "the appellant lived in the home where the crack was found.
3 However, the home is owned by the appellant's mother. As a
4 result it's arguable that the appellant merely had the right
5 of access to the area and not actual dominion and control."

6 MR. SHELTON: Yes, sir.

7 THE COURT: So we are looking at who controlled
8 that trailer..

9 MR. SHELTON: Yes, sir, and I think that -- I
10 think these questions turn specifically on the knowledge
11 element.

12 As the court has talked about earlier, that the
13 Heath case is a mere possession case. All the State
14 established in that case was that the defendant had access
15 to that house and they find drugs outside of it.

16 The other cases that are talking about the key to
17 the house and the unrestricted access, again I reiterate my
18 point. What those cases lack is what we have here. We have
19 the defendant with specific knowledge of thousands of
20 dollars worth of drugs hidden in an air vent in the master
21 bedroom where the evidence suggests he was staying with the
22 mother of his children; at least has access to it. Maybe
23 he's not staying there all the time, because he's linked to
24 other residences, but he is connected to that house through
25 independent tangible evidence. His name is on documents

1 and --

2 THE COURT: Well, connection, though, does not
3 mean dominion and control.

4 MR. SHELTON: Sure, but his knowledge that he
5 knows exactly what's in the vent and it's exactly what they
6 found, he's not talking about any other drug. There is no
7 other crack, there is no other cocaine in the house, only
8 what's in the air vent. Couple that with his statement that
9 two days earlier he had sold crack cocaine in that house and
10 it specifically shows his knowledge and intent.

11 And I would posit to the court, you know, common
12 sense, why stash your drugs if its worth thousands of
13 dollars? You are not going to ride around with thousands of
14 dollars worth of drugs in your car. Why are you going to
15 stash it? Because you are coming back for it.

16 MR. MCKINNON: Your Honor, could I just be very
17 brief?

18 THE COURT: Yes, sir.

19 MR. MCKINNON: I appreciate what the solicitor
20 says, Your Honor, and I understand he's got evidence from
21 knowledge of intent, but that's why I passed up the Muhammed
22 case, Your Honor. I think that case makes it very clear
23 that knowledge and intent are separate elements from
24 dominion and control. And as Your Honor said, that what
25 they are lacking is dominion and control. They very easily

1 could -- the investigator said on the stand they didn't even
2 bother to find out who rented the trailer. That would have
3 been an easy thing for them to find out. They could have
4 found out that Mr. White had a key, that he come and go as
5 he pleased. There is a million ways they could have put in
6 evidence of dominion and control and they did not. All they
7 have at most is that he lived there. And, Your Honor, in
8 Muhammed and Heath stating that it's clearly --

9 THE COURT: Now, where does Muhammed says what you
10 say you just said?

11 MR. MCKINNON: May I approach, Your Honor?

12 THE COURT: Yeah. Just tell me.

13 MR. MCKINNON: I don't have -- that's my only
14 copy, Your Honor, so I apologize.

15 Your Honor, if I could just -- I apologize, Your
16 Honor, but it's knowingly in actual or constructive
17 possession --

18 THE COURT: You have got to back up so he can hear
19 what you are arguing.

20 MR. MCKINNON: I apologize.

21 THE COURT: You can't have a private argument.

22 MR. MCKINNON: Yes, sir.

23 THE COURT: He's got to be able to take it down.

24 MR. MCKINNON: Yes, sir, and I apologize, Your
25 Honor.

1 The elements are knowingly in actual or
2 constructive possession. And knowingly is one element.
3 Actual or constructive possession is another. And actual or
4 constructive possession -- if we argue constructive
5 possession, that's where the dominion and control comes in.
6 Knowledge of a separate element and that does not -- in
7 fact, it says that knowledge can be inferred if the drugs
8 are found in somewhere where he has dominion or control, but
9 not vice versa. They have to show dominion and control,
10 regardless.

11 THE COURT: For which charge?

12 MR. MCKINNON: Well, for both, Your Honor. I mean
13 the trafficking charge doesn't even have an intent element,
14 so that is purely a possession, so the question is dominion
15 or control.

16 And then the PWID crack has possession, plus
17 intent to distribute, but both charges -- neither charge can
18 proceed if they can't prove constructive possession. And
19 regardless of anything else, constructive possession, they
20 must show dominion or control.

21 THE COURT: Yes, sir.

22 MR. SHELTON: Your Honor, we pulled up the
23 Muhammed case as well and our reading of it is Muhammed was
24 a visitor with a key. There is no other evidence that he
25 resided there or spent time there, had access to it,

1 dominion and control over that residence, except for the
2 fact that he had a key and access.

3 We have more than that here. We have Mr. White
4 connected to this residence. We have an independent
5 witness, the neighbor saying he spends a lot of time there
6 during the day and at night; he's been there for months; and
7 she knows him both as acquaintances, but she's on the same
8 piece of property as they are.

9 THE COURT: Well, when you read Heath, Heath, he
10 lived there.

11 MR. SHELTON: Sure, but the drugs were in a box
12 outside of the residence.

13 THE COURT: Well, it's kind of interesting. One
14 case talks about Heath saying that they found some drugs
15 inside and some outside. If you read Heath itself, it says
16 they found the drugs in a mitt at the home. But if you read
17 the relevant portion, it says "mere presence is insufficient
18 to prove constructive possession. In order to prove
19 constructive possession, the State must show a defendant had
20 dominion and control, or the right to exercise dominion and
21 control over the illegal substance. Further, the State must
22 establish constructive possession by either circumstantial
23 or direct evidence. The defendant's knowledge and
24 possession can be inferred if the substance was found on the
25 premises under his control. In the present case the police

1 discovered the crack in a car washing mitt and recycling bin
2 outside near the back door of the house. The State
3 presented no direct or circumstantial evidence linking the
4 appellant to the 43.48 grams of crack. As a result, the
5 question becomes whether the appellant had dominion and
6 control over the property where the crack was found. We
7 hold the State failed to present evidence that the appellant
8 could exercise dominion and control over the area where the
9 crack was found. Appellant lived in the home where the
10 crack was found. However, the home was owned by the
11 appellant's mother. As a result, it's arguable" --

12 I find that choice of words interesting, because
13 it seems like to me if a point is arguable, then it ought to
14 go to the jury. But, at any rate, they used that choice of
15 words. I don't know why they used that choice of words.

16 "It is arguable that the appellant merely had the
17 right to access the area where the crack was found and not
18 actual dominion and control of the property."

19 So what they are saying is that in Heath he lived
20 there -- and they don't get hung up on inside or outside. I
21 do, but they don't. And they -- what they are saying is
22 that he lived there, but his mother actually was the one who
23 owned the house, I believe. Yeah, owned the house. And so
24 you have got to have some evidence that he was controlling
25 or had dominion over that property, and they didn't show any

1 evidence that he had dominion or control. He was living
2 there, which is eerily similar to what we have here.

3 We have a gentleman who obviously is living there
4 for some periods of time. I don't know what they are. He
5 has -- there is -- his personal property is found there, but
6 I haven't heard any evidence that showed he in any way
7 controlled that premises; that he had keys and decided who
8 came and who went, that he paid the rent, that he paid the
9 power bills, that somehow the -- do you follow what I'm
10 saying?

11 MR. SHELTON: Sure, but my question is in any of
12 those case do we have a defendant who is saying you are
13 going to specifically -- "these specific drugs are here and
14 I have sold drugs from that place, from that specific
15 house."

16 THE COURT: He didn't sell them. He said he gave
17 them away.

18 MR. SHELTON: Okay. Well, yes, sir.

19 THE COURT: He distributed them.

20 MR. SHELTON: Absolutely, but that's where I
21 think -- I don't disagree with your interpretation of that,
22 but we have more than all of those cases. We are not simply
23 suggesting, oh, it looks like he was living there, so he was
24 charged. His admissions put him in possession of the actual
25 drug.

1 THE COURT: Well, see, his argument is that
2 knowledge does not supply dominion and control.

3 MR. SHELTON: I don't see how you can separate the
4 two, Your Honor.

5 THE COURT: Well, I don't know that I have a case
6 that specifically says that either. I'm struggling for
7 that.

8 MR. MCKINNON: Your Honor, I know you are tired of
9 hear from me, but its case --

10 THE COURT: No, no, I like for somebody to
11 elucidate the situation.

12 MR. MCKINNON: Your Honor, I think I'm fairly
13 summarizing. Both the cases will say that if you have
14 dominion and control, you can infer knowledge, but not
15 backwards. They want to go backwards. They want to say
16 because he knows it's there, they can infer dominion and
17 control. And, Your Honor, not only case law doesn't say
18 that, but that doesn't even make common sense. I mean, I
19 may know a friend of mine has a drug problem and has drugs
20 in his house. That does not mean I have dominion and
21 control over the house.

22 THE COURT: Well, I have already thought of that.

23 MR. MCKINNON: Well, I'll sit down, Your Honor.

24 MR. SHELTON: And, judge, I think it's very
25 important where these drugs were in the house. We are not

1 talking about drugs that are just sitting out. They are
2 hidden.

3 THE COURT: You know, if he had said -- you know,
4 and this is not the quote, but if he had said "they are in
5 the air vent under the thing in the bedroom," that might
6 show that he had more than dominion and control, because it
7 would be where somebody else in the house might know it was,
8 but he said "in the house you will find them."

9 Now, again, if he knew -- let's say he knew the
10 significant other sold those drugs herself from the house.
11 So you say "what kind of drugs are you going to find in the
12 house," and he says "well, she's got crack. She's got
13 cocaine. She's got Oxycontin," whatever it was, does that
14 mean that he's controlling just because he knew she had
15 them?

16 MR. SHELTON: I don't disagree with on you that,
17 but that's not -- that's not what was presented as evidence.

18 THE COURT: Well, I don't see -- what was
19 presented and your witness said that "that's what he told me
20 and I didn't need any more." That's what he said. He asked
21 him that about three times and he said it every time. "I
22 didn't even look any further. I didn't even check to see
23 who owned the house, or who paid the bills, or who rented
24 it. That was enough for me." That's what your witness
25 said.

1 MR. SHELTON: Okay.

2 Your Honor, can we -- can we have a little bit to
3 dig on this and see if there is anything that connects the
4 two?

5 THE COURT: We can carry it over until the
6 morning, if you want to think about it overnight. I will.

7 MR. SHELTON: Yeah.

8 It is interesting question.

9 THE COURT: Right now I'm -- you know, our Supreme
10 Court and our Court of Appeals on this circumstantial
11 evidence issue is -- I guess to use a phrase that I would
12 use is kind of kicked the dog off porch on that. We have
13 had, you know, a case in Spartanburg specifically that I'm
14 very familiar with is a break-in at a community center, a
15 gentleman who was there quite often. They found his -- one
16 TV was stolen and one was -- they tried to take it off the
17 wall and couldn't. They found his fingerprint at that
18 location, as well as a drop of his blood at that location,
19 and someone -- whoever got in broke through a window, and
20 they said that wasn't sufficient circumstantial evidence to
21 send that to a jury. I found that incredible. But,
22 nevertheless, that's what they said. So they have kind
23 of -- I'm not exactly where they are on that issue, but
24 that's -- I have to adjust. When I go down there the seal
25 says nil ultra. That means there is none higher.

1 I think -- I think the -- it certainly calls into
2 question every circumstantial evidence case.

3 But then you have cases like this where you have
4 got constructive possession and it can only be proved by
5 circumstantial evidence. So then the question becomes what
6 is substantial circumstantial evidence, and they have yet to
7 define what substantial circumstantial evidence is. They
8 just throw that word out there and don't tell us what that
9 means. So I'm not sure how much is substantial and how much
10 isn't. That's a good question. I guess we do it on a case
11 by case basis and then they get to try them all in Columbia.

12 But, at any rate, I'll give you until tomorrow to
13 think about it, but that's where we are on that one.

14 And I'll agree with the defense there is a lack of
15 evidence that would indicate the defendant did anything to
16 control that premises. There is evidence he stayed there.
17 There is evidence that he had his property on the premise,
18 but I don't find any evidence that indicated he controlled
19 that premises.

20 If you have got a case that says knowledge of
21 drugs on a premises implies control or dominion over the
22 premises, now you are talking. I haven't heard that yet.
23 That may come from another jurisdiction, I don't know.
24 These cases are everywhere, so I'll certainly give you time
25 to do some research and look into that.

1 MR. MCKINNON: I will hit the books, Your Honor.

2 THE COURT: All right. Now, before we do that,
3 I'm going to inquire of your client concerning his right to
4 testify in the case.

5 MR. MCKINNON: Your Honor, could I have just about
6 30 seconds to talk to him?

7 THE COURT: Yes, sir, you talk with him and then
8 I'll inquire.

9 (Off the record)

10 (Back on the record)

11 THE COURT: All right. Please swear the defendant
12 for me.

13 Sir, if you will stand up to be sworn, please.

14 Just raise your right hand right there. Thank
15 you.

16 REGINALD RAYNARD WHITE, JR., having been first
17 duly sworn, testified as follows:

18 THE COURT: You can be seated, sir.

19 Mr. White, I'm going to go over some matters with
20 you and explain certain of your rights to you. If you don't
21 understand anything that I go over with you at this time,
22 when I finish I'll give you a chance to ask questions. I'll
23 also give you an opportunity at that time to consult with
24 your lawyer about this, if you wish to do so.

25 We have reached the stage of the trial where,

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)

5 -vs-)

6 REGINALD RAYNARD WHITE,)
7 JR.,)

8 DEFENDANT.

TRANSCRIPT OF RECORD

2014-GS-46-01499

2014-GS-46-01500

JANUARY 14, 2015

YORK, SOUTH CAROLINA

9
10 (VOLUME III)

11
12 B E F O R E:

13 THE HONORABLE ROGER L. COUCH, JUDGE. ; And a Jury.

14
15
16 A P P E A R A N C E S:

17 MATTHEW W. SHELTON, ASSISTANT SOLICITOR
18 CHRISTOPHER EPTING, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

19 WILLIAM A. MCKINNON, ESQUIRE
20 ATTORNEY FOR THE DEFENDANT

21
22
23 MICHAEL R. WATTS
24 CIRCUIT COURT REPORTER
25

1 (PROCEEDINGS, JANUARY 14, 2015)

2 THE COURT: All right, we are back on the record
3 in the case of the State of South Carolina versus Reginald
4 Raynard White, Jr..

5 We broke yesterday. We were in the process of
6 considering the defense motion for directed verdict. I
7 believe that motion, as I recall, was based on a position of
8 the defense that the State failed to provide sufficient
9 evidence in order to establish constructive position. Am I
10 correct?

11 MR. MCKINNON: Yes, Your Honor.

12 THE COURT: And that's as to both charges, is that
13 right?

14 MR. MCKINNON: That's correct, particularly the
15 issue of the dominion and control, Your Honor..

16 THE COURT: Right.

17 So I had asked the State if there was any -- I had
18 reviewed State v. Heath and State v. Muhammed. I asked the
19 State to check any further authority, and so I'll hear from
20 the State at this time.

21 MR. SHELTON: Thank you, Your Honor.

22 May it please the court?

23 THE COURT: Yes, sir.

24 MR. SHELTON: First off I just wanted to remind
25 Your Honor of the factual basis that's been presented at the

1 trial so far. Evidence presented in the light most
2 favorable to the State shows that Mr. White was living or
3 spending a substantial amount of time staying at the
4 residence in question. You have seen tangible evidence --
5 seen evidence that there was tangible evidence in the
6 residence that he was staying there recently. A pill bottle
7 with his name on it was on the counter -- excuse me, on the
8 dresser of the master bedroom next to that of Jessica
9 Collins, the same room where the drugs were found in the
10 floor vent. Bank statements with his name on them, two
11 separate bank statements.

12 THE COURT: I believe those were found on the
13 kitchen table, is that right?

14 MR. SHELTON: In another room, yes, sir. And
15 those were recent, but they were -- I believe February 3rd
16 was the date on those. So within a couple weeks -- those
17 were statements as of a couple weeks.

18 We also have men's clothing in the house.

19 THE COURT: I didn't hear -- as I thought about
20 this last night, I did not hear any evidence as to the
21 location of that clothing.

22 MR. SHELTON: And I don't recall if that was
23 specifically put out there, but I would argue this is a
24 trailer. You have heard testimony this is not a very big
25 place.

1 THE COURT: It wouldn't be a large residence,
2 but --

3 MR. SHELTON: So the State would argue if
4 there is -- if there is --

5 THE COURT: If there is clothing piled on a chair
6 in the den, that might be a little different situation than
7 clothing hanging in a closet in the bedroom.

8 MR. SHELTON: Sure, and that -- and, again, these
9 are all factors the court as you have acknowledged looking
10 at the totality of the circumstances.

11 THE COURT: Exactly, but I just -- I don't recall
12 testimony. I did recall that his clothing was present, but
13 maybe not where it was or in what the circumstances were.

14 MR. SHELTON: Okay.

15 THE COURT: Okay. If your recollection is
16 different from mine, that's the reason I'm asking.

17 MR. SHELTON: I don't have a different
18 recollection, Your Honor.

19 THE COURT: Go ahead.

20 Let me -- if I could confer with my case agent?

21 THE COURT: Sure.

22 (Off the record).

23 (Back on the record).

24 MR. SHELTON: Detective Beck doesn't recall.

25 Neither do I. Mr. Epting believes there might have been

1 some testimony to where it was located. If it becomes a
2 determining factor, maybe Your Honor could review the record
3 to that effect.

4 THE COURT: I think we can all agree that some of
5 his clothing was on the premises.

6 MR. SHELTON: Yes, sir.

7 MR. SHELTON: Some male clothing was on the
8 premises.

9 MR. MCKINNON: I was about to stand up, Your
10 Honor.

11 THE COURT: I don't recall that there would be any
12 direct proof or admission by him that it was his clothing.

13 MR. SHELTON: Yes, sir.

14 We do have admissions by him that -- to Detective
15 Neely, Mr. White said he was living on Silver Creek. This
16 was a piece of property with two trailers on it. We know he
17 wasn't living at Ms. Kinley's house, because you heard her
18 testify. I'll get to her in just a moment. It stands to
19 reason he was living at the residence in question, by his
20 own admission.

21 Also on his indigent defense form he indicated his
22 residence was the one in question. Even though the number
23 may be off, he indicated by incorporating that statement in
24 his signature that he was residing there.

25 He also told Detective Beck and Officer McGarity

1 the same in their interview with him in the Drug Unit.

2 He also told Detective Beck that he had children
3 in common with Ms. Collins and that the children lived
4 there.

5 He told Detective Neely that two days prior he had
6 sold -- he had distributed. I keep wanting to say sell. He
7 had distributed a quantity of crack cocaine to two other
8 people in that residence on the 24th of February, the search
9 warrant being the 26th of February.

10 THE COURT: I took the liberty after we adjourned
11 yesterday of reading the statements that were introduced
12 during our pretrial motion hearings as to the circumstances
13 under which that distribution took place.

14 MR. SHELTON: Yes, sir.

15 THE COURT: However, I don't believe those
16 statements have been introduced in the case in chief, so
17 they are not part of the proof on which I would have to
18 decide.

19 MR. SHELTON: Your Honor, the detectives both
20 testified about the specific conversation.

21 THE COURT: Uh-huh.

22 MR. SHELTON: We elected not to put in the actual
23 written statement, because it would have been filled with
24 redactions. There would have been --

25 THE COURT: Well, a great deal of reference to

1 sexual activity in the statements, which we had already
2 agreed would not come in in this case..

3 MR. SHELTON: Yes, sir, but I do believe that both
4 detectives referenced the conversation they had with Mr.
5 White and the subject matter by mentioning for the jury --

6 THE COURT: I wanted to let both sides know that I
7 have reviewed those, but I am aware that they are not --
8 those statements are not in evidence. I will go on with
9 what was testified to during the case in chief.

10 MR. SHELTON: I follow what you are saying now,
11 yes, sir. Thank you.

12 You also heard from a neighbor, Ms. Kimberly
13 Kinley, who testified that she lived at the adjacent
14 residence. She now lives in the residence in question. She
15 had moved in after -- sometime after this event occurred and
16 the property was owned by the same person.

17 She testified that she knew Reggie White, the
18 defendant, and Jessica Collins. They were acquaintances.
19 She knew Mr. White to live at that residence with Ms.
20 Collins, that they had a child in common.

21 She also testified that she had seen his vehicle
22 there regularly and that he had been there day and night in
23 the time period in question. I asked her January or
24 February of 2014. She said she didn't remember exactly, but
25 she knows it was 2014. It had to have been one of those two

1 months, close proximity in this time frame.

2 Those are the facts that establish that he lived
3 there.

4 The State argues taking all of those totality of
5 the circumstances in the light most favorable to the State,
6 the defendant lived at this residence. He may have had
7 other residences that he was --

8 THE COURT: Just one second.

9 Mr. Bailiff, if you will ask those two attorneys,
10 young ladies, to step in and have a seat. I'll be with them
11 in just a moment.

12 (Off the record).

13 (Back on the record)

14 MR. SHELTON: But the evidence presented in the
15 light most favorable to the State establishes that Mr. White
16 lived at the residence and had the -- had the -- excuse me,
17 had dominion and control over the residence, or the right to
18 exercise dominion and control over the residence, as is the
19 legal standard, and I'll point to the court's attention to
20 State v. Jackson, 395 S.C. 250, at 255, that specifically
21 says "constructive possession may be proven by showing the
22 defendant had dominion and control, or the right to exercise
23 dominion and control over the item in question, or the
24 property by extension."

25 The secondary position, if Your Honor does not

1 believe that Mr. White lived that, just that he just simply
2 spent some time, I have handed up --

3 THE COURT: Well, I think -- you know, my concern
4 is the cases talk in terms of mere presence is not
5 sufficient to establish dominion and control.

6 MR. SHELTON: Yes, sir.

7 THE COURT: Living in a place doesn't establish
8 necessarily dominion and control. There are some other
9 factors that you would look at.

10 The Muhammed case, for example, the gentleman had
11 a drug he found in a locked bedroom with a padlock on it and
12 he had the key to the padlock. Even though he didn't rent
13 the place, didn't own the place, he used that bedroom and he
14 had control of that bedroom, because he had the key.

15 MR. SHELTON: Yes, sir.

16 THE COURT: And so I think what we are looking at
17 is -- I think -- I think we pretty much agreed that the
18 gentleman did live there on occasion.

19 MR. SHELTON: Okay.

20 THE COURT: The question is whether or not he had
21 dominion and control over that.

22 MR. SHELTON: Okay. The next prong that I would
23 argue, or a secondary position, that the cases I have handed
24 up, State v. Pradubsri, P-R-A-D-U-B-S-R-I.

25 THE COURT: Uh-huh.

1 MR. SHELTON: South Carolina Supreme Court case,
2 2013, citation 403 S.C. 270, specifically at 282 to 284,
3 they talk about special relationship factors in determining
4 dominion and control as to the possession element. And they
5 cite a couple of cases, State v. Brown, United States v.
6 Blue.

7 There is another case --

8 THE COURT: What -- in that case what are they --
9 what special relationship factors are they talking about?

10 MR. SHELTON: Yes, sir. In State v. Brown -- both
11 of these cases are actually car passenger cases.

12 THE COURT: Yes, sir.

13 MR. SHELTON: In State v. Brown there a -- the
14 defendant in question was a passenger in a car where
15 marijuana was found. The court found that -- the court on
16 appeal -- the Supreme Court, that is, reversed the denial of
17 the defendant's motion for directed verdict and said the
18 trial court should have directed a verdict when the evidence
19 was the defendant was merely a passenger in a car where
20 marijuana was found. No evidence was presented as to who
21 owned the car. No evidence was shown as to any special
22 relationship between the passenger and the driver, whether
23 the passenger used or sold drugs, whether the passenger
24 recognized the smell of marijuana, whether the driver and
25 passenger were close friends, or whether the driver and

1 passenger had spent substantial portion of the night
2 together. Your Honor, we have many of those factors in this
3 case.

4 We do have evidence of who is on the lease;
5 Jessica Collins. We argue Mr. White stayed in there too.
6 We would argue, you know, it's not uncommon for one person
7 to be on the lease and not the other, but, regardless, we do
8 know who was on the lease.

9 And we know there is a special relationship
10 between Ms. Collins and Mr. White. They have children in
11 common. He spends time there. He has access. He has a
12 special relationship to this small place. They have kids in
13 common. It stands to reason that he's given access to the
14 house. If he's given access to the children, he's given
15 access to the house. He has personal belongings there,
16 etcetera, etcetera.

17 We also --

18 THE COURT: The prior distribution incident --

19 MR. SHELTON: Yes, sir.

20 THE COURT: -- I don't believe that I heard any
21 evidence that the -- what's the lady's name, Ms. Brown, the
22 one that -- what's her name that lived there?

23 MR. MCKINNON: Masius, Your Honor. The alleged --

24 THE COURT: No, no, I'm talking about the one who
25 lived in the trailer.

1 MR. SHELTON: Jessica Collins.

2 THE COURT: Collins.

3 Ms. Collins was present when that occurred?

4 MR. SHELTON: No, there was no evidence of that.

5 THE COURT: No evidence of that. So it would have
6 been him there by himself, from what I heard so far.

7 MR. SHELTON: Yes, sir.

8 THE COURT: With that individual.

9 MR. SHELTON: Yes, sir.

10 THE COURT: Distributing the drugs.

11 MR. SHELTON: With the two individuals.

12 THE COURT: On that location.

13 MR. SHELTON: That he distributed to, yes, sir.

14 That is also a factor that the Brown court found
15 was lacking in that set of facts. There was no evidence
16 that that particular defendant used or sold drugs. We have
17 evidence that this particular defendant distributed drugs --

18 THE COURT: All right.

19 MR. SHELTON: -- from the same location two days
20 earlier.

21 So this is what I'm kind of thinking of as special
22 relationship factors to establish the ability to exercise
23 dominion and control over the premises and the drugs found
24 therein. United States v. Blue, the next case that
25 Pradubsri, however you say that, cites is even -- I won't

1 jump to that conclusion.

2 Let me just tell you what it's about. You can
3 read for yourself, but basically a police officer is
4 conducting surveillance on the house in reference to
5 possible drug activity. They saw two men leave the house,
6 enter a parked vehicle on the street. The car begins
7 moving. They see that one of the people is not wearing a
8 seat belt. They pull the vehicle over. They noticed the
9 defendant in this case dips his shoulder as if reaching
10 underneath the seat. They get the man out. They find some
11 contraband on the defendant passenger. Later they find a
12 loaded gun under the passenger seat. The court notes out on
13 appeal that both the driver acknowledged denied -- excuse
14 me, both the driver and passenger denied knowledge or
15 ownership of the gun. The passenger did not own the vehicle
16 and the government presented no evidence that the passenger
17 had been in the vehicle before. However, what's really
18 striking to me is the court says "the facts of this case
19 fall outside, but just barely, the realm of quantum of
20 evidence necessary to support a finding of constructive
21 possession.

22 So if we tweak our facts a little bit. Say
23 Jessica Collins is driving that car and it's registered to
24 her and Mr. White is in the passenger seat and they pull him
25 over for an innocuous violation. They get them out. They

1 search the vehicle for whatever reason, consent, probable
2 cause, whatever, and they say "well, Mr. White, if we search
3 that vehicle, what are we going to find?" He says "drugs X,
4 Y and Z," and they find them under the seat. There is a
5 special relationship between those two and he has knowledge
6 of what's there. I know it's a little bit different because
7 in our case he's not -- he was not present at the house
8 during the execution of the search warrant, but he had just
9 as much access.

10 Say it even goes a little bit further that they
11 somehow find out that he was in the car earlier and they go
12 and they question him. "What would we find under the
13 passenger seat of that car?

14 "We find the drugs X, Y and Z."

15 There is a special connection between the two of
16 them. It stands to reason that constructive possession
17 elements have been met under the U.S. v. Blue test that the
18 Pradubsri --

19 THE COURT: Let's go ahead and take a break right
20 there. I'm going to ask the two attorneys that I asked to
21 come forward. If you will come forward for just a moment
22 and let's have a little conference at the bench for a
23 second.

24 (Off the record)

25 (Back on the record)

1 THE COURT: Yes, sir.

2 MR. SHELTON: May it please the court, Your Honor.
3 The next case that I would refer to is U.S. v. Dunlap, 28
4 F.3d 823. It's a 1994 case out of the 8th Circuit U.S.
5 Court of Appeals. And I'm offering that up to establish
6 that that court looked at the closeness of a relationship
7 between defendant and the person whose actual possession of
8 the property is not disputed. So I think that's analogous
9 here. They are looking at the presence -- and this is on
10 the last page of the opinion that I handed to you. "The
11 presence of valuable or important personal items belonging
12 to the appellant, such as documents in the same location as
13 the drugs." We also have prescription medication in this
14 case and bank statements.

15 And then it also talks about the degree to which
16 the association between the appellant and the actual
17 possessor was related to criminal activity. This was a case
18 dealing with a charge of aiding and abetting. I think that
19 last factor probably is not applicable here, but, again,
20 this is almost like a balancing test in considering the
21 closeness of the relationship, which I think closeness of
22 the relationship between Mr. White and the person who is the
23 legal resident or known resident of the trailer, Ms. Jessica
24 Collins, is undisputed. Obviously they have a close
25 personal relationship. And as was noted earlier, Mr. White

1 had brought two individuals or invited two individuals to
2 that residence two days earlier for the purposes of
3 distributing crack and the evidence presented shows he was
4 by himself in that and Ms. Collins was not there, that that
5 was not something that she authorized or participated in,
6 which that in and of itself goes to establish Mr. White's
7 ability to exercise dominion and control over the premises
8 where the drugs were found. So if we can establish that at
9 minimum, we can establish he has the ability to possess
10 dominion and control over the items found inside. I believe
11 the case law is clear on that point.

12 Next, Your Honor, I just wanted to argue one other
13 thing. We have a -- I handed you State v. Hudson, 277 S.C.
14 200. It's a 1981 case. The shared residence.

15 THE COURT: State versus who, Jackson?

16 MR. SHELTON: Hudson, Your Honor.

17 THE COURT: Hudson.

18 MR. SHELTON: It should be -- I think it's the
19 last case that I handed up to you.

20 THE COURT: I have got it, yes, sir.

21 MR. SHELTON: It's a shared residence case, and
22 some of these other cases that you have before you talk
23 about this same concept, but it says you can infer knowledge
24 from control. The State argues that if that's true, the
25 inverse should also be true in the alternative and in

1 addition to what we have already argued. If you can infer
2 knowledge from control, it stands to reason you can infer
3 control from knowledge, especially where there is a close
4 relationship between the individual who has been known
5 occupant of the residence and the man has access and, you
6 know, access on his own in close proximity to the time in
7 question.

8 You know, a lot of these other cases that are
9 referenced in what you have already reviewed and what was
10 handed up where the appeal court says directed verdict
11 should have been rendered, there is no knowledge proof.
12 Those are purely mere presence cases. We have more than
13 that here. We have constructive possession and we have
14 knowledge and intent through him knowing what's there and
15 it's hidden. How else would he know if it's not his, and
16 also the distribution two days earlier. Those are both
17 things that he admits freely after being advised of his
18 rights to law enforcement officers.

19 THE COURT: All right.

20 MR. SHELTON: That's the State's case.

21 THE COURT: Okay.

22 Mr. McKinnon?

23 MR. MCKINNON: Thank you, Your Honor.

24 Your Honor, let me first say that the special
25 relationship thing, there is no evidence whatsoever in this

1 case. Every case cited by the defense involving special
2 possession is a car search case. That factor is not
3 relevant in an apartment or home search case, Your Honor.

4 As you know, if you pick up a hitchhiker and drugs
5 in your car, maybe the hitchhiker didn't know they were
6 there, but if it's your brother or your friend, it makes a
7 huge difference. That factor does not apply in home
8 searches, apartment searches.

9 THE COURT: Is there a case that says that?

10 MR. MCKINNON: Well, Heath was the mother and son,
11 Your Honor. They didn't even mention that, so there is
12 no -- I can't imagine a tighter relationship than mother and
13 son.

14 THE COURT: But -- you are right, but they didn't
15 mention it either way. They didn't talk about it.

16 MR. MCKINNON: Right, Your Honor, but I will tell
17 you I literally read last night every single constructive
18 possession case in South Carolina, Your Honor, and I --

19 THE COURT: Okay. Go ahead.

20 MR. MCKINNON: I will just say, Your Honor, there
21 isn't a single case that mentions the special relationship
22 that's not a car search case. I mean, that's really in
23 South Carolina. I mean, that is a factor. Like I said, if
24 you pick someone up --

25 And the other thing that sets the car search cases

1 off is the drugs are in the car. Both people are arrested
2 with the drugs sitting right there. And so the question is,
3 you know, just some friend you picked up? Is it the
4 brother? How well do they know them?

5 In our case --

6 THE COURT: Well, one of those was mine that got
7 overturned on constructive possession. That was where the
8 police officer came up and he said the smell of marijuana
9 was overwhelming when he opened the window, and I just
10 couldn't see how someone being a passenger who had the
11 overwhelming smell of drugs in the car wouldn't be aware
12 that there might be some in there, but the Supreme Court
13 said there was no proof that he knew what marijuana smelled
14 like.

15 MR. MCKINNON: I think I would be on Your Honor's
16 side on that, Your Honor, but I do think and I appreciate
17 that the court especially now is extraordinarily skeptical.

18 THE COURT: You know, what bothers me about these
19 cases, Mr. McKinnon, just a little bit, I'll just muse with
20 you for a second about this is the fact that all of the
21 cases say that when I consider directed verdict motions, I'm
22 not supposed to weigh the evidence. I'm supposed to just
23 determine if any evidence exists. And if any credible
24 evidence exists on the point, I'm supposed to deny it. Yet
25 now they put us in a position where we have got to determine

1 if there is substantial circumstantial evidence. I don't
2 know how you determine that without weighing the evidence.

3 MR. MCKINNON: I agree, Your Honor.

4 THE COURT: So there is a -- there is an
5 interesting, I guess, conflict in the reasoning here, which
6 last night I was kind of saying if I'm not weighing
7 evidence, what in the heck am I doing? But, at any rate, go
8 ahead.

9 MR. MCKINNON: And, Your Honor, along those lines,
10 I would say, Your Honor, that I understand Your Honor's
11 quandary. I think the court is -- they won't call it
12 weighing evidence, but I do think the cases -- the recent
13 cases saying --

14 THE COURT: I have got to determine if there is
15 substantial --

16 MR. MCKINNON: Substantial, and that's --

17 THE COURT: I don't know how you do that without
18 deciding what's substantial or what's not substantial, but
19 go ahead. That's not your problem. That's my problem and
20 the court's problem.

21 MR. MCKINNON: Your Honor, I would argue that
22 there is not any evidence at all on dominion and control,
23 Your Honor.

24 I mean, we will concede for the purposes of this
25 motion where everything has to be taken in the light most

1 favorable to the State, Mr. White lived there. There is no
2 question there is evidence in the record that he lived
3 there, but there is nothing at all that suggests dominion or
4 control, Your Honor.

5 THE COURT: There is one thing that struck me last
6 night as I was thinking about it. This prior occurrence.

7 MR. MCKINNON: Yes.

8 THE COURT: Two days -- and it's very close in
9 time.

10 MR. MCKINNON: Yes, sir.

11 THE COURT: Very -- the activity is somewhat
12 related -- well, is related to drug activity. And the only
13 evidence that I have heard indicates that he was there with
14 perhaps two other people and drugs were given to the people,
15 or delivered to them, or dispensed to them, which would --
16 at that same residence without, I guess, the tenant being
17 present, which would indicate that he was using that place
18 and carrying on activities there that were somewhat unusual,
19 so it would tend to -- that -- I think that might be a
20 factor that goes toward him having some control over those
21 premises. He obviously gained entry by himself. Nobody let
22 him in. He was able to come and go as he pleased, and he
23 was there carrying on that activity. So that -- that is
24 some evidence. I mean, you say there is none, but I would
25 have to differ with you on that. There is some evidence

1 that he was there and carrying on activities there which
2 were unusual.

3 MR. MCKINNON: Your Honor, if I may?

4 THE COURT: Yes, sir.

5 MR. MCKINNON: I think I would first say that I
6 don't believe the fact that Ms. Collins is not home is in
7 the record. It is, in fact, in the written statement, which
8 as Your Honor said is not admitted, but I --

9 THE COURT: There was no evidence that anyone else
10 was there.

11 MR. MCKINNON: That's right, but there is no
12 evidence that -- they never said he was there alone. I
13 don't think that fact is in the record, Your Honor, and
14 that's --

15 THE COURT: Okay. Well --

16 MR. MCKINNON: And, Your Honor --

17 THE COURT: We may have to go back and look at
18 that to be sure.

19 MR. MCKINNON: But beyond that, Your Honor, I
20 think -- you know, the Heath case, you know, the discussion
21 in Muhammed is pretty clear. You can live at the house and
22 have not dominion and control. And obviously in the Heath
23 case the adult son lived there, he can come and go as he
24 pleased. I guess, I mean, that's part of the living at the
25 house.

1 So I think the fact that Mr. White was there
2 without Ms. Collins, if, in fact, that was in the record,
3 which I don't believe it is, but even if that's in the
4 record, that doesn't mean he had dominion or control. That
5 just means, as is normal for someone who lives at a
6 residence, he can come and go as he pleases.

7 And, Your Honor, as far as the two -- you know,
8 the two days previously on the cocaine, Your Honor, you
9 know, Your Honor ruled that was admissible on intent, and I
10 understand Your Honor's reasoning on that. It's difficult
11 to argue its personal use when two days prior you were
12 giving it, but, Your Honor, that's -- intent is not the
13 issue on this. The question is did he have dominion or
14 control over that air vent which were the drugs in the air
15 vent.

16 THE COURT: Or the premises on which the drugs --

17 MR. MCKINNON: Or the premises, Your Honor.

18 THE COURT: The cases all talk about the premises
19 on which the drugs are found.

20 MR. MCKINNON: Yes.

21 But, again, like in Muhammed, there was evidence
22 that he had special -- if they had found him messing with
23 the air vent or something like --

24 THE COURT: Muhammed had a key to the bedroom that
25 he was in. I understand that.

1 MR. MCKINNON: But either way, I mean, there was
2 no evidence in the record at all that Mr. White didn't walk
3 into the house. It was -- as the officer testified, a \$100
4 worth of crack is a tiny amount. Mr. White, you know, could
5 have walked in the house with it in his pocket, in his bag.
6 I mean, there is no evidence at all connecting that with the
7 drugs in the air vent. And there is nothing that says he
8 could not have walked into that house with those drugs.

9 THE COURT: All right. But then -- but then he
10 did on questioning describe by nature, by type, the exact
11 drugs that were found in that location.

12 MR. MCKINNON: Yes, sir, and that's -- Your Honor,
13 I would just direct Your Honor's attention back to the State
14 v. Muhammed. On the printout I have, it has the Westlaw
15 markings and it says, you know, 6, 7, 8, 9. Do y'all have
16 that? And it says -- it says conviction --

17 Your Honor, may I approach?

18 THE COURT: Yeah, certainly.

19 MR. MCKINNON: I'm not sure if the copy I gave
20 Your Honor yesterday is formatted the same as mine, Your
21 Honor, but it's this paragraph right here.

22 Yes, sir, that's it.

23 May I proceed, Your Honor?

24 THE COURT: Yes, sir, go ahead.

25 MR. MCKINNON: Your Honor, the first sentence of

1 that paragraph says "conviction of possession requires proof
2 of possession, either actual or constructive, coupled with
3 knowledge of its presence."

4 The case law is very clear, Your Honor, in South
5 Carolina. Those are two separate elements. The fact
6 that --

7 And I agree totally with Your Honor, there is --
8 for certainly for this purposes of this motion, there is
9 evidence in the record that Mr. White knew of the drugs.
10 There is not evidence he knew where they were, but there is
11 evidence he knew that somewhere in the house there was
12 cocaine and powdered and crack.

13 THE COURT: And something else.

14 MR. MCKINNON: And Oxycontin, yes, sir, but that
15 is a separate element, Your Honor. And, you know, lots of
16 the constructive possession cases --

17 THE COURT: But, again, I'm not sure that that
18 element -- I know what you are saying.

19 MR. MCKINNON: Yes, sir.

20 THE COURT: But when you have to look at the
21 totality of the circumstances, that is one of the
22 circumstances. What weight I give it I guess would be a
23 factor, but that is one of the circumstances.

24 MR. MCKINNON: I agree, Your Honor.

25 And, you know, Your Honor, I would say that the

1 weight would be minimal and I would argue would be minimal
2 to none, Your Honor. The reason is -- I mean, Your Honor,
3 in my life I have known friends who have abused narcotics
4 and I very likely could have told you at their house that
5 somewhere in their house there was such and such drug, but,
6 Your Honor, that doesn't mean I possessed it. These are
7 people whose house I would visit. That is just -- to the
8 extent that's probative of anything, is extraordinarily
9 weak.

10 And, as you know, there are lots of phrases in
11 constructive possession cases saying if you have dominion or
12 control, like in Muhammed, where he had a key to the
13 padlock, you can infer knowledge, because that makes sense.
14 You know, if this is Muhammed, they have got a locked room
15 in the house with a padlock and Mr. Muhammed has got a key
16 to it and that's where the drugs are, it's a pretty strong
17 inference he knew there was something in there that he
18 shouldn't have, but it does not flow the other way.

19 The fact that I have had friends that have abused
20 narcotics and I may have gone over to their house and
21 watched a football game or something and I could have said I
22 bet somewhere in this house there is marijuana, that does
23 not mean I had dominion or control over their house, or any
24 part of it, Your Honor.

25 THE COURT: I understand.

1 MR. MCKINNON: Yes.

2 So just really briefly, Your Honor -- Your Honor,
3 and they mentioned the stuff down at the house, Your Honor,
4 that was supposed possession of Mr. White. I mean, they
5 searched that house top to bottom, Your Honor, and they --
6 there is evidence that there was men's clothes there, which
7 they don't have evidence they are Mr. White's. There is
8 evidence of some men's clothes. The only other thing in the
9 entire trailer, which they searched top to bottom, an old
10 old pill bottle with his name on it and two pieces of paper
11 that were --

12 THE COURT: You describe it as old. They describe
13 it as new. I don't know what it was.

14 MR. MCKINNON: I know that --

15 THE COURT: I have not looked at the picture to
16 see if it shows the date on it.

17 MR. MCKINNON: It does not show the date, Your
18 Honor. The particular piece of evidence they put in does
19 not. I have seen the other photos, which do show that the
20 pill bottle was old.

21 THE COURT: That's not in evidence, though.

22 MR. MCKINNON: It is, Your Honor, but -- I mean,
23 the address on the pill bottle of Mr. White is ancient.

24 THE COURT: Again, it was located on a nightstand
25 next to the bed in the master bedroom.

1 MR. MCKINNON: It was, Your Honor.

2 And, again, Your Honor, I would just say if I'm
3 living at someone's house, it's very likely there is going
4 to be some things of mine that are at the house.

5 THE COURT: All right. I don't think there is any
6 doubt about that. Again, those are some of the
7 circumstances that need to be concerned.

8 MR. MCKINNON: And I would say, Your Honor, if
9 they had found Mr. White with a screwdriver for the air
10 vent, or something like that, that would be a different
11 story, but a couple of scraps of paper and a pill bottle is
12 pretty weak, Your Honor.

13 THE COURT: We probably wouldn't be having this
14 discussion if there was evidence that he had been retrieving
15 drugs from that air vent.

16 MR. MCKINNON: Yes, sir.

17 But, again, I would just say, Your Honor, I mean,
18 to the extent there is any evidence at all, it's
19 extraordinarily unsubstantial, Your Honor.

20 Again, Your Honor, I know there is not case law on
21 this point, but this is a life without parole case, Your
22 Honor, and I would encourage that the State should not be
23 given any kind of breaks on it.

24 THE COURT: I don't weigh the punishment when I
25 weigh these things.

1 MR. MCKINNON: I know, Your Honor.

2 THE COURT: That's not for me to decide at this
3 point in time.

4 All right. Anything further from the State on
5 this? I think we are about -- just about wrapped the horse
6 pretty heavily.

7 MR. SHELTON: Yes, sir, I think we have pretty
8 much exhausted this, but, you know, to keep coming back to
9 Heath, I think that's distinct here about there were
10 residents found outside the home in Heath, if I recall
11 correctly -- excuse me, there were drugs found outside of
12 the home in Heath, not inside of the home.

13 THE COURT: Well --

14 MR. SHELTON: I mean, that's -- that's a
15 completely --

16 THE COURT: Heath itself talks about the drugs
17 being found outside of the home, but on the premises.

18 MR. SHELTON: Yes, sir, but I think that's a
19 complete -- a horse of a completely different color,
20 especially when we are looking at this.

21 Mr. McKinnon gave you the analogy of having
22 friends who sell drugs. I doubt he lived there with them
23 and I doubt he, himself, was selling drugs two days before
24 they would have been caught with them. I think that's
25 another very significant factor here showing -- that's

1 substantial proof that even if Ms. Collins was there, he is
2 exercising some -- exercising some dominion and control over
3 the residence by inviting people over and distributing crack
4 cocaine to them, even if Collins was there, but the record
5 doesn't say that she was. That's the only other point I
6 wanted to make.

7 THE COURT: All right.

8 MR. MCKINNON: Your Honor, may I make one thirty
9 second point? I swear it will be short, Your Honor.

10 THE COURT: That's all right. Go ahead.

11 MR. MCKINNON: Your Honor, I apologize.

12 This is one point I didn't intend to make that the
13 evidence in Heath is much stronger than the evidence in this
14 case. I mean, there are two factors in Heath. First, the
15 son was home when the drugs were found in Heath, which was
16 not the case here, Your Honor.

17 And even more important, Your Honor, the son was
18 found outside washing the car and --

19 THE COURT: You see what it says was, it says upon
20 the police's arrival the appellant's brother immediately ran
21 into the house --

22 MR. MCKINNON: Yes, sir.

23 THE COURT: Now, this is his brother, Heath's
24 brother, not Heath.

25 MR. MCKINNON: Yes, sir.

1 THE COURT: Locked himself in a bathroom. After
2 the brother was restrained the police discovered the crack
3 cocaine.

4 MR. MCKINNON: Yes, sir.

5 THE COURT: The appellant and his brother were
6 outside.

7 So appellant remained by the car in front of the
8 house as the officers approached. So they found the drugs I
9 think at the back side of the house.

10 MR. MCKINNON: Yes, sir.

11 THE COURT: Near a mitt that somebody used to wash
12 the vehicle.

13 MR. MCKINNON: Doesn't it say at the beginning of
14 the case, Your Honor, that the appellant appeared to have
15 been washing the vehicle?

16 THE COURT: Oh, yeah, yeah, yeah, but he stayed at
17 the vehicle --

18 MR. MCKINNON: Yes, sir.

19 THE COURT: -- as the police approached. His
20 brother was the one that ran into the house and locked
21 himself into the bathroom.

22 MR. MCKINNON: Yes, sir.

23 THE COURT: And the drugs were found outside the
24 house in the back.

25 MR. MCKINNON: Yes, sir. But --

1 THE COURT: That's what I read in Heath.

2 MR. MCKINNON: And I agree, Your Honor, but I
3 would say that the fact that the appellant in that case the
4 court said had been washing the car. And as it turns out,
5 the drugs were found in the car washing mitt, that is, I
6 would posit, Your Honor, stronger evidence than in this
7 case. I mean, that's pretty -- that's a pretty strong
8 connection that the court found.

9 THE COURT: It says -- it doesn't say -- an
10 interesting point.. Just observation. It doesn't say
11 whether the mitt was wet or dry.

12 MR. MCKINNON: It does not, and that's certainly
13 something I would have wanted to know, Your Honor.

14 THE COURT: That's something I would have wanted
15 to know too. It was just an old car washing mitt that was
16 dry, it wouldn't have been used at that time and it would
17 have probably been out there for some time, a recycling
18 mitt, but it doesn't say whether it was wet or dry. I
19 thought that was interesting.

20 MR. MCKINNON: It does not.

21 And Your Honor picked up on the fact that the
22 court does use that phrase, arguably, and I would respond to
23 that, but they reversed the conviction in that case, so it
24 must have been more than arguable.

25 THE COURT: All right. Just give me a few

1 minutes.

2 Anything else I need to hear from you on any of
3 this?

4 MR. SHELTON: No, sir.

5 THE COURT: All right. The court will take a
6 short recess. I'm going to step off the bench.

7 (Whereupon, proceedings were recessed)

8 (Whereupon, proceedings were reconvened)

9 THE COURT: All right. I have had an opportunity
10 to review the cases that have been submitted to me in this
11 case, in this matter. The issue boils down to one as to
12 whether or not there is sufficient evidence that's been
13 presented by the State to justify the case going forward to
14 the jury, particularly on the question of the constructive
15 possession of the drugs in question in this matter.

16 Quoting from State v. Muhammed, which is a case
17 that we have had a great deal of discussion about,
18 "constructive possession occurs when a person charged with
19 possession has dominion and control over either the drugs or
20 the premises on which the drugs are found."

21 Other cases go on to state that the dominion and
22 control, that the -- in order -- I'm quoting now from State
23 v. Heath, which is a 2006 case, and it says "in order to
24 prove constructive possession, the State must show a
25 defendant had dominion and control, or the right to exercise

1 dominion and control over the" -- they say "over the", and
2 then they fill in with blank of illegal substance. I assume
3 it's also talking about the premises on which the substances
4 might have been found.

5 In this particular case there are several factors
6 which -- and I am reviewing it from the totality of the
7 circumstances. I'm making an effort not to weigh the
8 evidence, but to determine the existence of evidence, but I
9 think that the exercise requires that I weigh the evidence
10 to a certain degree.

11 And in this particular case the evidence is that
12 the defendant had children that lived in the residence in
13 question.. The mother of those children lived there as well.
14 There wasn't evidence as to who actually -- whether he
15 had -- his name was on the lease or he was an actual tenant.
16 There was evidence from a neighbor, however, that he lived
17 there quite often. He would come and go and stay there.
18 While he was not there all the time, he was there
19 frequently, and stayed there for periods of time at that
20 address.

21 Evidence inside of that location would indicate
22 that he was present and living there as well, such as the
23 pill bottle that was found on the nightstand or dresser in
24 the bedroom which the drugs were found that had his name on
25 it, as well as the bank records that were found in the home

1 that had his name on, which were fairly recent of the date,
2 indicating that they had recently been placed there.

3 In his statement given to police he admitted
4 having been at that premises two days prior to the search.
5 That at that time he had had people there at the home with
6 him and he had distributed drugs to those people at that
7 time and at that location.

8 Also in his statement when he was asked about what
9 drugs might be found in that location if it was searched,
10 the defendant was able to describe exactly the drugs that
11 were found hidden in the location by -- without fail. There
12 was no error in his description of what would be found in
13 that location.

14 Here I think that I'm looking at whether or not
15 the defendant exhibited a right to exercise dominion and
16 control over this premises. It appears that he did come and
17 go quite often. The fact that he simply lived there is not
18 determinative of itself, but he did take the liberty of
19 inviting people to that location. He did take the liberty
20 of distributing drugs from that location, which would
21 indicate to me that he was exercising a certain degree of
22 dominion or control.

23 The evidence doesn't indicate whether the other
24 person involved, the mother of his children, was involved in
25 that transaction or not, so I have to just take it as it is.

1 The only evidence is that he was present with two other
2 people and drugs were distributed. That's all it says.

3 Now, in taking the totality of the circumstances,
4 and I realize that it's a circumstantial case, but the cases
5 all say that constructive possession can be proven by
6 circumstantial evidence. In fact, it may be the only way
7 that you prove constructive possession in this matter. And,
8 again, attempting not to weigh the evidence but attempting
9 to determine if there is evidence. And also I am
10 constrained by the fact I must view the evidence in the
11 light most favorable to the State, not in the light most
12 favorable to the defendant in this matter.

13 Based on all of those factors, I am going to deny
14 the motion and allow the case to go forward to the jury.

15 Anything further from the State?

16 MR. SHELTON: No, sir.

17 THE COURT: Anything further from the defendant?

18 MR. MCKINNON: No, Your Honor.

19 THE COURT: All right. Now, I had asked your
20 client about his right to testify yesterday when we broke.
21 Does he intend to testify in this case, and I'll --

22 MR. MCKINNON: He exercises his right to not
23 testify, Your Honor.

24 THE COURT: All right. Well, let me be just be
25 sure. Let me ask him just a couple of questions to be sure

1 BRENDA LEE, having been first duly sworn,
2 testified as follows:

3 THE COURT: Have a seat over here in the witness
4 box, please, ma'am. There is a door on the front of it.

5 Once you are seated, please state your name.

6 THE WITNESS: Brenda Lee.

7 THE COURT: Thank you.

8 Counselor, your witness.

9 DIRECT EXAMINATION BY MR. MCKINNON:

10 Q. Good morning, Ms. Lee.

11 A. Good morning.

12 Q. Ms. Lee, do you know the defendant Reginald White?

13 A. Yes, sir.

14 Q. And Ms. Lee, how are you related to the defendant?

15 A. He's my grandson.

16 Q. He's your grandson. Okay.

17 And Ms Lee, do you look after any of Mr. White's
18 children?

19 A. Yes.

20 Q. And when you take those children to go see Mr. White,
21 where do you take them?

22 A. To Tralicia's house, his sister, which is his sister on
23 Jefferson Street in York.

24 Q. Okay. So you take -- when Mr. White sees his kids, you
25 take them to in York?

1 A. Yes, sir. Yes.

2 Q. And not to the trailer on Silver Creek Drive?

3 A. I don't know nothing about no trailer.

4 Q. Okay. You have never been to that trailer on Silver
5 Creek Drive?

6 A. No.

7 Q. Ms. Lee, where does your grandson live?

8 A. With Tralicia White.

9 Q. With his sister at the address in York?

10 A. Yes.

11 Q. And Ms. Lee, I just have one more question for you. Do
12 you know what Reggie's car looks like, the Honda?

13 A. The only car I knew is blue, blue Honda, only one I
14 know.

15 Q. Okay.

16 MR. MCKINNON: No further questions, Your Honor.

17 THE COURT: The State may cross-examine.

18 MR. EPTING: No questions for this witness, Your
19 Honor.

20 THE COURT: Ma'am, you may step down. Thank you
21 very much.

22 THE WITNESS: Thank you.

23 THE COURT: The defense may call its next witness.

24 MR. MCKINNON: Defense calls Tralicia White, Your
25 Honor.

1 THE COURT: All right.

2 Ma'am, please come down front to the clerk here.
3 She will place you under oath. Right down here. To this
4 lady right over here.

5 TRALICIA WHITE, having been first duly sworn,
6 testified as follows:

7 Have a seat over here in the witness stand,
8 please, ma'am.

9 State your name, please.

10 THE WITNESS: Tralicia White:

11 THE COURT: Thank you.

12 Counselor, your witness.

13 MR. MCKINNON: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION BY MR. MCKINNON:

16 Q. Good morning, Ms. White.

17 A. Good morning.

18 Q. Do you know the defendant Reginald White?

19 A. Yes, I do.

20 Q. How are you related to Mr. White?

21 A. That's my brother.

22 Q. He's your brother. Okay.

23 And Ms. White, where do you live?

24 A. I live on East Jefferson Street.

25 Q. Okay. Is that in York?

1 A. Yes, it is.

2 Q. Okay. Just to clarify, that's not the trailer on
3 Silver Creek Drive we are talking about --

4 A. No.

5 Q. -- in Clover.

6 Okay. How long have you lived at that address in York?

7 A. Three years.

8 Q. Okay. Who lives there with you?

9 A. Me and my two kids.

10 Q. And does Mr. White live there?

11 A. Yes.

12 Q. Is he gone sometimes?

13 A. Yes.

14 Q. But he lives in your apartment with you?

15 A. Yes.

16 Q. How long have you lived there, Ms. White?

17 A. How long did he live there?

18 Q. Yes.

19 A. I really can't say. He was like staying there off and
20 on.

21 Q. Okay.

22 A. But he did stay there though.

23 Q. And Ms. White, one last question. Do you know what
24 color Reggie's car is?

25 A. He had a lot of cars. I don't remember which car you

1 are talking about at this time.

2 Q. Okay. Thank you, ma'am.

3 THE COURT: You may cross-examine.

4 MR. EPTING: Very briefly.

5 CROSS EXAMINATION BY MR. EPTING:

6 Q. Good morning, ma'am.

7 A. Good morning.

8 Q. Do you work, ma'am?

9 A. No, I don't.

10 Q. So you are at home a lot?

11 A. Yes, I am.

12 Q. And you say Reggie stays with you off and on, is that
13 correct?

14 A. Yes.

15 Q. So he's living in other places sometimes in addition to
16 staying with you, is that right?

17 A. Well, he be there like five days out of the week, and
18 like on the weekend he wouldn't be there.

19 Q. Okay. Would he sometimes stay with say with any of the
20 mothers of his children?

21 A. I couldn't hear you.

22 Q. Did he ever stay with any of the mothers of his
23 children?

24 A. I'm not for sure who he stayed with.

25 Q. So you don't know where he is when he's gone, is that.

1 right?

2 A. Yes, that's on the weekend.

3 Q. Okay. On the weekend.

4 Does Reggie work?

5 A. No, he usually collects junk. Just collecting junk
6 like that.

7 Q. So that's what he does with his day, according to your
8 recollection, is that right?

9 A. Yeah, or he will be out cutting my grass, something
10 like that.

11 Q. When he's out collecting junk, you are not going along
12 with him, is that right?

13 A. No.

14 Q. Sorry?

15 A. No.

16 Q. So you don't know what he's actually doing when he's
17 gone, is that right?

18 A. No.

19 Q. Do you know Jessica Collins?

20 A. Yes, I know her.

21 Q. Do you know where she stays?

22 A. Right now she was -- right now she's staying in Rock
23 Hill.

24 Q. Do you know where she stayed in February of 2014?

25 A. She stayed in a trailer.

1 Q. Was that off of Silver Creek Drive?

2 A. I don't know. I have been -- I never been there.

3 Q. So you have never been there?

4 A. No.

5 Q. So you are not sure where exactly she lives, other
6 than --

7 A. No.

8 Q. And it's your testimony that Reggie drives multiple
9 cars?

10 A. At the time -- I'm not for sure what kind of car he was
11 driving at the time.

12 Q. Okay.

13 MR. EPTING: I have no further questions for you.

14 THE COURT: Okay.

15 MR. MCKINNON: No redirect, Your Honor.

16 THE COURT: All right. You may step down. Thank
17 you very much, ma'am.

18 You may call your next witness.

19 MR. MCKINNON: Your Honor, the defense calls
20 Jessica Collins.

21 THE COURT: Call Ms. Collins, please. Jessica
22 Collins.

23 MR. MCKINNON: Your Honor --

24 THE COURT: Ladies and gentlemen of the jury, as
25 this witness is coming in, there is some matters I do have

1 to take up with her before I will allow her to testify
2 before the court. That needs to be done outside of your
3 presence, so I'm going to ask you to step back to the jury
4 room. Don't discuss the case until I ask you to do so.
5 Thank you very much.

6 (The following takes place outside the presence of
7 the jury panel)

8 THE COURT: Ma'am, if you will come forward and be
9 sworn, please.

10 JESSICA COLLINS, having been first duly sworn,
11 testified as follows:

12 THE CLERK: You may have a seat.

13 THE COURT: All right, ma'am, state your name,
14 please.

15 THE WITNESS: Jessica Collins.

16 THE COURT: Ms. Collins, you have been called as a
17 witness in this case to testify and I am going to advise you
18 of some things before you put that testimony on the record.

19 First of all, I want to establish whether or not
20 you are currently represented by a lawyer. I have been made
21 aware of the fact that perhaps there are some charges
22 pending against you. We are not here to try those charges,
23 but are you represented by a lawyer at the present time?

24 THE WITNESS: No, sir.

25 THE COURT: So you would be appearing on your own

1 behalf at this time, is that correct?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Now, I need to advise you
4 that as a witness you have the right to invoke certain
5 protections that are given to you by the Fifth Amendment to
6 the United States Constitution, so I'm going to go over this
7 with you. And when I finish, if you don't understand what I
8 have told you, or if you have any questions about what I
9 have told you, I will be glad to give you additional
10 explanation. I want to be sure that you understand this
11 right. Do you understand what I'm saying?

12 THE WITNESS: Yes, sir.

13 THE COURT: Now, ma'am, that particular Amendment,
14 the Fifth Amendment to the United States Constitution,
15 reads, in part, that no person shall be compelled in any
16 criminal case to be a witness against himself.

17 Now, this provision means that you cannot be
18 required to be a witness against yourself, the right to not
19 testify against yourself, or remain silent in that
20 circumstance. That's a personal right. It can only be
21 claimed by you.

22 You have the right to refuse to answer any
23 question asked of you which you think gives you a reasonable
24 cause to believe that the answer to the question, if given,
25 might tend to incriminate you concerning some crime.

1 If you wish to exercise the right to remain silent
2 concerning that question, you must state to the court that
3 you refuse to answer the question because the answer might
4 tend to incriminate you.

5 I will also advise you that you are not the final
6 decision maker on the issue of whether or not an answer to a
7 question will violate the protection afforded to you by the
8 Fifth Amendment. It's up to the court to determine if
9 silence on your part is justified.

10 Now, ma'am, do you understand the right that I
11 have explained to you at this time?

12 THE WITNESS: Yes, sir.

13 THE COURT: Do you have any questions about that
14 right that I have gone over with you?

15 THE WITNESS: No, sir.

16 THE COURT: Now, ma'am, do you understand that as
17 you are questioned in this matter, you have the right to
18 refuse to answer any question that you think the answer to
19 that question might tend to incriminate you concerning some
20 action that you may have taken?

21 THE WITNESS: Yes, sir.

22 THE COURT: Do you understand that?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right. You may proceed.

25 I'm going to bring the jury in.

1 MR. MCKINNON: I'm sorry.

2 THE COURT: Let's bring the jury in.

3 Let me ask a question.

4 Do you wish to ask any questions of her concerning
5 this right?

6 MR. MCKINNON: I do not, Your Honor.

7 THE COURT: Does the State wish to go over
8 anything with her concerning --

9 MR. SHELTON: Just real quick, Your Honor.

10 I just wanted to know. Ms. Collins, do you
11 understand that you are currently under indictment for two
12 pending drug charges?

13 THE WITNESS: Yes.

14 MR. SHELTON: Do you understand that one of those
15 is one count of trafficking in cocaine which carries up to
16 three -- from three to ten years in prison as a punishment?

17 THE WITNESS: Yes, sir.

18 MR. SHELTON: And it's what's called a violent
19 felony?

20 THE WITNESS: Yes.

21 MR. SHELTON: And do you understand that one of
22 those is possession with intent to distribute crack cocaine?

23 THE WITNESS: Yes.

24 MR. SHELTON: It's a felony that carries zero to
25 fifteen years in prison?

1 THE WITNESS: Yes.

2 MR. SHELTON: You currently do not have an
3 attorney, is that correct?

4 THE WITNESS: Yeah, I don't have one.

5 MR. SHELTON: Do you understand your right to have
6 an attorney to represent you on those matters?

7 THE WITNESS: Yes.

8 MR. SHELTON: And if at any time during these
9 proceedings you feel like you need to consult with an
10 attorney, you could ask the judge to consider appointing an
11 attorney to talk with you about whether or not any
12 statements you make could incriminate you. Do you
13 understand that?

14 THE WITNESS: Yes, sir.

15 MR. SHELTON: Moreover, do you understand that as
16 the judge cautioned you anything that you say could be used
17 against your case in those pending drug cases? Do you
18 understand that?

19 THE WITNESS: Yes, sir.

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

21 (The following takes place in the presence of the
22 jury panel)

23 THE COURT: All right, the jury has returned to
24 the courtroom.

25 You may proceed, counsel. Your witness.

1 DIRECT EXAMINATION BY MR. MCKINNON:

2 Q. Good morning, Ms. Collins.

3 A. Good morning.

4 Q. Ms. Collins, just so that the jury knows who you are,
5 could you tell us where you live -- or where -- or, I'm
6 sorry, where you lived in February of 2014?

7 A. I lived at in Clover.

8 COURT REPORTER: Speak into the microphone a
9 little bit louder, please.

10 A. , Clover, South Carolina.

11 BY MR. MCKINNON:

12 Q. And was that a trailer that you rented?

13 A. Yes.

14 Q. And is that the trailer where the police came and
15 arrested you and found some drugs in the trailer?

16 A. Yes.

17 Q. Okay. And, Ms. Collins, what is your relationship to
18 Mr. White?

19 A. He is my kids father.

20 Q. Okay. So you and Mr. White previously had a
21 relationship and you have kids together?

22 A. Yes.

23 Q. Ms. Collins, back in -- I'm going to come right to the
24 point. Back in February of 2014, was Mr. White living at
25 that trailer with you?

1 A. No.

2 Q. He was not. Okay.

3 Did he come and visit every once in a while?

4 A. He came and got our kids while I went to work.

5 Q. And when you say got the kids, can you tell the jury
6 what you mean by that?

7 A. He came to get the kids to watch the kids while I had
8 to work.

9 Q. Okay. But he was not staying overnight at your
10 trailer?

11 A. No, he never stayed the night.

12 Q. Okay. And, Ms. Collins, at the time were you in a
13 relationship with another person?

14 A. Yes, with my --

15 Q. And who was that person?

16 A. With my little boy -- my last child's father, Forrest
17 Peeples.

18 Q. Let me make sure I'm understanding you.

19 The father of your youngest child, Mr. Peeples, you
20 were in a relationship with him?

21 A. Yes, sir.

22 Q. And was Mr. Peeples in fact living at the trailer?

23 A. He -- he wasn't living there. He would be there every
24 night.

25 Q. But he spent every night at the trailer with you?

1 A. Yes.

2 Q. And did he leave clothes at the trailer?

3 A. No. He took his clothes with him.

4 Q. Okay. And, Ms. Collins, what is Mr. Peeples
5 profession, as you understand it? How does he make money?

6 A. Selling drugs.

7 Q. Okay. And does he, in fact, have charges against him
8 for selling crack cocaine right now?

9 A. Yes.

10 Q. Okay. And so, again, just to reiterate, the gentleman
11 who you're in a relationship with and who was spending the
12 night at that trailer and who currently has charges against
13 him, his name is Forrest Peeples?

14 A. Yes, sir.

15 Q. Ms. Collins, do you have an opinion about whose
16 drugs --

17 MR. SHELTON: Objection, Your Honor.

18 THE COURT: I'll sustain the objection if you are
19 asking this witness to give an opinion.

20 BY MR. MCKINNON:

21 Q. Ms. Collins, whose drugs were in the vent?

22 MR. SHELTON: Objection.

23 THE COURT: You need to lay a foundation.

24 I assume -- is that the objection?

25 MR. SHELTON: Yes, sir.

1 THE COURT: All right.

2 BY MR. MCKINNON:

3 Q. Ms. Collins, do you have reason to believe those drugs
4 in that vent belonged to Forrest Peeples?

5 A. Yes.

6 Q. Okay. And what is your reason -- what are your
7 reasons?

8 A. Because he didn't want my child to be raised around
9 Reginald or my other kids with Reginald. He wanted my child
10 to be with him, and they succeeded because they took custody
11 from my -- custody from me of my child.

12 Q. Okay. And are you personally familiar with the way Mr.
13 Forrest Peeples earns a living?

14 A. Yes.

15 Q. And how is that?

16 A. Selling drugs.

17 Q. Selling drugs.

18 Ms. Collins, I'm going to ask you now, right after you
19 were arrested -- and you were arrested for these drugs that
20 were found in the trailer too, correct?

21 A. Yes.

22 Q. Okay. Right after you were arrested, you gave a
23 statement to the police in writing. Do you remember that
24 statement?

25 A. Yes.

1 Q. Okay. And at the time you gave that statement, it was
2 right after you were arrested, wasn't it?

3 A. Yes, sir.

4 Q. Okay. And who did you say lived at the trailer?

5 A. I said that Reginald lived there, because I was nervous
6 and I didn't know really what was going on.

7 Q. Okay. And were you trying to protect Mr. Peeples?

8 A. Yes.

9 Q. Okay.

10 MR. SHELTON: Objection. He's leading, Your
11 Honor.

12 THE COURT: Well, it was leading, but I'm not
13 going to sustain the objection. Leading is allowed in some
14 circumstances. I'll allow that question.

15 MR. MCKINNON: Thank you.

16 BY MR. MCKINNON:

17 Q. At the time that you were arrested and gave that
18 statement, were you in a relationship with Mr. Peeples?

19 A. Yes.

20 Q. One last question -- or a couple last questions, Ms.
21 Collins.

22 The Honda that Reggie sometimes drove over to your
23 house, do you know what that looks like? Was it the
24 green --

25 A. He didn't -- he -- the Honda was mine. He let me drive

1 the Honda.

2 Q. So, again -- so Mr. White let you -- let you borrow the
3 Honda?

4 A. Yes, because I didn't have a car at the time and he let
5 me use the Honda.

6 Q. Okay. But that was his car and he let you borrow it?

7 A. Yes.

8 Q. And what color was it?

9 A. It was green.

10 Q. Okay. Another witness in this case, Ms. Kim --

11 MR. SHELTON: Objection.

12 MR. MCKINNON: Okay.

13 BY MR. MCKINNON:

14 Q. Did Mr. White drive a silver car?

15 A. No.

16 Q. And if someone said they saw a silver car at your
17 trailer, that would not have been Mr. White?

18 A. No.

19 Q. Okay.

20 MR. MCKINNON: Nothing further, Your Honor.

21 THE COURT: You may cross-examine.

22 MR. SHELTON: Beg the court's indulgence.

23 THE COURT: Yes, sir.

24 (Off the record)

25 (Back on the record)

1 CROSS EXAMINATION BY MR. SHELTON:

2 Q. Ms. Collins, isn't the true that you told
3 representatives from the solicitor's office in a meeting
4 that you didn't know whose drugs those were?

5 A. Yes.

6 Q. Isn't it true that Forrest Peeples was shot by --
7 allegedly by Reggie's brother leaving your house, the Silver
8 Creek house?

9 A. Reggie doesn't have a brother that's old enough to own
10 a gun.

11 Q. That's my mistake.

12 What about his cousin?

13 A. He wasn't shot, but he got injured at my house.

14 Q. Was --

15 MR. MCKINNON: I'm going to object, Your Honor, on
16 relevancy grounds.

17 THE COURT: I assume that you are going to
18 establish some relevancy on this?

19 MR. SHELTON: I'll move on, Your Honor.

20 THE COURT: That would be fine.

21 BY MR. SHELTON:

22 Q. Ms. Collins, were you interviewed by Detective Walter
23 Beck on the 26th of February in conjunction with this
24 investigation?

25 A. Yes.

1 Q. Did you give a written statement?

2 A. I didn't give a written statement. He typed up what --

3 Q. Okay. Did you sign a statement that Detective Beck
4 wrote for you and you incorporated that as your statement?

5 A. Yes.

6 Q. Did he -- did Detective Beck review the statement he
7 typed up after talking with you and give you a chance to
8 make any corrections or fill in any blanks, as it were?

9 A. Yes, he read it back to me.

10 Q. And you signed indicating that that was your statement?

11 A. Yes.

12 Q. And that you were incorporating the words therein?

13 A. Yes.

14 Q. You were incorporating the words that he typed.

15 And he had advised you of what's called your Miranda
16 Rights, correct?

17 A. I don't think my Miranda Rights got read to me.

18 Q. Okay. Would it surprise you to know that on your
19 written statement there is your Miranda Rights, that you
20 acknowledged having been advised of those?

21 A. Well, I can't remember back that far.

22 Q. Okay. If I showed you your written statement, could it
23 help refresh your recollection?

24 A. Well --

25 Q. Could it help you remember?

1 A. Maybe, if you --

2 MR. SHELTON: Your Honor, may I approach the
3 witness?

4 THE COURT: You may approach the witness.

5 BY MR. SHELTON:

6 Q. If you look at the top paragraph, please. Just read
7 that over.

8 A. He didn't read me the paperwork. He just told me where
9 to sign.

10 Q. Okay. So it's your testimony that Detective Beck did
11 not advise you of your rights before he talked with you?

12 A. Yeah, he just told me where to sign it. He drew the
13 lines right here and right there and right there and told me
14 where to sign.

15 Q. Okay. Can you --

16 A. Told me that was for my statement.

17 Q. Can you read?

18 A. Yes.

19 Q. Did you read this document before you signed it?

20 A. No, but he told that's what my statement was saying.

21 Q. Did you read this document before you signed it?

22 A. No.

23 Q. You just testified, did you not, that he gave you an
24 opportunity to review it and you did?

25 A. He read me back what I said and he told me what was on

1 the paper.

2 Q. You have children in common with Reggie?

3 A. Yes.

4 Q. How many?

5 A. I have four.

6 Q. Do you have any other children that you consider Reggie
7 to be the father of?

8 A. My last -- well, my last child.

9 Q. So you consider Reggie to be the father of five of your
10 children?

11 A. Yes.

12 Q. And did you indicate in your statement to Detective
13 Beck that Reggie was living with you at the mobile home on
14 Silver Creek?

15 A. Yes.

16 Q. And that was December of 2013, is that correct?

17 A. Yes, I had told him that he was there every day, but he
18 didn't spend the night.

19 Q. Okay. And, again, but you said that was since December
20 of 2013, correct?

21 A. Yes, he came to get his children.

22 Q. And this was February 26th of 2014 that you had this
23 conversation with Detective Beck?

24 A. Yes.

25 Q. Does Reggie have any other children?

- 1 A. Yes.
- 2 Q. Does he have children with Jessica Jashiba?
- 3 A. With who?
- 4 Q. I'm sorry, Christine Jashiba?
- 5 A. Yes.
- 6 Q. Did he used to live with her?
- 7 A. A long time ago.
- 8 Q. Was that on
- 9 A. No.
- 10 Q. Was that before he lived with you?
- 11 A. Before he lived with me?
- 12 Q. Yes, ma'am.
- 13 A. We haven't -- me and him have not lived together since.
- 14 Q. But is it your testimony that he just comes there and
- 15 gets the children?
- 16 A. He comes there and gets his children and stays there
- 17 for a little bit and then leaves.
- 18 Q. Does he ever spend the night there?
- 19 A. No.
- 20 Q. Did Reggie also have a relationship with Brittany
- 21 McConnell?
- 22 A. Yes.
- 23 Q. And she lives on Hudson Street in York, is that
- 24 correct?
- 25 A. I'm not sure where she lives at now.

1 Q. How did that make you feel knowing that he had
2 relationships with these other women?

3 A. I mean, it was hurtful.

4 Q. Did it make you angry?

5 A. Yes, it made me angry.

6 Q. Reggie drives a Honda, correct?

7 A. No, he let me drive the Honda.

8 Q. Is there a Honda registered in Reggie's name?

9 A. Yes, I think.

10 Q. I'm sorry, did you -- was there more than yes?

11 A. I say yes, I think.

12 Q. Would you have had occasion to drive that Honda to
13 on the day of the 27th -- 26th or 27th?

14 A. No, I was incarcerated on the 26th and 27th.

15 Q. Okay. So let's go back to this time frame. Sunday
16 night was February 23rd into February 24th, 2014, is that
17 correct?

18 A. I guess.

19 Q. Were you working at Taco Bell during that time?

20 A. Yes.

21 Q. Which one were you working at?

22 A. The one on Cherry Road.

23 Q. In Rock Hill?

24 A. Yes.

25 Q. And did you work the late shift?

1 A. Yes.

2 Q. And you worked that Sunday night, correct?

3 A. I can't -- I can't remember back that far, because I
4 work all the time.

5 Q. Okay.

6 MR. SHELTON: Your Honor, if I may approach the
7 witness again?

8 THE COURT: You may.

9 BY MR. SHELTON:

10 Q. Ma'am, if you will look at the bottom paragraph and
11 just read that bottom paragraph, please.

12 A. (Witness reviewing document).

13 It was 3:30 in the morning.

14 Q. Well, what time did you go into work that Sunday?

15 A. I probably went in at nine or ten.

16 Q. And you got home about 3:30 in the morning, is that
17 what you said?

18 A. Yes.

19 Q. And where were your kids during that period of time?

20 A. My kids were in their own bedroom.

21 Q. And who were they with?

22 A. Who were they -- who was watching them?

23 Q. Yes, ma'am.

24 A. Reginald.

25 Q. So when you got home at 3:30 in the morning was Reggie

1 there?

2 A. He was asleep. I didn't want to wake him up because it
3 was late.

4 Q. He was asleep with the kids?

5 A. He was asleep on the couch.

6 Q. And did you go to bed when you got home?

7 A. I mean, I took a shower and checked on my kids, and I
8 probably stayed up for a little bit.

9 Q. Did you end up going to your bedroom to lay down and go
10 to sleep at some point?

11 A. At some point.

12 Q. Did you sleep by yourself, or did Reggie come in and
13 sleep with you?

14 A. I think I slept by myself and I think Reggie probably
15 got up and left, but I know -- I read what the statement
16 said.

17 Q. And in your statement you indicated that Reggie slept
18 there with you in what you call our bedroom?

19 A. Yes.

20 Q. And that's the back bedroom with the adult-sized bed?

21 A. No.

22 Q. Which room is that?

23 A. That was for when my kids come from their grandmother's
24 house. That's not even a bedroom that we went into.

25 Q. Oh, you are talking about -- are you talking about one

1 that has stuff stored in it? Is that the bedroom you are
2 talking about?

3 A. I mean, I didn't have a storage bedroom. I had three
4 beds in it -- I had a bed in each room.

5 Q. Okay. Well, what room did you sleep in?

6 A. I slept in the room as soon as you walked in the house.

7 Q. On the next morning, Monday, February 24th, did you get
8 up about 7:30 in the morning?

9 A. The 24th?

10 Q. Yes, ma'am, the morning after you got home from working
11 the late shift at Taco Bell.

12 A. I'm not sure what time I got up.

13 Q. Okay.

14 MR. SHELTON: May I approach?

15 THE COURT: You may.

16 BY MR. SHELTON:

17 Q. Please read the first paragraph.

18 A. (Witness reviewing document).

19 Yes, because I had a doctor's appointment and Reginald
20 took me to my doctor's appointment.

21 Q. Okay. So he was still there when you woke up that
22 morning?

23 A. He probably left while I went to sleep and came back,
24 because I remember calling him.

25 Q. So you got home at 3:30, took a shower, probably stayed

1 up a little bit. Reggie went to sleep with you in your bed,
2 which you call our bed, and you woke up at 7:30 and you say
3 he probably left and then came back?

4 A. He probably left in the middle of the night. I mean,
5 he's a -- I don't know, he's a man -- he likes a lot of
6 women, so he sleeps with a lot of women, so it's no telling
7 where he was at.

8 Q. So in that three hour time period, roughly, you say he
9 probably got up and left and came back?

10 A. He probably did.

11 Q. But you don't know, do you?

12 A. No, because I was asleep.

13 Q. And did Reggie ride around with you for awhile, take
14 you to your doctor's appointment and run a few other
15 errands?

16 A. Yes.

17 Q. And did he drop you off at some point that afternoon --

18 A. Yes.

19 Q. -- at the house?

20 A. He dropped me off at home.

21 Q. Was that around two o'clock?

22 A. I guess.

23 Q. And he dropped you and the two kids off?

24 A. Yes.

25 Q. And he left driving his Honda?

1 A. Yeah.

2 Q. And he got home about thirty minutes later?

3 A. Yeah, because he -- he came back to get the kids
4 because I had to go to work.

5 Q. Okay. You don't know where he went or what he did?

6 A. Like I said, he likes different females.

7 Q. Reggie got back to the house around three o'clock that
8 afternoon, give or take?

9 A. Thirty minutes. He dropped me off at two and it would
10 have been at 2:30.

11 Q. Okay. About 2:30, three o'clock, something like that,
12 okay.

13 And you left the two kids with Reggie?

14 A. Yes, because I had to go to work.

15 Q. Okay. And did you end up leaving work early that
16 night?

17 A. Yes.

18 Q. Did you clock out of work around 9:30 p.m. that night?

19 A. Between 9:30 and 9:40.

20 Q. Did you drive home from work?

21 A. Yes.

22 Q. You got home to your residence on Silver Creek around
23 ten o'clock?

24 A. It was something like that, yes.

25 Q. Was Reggie's car there?

1 A. No, no one was there.

2 Q. Did you drive around looking for him?

3 A. Yes, and I called him, because I was trying to get my
4 kids so I could go to bed, because I know I had to work the
5 next day.

6 Q. Did you go to his momma's house?

7 A. I went everywhere that I think that he would have been
8 at.

9 Q. Where else could you have gone, other than his momma's
10 house on -- well, where else did you go?

11 A. I went to California Street, Hudson Street, all over
12 York looking for him.

13 Q. So his momma lives on _____ in York?

14 A. Yes.

15 Q. And the places you looked were all in York?

16 A. Yes.

17 Q. And did Reggie call your cellphone?

18 A. He called me probably about thirty minutes later and
19 asked me where I was at.

20 Q. And did he indicate where he was or what he was doing?

21 A. He told me he was riding around with the kids. I told
22 him to bring my kids home.

23 Q. And he said he was on his way home, right?

24 A. Uh-huh.

25 Q. And you went home?

1 A. Yes, I went home.

2 Q. And you got home around 10:30, or so?

3 A. Something like that, yeah.

4 Q. And then Reggie showed up with the two kids an hour and
5 a half later, around midnight?

6 A. Yeah, it was around midnight.

7 Q. Did that make you mad?

8 A. Yes, because my kids weren't awake.

9 Q. Did you get into an argument with Reggie?

10 A. I mean, we argued every day.

11 Q. And did you go to bed a little while after that
12 argument?

13 A. Yes.

14 Q. Around 1:30, and you went to bed with Reggie?

15 A. No, Reggie was gone.

16 Q. Isn't it true that you said in your statement "we went
17 to bed around 1:30 a.m.?"

18 A. As stating as me and my children went to bed.

19 Q. Okay. Was Reggie there the next morning?

20 A. No, he was gone.

21 Q. Isn't it true in your statement it said he left --
22 "Tuesday morning Reggie left around nine or ten a.m. with
23 the 13 month old?

24 A. He came to get his child and he left.

25 Q. Okay. And you slept in that morning?

1 A. Yes.

2 Q. During this period of time when you were sleeping and
3 at work, you don't know where Reggie is?

4 A. I mean, he's -- he likes different females.

5 Q. You don't know what he's doing?

6 A. Whoring around.

7 Q. But he's supposed to be watching your children?

8 A. Uh-huh.

9 Q. The children who live with you at your house?

10 A. Yes.

11 Q. And where he comes and gets them and stays with them
12 while you are working?

13 A. Yes.

14 Q. Correct?

15 A. Yes.

16 Q. Isn't it true that you told the solicitor's office
17 agents that Reggie was at home with the kids all day?

18 A. On what day?

19 Q. I believe this was a conversation in September of this
20 past year.

21 A. I mean, I don't know what he was -- where he was at,
22 what he was doing while I was at work.

23 Q. Yes, ma'am.

24 My question is Reggie commonly stays home with the kids
25 all day while you are working or out doing things for the

1 household?

2 A. No.

3 Q. Isn't it true that that's what you said to the
4 solicitor's office that Reggie sit home with the kids all
5 day?

6 A. I mean, some days he would be, some days he wouldn't
7 be.

8 Q. So he does spend periods of time in that residence?

9 A. Not periods of time. He comes out there for like three
10 or four hours and be with his kids and he would be in the
11 living room.

12 Q. Does he have a key to the house?

13 A. No.

14 Q. But isn't it true that the door on that house doesn't
15 necessarily require a key to get into?

16 A. I mean, if you can kick the door in, I'm not sure. I
17 have never tried to kick the door in. I have a key and I
18 put my dead bolt on.

19 Q. Isn't it true that you told the solicitor's office that
20 you can just push the door open, even if you don't have a
21 key?

22 A. I mean, after the DEU came, yeah, you can push it open
23 because of the lock.

24 Q. So if Reggie is at home with the kids while you are out
25 working, though, and he doesn't have a key, he's not going

1 to lock that door, right?

2 A. Yeah, he locked it, because I was going to pick my kids
3 up from wherever. And what the -- sometimes he would drop
4 them off at his momma's house and his sister's house.

5 Q. So does Reggie have a job?

6 A. No. He did odds and ends jobs.

7 Q. Isn't it true that you -- when you were asked by the
8 solicitor's office where does Reggie live, you said he lives
9 with both you and the mother of his other children, his
10 other girlfriends?

11 A. He lives wherever he can lay his head at, but most of
12 the time -- at nighttime I don't know where he was at,
13 because I work the night shift. And during the daytime he
14 would be out there with his kids or come and get his kids so
15 I could get some sleep.

16 Q. So I just want to be clear, Ms. Collins. Are you
17 denying that you told the solicitor's office that he lived
18 with you and another woman?

19 A. Yes, because I was nervous.

20 Q. So you are saying you said it?

21 A. No, I'm saying -- in the paperwork I said that he lived
22 with me, because whenever the DEU was interrogating me and
23 asking me all the questions, I was nervous and I didn't know
24 what was going on.

25 Q. But I'm specifically asking you about a conversation

1 you had in the solicitor's office in September where you
2 said not the DEU when they had you under arrest. Several
3 months later when you said that Reggie lived with you and he
4 also lived with another woman.

5 A. Yeah, he was there during the daytime. That's not
6 really living. That's just being there during the daytime.

7 Q. So you are saying -- I'm asking you did you tell the
8 solicitor's office that he lived with you?

9 A. Yes.

10 Q. Okay. Ms. Collins, are you currently under indictment
11 for two drug charges related to this investigation?

12 A. Yes.

13 Q. And is it trafficking cocaine and possession with
14 intent to distribute --

15 A. Yes.

16 Q. -- crack cocaine?

17 A. Yes.

18 Q. Have you been given a plea offer or promised anything
19 to get you to come in and testify one way or the other in
20 this case?

21 A. I mean, not in this case. I was to another case.

22 Q. Ma'am, isn't it true that you were convicted in 2009 of
23 shoplifting?

24 A. Yes.

25 Q. And you pled guilty to that charge?

1 A. Yes.

2 Q. Now, Ms. Collins, one final question. Isn't it true
3 that this is the first time that you have mentioned Forrest
4 Peeples in connection with this investigation?

5 A. First time I have what?

6 Q. The first time that you have mentioned the name Forrest
7 Peeples in connection with this investigation was here in
8 this courtroom?

9 A. I mean to the solicitors, but not to the lawyer.

10 Q. Okay. So you have told Mr. McKinnon that before, but
11 you didn't tell the police or the solicitor's office?

12 A. We talked on the phone.

13 Q. So I'm asking you, is this the first time that you have
14 ever mentioned the name Forrest Peeples to the -- you never
15 mentioned it to the police or to the solicitor's office, is
16 that correct?

17 A. No, sir.

18 Q. Can you please clarify? Is that correct, or is that
19 not correct?

20 A. That's correct, I have never mentioned it.

21 Q. Just to be clear, you have never mentioned Forrest
22 Peeples to the police or to the solicitor's office before,
23 correct?

24 A. Yes.

25 Q. Okay.

1 MR. SHELTON: Nothing further, Your Honor.

2 THE COURT: Redirect?

3 MR. MCKINNON: Very briefly.

4 THE COURT: Yes, sir.

5 REDIRECT EXAMINATION BY MR. MCKINNON:

6 Q. Ms. Collins, I won't keep you up much longer.

7 The defense -- I'm sorry, the solicitor just made a big
8 deal about having mentioned Forrest Peeples before. Forrest
9 Peeples is a known drug dealer who was living --

10 MR. SHELTON: Objection.

11 MR. MCKINNON: That testimony is in there.

12 THE COURT: I beg your pardon? What's the
13 objection? I didn't hear the basis of the objection.

14 MR. SHELTON: He's -- there is several things.
15 He's leading and he's speculating.

16 THE COURT: Well, he hadn't finished the question,
17 so I don't know if he's leading. There was some testimony
18 concerning him selling drugs.

19 At this point in time I'll allow you to go forward
20 with the question.

21 MR. MCKINNON: Thank you, Your Honor.

22 BY MR. MCKINNON:

23 Q. My question is Mr. Peeples was living with you, is that
24 correct?

25 A. Yes. After I had my son, yes.

1 Q. And you have a child with Mr. Peeples?

2 A. Yes.

3 Q. And did the police ever ask you about Mr. Peeples?

4 A. No, because they never -- they -- I guess they thought
5 that all of my children were by Reginald, because my son had
6 Reginald's last name.

7 Q. If they had asked you about Mr. Peeples, would you have
8 told them?

9 A. Yes.

10 MR. MCKINNON: Nothing further, Your Honor.

11 THE COURT: Recross.

12 RECROSS EXAMINATION BY MR. SHELTON:

13 Q. Ms. Collins, one last question.

14 Did the solicitor's office ask you whose dope it was?

15 A. Yes, and I told --

16 Q. And you said you didn't know?

17 A. Yes.

18 MR. SHELTON: Thank you.

19 MR. MCKINNON: Nothing further, Your Honor.

20 THE COURT: Thank you.

21 Ma'am, you may step down.

22 The defense may call its next witness.

23 MR. MCKINNON: The defense rests, Your Honor.

24 THE COURT: Does the State wish to call any
25 witnesses in reply?

1 listen to, watch, or read media reports about this case.

2 Don't try to gather information on your own.

3 At this time you may retire. I'll see you back at
4 1:15. Thank you very much.

5 (The following takes place outside the presence of
6 the jury panel)

7 THE COURT: All right, Mr. McKinnon, I assume that
8 you want to renew your motion at this time?

9 MR. MCKINNON: I will, Your Honor, just very
10 briefly.

11 THE COURT: Yes, sir.

12 MR. MCKINNON: Your Honor, now that we have
13 discussed this motion at great length, the one thing I would
14 say that's changed now, Your Honor, is that we have
15 testimony that a known drug dealer, who is currently under
16 indictment by the State who was dealing crack and cocaine,
17 was living at the house. The testimony he was spending the
18 night there and was in a relationship with the defendant,
19 Your Honor. Given that information that's now in the
20 record, the circumstantial evidence is substantially weaker,
21 because now there is another man there. There is someone
22 else who was in the bedroom. I would say viewed in the
23 light of the additional evidence, Your Honor, the
24 circumstantial evidence of possession is now insubstantial
25 and does not meet the standard.

1 THE COURT: The State?

2 MR. SHELTON: Just briefly, this is still a jury
3 question. You heard Ms. Collins. She -- it's up to the
4 jury to determine whether they believe her credibility or
5 not. There is no evidence presented through her when this
6 was that Forrest Peeples was there.

7 We still have Mr. White acknowledging exactly what
8 was in the residence that he was selling, distributing crack
9 from that residence two days earlier. The time frame I
10 walked through Ms. Collins on in reference to her statement
11 puts him in that residence for large periods of time,
12 over -- during nighttime hours with her children. I think
13 if anything, it expands upon the State's proof of dominion
14 and control, in that he has the right to exercise dominion
15 and control in the presence of that residence. He's left
16 there alone with those kids while she's working. She has no
17 idea what he's doing while he's there.

18 THE COURT: All right. Again, I'm looking at the
19 existence of evidence and I must view it in the light most
20 favorable to the State at this stage as well.

21 The statements given by Ms. Collins, the last
22 witness, were at best conflicting. So given the fact she's
23 given other conflicting statements previously, it would be
24 up to a jury to determine which of her statements was
25 accurate and what effect, if any, that might have on the

1 case, so I'll deny the motion for the reasons stated
2 previously as well.

3 MR. MCKINNON: Thank you, Your Honor.

4 THE COURT: All right.

5 MR. MCKINNON: Your Honor?

6 THE COURT: You have presented evidence, so you
7 are going to be going first?

8 MR. MCKINNON: Yes, Your Honor.

9 THE COURT: All right.

10 MR. MCKINNON: May I make a request, Your Honor?

11 THE COURT: Yes.

12 MR. MCKINNON: Your Honor charge the jury prior to
13 closing statements so we may refer to Your Honor's charges.

14 THE COURT: Well, no, I don't think I'll do that,
15 but I will be glad to have a charge conference with you, if
16 you want to know something about what I'm charging.

17 MR. MCKINNON: Okay. Thank you, Your Honor.

18 THE COURT: I'll be glad to do that. We will --
19 I've got them coming back at 1:15. We will resume shortly
20 before that and give you a chance to go over my charge.

21 MR. MCKINNON: Thank you, Your Honor.

22 THE COURT: Okay.

23 MR. SHELTON: About one o'clock, Your Honor?

24 THE COURT: Yes, sir. Shortly thereafter. Long
25 enough for us to get lunch and get back.

1 I hope everyone had a good lunch break.

2 I told you that upon our return the attorneys
3 would be allowed to directly address you in their closing
4 arguments or statements. In this case the defense will be
5 going first.

6 You may proceed, counsel.

7 MR. MCKINNON: Thank you, Your Honor.

8 Ladies and gentlemen, let me first begin by
9 thanking you for your service. I know it's been three long
10 days. You probably would prefer that you would be doing
11 other things. I will do my best to honor your service and
12 your commitment to the trial and try to be as brief as
13 possible. It's a little difficult for attorneys sometimes,
14 but I'm going to try to keep this very short.

15 Let me first begin by talking about the burden of
16 proof. Like we talked about in our opening, the burden of
17 proof is on the government in this case. Mr. White does not
18 even have to respond to these charges. They must prove
19 everything beyond a reasonable doubt. And if they don't,
20 your responsibility is to acquit or find Mr. White not
21 guilty.

22 So I'm going to be real honest. Let's about the
23 bad evidence against Mr. White, what you heard that's not
24 good for him. And I just ask that we talk about it, I'll
25 remind you what I said in the opening. The question you are

1 going to be asked to decide in that jury room is not did Mr.
2 White at one point touch some crack or does he have a lot of
3 girlfriends. The question is did he possess that glass jar
4 of crack and powdered cocaine that was found in that vent.
5 That's the question, and I will argue that they did not
6 prove that.

7 Let's talk about the bad evidence. The first
8 thing the State is -- you have heard a lot of evidence that
9 Mr. White stayed at the trailer on Silver Creek Drive at
10 least some of the time. The government is not even going to
11 argue he stayed there all the time. You heard them ask
12 about different girlfriends and different addresses in York.
13 They don't even claim he stays there all the time. They
14 state he stays there some of the time. Ladies and
15 gentlemen, that's not enough. You heard his ex-girlfriend
16 Jessica testify his children were there. He went there to
17 see his children. When he was there at night, he slept on
18 the couch. She was his ex-girlfriend, he had children with
19 her, and that's where he went to visit. That doesn't mean
20 that the crack in the vent was his, because, you remember
21 what she said who was staying the night? Her current
22 boyfriend as of the time of this search and arrest, Forrest
23 Peeples, who is a drug dealer and is under indictment for
24 dealing cocaine.

25 There is no physical evidence whatsoever they

1 found in that trailer linking him to those drugs. There is
2 no fingerprints. There is no hair evidence. There is no
3 DNA. There is no forensic evidence whatsoever linking that
4 glass jar of drugs to Mr. White.

5 Do you remember the neighbor Kim the government
6 called? She said she was sure Mr. White stayed at that
7 trailer all the time because his silver car was there. She
8 saw the silver car there all the time. The problem is Mr.
9 White's car is green. It's a green Honda. You heard me
10 talk about the registration with the police? Do you
11 remember I showed him the registration? It's a green Honda.
12 So you have to wonder whose silver car is there all the
13 time? It wasn't Mr. White's silver car. His car was green.
14 That was the State's witness.

15 And, finally, as far as the staying at the trailer
16 is concerned, after you hear from the lawyers the judge is
17 going to explain the law to you. And one of the things the
18 judge is going to tell you is mere presence is not enough.
19 And what that means is living at a place or being present at
20 a place where there are drugs is not enough to make you
21 guilty of drug crimes. There can be someone who lives at
22 that house and there is drugs there and they don't belong to
23 them. And presence at the house is not enough, and you will
24 hear the judge tell you that, and I would ask you to
25 remember that when you go back in the jury room. They have

1 to prove -- even if they prove beyond a reasonable doubt
2 that Mr. White stayed there, that is not enough for him to
3 be guilty of these charges.

4 The second thing they make a big deal out of is
5 that Mr. White told the police he knew there were drugs in
6 the trailer and what kind of drugs they were. Do you
7 remember, after his arrest the officer said he said there is
8 powdered cocaine and crack cocaine in the trailer. But you
9 know what? He didn't say he knew where they were. And,
10 again, his ex-girlfriend, the mother of his children, is
11 living at the trailer with a drug dealer named Forrest
12 Peeples. It is not surprising that Mr. White knew there
13 were drugs in the trailer. You know, if I had a girlfriend
14 and she was living with a drug dealer, I probably knew there
15 were drugs in that place too. All he said is that he
16 thought there were drugs in the trailer. And that is
17 entirely consistent with him being concerned about his
18 children who were living in the trailer with a drug dealer
19 named Forrest Peeples. That does not prove -- the fact that
20 he knew there were drugs in the trailer does not prove that
21 the drugs in the air vent in that bedroom belonged to Mr.
22 White.

23 And then the last thing the government made a big
24 deal out of is that Mr. White admitted to the government
25 that two days before the trailer was searched he gave a very

1 small amount of crack to two people. And, you know, that's
2 a bad thing to do. Mr. White should not be giving crack to
3 people, but the first thing is that is not what he's charged
4 with today. The State -- if they believe that's a bad thing
5 to do, they can charge him with that crime for giving those
6 people. That is not what he is charged with today. He is
7 charged with possession of a huge amount. You heard the
8 officer talk about on the stand this is thousands of dollars
9 worth of drugs. That's what he's charged with, not the fact
10 that he gave a tiny amount of drugs to two people two days
11 before. And, again, if Mr. White is a drug dealer, giving
12 drugs away is a strange thing to do.

13 And finally along this point, if Mr. White,
14 according to the government, is staying with a bunch of
15 different girlfriends all over town and if these drugs were
16 his, why in the world would he keep them at a trailer where
17 his ex-girlfriend, who is mad at him for catting around with
18 different women, why in the world would he keep them at her
19 trailer? That does not make a bit of sense. I mean, you
20 heard her on the stand. She's mad at him. He's got
21 different girlfriends, he's staying at different places, he
22 has children with different women. Why in the world would
23 he stash drugs at her trailer where her boyfriend is himself
24 a drug dealer? That makes no sense at all.

25 But that's it. That is the State's case. He

1 lived there; he told the police he knew there were drugs in
2 the trailer; and two days before he give a tiny bit of drugs
3 to two other people. That is the evidence that the
4 government has. That is not enough to prove the drugs in
5 those vents were his.

6 Let's turn around and look now at the evidence in
7 Mr. White's favor.

8 First, the State was incredibly sloppy in this
9 case. They didn't even know the number on the trailer. The
10 officers on the stand, even to this day, they don't know if
11 it's 817, or 809. They can't even tell you the house number
12 of the trailer they searched. They didn't ask Ms. Collins
13 about Forrest Peeples, who is the mother of one of her
14 children, who is under indictment for dealing cocaine and
15 was living at the trailer. They didn't ask her about that.
16 I mean, this was a sloppy job by the police in this case.
17 They found some drugs in the trailer. They arrested the
18 woman who lived there, and they are like oh, yeah, her
19 boyfriend -- her ex-boyfriend goes by sometimes, we will
20 arrest him too. This is a sloppy job by the police.

21 Secondly, there is not one bit of evidence in this
22 case Mr. White knew where those drugs were. I mean, I don't
23 know about you guys, I have never checked the air vents of
24 any place that I have ever been in. There is not -- that is
25 not an obvious location. This is not like there were a pile

1 the drugs on the counter on the trailer, or they were hidden
2 in the freezer, or the icebox, or bread box. These were
3 drugs that were tucked up in the air vent of the back
4 bedroom and not the bedroom -- you heard Ms. Collins say not
5 the bedroom she stayed in. They were tucked up in a corner
6 of an air vent in the back bedroom. And there was not one
7 bit of evidence you have heard in that case Mr. White knew
8 those drugs were in that air vent.

9 And then, as I mentioned before, there is not one
10 bit of physical evidence connecting Mr. White to those
11 drugs. I mean, the only bit of physical evidence even found
12 in the trailer connecting Mr. White at all was two pieces of
13 paper with some bank statements on it and an old pill
14 bottle. That's nothing. I mean, this is a place where he
15 came regularly to see his children. Two pieces of paper and
16 a pill bottle is nothing. There is -- the drugs in the air
17 vent, there is nothing. Not one bit of forensic evidence
18 connecting Mr. White with those drugs.

19 Now, let's talk -- I want to talk finally about
20 Jessica Collins you heard on the stand and I will get out
21 right from the beginning that she told the police a
22 different story. She told the police when she got arrested
23 she didn't know whose drugs those were, but you heard her
24 say at that time she was living with her boyfriend, Forrest
25 Peeples, who is a drug dealer, and she wanted to protect him

1 and she told the police she didn't know whose drugs they
2 were. That's natural. I'm not defending it. She should
3 have been honest with the police, but she's a young scared
4 women. She got arrested and she told the police she didn't
5 know whose drugs they were. It's natural to want to protect
6 your boyfriend or your girlfriend, but now my client's life
7 is on the line -- I mean his freedom is on the line. I
8 apologize. His freedom is on the line and she has come and
9 told the truth. She should have told the truth to the
10 police in the beginning, but you heard her say she has -- at
11 the time she was living with Forrest Peeples, who the police
12 know to be a drug dealer. He was staying there overnight in
13 the trailer. He was her boyfriend at the time.

14 And, again, I don't want to belabor this too much,
15 but right now she's not too happy with my client, Mr. White.
16 I mean, you heard the prosecution get into it with her. He
17 broke up with her. He is seeing other women. He has
18 children with other women. They are -- they are not seeing
19 each other right now. She is angry with him. She has no
20 reason at all to lie on his behalf. She could have easily
21 come in here and said oh, yeah, they are his drugs. He's
22 cheating on me, but instead she came in and explained that
23 her boyfriend, Forrest Peeples, they are his drugs.

24 Ladies and gentlemen, your job is to decide
25 whether what you have heard from the witnesses -- and this

1 is just argument from me, but your job is to decide what you
2 heard from the witnesses in the case, does it prove beyond a
3 reasonable doubt that my client, Mr. White, possessed those
4 drugs in the air vent? Not is he a flawed person. None of
5 us are perfect. Mr. White probably has too many
6 girlfriends. Mr. White clearly should not have given drugs
7 to two people a couple nights before this arrest, but being
8 an imperfect person who has got too many girlfriends and
9 gave some drugs, a little tiny amount of drugs a couple days
10 before this does not mean that he possessed that glass jar
11 of drugs in the vent, which is the only question that
12 matters back in the jury room.

13 If you remember, I talked to you a little story,
14 and it's not the greatest story, but I told you a story in
15 my opening argument about the cat in the box and the mouse.
16 And if there is no hole in the box and there is no way for
17 the mouse to get out, that's beyond a reasonable doubt. But
18 if there is a hole in the box where a mouse might have
19 gotten out, even though you are not sure if the mouse might
20 have slipped out, that is a reasonable doubt.

21 Ladies and gentlemen, even if you are not sure
22 about Jessica Collins, maybe you don't think she's telling
23 the truth, her testimony is a hole the size of a wrecker in
24 that box. She was living with a drug dealer. She had a
25 motive to protect him. He was staying in the trailer with

1 her and he is under indictment by the police for dealing
2 cocaine. That, ladies and gentlemen, is the textbook
3 definition of reasonable doubt.

4 Ladies and gentlemen, as I said before, Mr.
5 White's freedom is in your hands. I trust you. You have
6 all been very attentive. I'm very pleased with your service
7 and ask that you would very carefully consider when you are
8 back in the jury room have they proved beyond a reasonable
9 doubt what was in the air vent was Mr. White's, and I would
10 submit to you the State has not come close to doing that.
11 Thank you.

12 THE COURT: State, you may proceed.

13 MR. SHELTON: Thank you, Your Honor.

14 May it please the court?

15 THE COURT: Yes, sir.

16 MR. SHELTON: Madam Clerk, if you would, please,
17 dim the lights so the jury can see for the Power point.

18 Ladies and gentlemen, there is two charges in this
19 case. The first is trafficking in cocaine. You are going
20 to hear Judge Couch give you a long definition of what
21 trafficking in cocaine means. In this case it's pretty --
22 it breaks down simply in one long definition. A person who
23 is knowingly in actual or constructive possession, or
24 knowingly attempted to become in actual or constructive
25 possession of 10 grams, or more, of cocaine. Those are the

1 elements of the charge that -- I told you each of these
2 charges has elements that we have to prove to you beyond a
3 reasonable doubt.

4 So there are two main questions regarding the
5 charge of trafficking cocaine. Was Reginald White knowingly
6 in possession of 10 grams of cocaine? And was it 10 grams
7 of cocaine?

8 The second charge is possession with intent to
9 distribute crack cocaine, a different substance. Similar,
10 but different. And there is another long drawn out legal
11 definition, but it breaks down to it is unlawful for a
12 person to possess with intent to distribute, dispense, or
13 deliver crack cocaine, which is a cocaine base. And the
14 things that are stricken from this definition I would tell
15 you are not applicable in this case. This is the simplified
16 version of the charge before you.

17 So there are three main questions for you to
18 decide in the charge of PWID, or possession with intent to
19 distribute crack cocaine: Was Reginald in possession of
20 crack cocaine; did White possess the crack cocaine with
21 intent to sell, deliver, or distribute it; and was it, in
22 fact, crack cocaine.

23 You are going to hear the word knowingly in the
24 judge's instruction to you about what the law is.
25 Knowingly, knowledge, did he know, kind of ties in with

1 intent. What's in his mind? We can't dissect Mr. White's
2 brain, but we do know what he told the police, and we do
3 know the actions that he took and admitted to in this time
4 period.

5 Reginald White knew the drugs were there.
6 Reginald White knew exactly what drugs the officers would
7 find in that house. We will talk a little bit more about
8 that in a minute.

9 Possession is the central question in this case.
10 Possession is to have power and intent to control the
11 disposition or use of something, the crack and the cocaine
12 in this case. So the same group of possession exists for
13 both substances. Remember, they were found in the same
14 place, in the air vent.

15 Possession can be established through either
16 actual possession or constructive possession. This is a
17 constructive possession case. Mr. White did not have the
18 drugs on him on the 26th of February, but the evidence the
19 State has shown to you, the circumstantial evidence, all
20 taken together leads to the reasonable logical conclusion
21 that he constructively possessed the drugs in question.

22 So actual possession, you can strike that out, but
23 you are going hear what that is. The State concedes he is
24 not in actual possession, so you need to pay close attention
25 to constructive possession. When a person has what lawyers

1 and judges refer to as dominion and control, or the right to
2 exercise dominion and control, the ability, the access, over
3 either the object, i.e. the drugs, or the premises upon
4 which the object is located; the Silver Creek residence in
5 this case.

6 And the State carries the burden of proving these
7 elements to you beyond a reasonable doubt, the highest
8 standard in the legal process. And proof beyond a
9 reasonable doubt is the kind of proof, the kind of evidence,
10 that leaves you as a collective jury firmly convinced of the
11 guilt of the accused.

12 On the flip side, a reasonable doubt is the kind
13 of doubt that would cause a reasonable person, and you all
14 are presumed to be reasonable people or you wouldn't be here
15 otherwise. That means average folks like yourselves. The
16 kind of doubt that would cause a reasonable person to
17 hesitate to act. You know, that feeling huh? It's not the
18 same as deliberation.

19 Now, you all have to decide unanimously. And it's
20 hard to get two people to agree on the same thing, let alone
21 twelve. You all have an obligation to discuss this case and
22 deliberate and render a verdict that speaks the truth.
23 Deliberating is not the same as hesitating to act.

24 Before we go into that I want to talk with you
25 also -- I don't have a slide on it, but there are two types

1 of evidence that the State can present in a case like this.
2 There is what's called direct evidence and circumstantial
3 evidence.

4 Direct evidence is kind of like an eyewitness
5 account or someone's admission of something, like defendant
6 White's admissions in this case.

7 Circumstantial evidence is a series of facts or
8 events that, when taken together, lead to a logical
9 conclusion.

10 You are going to hear Judge Couch instruct you as
11 to the law on direct and circumstantial evidence. The law
12 does not treat them any differently. They are treated as
13 one in the same as being able to prove something. This is a
14 constructive possession case. Mr. White didn't have the
15 drugs in his possession. There is no other way we could
16 prove beyond a reasonable doubt that these were his drugs
17 without relying to some extent on circumstantial evidence,
18 piecing the puzzle together, as it were.

19 But to the extent that we rely on circumstantial
20 evidence, the State is relying on it, that is, you as the
21 jury have to be convinced, firmly convinced, that with those
22 circumstances have to be consistent and when taken together
23 point conclusively to the guilt of the defendant. So it's
24 very similar to the burden of proof. You have to -- do they
25 make logical sense? Do they progress logically? Does it

1 make sense? Can you draw logical reasonable inferences that
2 connect the dots? This is not just suspicion. This is
3 proof beyond a reasonable doubt.

4 So let's get back to the central question here.
5 Did Reginald White possess the drugs found in that air vent?
6 The drugs - the crack and the cocaine - were found in the
7 same place. They were found in a jar concealed inside a
8 floor vent in the master bedroom of the Silver Creek
9 residence, and that's the room where White stayed with his
10 girlfriend, the mother of his kids.

11 White lived on Silver Creek Drive. How do we
12 know? And when we say lived, stayed there, spent time
13 there. Did Reginald White have other places that he may
14 spend time? Sure he did. Did Reginald White spend a
15 substantial amount of time at this residence? Of course he
16 did. How do we know? Officers found tangible proof. It's
17 in the form of evidence for you to consider. Not just
18 somebody coming in and fabricating whatever story fits their
19 agenda; tangible proof.

20 A pill bottle with White's name on it in the same
21 bedroom where the drugs were found. And the defense
22 attorney said these are old pills. This is State's No. 5.
23 We will go into this in just a second. We will talk about
24 the old pill bottle in just a moment.

25 Also bank statements with White's name on them.

1 And they are recent bank statements. Do you recall the date
2 on those was February 3rd.

3 Pictures of White on the refrigerator with the
4 children and there is what appears to be a note in the
5 corner of one of the pictures. RE. Is that a note to
6 Reggie? You got to weigh all this evidence.

7 And there was men's clothing in the residence. If
8 I recall -- and now your recollection of the facts is what
9 matters, but if I recall Ms. Collins said that her
10 boyfriend, Forrest Peeples, took his clothing. You decide
11 your recollection of the facts in the case. But, again, for
12 what it's worth, there was men's clothing in the residence.

13 You are not looking at this evidence in a vacuum.
14 You are looking at this evidence as a whole, and it all has
15 to paint the logical picture to you.

16 And you also heard from a neighbor, Kimberly
17 Kinley, who doesn't have a dog in this fight, and she came
18 in and told you Jessica and Reggie had been living at that
19 house and he's there all hours of the day and night and I'm
20 familiar with this car. Is it a silver car? We don't know.
21 She didn't know that is. We know that he had a Honda that
22 was found on but didn't Jessica say he's had
23 multiple cars? So could Ms. Kinley be confused as to what
24 car she recalls? The bottom line is she knows it's his.
25 The color doesn't really matter, because she knows it's his

1 car. She knows him. They are acquaintances. She knows
2 that he stays there with Jessica and their children. And
3 what reason does she have to come in to lie to you? She
4 doesn't have a dog in this fight.

5 You heard about the pill bottle. This is a
6 close-up on it, and I admit on behalf of the State we can't
7 see the date on this bottle. It is what it is. It wasn't
8 collected as evidence. Do you recall the police, Officer
9 McGarity said he didn't have reason to collect it, because
10 there was no reason to believe it was illegally possessed.
11 They don't just collect everything they can in the house.
12 There has to be a reason for them to collect it, but he
13 documented it and it clearly has Reginald White's name right
14 there on it. And where is it? Right next to the bed, next
15 to Jessica Collins' bottle. Prescription pill bottles
16 sitting out in the open next to the bed?

17 Look at all this other stuff. If this was an old
18 pill bottle, they would have found it hidden down in the
19 drawer somewhere, or way back tucked in the back of this
20 drawer, or back over here. It's sitting right there. It's
21 been recently used.

22 Pictures of Mr. White with the children. There is
23 a picture of Mr. White and there is that note I was talking
24 about.

25 Again, totality of the circumstances, all the

1 evidence taken together, you decide what weight you want to
2 give it.

3 And here is those bank statements. Reginald
4 White, February 3rd, 2014. This is on February 26th, 2014.
5 We are not talking about three year old bank statements
6 here. This is three weeks earlier that these statements
7 were issued.

8 So the evidence establishes that White lived or
9 stayed on Silver Creek.

10 There is more than that. White told officers he
11 lives or stays there. White told officers with the Drug
12 Unit he lived at the residence they knew as

13 in Clover, York County, South Carolina. Is the
14 address number 817? Maybe not. Ms. Collins says it's 809.
15 Ms. Kinley says it's 809. Forget the number. The number is
16 a red herring. It's a rabbit hole. There is no question
17 what residence we are talking about and it's in State's No.
18 1. It's that trailer right there that you heard all the
19 officers talking about, and that's what they are talking
20 about when they are talking about talking to Mr. White. The
21 number is inconsequential. This isn't a very big place
22 either. We know it wasn't Ms. Kinley's residence.

23 White told Officer McGarity exactly what they
24 would find in the residence; crack cocaine and Oxycodone.
25 The Oxycodone wasn't in the jar. The Oxycodone was in

1 another room. How would he know what's there if he didn't
2 spend time there, if he didn't have the specific knowledge
3 and dominion and control over the items there?

4 And White also told Detective Neely in a separate
5 interview that he lived at the Silver Creek Drive residence.

6 And he also told Detective Neely that he gave
7 crack cocaine to someone, that's someone. In fact, I think
8 it was two people that Detective Neely said he gave crack
9 cocaine to at that residence two days earlier on the 24th of
10 February. We will talk a little bit more about that in a
11 minute as well.

12 Also State's No. 10 is his court paper that was
13 presented in front of Judge Benfield that he has his address
14 on. It's hard to see here, but you have as evidence to
15 consider 817. And did Magistrate Benfield fill that in?
16 Probably. Did he sign incorporating indicating that's his
17 address? Yes, he did. Just another thing for you to
18 consider in your deliberation.

19 White and his dominion and control over the
20 residence. White lived or stayed there. He was there
21 during the day and at night. He stayed overnight at least
22 the 23rd into the 24th. You heard Ms. Collins tell you
23 that, even though at first she said "he never stays
24 overnight. Oh, well, but, yeah, he did that one time." I
25 posit to you she is lying about that, what else is she lying

1 about? He had his stuff there. He has his kids with
2 Jessica. She said four kids. And there is a fifth one with
3 this guy, Forrest Peeples, that she considers Reggie to be
4 the father of.

5 And, moreover, Jessica trusts Reggie to keep those
6 kids while she's at work. And while she was at work, what
7 did Reggie do? He invited two other people over to that
8 house on the 24th and gave them crack cocaine. That is
9 exercising dominion and control over the premises and
10 anything contained thereon.

11 Let me get away from that for a second. I want to
12 talk to you for a minute.

13 Ms. Jessica Collins. Ms. Collins had a lot to
14 say. The State and the defense, we differ on what you can
15 take from Ms. Collins testimony, or what you should -- what
16 I would argue you should take from her testimony.

17 Ms. Collins was interviewed by Detective Beck on
18 February 26th, 2014, after she was arrested in connection
19 with this case. Her charges are pending. She's not been
20 made a plea offer. She's not on trial today. And she
21 didn't come in here and say those are my drugs, did she?
22 What she did say is -- she testified for the defense and
23 gave you a story about Forrest Peeples and how she's
24 protecting this guy. Somebody that -- this the first time
25 his name has come up in this entire case. He's protecting

1 her. I would argue to you who is he protecting -- who is
2 she protecting? Reggie White. She has four kids with
3 Reggie and the fifth one that she considers his father. She
4 trusted him with those children. She told police, Detective
5 Beck, on the 26th of February, last year, that she and
6 Reggie lived together at Silver Creek. And that time period
7 was December of 2013 through the date in question, February
8 26th, 2014. No mention of "oh, yeah, and Forrest Peeples
9 lives there. Me and Reggie, we live there." What's more
10 credible and reliable; what she told the Detective Beck that
11 night, or what she is coming in now after she's had a lot of
12 time to think about it and maybe even talk with other people
13 about getting her story straight and coming in here and
14 trying to deflect blame from Reggie?

15 She talks about how Reggie had a relationship with
16 two other people; Chistine Mashiba, who lives on

17 I believe that's where his car was found the next
18 day, and Brittany McConnells at

19 where he was found later that same night. When I
20 asked her if that made her angry, she said it did, but I
21 want to ask yourself did she appear angry? What was the
22 look in her eyes? I argue to you she didn't have anger or
23 hatred in her eyes. She had love in her eyes. Love for
24 that man over there; the man who she's going to come in this
25 courtroom and try to get these charges off of him.

1 At the time I asked her about her statement that
2 Reggie stayed with her; our house; our bedroom; our kids.
3 Oh, yeah, but, but, but, but. She's trying to qualify every
4 time. Why is that? I argue to you Jessica Collins'
5 testimony is about worth this piece of paper right here.

6 What we did get out was truth in what she said the
7 night of the 26th. Reggie was home alone with her kids, two
8 of her kids, February 23rd to February 24th until at least
9 3:30 in the morning. She has no idea what Reggie White was
10 doing during that time period. She was on Cherry Road in
11 Rock Hill working at Taco Bell for that long period of time,
12 where he is in that house with those kids, and we hope they
13 were asleep after midnight. We presume they were. There is
14 a great opportunity for him to invite his friends over. And
15 if it wasn't then, he also had that great opportunity the
16 next day, when Jessica went back to work. Again, she has no
17 idea what he was doing on the 24th, after midnight, or later
18 that afternoon, that evening.

19 So Jessica Collins' testimony also establishes
20 that Reggie White had clear dominion and control over the
21 premises where the drugs were found, meaning she trusts him
22 with her kids, leaves him alone with her kids in that house.
23 If she's not giving him the right to exercise dominion and
24 control over that house, what is she giving him? And that's
25 if you -- that's if you believe that Reggie wasn't, in fact,

1 living there, if you believe that he simply came there
2 sometimes.

3 She testified that Reggie never stays there
4 overnight, but February 23rd and the 24th he did. When she
5 got home at 3:30, she took a shower. She probably stayed up
6 a little bit, so let's give her 4:00 or 4:30 in the morning
7 before she lays her head down. She wakes up at 7:30 and who
8 is there? Reggie. She was a sleeping, so does she know
9 what he was doing? No. But she said he could have gone
10 somewhere else. I mean, come on.

11 She told the police "our bedroom, our house, our
12 kids." Reggie stayed there with her.

13 The next day, on the 24th, 2014, Jessica left for
14 work around three o'clock, again going to Cherry Road in
15 Rock Hill at Taco Bell. She got home around 9:30 p.m.. She
16 had no idea what Reggie White was doing during that time
17 period. She doesn't know what he was doing over after
18 midnight on the 24th, or during this time period, but we do.
19 Reggie told Detective Neely in his interview on the 27th of
20 February, after he advised him of his Miranda Rights, and
21 you heard all those circumstances. He advised him of his
22 rights and made sure that he was freely and voluntarily and
23 willingly talking to him. Reggie said "yeah, I distributed
24 crack cocaine to two other people at that residence on the
25 24th of February." He also said he stayed there and he said

1 he stayed there with Jessica.

2 Why does he have crack and drugs there? Because
3 he wants to sell them, and he does sell them. And the fact
4 that he had been selling crack cocaine, one of the two types
5 of drugs that were found during the search, also proves he
6 had knowledge and the ability and intention to exercise
7 dominion and control over the drugs found. Not just the
8 premises, but also the drugs.

9 Do you remember how I asked Jessica Collins if she
10 was convicted of shoplifting? She said yes. It's a crime
11 of dishonesty. She has a reason to lie. She has lied and
12 she lied in this courtroom. But when she was asked about
13 that interview on the 26th, she acknowledged all of those
14 things that she swore were the truth when talking with
15 Detective Beck. She had an opportunity to review that
16 statement and add or subtract anything from it and she did
17 not.

18 It's not Forrest Peeples drugs. This was the
19 first time his name was mentioned. In fact, Jessica didn't
20 mention Forrest to law enforcement in their investigation or
21 to the solicitor's office in our investigation. In fact,
22 when Ms. Collins was interviewed at the solicitor's office
23 last September, she said she didn't know whose drugs those
24 were. Now for the first time some ten or eleven months
25 later after they were found and however months it's been

1 since September, three, plus, now all of the sudden she
2 remembers, or now all of the sudden she's going to tell the
3 truth? We don't even know when she got involved with
4 Forrest, or if she was even involved with him, or if she is
5 even involved with him, or if he has ever been at her house,
6 but we know Reggie was staying there in this time period.
7 Jessica didn't know whose drugs those were. We sure do.

8 What motivation, other than children, would
9 Jessica have to lie? Selling drugs is a lucrative business.
10 You heard Detective Beck say you can double your money.
11 Thousands of dollars worth of drugs were hidden in the floor
12 vent of that house. No evidence she even knew they were
13 there. No evidence she even knew they were there, but
14 Reggie did.

15 And ask yourselves this. If Jessica Collins, even
16 if she is protecting herself, because she's currently under
17 indictment and may not want to incriminate herself, where
18 would she come up with the money to pay thousands of dollars
19 for that stash of drugs? She works at Taco Bell.

20 You may be asking yourself why didn't the State
21 call Jessica as a witness? It's y'all's obligation to
22 present the truth. There is no reason to believe what
23 Jessica Collins had to say in this courtroom was the truth,
24 until she was called out on the lies that she said for the
25 defense. She didn't have any trouble recalling the things

1 she said when she was testifying on Reggie's behalf, but
2 when I cross-examined her about what really happened, she
3 couldn't remember, until she looked back at her statement
4 and then she did. And then she kept making excuses for
5 Reggie. Enough about Jessica. I think you get that.

6 So why hide the drugs in the floor? Because it's
7 worth a lot of money. .1 grams of crack, a hit, is worth
8 \$20 from a dealer to a user. There were 5.11 grams of crack
9 found. That's \$1,020 worth of crack.

10 One gram of cocaine is worth 100 to \$200,
11 depending on how it's sold. Sometimes it's sold in a tenth
12 of a gram. Sometime it's sold in a gram. 10.77 grams of
13 cocaine. So that's between one and \$2,000, and we are
14 talking about two and \$3,000 worth of drugs hidden in that
15 floor vent.

16 And just so you remember, that's it right there,
17 and there is the vent. That's what it looks like out of the
18 jar. You have it here in the evidence bag, State's No. 7.
19 So why hide the drugs? They are worth a lot of money.
20 Reggie wanted the drugs to be safe. He planned to come back
21 for the drugs so he could sell the drugs and make money. He
22 didn't want to get caught with them while he was running
23 around with all these other folks.

24 Was it 10 plus grams of cocaine? These are easy
25 questions. State's No. 11. You heard from Ms. Mitchum who

1 has been a certified chemist for twenty years and tested
2 thousands of samples, testified hundreds of times. Her
3 results, you can see them here. If you can't, they are
4 right here in the report. The results were -- the first
5 item -- sorry, the second item she tested, cocaine found,
6 total weight 10.77 grams. And it was powder substance
7 consistent with cocaine, as you heard the testimony.

8 The other substance, rock substance, consistent
9 with crack cocaine. Cocaine base, commonly known as crack,
10 5.11 grams.

11 So the other question in the possession with
12 intent to distribute crack cocaine charge is did Reggie
13 White possess the crack with the intent to deliver, sell,
14 deliver, or distribute it. Three things we must prove to
15 establish this element. Sorry, three things that prove is
16 selling it. His statements to the police; sales, but no
17 paraphernalia; and common sense and the inference level. We
18 will walk through these.

19 White's statements. White told officers McGarity
20 and Beck at the Drug Unit before he was booked in exactly
21 what they would find. He didn't have a job and he owed
22 child support. White told Detective Neely he distributed a
23 \$100 piece of crack cocaine to two other people at Silver
24 Creek on February 24th, 2014. That is direct evidence of
25 his intent to distribute and to control the crack that was

1 found. And if you find as to the crack, the cocaine is
2 right there with it, and this was two days before his stash
3 was found by the Drug Unit. 51 intoxicating doses of crack
4 cocaine.

5 Detective Beck, who had six plus, almost seven
6 years of experience with the Drug Unit, worked hundreds of
7 crack cocaine cases at every level, even the defense
8 acknowledged that he has requisite training and experience
9 to tell you about street level dealings, values, and so on,
10 testified that an intoxicating dose of crack is .1 gram, a
11 little thumbnail, a little rock. White had 5.1 grams of
12 crack, which is 51 intoxicating doses.

13 Detective Beck testified it's uncommon for users
14 to have that much crack. It's typically associated with
15 dealers, and there was no drug paraphernalia or loose crack
16 or cocaine found anywhere in that house. So the drugs he
17 said they would find, the exact drugs they said they would
18 find were hidden together. No other drugs in that house.
19 How does he know they were there if they were hidden?
20 Because they are his.

21 So to put it something that we might be able to
22 wrap our brain around, there is a picture of a 51 six packs
23 of Budweiser. Is that something an alcoholic would have on
24 their possession or a casual user of Budweiser would have in
25 their possession? Maybe if they are going to a party.

1 That's something that a dealer would have, if it were crack,
2 or course.

3 Scales and no paraphernalia. That is significant
4 because drug dealers weigh their drugs. We are dealing with
5 small items, small amounts of substances, but they are worth
6 a lot of money. The profit margin in breaking it up from
7 the dealer quantity to the user quantity. You can double
8 your money if you buy it wholesale and then distribute it
9 out for user quantity. They want to get it right. They
10 want to be accurate, so they want those weights to be true
11 and accurate. They are going to use scales when they divide
12 it out, so they can make their money.

13 Common sense and inference level, real quick.
14 We're just about done. State law allows for you to infer an
15 intent to distribute from the fact that White possessed more
16 than one gram of crack. That's something that you may
17 infer. You are not required to infer that. It's like any
18 other thing, any other piece of evidence for you to
19 consider, you consider it with the totality of the
20 circumstances, the totality in this case. He had five times
21 the inference level in his stash.

22 And there is the cocaine too, but the intent
23 element is not there with cocaine.

24 Common sense tells you thousands of dollars worth
25 of drugs hidden in the floor is not a user stash. It's

1 dealer stash.

2 The State's proof of the elements in these two
3 offenses points to one logical conclusion. Reginald White
4 is guilty as charged. Thank you.

5 (Whereupon, at 2:00 p.m., the Court charged the
6 jury panel)

7 THE COURT: All right, ladies and gentlemen of the
8 jury, that completes the closing arguments, the statements
9 made by counsel. I told you that when we reached this stage
10 of the proceedings it would be my responsibility and
11 obligation to charge you concerning the law to be applied in
12 this case.

13 I'm going to begin my discussion with you of the
14 law by going back to what I discussed with you initially in
15 this case, and that is the two indictments that have been
16 presented to this court. I told you at the beginning of the
17 trial that these are the documents that bring the case into
18 the court. They explain to us what charges are to be tried
19 and they explain to the defendant what charges have been
20 lodged against the defendant.

21 Now, the indictments are not evidence. They can't
22 be used by a jury as evidence of guilt. But, of course,
23 they are the documents that contain the allegations that the
24 State is obligated to prove.

25 I'm going to go over the indictments with you

1 briefly. And, of course, these indictments, you will be
2 allowed to have them in the jury room during your
3 deliberations so that you can review them, should you have a
4 question concerning them.

5 The first indictment is case number
6 2014-GS-46-1499. That indictment is for trafficking in
7 cocaine. That particular indictment states that on or about
8 February the 26th of 2014, the defendant, Reginald Raynard
9 White, Jr., also known as Reginald Raynard White, did
10 knowingly sell, manufacture, cultivate, deliver, purchase,
11 or bring into this state; or, did provide financial
12 assistance, or did otherwise aid, abet, attempt or conspire
13 to sell, manufacture, cultivate, deliver, purchase, or bring
14 into this state; or, was knowingly in actual or constructive
15 possession, or knowingly attempted to become in actual or
16 constructive possession of 10 grams, or more, of cocaine, or
17 any mixture containing cocaine, as provided in Code Section
18 44-53-210(b)(4), said incident occurred in York County,
19 South Carolina, in violation of Section 44-53-370 of the
20 Code of laws of South Carolina, 1976, as amended, against
21 the peace and dignity of this state and contrary to the
22 statute in such case made and provided.

23 The next indictment is in case number
24 2014-GS-46-1500, possession with the intent to distribute
25 crack cocaine. This indictment states that on February

1 26th, 2014, the defendant, Reginald Raynard White, Jr., or
2 Reginald Raynard White, did manufacture, distribute,
3 dispense, deliver, purchase, or otherwise aid, abet,
4 attempt, or conspire to manufacture, distribute, dispense,
5 deliver or purchase, or possess with the intent to
6 distribute, dispense, deliver, crack cocaine, a cocaine
7 base, in violation of the provision of Section 44-53-370,
8 said incident occurred in York County, South Carolina, in
9 violation of Section 44-53-375 of the Code of Laws of South
10 Carolina, 1976, as amended, against the peace and dignity of
11 the State and contrary to the statute in such case made and
12 provided.

13 Now, those documents again are not evidence. They
14 can't be considered by you as evidence of guilt in this
15 case, nor do the fact that they exists create any
16 presumption or inference of guilt. Again, those are the
17 documents that bring the case into the court. They are the
18 notice documents that notifies of the charges to be tried in
19 this case.

20 Now, each indictment alleges a separate offense,
21 and you will be called upon to decide each indictment
22 separately by a separate verdict on the law that's
23 applicable to that particular indictment, uninfluenced by
24 your decision as to the other indictment. The defendant may
25 be convicted or acquitted on any or all of the offenses

1 charged. Again, there will be a separate verdict for each
2 indictment in the case.

3 I told you earlier the defendant has pled not
4 guilty to the indictment. That plea under the laws and the
5 Constitution of this state and of the United States puts the
6 burden of proof upon the State to prove the defendant
7 guilty.

8 You know, a person charged with the commission of
9 a criminal offense in this state is never required to prove
10 himself innocent. It's an important rule of law that every
11 defendant in every criminal trial, no matter what the
12 seriousness of the crime might be, that defendant will
13 always be presumed to be innocent of the crime for which the
14 indictment has been issued, until and unless guilt has been
15 proven to you, the jury, by evidence that satisfies you of
16 that guilt beyond a reasonable doubt.

17 Now, the presumption of innocence doesn't end when
18 you begin your deliberations. It accompanies the defendant
19 throughout the trial and into your deliberations, until such
20 time as you have reached a verdict of guilt based on
21 evidence that satisfies you of guilt beyond a reasonable
22 doubt.

23 Some people describe the presumption of innocence
24 that every defendant has somewhat like the robe that judges
25 wear into the courtroom. In other words, at the beginning

1 of the trial that presumption of innocence or robe is about
2 the defendant's shoulders. It remains about the defendant's
3 shoulders throughout the trial. It accompanies the
4 defendant into your deliberations about his shoulders. That
5 robe or presumption of innocence remains about his shoulders
6 until such time as it might be stripped from him by proof
7 that satisfies you of the defendant's guilt beyond a
8 reasonable doubt.

9 Now, the presumption of innocence is not just a
10 legal theory and it's not just a legal phrase. It's a
11 substantial right that every defendant is entitled to, until
12 and unless you, the jury, are satisfied from the evidence of
13 the defendant's guilt beyond a reasonable doubt.

14 You have heard me refer to proof beyond a
15 reasonable doubt several times. It's an important concept
16 in our legal jurisprudence that in criminal cases the
17 standard of proof for the State to meet is proof beyond a
18 reasonable doubt. You might ask yourself well, just what is
19 a reasonable doubt? What does the law mean by a reasonable
20 doubt? And I will tell you that the law has defined a
21 reasonable doubt as that kind of doubt that would cause a
22 reasonable person to hesitate to act, and the State has the
23 burden of proving the defendant guilty beyond a reasonable
24 doubt.

25 Now, I don't want you to be confused by one

1 factor, and I'll just touch on this briefly and then move
2 on. In different cases, other cases that might be before
3 this court, which are civil cases, there are other standards
4 of proof. The primary standard of proof in a civil case is
5 proof by the greater weight or preponderance of the
6 evidence. That means in a case where somebody seeking
7 monetary damages, the side that wins is the side that has 51
8 percent of the evidence. You can envision the Scales of
9 Justice tilting ever so slightly in favor of the plaintiff,
10 or ever so slightly in favor of the defendant. Whichever
11 side it tilts to, that side is entitled to the verdict.
12 That's a civil case.

13 And there are standards of proof in civil cases
14 that require proof where you are punishing someone in a
15 civil case, proof by clear and convincing evidence. That's
16 not the standard of proof in this case. The standard of
17 proof in a criminal case is more powerful than either of
18 those standards of proof. It's proof beyond a reasonable
19 doubt. Proof beyond a reasonable doubt is that kind of
20 proof that would leave you firmly convinced of the
21 defendant's guilt.

22 Now, I'm going to tell you there is very few
23 things that happen in this world that can be proven beyond
24 any doubt whatsoever, and the State is not required to prove
25 their case to an absolute certainty. The criminal law

1 doesn't require that level of proof that overcomes every
2 possible doubt.

3 What I will tell you is that if after your
4 consideration of all of the evidence, if you are firmly
5 convinced of the defendant's guilt beyond a reasonable
6 doubt, you must find the defendant guilty.

7 On the other hand, if you find that there is a
8 real possibility that the defendant is not guilty, you must
9 give the defendant the benefit of that doubt and find the
10 defendant not guilty.

11 At the beginning of the trial I tried to highlight
12 to you that you and I have certain duties to perform. They
13 are different duties. It's my responsibility to preside
14 over the case, and I have had to rule on certain things that
15 came up during the trial, and you should consider only the
16 matters that I have allowed to go into the record, the
17 evidence that was allowed into the record. So if there is
18 anything that's I ruled out of order or excluded from the
19 case, you shouldn't consider those things at all.

20 I have the additional duty of charging you
21 concerning the law applicable in this case. And I told you
22 at the beginning of the trial, the same law that makes you
23 the sole judges of the facts makes me the sole judge of the
24 law in this case. I will remind you that if you have some
25 idea as to what you think the law is or what you think the

1 law ought to be, leave those ideas outside of the jury room
2 before you begin your deliberations. Under your oath you
3 must take the law exactly as I give it to you, apply it to
4 the facts as you determine those facts to be and that should
5 put you in a position to render a just and a true verdict in
6 the case.

7 And I have told you that you were the sole and
8 exclusive judges of the facts. As the trial judge I can't
9 in any way comment on or make a statement to a jury about
10 the facts. Please don't take from anything that I have said
11 or done in my discharge of my duties in this case to somehow
12 indicate to you that I have got an opinion as to how you
13 determine the facts. I'll tell you again the law doesn't
14 allow me an opinion on the subject and I do not have an
15 opinion as to how you should determine the facts in this
16 case. You, as jurors, have the duty to determine the
17 effect, the value, the weight, and the truth of the evidence
18 which has been presented during this trial.

19 Now, when I talk about evidence, I want to point
20 out to you that the law recognizes two different kinds of
21 evidence, generally.

22 The first type of evidence is what we refer to as
23 direct evidence. That's testimony given by a witness who
24 claims to have direct knowledge of the facts about which the
25 witness testifies. Somebody who actually saw what happened,

1 experienced it, heard something, felt something, is
2 testifying directly on the fact that they are seeking to
3 prove. That's direct evidence.

4 The other type of evidence that you have the right
5 to consider is what we refer to as circumstantial evidence.
6 Now, circumstantial evidence is proof of a set of facts and
7 circumstances that indicate the existence of another fact.
8 Sometimes it's been described as proof of collateral facts
9 from which a main fact might be reasonably inferred.

10 I like to use a fairly simple example of what we
11 mean by inferences and drawing inferences from facts or
12 collateral facts from which a main fact can be inferred.
13 Let's say last night before you went to bed you had walked
14 to the window in your bedroom and you looked outside that
15 window. The stars were shining. A beautiful night outside
16 that night. You laid down and went to sleep and slept well
17 all night, didn't wake up at all. The next morning you got
18 up and you walked to the same window in your bedroom and
19 when you got there you noticed the sun was shining, but when
20 you looked a little closer you noticed there was water
21 dripping out of all the trees, the grass in front of your
22 house was soaking wet. There was puddles in your driveway
23 and the road that weren't there the night before. Now,
24 during the night you didn't see it rain, you didn't hear it
25 rain, because you slept well all night. But from that chain

1 of facts that you know to be true, you can reasonably infer
2 the existence of another fact. So that's what we mean by
3 proof of collateral facts from which a main fact can be
4 reasonably inferred.

5 Now, the two types of evidence which we generally
6 have, that is direct or circumstantial evidence, I will tell
7 you the existence of a fact that does not require the direct
8 evidence is testimony as to the existence of a fact and it
9 does not require any deduction.

10 Circumstantial evidence, again, is proof of a
11 chain of facts and circumstances that indicate the existence
12 of a fact.

13 Now, crimes may be proven by circumstantial
14 evidence, and the law doesn't make a distinction between the
15 weight or the value to be given by you to either direct or
16 circumstantial evidence. However, to the extent that the
17 State relies upon circumstantial evidence, I will tell you
18 that all of the circumstances must be consistent with each
19 other and when taken together point conclusively to the
20 guilt of the accused beyond a reasonable doubt.

21 If the circumstances proven by the State merely
22 portray a defendant's behavior as suspicious, the proof has
23 failed.

24 The State has the burden of proving the defendant
25 guilty beyond a reasonable doubt. This burden rests with

1 the State, regardless of whether the State relies upon
2 direct evidence or circumstantial evidence, or some
3 combination of the two.

4 I told you at the beginning of the trial, and I
5 think you probably realize this now, that as the finder of
6 fact necessarily your job includes determining the
7 credibility or the believability of what you heard during
8 the trial. That's what credibility means. It means
9 believability. And it's your duty as jurors to analyze and
10 evaluate the testimony and the evidence that you have heard
11 and determine which evidence convinces you of its truth.

12 In determining believability of the witnesses who
13 testified in the case, you as the sole judges have the right
14 to believe one witness against all the others, all the
15 others against one. You may believe all, part of, or none
16 of what a witness may have testified to. You may consider
17 whether a witness has exhibited to you any interest, bias,
18 prejudice, or other motive in testifying. You may also
19 consider the appearance and the manner of a witness and
20 their testimony from the witness stand. Again, you are the
21 sole judges of the facts and that makes you the sole judges
22 of the credibility of the testimony that you have heard
23 during this trial.

24 During the trial we had witnesses who testified as
25 experts. I told you I would touch on that again during my

1 charge. And I explained to you at that time that we have an
2 exception to our general rule of evidence for expert
3 witnesses. Expert witnesses who are declared as such
4 because of their education or experience in some art,
5 science, or profession, they are allowed to state an opinion
6 within that area of expertise and the reasons why they hold
7 that opinion.

8 I will tell you as the sole judges of the facts
9 you can consider any expert's opinion received in evidence
10 like any other evidence. You give it the weight you think
11 it deserves. Should you decide that the opinion of an
12 expert is not based on sufficient education, or the opinions
13 are not supported by the proper facts, or that the opinion
14 is outweighed by other evidence, you can disregard an
15 expert's opinion in its entirety if you choose to. In other
16 words, an expert's testimony is not to be given greater
17 weight than that of other witnesses simply because we
18 declare them to be an expert. You are not required to
19 accept an expert's opinion, even though it's not
20 contradicted by other evidence.

21 Now, I'm going to instruct you and I'm going to
22 emphasize to you that the fact that the defendant did not
23 testify in this case is not a factor to be considered by you
24 in any way in your deliberations and in your consideration
25 of the question of the guilt or the innocence of the

1 defendant. It should not be considered by you in any manner
2 whatsoever. You see, a defendant has a Constitutional Right
3 to remain silent. The assertion of that right must not be
4 considered by you in deliberations.

5 I'll repeat. Under your oath as jurors you are to
6 draw no conclusion whatsoever from the fact that the
7 defendant did not testify in the case. The fact that the
8 defendant did not testify should not even be discussed by
9 you in the jury room.

10 I told you at the beginning of the trial, and it
11 remains true throughout the trial, the sole burden of proof
12 in this case is upon the State. The defendant is not
13 required to prove his innocence. The burden of proof
14 remains upon the State to prove guilt beyond a reasonable
15 doubt throughout the trial.

16 Now, I'm going to tell you, and you might want to
17 kind of look for this as I tell you about the offenses.
18 There is two offenses here. I'll talk about those in just a
19 minute, but generally in order to establish criminal
20 liability for any offense, criminal intent is required. For
21 example, that's the mental state that a particular statute
22 or crime might require to be proven in order to establish
23 that crime, and that can be intent, knowledge, recklessness.
24 It could even be criminal negligence. You will have to
25 listen to the charge that I'm giving you to discern what

1 intent is required.

2 Criminal intent is something that must be proven
3 by the State beyond a reasonable doubt. Criminal intent is
4 always a matter that has to be determined by a jury from the
5 circumstances surrounding the situation, because, you see,
6 there is no way you could open up someone's head at the
7 moment that the event occurs and be able to scientifically
8 tell what they intended to do. So intent is always
9 something that is proven from the facts and circumstances
10 shown to have existed when the event occurred. That's how
11 you determine whether or not the element requiring intent
12 has been established by direct or positive evidence, and it
13 could be established by -- excuse me, can be established by
14 circumstantial evidence, the circumstances surrounding the
15 event. Criminal intent is the mental state required, a
16 conscious wrongdoing. It's up to you to determine what a
17 defendant intended to do based on the circumstances shown to
18 have existed.

19 Now, in this case statements alleged to have been
20 made by the defendant have been admitted into evidence. And
21 while this court has determined that the statement is
22 admissible, I instruct you that you as the finders of fact
23 make the ultimate decision as to whether or not the
24 defendant made the statement.

25 If the defendant did make the statement, then you

1 must determine whether the statement was made by the
2 defendant voluntarily and of his own free will. This means
3 that the statement was not caused by pressure, force, fear,
4 threats, coercion, or intimidation, or by hope or promise of
5 leniency, or by promise of a reward of any kind.

6 In determining whether the statement was
7 voluntarily given, you must consider the characteristics of
8 the defendant, the details of the questioning. Some of the
9 factors that you may consider are such things as the age of
10 the defendant; the defendant's education, mental abilities
11 or capacities; the place and the length of the detention;
12 the nature of the questioning; the advice, or lack thereof,
13 to the defendant of his Constitutional Rights, including,
14 but not limited to, the right to remain silent; that any
15 statement could be used against him in a court of law; the
16 right to have a lawyer present; that if he could not afford
17 a lawyer, a lawyer would be appointed to represent him
18 without costs; and that he could stop making the statement
19 at any time. You must carefully consider all of the
20 surrounding circumstances before you give any weight to the
21 alleged statement.

22 The State has the burden of proving beyond a
23 reasonable doubt that the alleged statement was voluntary.
24 If you determine that it was, then you may give the
25 statement any further consideration that you deem to be

1 proper. You must decide what weight, if any, should be
2 given to the alleged statement.

3 If you determine the alleged statement was not
4 free and voluntarily given by the defendant, you should not
5 consider the statement at all.

6 Also in this case there has been proof and
7 evidence presented that witnesses may have made prior
8 statements which are not consistent with their testimony at
9 trial. You may use this evidence to decide whether or not
10 to believe the witness. You may also use this evidence of
11 earlier contradictory statements to determine the truth of
12 those statements. It's up to you to decide whether to
13 believe the earlier statements or the testimony that was
14 given at trial. If a witness is shown to have knowingly
15 testified untruthfully concerning any material matter, you
16 may consider this in determining whether to trust the
17 witness' testimony as to other matters. You as the sole
18 judges of the facts may reject all, part of, or none of the
19 testimony of a witness and give it the weight you think it
20 deserves.

21 Also there is evidence that a witness who
22 testified had a prior criminal record. That person is
23 competent to testify at trial. The fact that someone has a
24 past record doesn't affect their ability to testify. The
25 past record of a witness should only be considered by you,

1 if at all, in determining the witness' believability.

2 Remember, you are the sole judges of the facts.
3 You are the sole judges of the believability of any and all
4 of the witnesses who testified during the trial.

5 Now, I'm going to go over the charge of
6 trafficking in cocaine first. That is the one that's in the
7 Indictment 14-1499.

8 The defendant is charged with trafficking in
9 cocaine. And in that case the State must prove beyond a
10 reasonable doubt that the defendant knowingly sold,
11 manufactured, cultivated, delivered, purchased, brought into
12 the state, provided financial assistance, or otherwise
13 aided, abetted, attempted, or conspired to sell,
14 manufacture, cultivate, deliver, purchase, or bring into
15 this state, was knowingly in actual or constructive
16 possession or knowingly attempted to become in actual or
17 constructive possession.

18 The State must prove beyond a reasonable doubt
19 that the amount of the cocaine in any mixture thereof
20 containing cocaine was 10 grams, or more.

21 Now, when we talk about possession of a drug, that
22 can be either actual possession or constructive possession.

23 Actual possession means that the crack cocaine, in
24 this case, could have been in the actual physical custody of
25 the defendant.

1 Constructive possession means that the defendant
2 had dominion and control, or the right to exercise dominion
3 or control over either the drugs themselves or the property
4 on which the drug was found.

5 I will tell you that mere presence at a scene
6 where drugs are found is not enough to prove possession.

7 The defendant's knowledge and possession may be
8 inferred when a substance is found on the property that's
9 under a defendant's control. However, this inference is
10 simply an evidentiary fact to be taken into consideration by
11 you, along with other evidence in the case. You give it the
12 weight you think it should have.

13 And I will tell you that under the law two or more
14 persons may have joint possession of a drug as well.

15 The defendant is also charged in the other
16 indictment, and that is case number 14-1500, with possession
17 with the intent to distribute crack cocaine.

18 The State must prove beyond a reasonable doubt
19 that the defendant possessed crack cocaine with the intent
20 to distribute it.

21 To prove possession, the State must prove beyond a
22 reasonable doubt that the defendant had both the power and
23 the intent to control the disposition or the use of the
24 crack cocaine.

25 Again, possession can be either actual or

1 constructive, and I'll just touch on that again.

2 Actual possession means that it was in the actual
3 physical custody of the defendant.

4 Again, constructive possession means that the
5 defendant had dominion and control, or the right to exercise
6 dominion or control over either the drug itself or the
7 property on which the drug was found.

8 Again, mere presence at a scene where drugs are
9 found is not enough to prove possession.

10 The defendant's knowledge and possession may be
11 inferred when the substance is found on property under the
12 defendant's control. However, again, that inference is
13 simply an evidentiary fact to be considered by you, along
14 with all the other evidence in the case, and you give it the
15 weight you think it should have.

16 Now, the defendant must -- excuse me, the State
17 must also prove beyond a reasonable doubt that the defendant
18 intended to distribute the crack cocaine, and distribute
19 means to deliver, other than by administering or dispensing
20 a drug.

21 Intent can be shown by acts and conduct of the
22 defendant, or other circumstances from which you might
23 reasonably and naturally infer intent.

24 In determining whether the defendant had the
25 intent to distribute a drug, you may consider the

1 circumstances surrounding the defendant's alleged
2 possession. You can consider the amount of the substance
3 that is alleged to have been possessed, the manner in which
4 it was possessed, the place where it was allegedly
5 possessed, and any other factors which you consider to be
6 important.

7 You must find that the defendant did not intend to
8 have the cocaine solely for his own use.

9 Possession of more than one gram of crack cocaine
10 creates an inference that the defendant possessed the
11 cocaine with the intent to distribute. It is again simply
12 an evidentiary fact to be taken into consideration by you,
13 along with the other evidence in the case and be given the
14 weight that you think it should have.

15 Now, ladies and gentlemen of the jury, as I tell
16 you to begin your deliberations, I will remind you that for
17 you to reach a verdict, it must be unanimous. Each and
18 every one of you must agree upon a verdict.

19 I'm going to ask Mr. Sharp to raise his hand,
20 please. You are going to be the foreperson of the jury.
21 That means that you will be the person who is responsible to
22 conduct the deliberations of the jury.

23 Now, should the jury have any questions during
24 your deliberations, I'll ask that you write it down on a
25 piece of paper, knock on the door, give it to the bailiff

1 and the bailiff will bring the question to me.

2 I'm going to tell you that I can't answer every
3 question you might have in your deliberations. I have
4 already told you I can't get involved in your decisions on
5 the facts. You are the sole judges of the facts. Mr.
6 Foreman, don't edit any question the jury may have. Send it
7 to me. I'll decide what the appropriate answer should be.
8 Your job is simply to get the jury to agree upon the form of
9 the question and then submit it to the bailiff.

10 Also it would be your responsibility to record the
11 verdict on a form that I'll go over with you in just a
12 moment. So that once the verdict has been reached as to
13 each indictment, a unanimous verdict has been reached, you
14 will record that on that verdict form. Once both verdicts
15 have been reached, again you will inform the bailiff that
16 you have completed your deliberations and you will be
17 returned to the courtroom for us to receive the verdict.

18 Now, again, verdicts must be unanimous. All of
19 you must agree upon the verdict before it's the verdict of
20 the jury. And for that reason I always state there is no
21 one juror more important than any other juror in your
22 deliberations.

23 I have gone over a good many things with you. I'm
24 going to have the attorneys agree upon the evidence to be
25 sure we only send the properly admitted evidence back to the

1 jury room with you. So there is some house cleaning matters
2 that I need to go over with the attorneys. I'm going to ask
3 you one more time to step back to the jury room. Don't
4 start deliberations until I bring you back for final
5 instructions.

6 You may retire to the jury room at this time.

7 (The following takes place outside the presence of
8 the jury panel)

9 THE COURT: All right, objections or additions to
10 the charge, from the State?

11 MR. SHELTON: No, sir.

12 THE COURT: Any from the defense?

13 MR. MCKINNON: No, Your Honor.

14 THE COURT: All right. I'm going to ask that you
15 come forward. Let's segregate the exhibits and agree upon
16 the exhibits to be given to the jury.

17 I have the two indictments here. I would like for
18 you to review those to be sure that there is no objection to
19 those.

20 I also have the verdict form. I want you to
21 review that and see if there is any objections to that.

22 (Off the record)

23 (Back on the record)

24 MR. MCKINNON: No objections from the defense,
25 Your Honor.

1 Reginald Raynard White with Indictment 2014-GS-46-1499 and
2 2014-GS-46-1500, on the first count of trafficking cocaine,
3 we, the jury, unanimously find the defendant Reginald
4 Raynard White, Jr., a/k/a Reginald Raynard White, concerning
5 the offense of trafficking cocaine, guilty.

6 On the second count of possession with intent to
7 distribute crack cocaine, we, the jury, unanimously find the
8 defendant Reginald Raynard White, Jr., a/k/a Reginald
9 Raynard White, concerning the charge of possession with the
10 intent to distribute crack cocaine, guilty.

11 Both signed by the foreperson this day.

12 If this so be your verdict, so say you all by
13 raising your right hand.

14 Let the record show all affirmed.

15 THE COURT: Thank you.

16 Anything further from the State before I release
17 the jury panel?

18 MR. SHELTON: No, sir.

19 THE COURT: Anything further from the defense?

20 MR. MCKINNON: No, Your Honor.

21 THE COURT: All right. Ladies and gentlemen of
22 the jury, I'm going to thank you very much for your
23 attention to your duties.

24 I'm happy to report to you that we have completed
25 our trial docket this week. Those cases have all now been

1 disposed of. Judge Hayes came over and did some for us and
2 they have gotten taken care of, so I'm releasing you from
3 any further service on the jury panel at this time.

4 Throughout the trial I have told you not to
5 discuss the case with anyone. I will tell you now that you
6 have the right to do so. You also have the right not to do
7 so. A citizen owes no one an explanation for your service
8 on a jury. Should anybody harass you or bother you
9 concerning your service, please report it to the clerk's
10 office as soon as possible. We will take the appropriate
11 action.

12 Now, they are going to check you out and you will
13 be free to go. You can get an excuse for your work from the
14 clerk's office. Later you will receive a voucher for your
15 jury pay for this week. It's not going to be enough for
16 your time, but it's all the law allows. And, again, you
17 have my thanks for your service in this jury panel.

18 Now, Mr. Foreman, before you leave, you will need
19 to meet with the clerk. You have to sign a couple of things
20 on the indictment for her. She will take care of that for
21 you.

22 And at this time thank you again. You are free to
23 go. You may step out with the bailiff.

24 (Whereupon, at 3:30 p.m., the jury panel was
25 discharged from this trial)

1 THE COURT: All right, anything further from the
2 State at this time?

3 MR. SHELTON: Not at this time. We do need to
4 have some matters that we need to be taken up though.

5 THE COURT: Well, anything further from the
6 defense?

7 MR. MCKINNON: No, Your Honor.

8 THE COURT: All right. I'll ask you to get the
9 documents ready for sentencing.

10 (Jury Note marked as Court's Exhibit No. 8 for
11 identification)

12 THE COURT: All right, we are on the record in the
13 case of the State of South Carolina versus Reginald Raynard
14 White, Jr., a/k/a Reginald Raynard White.

15 This is the sentencing phase of the hearing.

16 The defendant has been found guilty by a jury of
17 his peers of both PWID crack cocaine third and trafficking
18 in cocaine third offense.

19 I'll hear from the State at this point in time
20 regarding sentencing.

21 MR. SHELTON: Thank you, Your Honor.

22 May it please the court?

23 THE COURT: Yes, sir.

24 MR. SHELTON: As you heard mentioned at the
25 beginning of this trial, the defendant, Mr. White in this

1 case, was noticed of intention to seek life imprisonment
2 without parole if convicted of either one of these offenses,
3 this being his third strike under the recidivism statute.
4 He was notified in court on August 29th, 2014. He was
5 notified in writing and in person. A copy of the notice was
6 served on his attorney. At the time that was Ashley
7 Anderson, I believe, but each time we have had a hearing,
8 Mr. McKinnon being represented on the case, we have
9 referenced this original notice that's been continuously
10 been in play.

11 We have made efforts to resolve this case four
12 different times. We have offered the defendant a plea deal
13 of 14 years to resolve this and the CSC case that happened
14 on the 24th of February four different times. He's rejected
15 it.

16 The most recent time we went on the record, if you
17 will give me just a second, was the December 15th term in
18 front of Judge Alford. I believe it was December 17th,
19 2014. The court reporter was Shirley Broome. Mr. White was
20 present with his attorney Mr. McKinnon. He spelled out his
21 previous offer rejections on 8-29-14, 9-15-14, 11-20-14. We
22 renewed the LWOP notice each time. It was originally served
23 on him on 8-29-14, and at each hearing Mr. White indicated
24 that was his free and voluntary decision and that he was
25 rejecting the State's offer and wishes to proceed to trial

1 knowing the consequences, should he be convicted of either
2 one.

3 At this time, even though it's filed with the
4 Clerk of Court, I would ask to make a copy of the notice of
5 life imprisonment sentence part of the record.

6 Along with it there is a second document attached
7 to it that Ms. Leslie Robinson, who originally was the
8 solicitor on this case, she filed an affidavit with the
9 court indicating that she personally served the defendant
10 and his attorney in court on the day in question.

11 THE COURT: Any objection to that being made an
12 exhibit?

13 MR. MCKINNON: No, Your Honor.

14 THE COURT: All right. It would be made a Court's
15 Exhibit.

16 MR. SHELTON: Also, Your Honor, I would like to
17 make part of the record --

18 THE COURT: Give him an opportunity to mark that,
19 please.

20 MR. SHELTON: Yes, sir.

21 (Notice of Life Sentence marked as Court's Exhibit
22 No. 9 for identification)

23 MR. SHELTON: Also, Your Honor, I would like to
24 make separate Court's Exhibits four certified copies of
25 sentencing sheets, indictments, and warrants related with

1 his prior convictions.

2 The first prior is 2012-GS-46-02519, distribution
3 of crack cocaine within proximity of a school or park. That
4 was offense date April 4th, 2012.

5 There is a companion charge 2012-GS-46-02520,
6 distribution of cocaine -- excuse me, and that is on the
7 same date, April 4th, 2012 incident date.

8 Then we have 2012-GS-46-2521, distribution of
9 cocaine within proximity of a school or park.
10 2012-GS-46-02522, distribution of cocaine. Those offenses
11 being on February 16th, 2012.

12 Mr. White did plead guilty to all four of these
13 charges in one hearing, was sentenced at the same time. He
14 was arrested on these charges all at the same time. But
15 with them being separate and distinct dates, I believe they
16 both qualify as two separate and distinct facts -- excuse
17 me, two separate and distinct strikes factually. I believe
18 Your Honor would need to make a legal finding as to that
19 effect. In the alternative he's looking at mandatory
20 minimums and serious sentence in this case, but I believe --

21 THE COURT: Any objection to those documents being
22 made exhibits?

23 MR. MCKINNON: None, Your Honor.

24 THE COURT: Let's have them marked, please.

25 MR. SHELTON: Yes, sir.

1 (Indictment No. 2012-GS-46-2521 marked as Court's
2 Exhibit No. 10 for identification0.

3 (Indictment No. 2012-GS-46-2522 marked as Court's
4 Exhibit No. 11 for identification).

5 (Indictment No. 2012-GS-46-2519 marked as Court's
6 Exhibit No. 12 for identification).

7 (Indictment No. 2012-GS-46-2520 marked as Court's
8 Exhibit No. 13 for identification).

9 MR. SHELTON: Your Honor, may I approach?

10 THE COURT: Pass those up, please.

11 MR. SHELTON: Your Honor, while you are reviewing
12 these, I also wanted to put on the record I have provided
13 copies of all five of those documents to Mr. McKinnon as
14 part of this to put in his file.

15 These offenses that the jury just found Mr. White
16 convicted guilty of, trafficking is a both violent and
17 serious, and the distribution of crack third offense -- or
18 possession with intent to distribute crack third offense is
19 serious.

20 THE COURT: Give me a moment, Mr. McKinnon, and
21 then I will talk to you about this.

22 (Off the record)

23 (Back on the record).

24 THE COURT: All right, Mr. McKinnon, I'll hear
25 from you concerning this matter.

1 MR. MCKINNON: Yes, Your Honor.

2 Your Honor, I argue that although there are four
3 separate offenses, Your Honor, they are all drug offenses
4 for which Mr. White was arrested on the same day. They are
5 all dealing in crack -- in cocaine dealing offenses, Your
6 Honor, and, therefore, they have a temporal proximity under
7 the statute and should be considered one predicate offense
8 and not two, Your Honor.

9 THE COURT: I'll hear from the State on that.

10 MR. SHELTON: Your Honor, I believe the inquiry is
11 are these separate and distinct. Factually they are clearly
12 on two separate dates, two different months. I believe my
13 understanding of the law, they clearly qualify as two
14 separate and distinct strikes.

15 THE COURT: All right. I do find that they
16 properly qualify as strikes under the law of prior
17 convictions.

18 Anything that you would like to say before I
19 impose sentence in the matter?

20 MR. MCKINNON: Your Honor, I also would like to
21 make a motion that on the facts of this case and on the
22 previous cases, Your Honor, where -- I know they are
23 statutorily violent offenses, but in reality they are not.
24 An imposition of a life sentence without parole would be
25 cruel and unusual punishment.

1 THE COURT: I understand the position. However,
2 the law in this state is contrary to that position.

3 MR. MCKINNON: I understand, Your Honor.

4 THE COURT: Anything that you would like to say,
5 Mr. White?

6 THE DEFENDANT: I'd just like to --

7 THE COURT: Stand up, sir.

8 THE DEFENDANT: Your Honor, like everything that
9 was presented -- like my lawyer, he had some good arguments.
10 Even the solicitor had some good arguments, and he even
11 convinced me that the drugs was mine. But, Your Honor, I
12 didn't stay there. That is my kids mother. I be there and
13 she messed with a guy named Forrest Peeples, Your Honor, and
14 I do let her drive my car, Your Honor, but my fingerprints
15 wasn't on it. They said they found fingerprints, but they
16 wasn't mine, Your Honor.

17 Well, I'd just like that you have leniency on me
18 and put on the record that I intend to appeal, Your Honor.

19 THE COURT: Okay, sir.

20 THE DEFENDANT: That's all. Thank you, Your
21 Honor.

22 THE COURT: Well, I don't grant you the right to
23 appeal. That's already in our statutes and rules.

24 THE DEFENDANT: Okay.

25 THE COURT: Your lawyer can advise you concerning

1 that, I'm sure.

2 THE DEFENDANT: Okay.

3 THE COURT: All right, the sentence in both cases
4 is the same, life without parole.

5 Good luck to you, sir.

6 If you wish to file any written post-trial
7 motions, you have ten days from today.

8 MR. MCKINNON: Thank you, Your Honor.

9 (END OF REQUESTED TRANSCRIPT OF RECORD)

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WITNESSES

YCMDEU/Doty

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ARREST WARRANT NUMBER

2014A4610200313

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 5/29/14

VERDICT

Guilty

Foreperson of Petit Jury

Date: 1/14/2015

DOCKET NO. 2014-GS-46-01499

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

May 29, Term 2014

THE STATE

vs.

REGINALD RAYNARD WHITE, JR.

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370(e)(2)(a)

CDR Code: 0147

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK

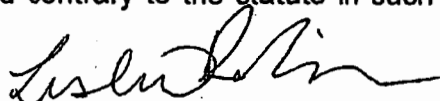
CERTIFIED TRUE COPY
2015 JAN 20 PM 4:32

At a Court of General Sessions, convened on May 29, 2014, the Grand Jurors of York County present upon their oath

TRAFFICKING IN COCAINE*AKA Reginald Raynard White Jr.*

On or about February 26, 2014, the Defendant, Reginald Raynard White, Jr., did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of 10 grams or more of cocaine or any mixtures containing cocaine, as provided in 44-53-210(b)(4). Said incident occurred in York County, South Carolina, all in violation of Section 44-53-370, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

COUNTY OF YORK

STATE VS.

REGINALD RAYNARD WHITE, JR.

AKA: Reginald Raynard White Jr.

Race: Black

Sex: M

Age: 27

DOB: 987

SS#: 4015 JAN 20 PM 12: 19

Address:

City, State, Zip: Clover, SC 29710

DL#

SID# SC01704022

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Trafficking Cocaine 10-28 grams, 3rd offense

In violation of § 44-53-370(e)(2)(a)(3) of the S.C. Code of Laws, bearing CDR Code # 0147

SENTENCE SHEET

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)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:

Leslie D. Robinson, Assistant Solicitor

SC Bar # 74785

Defendant

Attorney for Defendant

69463

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of Life w/parole days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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 Service standard conditions of probation, which are incorporated by reference.

☐ 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 the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 280.00

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: _____

Judge Bar ID: _____

Sentence Date: _____

Judge Code: 2135

1-14-15

Clerk of Court/Deputy Clerk: David HamiltonCourt Reporter: Mike White

SCCA/217 (03/2011)

YCMDEU/Doty

Date: 5/29/14
Foreperson of Petit Jury

ARREST WARRANT NUMBER

2014A4610200314

ACTION OF GRAND JURY

TRUE BILL

VERDICT

Guilty

Foreperson of Petit Jury

Date: 7/14/2015

DOCKET NO. 2014-GS-46-01500

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

May 29, Term 2014

THE STATE

vs.

REGINALD RAYNARD WHITE, JR.

Indictment forPOSSESSION WITH INTENT TO DISTRIBUTE
CRACK COCAINESC Code: 44-53-375(B)
CDR Code: 3039After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA) CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2015 JAN 29 PM 4:32

At a Court of General Sessions, convened on May 29, 2014, the Grand Jurors of York County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE

On or about February 26, 2014, the Defendant, *Alvin Reginald Raynard White* Reginald Raynard White, Jr., did manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, or deliver crack cocaine, a cocaine base, in violation of the provisions of Section 44-53-370. Said incident occurred in York County, South Carolina all in violation of Section 44-53-375 of the Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

368
COUNTY OF YORK
STATE VS.

REGINALD RAYNARD WHITE, JR.

AKA: Reginald Raymond White
Race: Black Sex: M Age: 27
DOB: 1987 SS#: 123456789
Address: 12345 Main St
City, State, Zip: Myrtle Beach, SC 29577
DL# 123456789 SID# SC01704022

INDICTMENT/CASE#: 2014GS4601500
A/W: 2014A4610200314
Date of Offense: 02/26/2014
S.C. Code §: 44-53-0375 (B) (3)
CDR Code #: 3039

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: PWID Crack Cocaine, 3rd offense

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3039

☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or Lewd Act)

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:

Leslie D. Robinson Assistant Solicitor SC Bar # 74785 Defendant
Mr. & Mrs. W. Shelton 801ST
W. Shelton Attorney for Defendant SC Bar # 69463

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 1-1/2 years/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years 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 Service standard conditions of probation, which are incorporated by reference.

☐ 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 the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment
Payment Terms: Obtain GED ☐

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§14-1-206 (Assessments 107.5%) \$

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$

TOTAL \$ 280.00

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge:

Judge Bar ID: Judge Code: 2135

Sentence Date: 1-14-15

Clerk of Court/Deputy Clerk: David Thomas

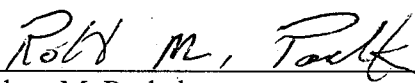
Court Reporter: Mike Wall

SCCA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 25, 2016


Robert M. Pachak
Appellate Defender

RECEIVED

JAN 25 2016

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT