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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LATAVIOUS WILLIAMS,

APPELLANT

APPELLATE CASE NO 2023-001397

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK R. FARTHING
Senior Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-4117

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 The State of South Carolina,

5 vs.

Transcript of Record

2020-GS-07-01205

2020-GS-07-01206

2020-GS-07-01207

6 Latavious Williams,

7 Defendant.
8
9

10 August 21, 2023
11 Beaufort, South Carolina
12 Volume I of III

13 B E F O R E:

14 The HONORABLE ROBERT J. BONDS
15

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

17 Monica Main, Solicitor
18 Hannah Kidd, Solicitor

19 Jared Newman, Representing the defendant
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, III
24
25

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1 THE COURT: Are we ready to bring the
2 jury in?

3 (Jury enters the courtroom at 10:00 a.m.)

4 (Jury sworn the 10:07 a.m.)

5 (Roll call at 10:07 a.m.)

6 THE COURT: All right. Madame Clerk,
7 thank you very much.

8 Ladies and gentlemen, my name is
9 Bobby Bonds. I'm a resident circuit judge of the
10 14th Judicial Circuit. The 14th Judicial Circuit
11 is Colleton, Hampton, Allendale, Jasper, and
12 Beaufort counties. I've been assigned by the
13 chief justice to preside over a term of general
14 sessions court this week. This will most probably
15 be a great week to serve because, number 1, I'm
16 going to, hopefully, pick a jury this morning, and
17 then I will discharge you and I will have folks
18 call back tomorrow after 6:00. So I already know
19 we will not need anyone tomorrow. Okay? And
20 that's not -- that's because of a matter that's
21 going to require me to be away from court
22 unfortunately tomorrow. And so to that extent, I
23 expect this to still remain a week-long term of
24 court and you will be free this afternoon and all
25 day tomorrow. So that's two-fifths of the week

1 gone and certainly heading down the back stretch
2 at that point. This is not to be a multi-week
3 term of court to the best of my knowledge. I know
4 sometimes court can be two and three weeks long.
5 We don't have any cases that are scheduled to be
6 of that length. So I want to let you know, I
7 think it's a good week to serve.

8 Now, ladies and gentlemen, I have certain
9 questions to ask you to determine your
10 qualifications as jurors in this court, and I want
11 you to know these questions determine your
12 eligibility to serve. State law requires that I
13 ask the questions. And so some of the questions
14 are personal and you may not want to stand and
15 disclose the information in the presence of your
16 fellow jurors.

17 After each question, ladies and
18 gentlemen, I'm going to ask if any juror needs to
19 respond and ask you to stand. But if you don't
20 want to stand, that's okay. At the end of the
21 process, I'll give you a chance to come forward
22 and speak with me privately. We do not want to
23 cause anybody any embarrassment, so if you don't
24 want to stand just make a mental note and remember
25 to come forward at the end when I ask you to do

1 so. And I appreciate your time for being here,
2 honoring your summons, and this is a -- you know,
3 this is not like the movies. This is not like TV
4 or books. It's repetitive, it's deliberative, and
5 a slow process. And the reason is, quite frankly,
6 because unlike a movie, I can't just say cut and
7 reshoot a scene, and take a word processor and
8 delete a sentence. We got to do everything we can
9 this week in what we're to make sure we're trying
10 to do it right because we're dealing with
11 important matters, important to the State,
12 important to the defense, and so I appreciate your
13 patience today.

14 Now, the questions concerning
15 qualifications of jurors are as follows: Any
16 member of the jury panel not a citizen of the
17 United States? If so, please stand. All right.
18 Let the record reflect no one is standing.

19 Any member of the jury panel not a
20 resident and citizen of Beaufort County, South
21 Carolina? If so, please stand.

22 Yes, sir, what was your number?

23 JUROR 20: 20.

24 THE COURT: 20. Yes, sir. You don't
25 live in Beaufort County?

1 JUROR 20: Not anymore. I just moved to
2 Charleston.

3 THE COURT: You just moved to Charleston
4 County?

5 JUROR 20: Yes, sir.

6 THE COURT: All right. Well, in that
7 case, you're not going to be eligible to serve
8 here and we will excuse you this week. Hopefully,
9 Charleston will get a chance to grab you.

10 JUROR 20: Yes, sir.

11 THE COURT: All right. You can be
12 excused. Thank you, sir.

13 JUROR 20: Thank you, sir.

14 THE COURT: All right. Is there any
15 member of the jury panel that is unable to read,
16 write, speak, or understand the English language?
17 If so, please stand.

18 Come on up, buddy.

19 THE BAILIFF: Juror 375, Your Honor.

20 THE COURT: Sir, come on up. Yes, sir.
21 You can't read, write, or understand the English
22 language?

23 JUROR 375: Not much.

24 THE COURT: Not much? How are you
25 employed?

1 JUROR 375: Restaurant.

2 THE COURT: You run a restaurant?

3 JUROR 375: Yeah.

4 THE COURT: Do you own the restaurant?

5 JUROR 375: Yeah.

6 THE COURT: How long have you owned the
7 restaurant.

8 JUROR 375: Twenty years.

9 THE COURT: Twenty years.

10 JUROR 375: Yes.

11 THE COURT: And where is that restaurant
12 located?

13 JUROR 375: Hilton Head.

14 THE COURT: Hilton Head?

15 JUROR 375: Yes.

16 THE COURT: You can stay with us. You're
17 more than qualified. Anybody that can run a
18 restaurant and keep a restaurant open for 20 years
19 in Hilton Head, you can read, write, and
20 understand the English language. You'll stay with
21 us.

22 JUROR 375: All right.

23 THE COURT: Any member of the jury panel
24 have less than a sixth-grade education or its
25 equivalent? If so, please stand. Let the record

1 reflect no one is standing.

2 Any member of the jury panel because of
3 mental or infirmity they are unable to render
4 efficient jury service this week? If so, please
5 stand. All right. Let the record reflect no one
6 is standing.

7 Has any member of the jury panel been
8 convicted by a guilty plea or trial in a State or
9 federal court of record of a crime punishable by
10 imprisonment for more than one year and your civil
11 rights have not been restored by pardon or
12 amnesty? Punishable by more than one year means
13 that you could have received a sentence of more
14 than one year regardless of what sentence you may
15 have actually received. I'm going to repeat that
16 question. It's probably the longest one I got to
17 ask you.

18 All right. Has any member of the jury
19 panel been convicted by a guilty plea or trial in
20 a State or federal court of record of a crime
21 punishable by imprisonment for more than one year
22 and your civil rights have not been restored by
23 pardon or amnesty? And, folks, punishable by more
24 than one year means that you could have received a
25 sentence of more than one year regardless of what

1 sentence you actually may have received. If so,
2 please stand.

3 Come on up.

4 And, folks, if you do have a question,
5 err on the side of asking, okay? Because, again,
6 we want to get the most accurate information that
7 we can. Thank you.

8 THE BAILIFF: Juror 225, Your Honor.

9 THE COURT: Yes, sir. Come on up.

10 JUROR 225: I was, kind of, perplexed.

11 THE COURT: Okay.

12 JUROR 225: I recently applied for my
13 concealed weapons permit.

14 THE COURT: Yes, sir.

15 JUROR 225: And come to find out that I
16 had a domestic charge that was put on my record
17 back in 1991.

18 THE COURT: All right.

19 JUROR 225: So my attorney is working on
20 that, but I wasn't cleared. Never got any jail
21 time.

22 THE COURT: Let me ask you this: Where
23 were you charged with this?

24 JUROR 225: Chattanooga, Tennessee.

25 THE COURT: Chattanooga, Tennessee. Do

1 you know, did you go to court for this matter?

2 JUROR 225: No.

3 THE COURT: You never went to court?

4 JUROR 225: Never went to court. I was
5 arrested and there was a domestic thing.

6 THE COURT: Did you plead guilty or were
7 you found guilty?

8 JUROR 225: I think I was found guilty.

9 THE COURT: All right. Hold on one
10 second. Is this you right here, Miguel Monzon?

11 JUROR 225: It is. It is.

12 THE COURT: Is that your social security
13 number?

14 JUROR 225: It is.

15 THE COURT: Okay.

16 JUROR 225: I actually have an attorney
17 working on that.

18 THE COURT: Well, good. I mean, you
19 should, because you don't want to keep having that
20 on there.

21 JUROR 225: Correct. This was by Judge
22 Robert Williams.

23 THE COURT: All right. Go stand right
24 over there for a second, and I'll get you back.

25 Mr. Newman, did you want to --

1 MR. NEWMAN: I heard most of it.

2 THE COURT: Okay. I don't see where it
3 says more than a year. Do you have any reason to
4 believe this was more than a year?

5 MS. MAIN: No, sir.

6 THE COURT: Sir, come on back.

7 You did exactly what I wanted you to do. You
8 came up and gave me information. It looks like
9 that -- there's nothing that indicates the potential
10 penalty was more than a year, and so, as a result, I'm
11 going to find you eligible to serve.

12 JUROR 225: Thank you.

13 THE COURT: Thank you so much.

14 JUROR 225: Appreciate that.

15 THE COURT: All right. Ladies and
16 gentlemen, is any member of the jury panel a clerk
17 or a deputy clerk of court, constable, sheriff, or
18 other commissioned law enforcement officer,
19 probate judge, county commissioner, magistrate, or
20 other county officer, or employed within the walls
21 of any courthouse? If so, please stand.

22 Come on up.

23 THE BAILIFF: Your Honor, 251, Your
24 Honor.

25 THE COURT: All right. Hey, sir. Yes,

1 sir.

2 JUROR 251: I work for Sea Pines Security
3 for law enforcement. We do have the same powers
4 of deputies within the walls of Sea Pines.

5 THE COURT: All right. And so you're a
6 class III law enforcement?

7 JUROR 251: Yes.

8 THE COURT: You have the power of arrest
9 within Sea Pines?

10 JUROR 251: Yes, sir.

11 THE COURT: All right. I'm going to
12 excuse you from service in this matter.

13 JUROR 251: Okay.

14 MS. MAIN: What's his number?

15 JUROR 251: 251.

16 MS. MAIN: 251.

17 THE COURT: I'm going to excuse him from
18 service in this matter. Sir, if you'll go back --
19 actually, I'll tell you what. I'm going to let you go
20 for the week.

21 MS. MAIN: I was going to ask if he could
22 be fair and impartial and keep him in.

23 THE COURT: I think this involves
24 eligibility. This is qualifications. This is not
25 under exemptions. And the question says, if you

1 got that power of arrest, I'm not going to let him
2 serve in this matter. If this was something under
3 exemptions, then I would question him about being
4 fair and impartial.

5 So what I'm going to do, since this is a
6 criminal term of court, I tell you, I'm going to
7 excuse him for the week.

8 All right. Thank you very much. You're
9 done.

10 THE BAILIFF: Juror 47, Your Honor.

11 JUROR 47: Hi. I'm a counselor for the
12 Beaufort County Alcohol and Drug Abuse department,
13 so on the third floor in the Bluffton Government
14 Building. It's within the walls.

15 THE COURT: Well --

16 JUROR 47: But I don't know how literal
17 it is.

18 THE COURT: Well, I tell you what, I
19 think that -- I appreciate you telling me that. I
20 don't think that's going to excuse you from
21 service.

22 JUROR 47: I would love to serve.

23 THE COURT: I'm going to have you remain
24 with us. If you'll just go back and have a seat.
25 Okay? Thank you very much.

1 THE BAILIFF: Juror 243, Your Honor.

2 THE COURT: Yes, sir.

3 JUROR 243: Twelve years prior law
4 enforcement before going to fire. I have
5 experience with prosecution and defense.

6 THE COURT: Okay. That's great. I
7 appreciate you doing that. But, actually, there
8 will be a time to disclose that information that
9 I -- you're golden -- that I'll ask those
10 questions, and so I appreciate that. But you just
11 go back and have a seat. Thank you very much.

12 THE BAILIFF: Juror 171, Your Honor.

13 THE COURT: Ma'am, yes, ma'am.

14 JUROR 171: I'm a former probation
15 officer in superior court.

16 THE COURT: What I will tell you is, I
17 don't believe that's going to affect your
18 eligibility to serve. This question concerns
19 eligibility. There may be some other questions
20 later, more specific questions, as it relates to
21 the actual case that may or may not be something
22 that you need to disclose. So for right now, in
23 this question, I think you're good to serve. I
24 ask that you go back and have a seat.

25 All right. Ladies and gentlemen, is

1 there any member of the jury panel who has
2 previously served on jury duty in circuit court?
3 Not city court, magistrate's court, or federal
4 court. But in circuit court, which you probably
5 end up being in this courtroom, or it could be
6 next door, but in this building upstairs, anybody
7 served in circuit court this calendar year? If
8 so, I need you to stand. That would be in 2023.
9 Let the record reflect no one is standing.

10 Any member of the jury panel served as a
11 member of Beaufort County Grand Jury during the
12 passed several years? If so, please stand. And
13 if you got to ask what the Beaufort County Grand
14 Jury is, you haven't served because, folks, it's a
15 year-long commitment that involves multiple times
16 of coming to court. Now, granted, those times
17 that you're in court and basically are here are
18 very short compared to the week of court, but you
19 would know if you served on the Beaufort County
20 Grand Jury. Let the record reflect no one is
21 standing.

22 All right. Now, ladies and gentlemen,
23 what we're going to do now is, we're going to move
24 no jury exemptions. State law provides for
25 several exemptions to jury service. An exemption

1 does not mean you're not qualified to serve. It
2 simply means that you have a right to say, subject
3 to my approval, that you choose not to serve.

4 Okay?

5 So the first one is pretty easy: If
6 you're 65 years old, you're willing to stand and
7 admit that, okay -- I'm serious. I used to think
8 65 was old. I don't anymore. But if you're 65
9 years old or older and you do not want to serve, I
10 need you to stand. If your 65 and you want to
11 serve, we want to have you. Okay? I see somebody
12 jump right up.

13 Let me ask you this, ma'am: What's your
14 juror number?

15 JUROR 48: 48.

16 THE COURT: 48. And, ma'am, are you 65
17 years old or older?

18 JUROR 48: Yes.

19 THE COURT: Is there someplace you rather
20 be this week?

21 JUROR 48: I take care of my mom who is
22 almost 90.

23 THE COURT: That's absolutely fine.
24 Ma'am, I'm going to excuse you from service this
25 week. Have a good day.

1 JUROR 48: Thank you.

2 THE COURT: Yes, ma'am.

3 All right. Anybody else who is 65 years old
4 or older and desires not to serve? Again, if you're
5 65 years or older and you want to serve, we want to
6 have you. But if you don't want to, you don't have
7 to. All right, nobody else.

8 All right. Ladies and gentlemen, another
9 exemption concerns prior jury service. No person
10 is required to serve as a juror more often than
11 once every three calendar years. Therefore, if
12 any member of the jury panel has served on jury
13 duty during the last two calendar years, you may
14 be exempt from service this week if you choose to
15 be exempted. Please note again that doesn't apply
16 to magistrate's court, federal court, or city
17 court. Okay? So if this exemption applies to you
18 and you wish to be exempted, please stand. Let
19 the record reflect no one is standing.

20 All right. Persons who have served as
21 grand jurors in the last five calendar years may
22 also be exempt from jury service. If any member
23 of the jury panel has served on a grand jury
24 during the last five calendar years, you may be
25 exempt from jury service this week if you choose

1 to be exempted. If this exemption applies to you
2 and you wish to be exempted, please stand. Let
3 the record reflect no one is standing.

4 Ladies and gentlemen, the next question
5 deals with those of you who have legal custody of
6 young children. And I'd ask that you listen very
7 carefully to the exemption because there are
8 several parts and all of them must apply for you
9 to be considered for exemption on this basis. You
10 may be exempt from jury service if you have a
11 child under the age of seven years, you have legal
12 custody of your child or children, you have the
13 principal, care, custody, and control of your
14 child or children, and you're unable to make
15 arrangements for the adequate care of your child
16 or children while performing jury duty. If all of
17 these requirements apply to you, then you may be
18 exempt on this basis. If this exemption applies
19 to you, please stand.

20 All right. Come on up.

21 THE BAILIFF: Juror 279, Your Honor.

22 THE COURT: Hey, ma'am.

23 JUROR 279: Hi.

24 THE COURT: Yes, ma'am.

25 JUROR 279: I have a four-year-old

1 daughter at home that's not in school. I stay at
2 home all day.

3 THE COURT: Hold on. You have a
4 four-year-old at home, so how do you make it work
5 because I know you work as a bartender.

6 JUROR 279: I only work nights.

7 THE COURT: Who watches the child at
8 night?

9 JUROR 279: My husband. We have opposite
10 schedules.

11 THE COURT: All right. Hold on one
12 second. What is your juror number, ma'am?

13 JUROR 279: 279.

14 THE COURT: 2-7 --

15 JUROR 279: 9.

16 THE COURT: 9, thank you.

17 All right. I'm going to excuse you from
18 service this week. Okay?

19 JUROR 279: Thank you. I appreciate
20 it.

21 THE COURT: All right. She's excused.

22 THE BAILIFF: Juror 36, Your Honor.

23 THE COURT: Yes, ma'am.

24 JUROR 36: Yes. So I have a daughter
25 under the seven, but I also have two children with

1 disabilities. At least one of them. I am the who
2 picks them up from school, so I don't know what
3 time this will let out.

4 THE COURT: So let me ask you this: You
5 told me that you're a business owner.

6 JUROR 36: Yes, a co-business owner. I
7 handle all my husband's --

8 THE COURT: What type of business is
9 this?

10 JUROR 36: It's a plumbing business.

11 THE COURT: A plumbing business. You
12 work out of the house?

13 JUROR 36: Yes.

14 THE COURT: All right. I'm going to
15 excuse you from service this week, ma'am. Thank
16 you.

17 JUROR 36: Thank you.

18 THE COURT: All right. Ladies and
19 gentlemen, if you're the primary caretaker of a
20 person 65 years old or older and you're unable to
21 provide adequate care for the person while
22 performing jury service, you may be exempt from
23 jury duty. If this exemption applies to you and
24 you wish to be exempted, please stand. All right,
25 let the record reflect no one is standing.

1 Ladies and gentlemen, if you're a primary
2 caretaker of a severely disabled person who is
3 unable to care for himself or herself and cannot
4 be left unattended and you're unable to provide
5 adequate care for the person while performing jury
6 service, you may be exempt from jury duty this
7 week. If this exemption applies and you wish to
8 be exempted, please stand.

9 Come on up.

10 THE CLERK: She's been transferred three
11 times.

12 THE BAILIFF: Juror 179, Your Honor.

13 THE COURT: Hey. Yes, ma'am.

14 JUROR 179: Yes, my husband was just
15 diagnosed with ALS.

16 THE COURT: Okay.

17 JUROR 179: Two months ago.

18 THE COURT: All right.

19 JUROR 179: And he is in a wheelchair, so
20 I don't know whether --

21 THE COURT: All right. You got to stay
22 with us. You've already been transferred three
23 times. You got to stay and serve. Thank you.

24 All right. Ladies and gentlemen, the next
25 exemption involves those of you who may be attending

1 school at this time or working in some capacity with a
2 school. If this exemption applies to you and you wish
3 to be exempted, we'll transfer your service to another
4 term of court at which time will not conflict with
5 your school responsibilities. Is there any member of
6 the jury panel who is a full-time student, school
7 teacher, school crossing guard, school bus driving, or
8 who serves in any other school-related function who is
9 unable to serve on jury duty this week as a result of
10 that school involvement? If so, please stand.

11 Come on up.

12 THE BAILIFF: Juror 17, Your Honor.

13 THE COURT: Hi, how you doing? Yes,
14 ma'am.

15 JUROR 17: I am the principal of a school
16 6th to 12th grade. This is the second week of
17 school. It is very difficult for me to be here.

18 THE COURT: I understand. How about we
19 transfer you the summer?

20 JUROR 17: That would be better.

21 THE COURT: I will transfer number 17.
22 They'll help you right around there.

23 JUROR 17: Okay, Thank you.

24 THE COURT: Sometime in the summer,
25 please.

1 THE BAILIFF: Juror 237, Your Honor.

2 THE COURT: 237. Hold on one second,
3 ma'am. Yes, ma'am.

4 JUROR 237: I go to school.

5 THE COURT: You do go to school. Where
6 do you go to school?

7 JUROR 237: Advanced Beautician
8 Academy.

9 THE COURT: Advanced -- I can't say the
10 word.

11 JUROR 237: Advanced Beautician Academy.

12 THE COURT: All right.

13 JUROR 237: I have to attend school
14 Tuesdays, Wednesdays, and Thursdays.

15 THE COURT: You're in school when?

16 JUROR 237: Tuesdays, Wednesdays, and
17 Thursdays.

18 THE COURT: All right. I can transfer
19 you. When are you not in school?

20 JUROR 237: Mondays.

21 THE COURT: No, no. I got to have a
22 week.

23 JUROR 237: I'm in school every week.

24 THE COURT: When do you graduate?

25 JUROR 237: Next year.

1 THE COURT: I'm going to transfer you to the
2 summer, ma'am. You're going to have to come back this
3 morning and we'll have to address it then.

4 JUROR 237: Okay.

5 THE COURT: Thank you very much. We're
6 going to transfer her to the term in the summer,
7 please.

8 THE CLERK: Yes, sir.

9 THE COURT: All Right. Ladies and
10 gentlemen, any member of the jury panel who is
11 employed with the department of corrections, at a
12 penitentiary, if so, and you would like to be
13 excused, please stand. (No response.)

14 All right. Ladies and gentlemen, the next
15 question, I will tell you that I understand what a
16 sacrifice it is to be here this week in honoring your
17 summons, and I'll also tell you for many years I was
18 self-employed myself before I took this job. And,
19 again, I understand the responsibilities and the
20 obligations as it relates to being self-employed. But
21 I will tell you that just because somebody is
22 self-employed, if we excused all the folks who are
23 self-employed, I don't know that we would be in a
24 position to have trials.

25 But that having been said, what I want

1 you to know is this: Ladies and gentlemen, is
2 there any juror who performs services for a
3 business, commercial or agricultural enterprise,
4 which are so essential to the operation of the
5 enterprise that if you were required to perform
6 jury duty the enterprise would have to close or
7 stop functioning? If so, and you wish to be
8 exempted, please stand. I'm certainly willing to
9 hear from you. Anybody who performs services for
10 a business, commercial or agricultural enterprise,
11 which are so essential to the operation of the
12 enterprise that, if you were required to perform
13 jury duty, the enterprise would have to close or
14 stop functioning, and you wish to be exempted,
15 please stand.

16 THE BAILIFF: Juror 29, Your Honor.

17 THE COURT: Yes, ma'am.

18 JUROR 29: Good morning, sir. I'm not
19 sure if you just meant agricultural.

20 THE COURT: No, ma'am. Agricultural
21 services for a business, commercial or
22 agricultural. I'm happy to hear from you.

23 JUROR 29: So I am an independent hair
24 stylists, so I schedule my own clients.

25 THE COURT: Right.

1 JUROR 29: I do work Tuesday through
2 Friday. I do have clients scheduled all day from
3 Tuesday through Friday.

4 THE COURT: All right. Ma'am, let me
5 tell you what, number 1, the fact that you're
6 self-employed as a stylist, I don't think that's
7 going to excuse you. Okay? I don't think that --
8 I'm not -- I can't excuse somebody for that
9 reason. However -- well, it's not the be-all,
10 end-all.

11 That having been said, I got two things I
12 can tell you. Number 1, you already know you're
13 going to be out of here this afternoon and you
14 know you're not going to be here tomorrow. Okay?
15 If you still want to go, I can continue you to
16 another term of court. They can tell you when
17 that term of court is going to be so that you will
18 know well in advance so that you could go and then
19 do whatever you need to do as it relates to your
20 schedule that week. So I can do one of those two
21 things.

22 JUROR 29: So the issue with that is my
23 husband is active duty. He is getting ready to do
24 his relief deployment at his position in Parris
25 Island. We have orders to move.

1 THE COURT: Well, that's no problem. If
2 you're not living here, you're free.

3 JUROR 29: Okay. I mean, does it matter
4 if that takes place?

5 THE COURT: No. What happens is this:
6 If you're not here when you're called to jury
7 service, ma'am, you're not here. In other words,
8 if you move -- if I tell you to come back -- what
9 is this, August? If I tell you to come back in
10 October and you're gone, you-all moved somewhere,
11 no problem.

12 JUROR 29: Okay.

13 THE COURT: Now, if you're still here,
14 you got to show up. Follow me?

15 JUROR 29: Yes, sir.

16 THE COURT: So, do you want me to
17 continue you to another term? When do you think
18 you're going to move.

19 JUROR 29: We think it's going to be,
20 like, mid to end October.

21 THE COURT: Well, I'll tell you, what I'm
22 going to do is this. I'm going to put you to come
23 back in November. How about that? If you've
24 moved by then, then you're done and don't have to
25 worry about it.

1 JUROR 29: Yes, sir.

2 THE COURT: If you're here in November,
3 you got to be here. How's that? That will give
4 you the opportunity to keep everything straight.
5 It gives you plenty of time. And if you're still
6 here, you can get everything straight with your
7 business. And if you've moved, okay, and you let
8 your mail get forwarded, you write back that you
9 no longer live in Beaufort County. I'm going to
10 assume that's going to be the truth, but that's
11 how we'll deal with it. Okay?

12 JUROR 29: Yes, sir.

13 THE COURT: They will help you. I'm
14 going to transfer her to a term in November,
15 please.

16 Come on up, ma'am.

17 THE BAILIFF: 322, Your Honor.

18 THE COURT: Yes, ma'am.

19 JUROR 322: So I am currently a private
20 licensed private investigator. I contract through
21 a company, but it's me. So if I'm not there,
22 nobody is working the cases. I have to be
23 reactive. I have GPS trackers out.

24 THE COURT: All right.

25 JUROR 322: I have potential for hearings

1 and subpoenas, and et cetera, et cetera. Whatever
2 you want to do with that.

3 THE COURT: Well, what I'll tell you is
4 this.

5 JUROR 322: Yes, sir.

6 THE COURT: I'm going to be able to
7 excuse you for that.

8 JUROR 322: Yes, sir.

9 THE COURT: But --

10 JUROR 322: I bet none of them want me
11 anyway.

12 THE COURT: Surely.

13 JUROR 322: Never.

14 THE COURT: I'm not going to excuse you.
15 I don't think that's an excuse.

16 What I can do is this. I can transfer you
17 another term of court if this a particularly bad week.
18 But I've already told you, you're going to be out of
19 here by one o'clock at the worst today, if not
20 earlier, and you won't be here tomorrow. So to that
21 extent, I'm not storing it. You can serve. But if
22 you want me --

23 JUROR 322: A transfer doesn't change the
24 situation. It's always going to be that way.

25 THE COURT: Right. But I want you to

1 know that I'm willing to do that, if you want.

2 JUROR 322: That isn't going to --

3 THE COURT: Then I'll have you stay with
4 us.

5 JUROR 322: Okay, thanks.

6 THE COURT: Yes, ma'am.

7 She's going to stay with us.

8 All right. Ladies and gentlemen, that
9 concludes the statutory list of qualifications and
10 exemptions for jury service. It may be that
11 you're qualified and no exemption applies to you
12 but jury service this week would constitute an
13 extreme hardship for some particular reason. I
14 cannot permanently excuse a qualified juror from
15 service, but under extreme and compelling
16 circumstances I may excuse a juror from this term
17 of court and transfer the juror to another term of
18 court, particularly jurors who have not been
19 previously transferred. Please understand that
20 genuine inconvenience is not a sufficient reason
21 to transfer you to another term of court. To
22 justify a transfer to another term of court,
23 service this week must constitute an extreme
24 hardship. So, for instance, if, you know, got
25 your 10th anniversary cruise and you're supposed

1 to be leaving on Thursday, that would be an
2 example. If you've got some appointment that's
3 been scheduled for months, I understand how that
4 goes. That would, perhaps, be an example.

5 So, ladies and gentlemen -- and those are
6 just two examples. I'm not saying that -- there
7 may be many others.

8 Ladies and gentlemen, this is now a
9 chance for those of you who did not respond to any
10 questions that I asked earlier and those of you
11 who have a compelling reason to request a transfer
12 of your jury service to another week to come
13 forward. If you believe you are disqualified or
14 exempt from jury service, or if you have any
15 questions about whether you are disqualified or
16 exempt, or if you to want to be transferred to
17 another term of court, please come forward at this
18 time.

19 THE BAILIFF: Juror 231, Your Honor.

20 THE COURT: Yes, sir.

21 JUROR 231: So my mom has five days to
22 put her house on the market because we're going
23 forward with a foreclosure so the court ruled
24 that.

25 THE COURT: Okay.

1 JUROR 231: So we only have, I guess,
2 three days now to get the house prepared. It's
3 not exactly the most ideal house. We have to do
4 showing. I'm still currently staying there, but
5 my mom works full time.

6 THE COURT: Sir, you're 231?

7 JUROR 231: I haven't been scheduled for
8 another time.

9 THE COURT: And you haven't asked to be
10 rescheduled, so given what you've told me about
11 this foreclosure situation and getting things
12 ready, I'm going to transfer you to another term
13 of court. And they'll tell you when to come back.
14 He just needs to be transferred to another term of
15 court. Thank you, buddy.

16 Hey, ma'am.

17 THE BAILIFF: Juror 50, your Honor.

18 THE COURT: Yes, ma'am.

19 JUROR 50: Okay. Yes, sir. So I am a
20 surviving spouse, and this weekend my children and
21 are going to grief conference out of town and we
22 booked our flights.

23 THE COURT: All right. You can stay with
24 us this week. Thank you.

25 JUROR 50: Okay.

1 THE COURT: You've already been
2 transferred twice, that's why I can't do it again.
3 Sorry.

4 THE BAILIFF: Juror 98, Your Honor.

5 THE COURT: Hey, sir. Yes, sir.

6 JUROR 98: I'm related to the lead
7 investigator.

8 THE COURT: All right. I appreciate you
9 telling me that. That's exactly what you're
10 supposed to be doing. But, at this point, there
11 will be questions concerning this particular case
12 and that's when you bring that up. Okay?

13 JUROR 130: Thank you.

14 THE COURT: Thank you.

15 THE BAILIFF: Juror 130, Your Honor.

16 THE COURT: Hey, sir. Yes, sir.

17 JUROR 130: About 11 years ago, I got
18 DUAC.

19 THE COURT: All right. A DUAC, don't
20 worry about it. Let me ask you this: Was that
21 your first DUAC?

22 JUROR 130: Yes.

23 THE COURT: All right. Then you're good.
24 Don't worry about it.

25 JUROR 130: Thank you.

1 THE BAILIFF: Juror 62, Your Honor.

2 JUROR 62: So I have a two-year-old at
3 the house and a 96 year old grandmother that I
4 take care of during the day. I have someone
5 today, but she has COPD. I don't know how she is.

6 THE COURT: So you got a two-year-old at
7 the house.

8 JUROR 62: And a 96-year-old
9 grandmother.

10 THE COURT: Who looks after them when
11 you're working as a server?

12 JUROR 62: My wife works during the day
13 and I work nights.

14 THE COURT: Who's with them right now?

15 JUROR 62: My wife's grandmother, but she
16 has COPD. She can do, like, a day or two, but I
17 don't know how long --

18 THE COURT: All right. Well, I'll tell
19 you, I don't know that I'll excuse you for that.
20 But you're going to be free to go probably within
21 the next hour, hour and a half. You won't even
22 have to be here tomorrow, and so I think that I'll
23 have you stay with us.

24 JUROR 62: Yes, sir.

25 THE COURT: Yes, sir. Thank you.

1 THE BAILIFF: Juror 140, Your Honor.

2 THE COURT: Hey. Yes, ma'am.

3 JUROR 140: Good morning. How are you?

4 THE COURT: I'm doing great.

5 JUROR 140: I'm not trying to be excused

6 I just wanted to talk to you about being

7 accommodated. I have bad circulation in my legs,

8 a history of blood clots.

9 THE COURT: Okay.

10 JUROR 140: Since '93, when I was 13.

11 THE COURT: Good, Lord.

12 JUROR 140: I have to get up, like, 10,

13 15 minutes.

14 THE COURT: Anything you need with that,

15 we'll be able to accommodate that.

16 JUROR 140: All right, thank you.

17 THE COURT: Thank you.

18 THE BAILIFF: Juror 310, Your Honor.

19 JUROR 310: Let me start off by saying,

20 I'm happy to serve, but I wanted to be

21 transparent. I wasn't sure if this would

22 interfere, but I testified before against a

23 convicted murderer and I'm also a victim of a

24 sexual crime.

25 THE COURT: And what happens -- I

1 appreciate you sharing that with us. There will
2 be some questions, ma'am, that, once we get into
3 picking the jury for the first case, we'll be in a
4 position to respond to those questions.

5 MS. MAIN: Judge, can we ask about --

6 THE COURT: Let me ask you something,
7 ma'am.

8 JUROR 310: Yes, sir.

9 THE COURT: Hold on one second. Did you
10 plead guilty to unlawful taking or disposition --

11 JUROR 310: Yes, I'm so sorry. I was
12 18.

13 THE COURT: No problem. It looks like
14 may be you got probation or the sentence could
15 have carried up to seven years.

16 JUROR 310: I --

17 THE COURT: Ma'am, relax, relax.

18 JUROR 310: Okay.

19 THE COURT: As a result of that, you're
20 not going to be eligible to serve, so I'm going to
21 have to excuse you. That's fine. We'll excuse
22 from service. Okay?

23 JUROR 310: Thank you.

24 THE COURT: Thank you, very much. Number
25 310 is going to be excused.

1 All right. I need number 289. Juror 289,
2 come see me, please.

3 THE BAILIFF: Juror 289.

4 THE COURT: Hey, sir.

5 JUROR 243: Yes, sir.

6 THE COURT: Let me ask you, is that your
7 social security number right there?

8 JUROR 243: Yes, sir.

9 THE COURT: Did you receive some type of
10 charge of possession --

11 JUROR 243: Possession of a firearm and
12 trafficking.

13 THE COURT: -- it looks like there was a
14 sentence.

15 JUROR 243: Five years.

16 THE COURT: As a result of that, sir,
17 you're not going to be eligible.

18 JUROR 243: I was going to come up and
19 talk to you about that at the end.

20 THE COURT: That's fine. That's no
21 problem at all. Let me ask you this: How long
22 ago was that?

23 JUROR 243: That was back in 2000.

24 THE COURT: Well, sir, given the age, it
25 may be that you can get that expunged.

1 JUROR 243: I did.

2 THE COURT: You did?

3 JUROR 243: I have already. That's why
4 I'm here. I believe the governor of Virginia. I
5 got a letter.

6 THE COURT: Mr. Newman?

7 MR. NEWMAN: Yes, sir.

8 JUROR 243: I got --

9 THE COURT: Hold on one second.

10 JUROR 243: Okay.

11 THE COURT: All right. I just wanted you
12 to be a part of this conversation, Mr. Newman.

13 MR. NEWMAN: Yes, sir.

14 THE COURT: This juror has been convicted
15 of possession of a firearm in furtherance of a
16 drug offense and was sentenced to five years. But
17 now I asked him or told him he could consider
18 maybe -- being 20 years ago -- getting it
19 expunged. Something he may want to consider
20 moving forward. He tells me that you have been --
21 you got it expunged or amnesty.

22 JUROR 243: I got --

23 THE COURT: What did you get?

24 JUROR 243: I got all my voting rights
25 back. Right to serve on a jury. The only thing I

1 didn't get back because of the possession is being
2 able to carry a gun. So I got amnesty, but not
3 pardoned. I'm in the process of getting it
4 pardoned.

5 THE COURT: All right. I need you to
6 have a seat. Go right down there so I can talk to
7 these folks.

8 MR. NEWMAN: What he's saying is a
9 two-step process when you go through the pardon.
10 The governor's office thinks there's something
11 colorful in there, they can grant you amnesty
12 while they're going over your petition. Amnesty
13 restores certain rights. Can't carry a gun, just
14 like he said. But it restores your other civil
15 rights. If the pardon is ultimately not granted,
16 then amnesty is withdrawn. He was granted amnesty
17 as opposed to a pardon.

18 THE COURT: So your position is, he would
19 be eligible to serve?

20 MR. NEWMAN: If what he's telling is
21 correct.

22 THE COURT: He's under oath to tell us
23 the truth.

24 MR. NEWMAN: I understand that. I'm
25 assuming that. I think the Court has to assume

1 that, but I think he is eligible to serve.

2 THE COURT: Solicitor, what is your
3 position?

4 MR. NEWMAN: They certainly have
5 strikes.

6 MS. MAIN: The issue for the State is
7 it's simply not reflected in the documents that
8 were provided. So it's our position and take the
9 position that he is ineligible.

10 THE COURT: What I want to say is, the
11 question actually says you have not been granted
12 pardon or amnesty. What's interesting is that
13 this gentleman who took an oath came right up here
14 and told us that he had -- I think he said he had
15 amnesty, but hadn't been pardoned. As I read that
16 question, I think it says pardon or amnesty. It
17 says pardon or amnesty. He also was specifically
18 aware, as to the pardon, what rights he had. He
19 said he still couldn't carry a gun.

20 I find he is eligible to serve, and I
21 base that upon the information that's been
22 presented to me and certainly he appeared to be
23 very knowledgeable about this matter, and I think
24 articulated exactly what the position is. And so
25 I'm going to find him eligible to serve.

1 Sir, come on right back up. Sir, thank
2 you. You did exactly what I wanted you to do. I
3 believe that, based upon the amnesty that you
4 received, you are eligible to serve. I'm going to
5 have you stay with us.

6 JUROR 243: Okay.

7 THE COURT: Thank you so much.

8 THE BAILIFF: Go back to your seat,
9 please, sir.

10 THE COURT: Mr. Newman, is your client
11 going to be here for jury selection?

12 MR. NEWMAN: He's been here. He wanted
13 to step out for little bit. I was going to --
14 they usually need a couple minutes to put the
15 computer thing together.

16 THE COURT: What I'm going to do is, I'm
17 going to excuse the jurors for about ten minutes,
18 and then we'll bring them back in and we will go
19 ahead and move forward with the jury selection in
20 you-all's case.

21 Is that satisfactory to the State?

22 MS. MAIN: Yes, sir.

23 THE COURT: Mr. Newman?

24 MR. NEWMAN: Yes, sir.

25 THE COURT: Okay, good.

1 All right. Ladies and gentlemen, I find the
2 jury panel is qualified. So what I'm going to do next
3 is, I want you to take probably a ten-minute break. I
4 got about 10 after. I tell you what, just make it 15.
5 Come back in here at 11:25. And what we're going to
6 do then, we're going to select the jury in this first
7 case. Once we finish with that, I'm going to send
8 everybody home, and then I will give you some
9 instructions as to what to do as it relates to calling
10 back. So if you will be back in your seats at 11:25.
11 Thank you.

12 (Jury panel exits the courtroom at 11:10 a.m.)

13 THE COURT: All right. Have you seen
14 this, Mr. Newman?

15 MR. NEWMAN: Yes, sir.

16 THE COURT: They provided me a list of
17 potential witnesses.

18 MR. NEWMAN: Yes, sir.

19 THE COURT: Do you have a witness list?

20 MR. NEWMAN: I have no witnesses.

21 THE COURT: So is this satisfactory?

22 MR. NEWMAN: Yes, sir.

23 THE COURT: All right. What about voir
24 dire? Do we have any voir dire?

25 MS. MAIN: The State has no additional

1 voir dire.

2 THE COURT: Do you have anything?

3 MR. NEWMAN: Just your usual.

4 THE COURT: Okay. That sounds good.

5 We'll do that. I'll see everybody back here in a
6 few moments. Thank you so much.

7 (A break was taken 11:12 a.m. to 11:26 a.m.)

8 THE BAILIFF: All rise. This court is in
9 session.

10 THE COURT: All right. You can be
11 seated.

12 Mr. Newman, Solicitor, could you please
13 approach?

14 THE COURT: So these are the indictments.
15 There is a possession of marijuana indictments.
16 There's a trafficking in cocaine.

17 MR. NEWMAN: We'll have to send in a
18 special verdict form, and then they'll have to
19 endorse the indictment if there's a guilty
20 verdict. Or a not guilty verdict, they'll have to
21 endorse the indictment.

22 THE COURT: All right. So I'm just going
23 to say we didn't read that part. And this is
24 trafficking methamphetamine. I'll leave out the
25 second offense of that, and we'll leave out the

1 out the second section.

2 MR. NEWMAN: Right.

3 THE COURT: Thank you very much.

4 THE BAILIFF: All jurors are present,
5 Your Honor.

6 THE COURT: All right, thank you.

7 All right. Ladies and gentlemen of the jury
8 panel, we're about to begin the trial of the case of
9 the State of South Carolina against Latavious Terrell
10 Williams. And before we select a jury, there's going
11 to be several questions that I got to ask you.

12 Ladies and gentlemen, the indictments in
13 this case charge the defendant with trafficking in
14 methamphetamine and alleges, ladies and gentlemen,
15 that in Beaufort County, South Carolina, on or
16 about June 11, 2020, the defendant did knowingly
17 sell, manufacture, deliver, purchase, or otherwise
18 bring into the State or provide a financial
19 assistance or otherwise aid, abet, attempt, or
20 conspire to sell, manufacture, deliver, purchase,
21 or bring into this state, or was knowingly in
22 actual, or constructive possession of more than
23 28 grams but less than 100 grams of
24 methamphetamine or cocaine base, ladies and
25 gentlemen.

1 Ladies and gentlemen, another indictment
2 also alleges trafficking in cocaine, that in
3 Beaufort County, South Carolina, on or before
4 June 11, 2020, the defendant, Latavious Terell
5 Williams, did knowingly sell, manufacture,
6 cultivate, deliver, purchase, or bring into the
7 state, or provide financial assistance to bring
8 into the state, or aid, abet, attempt, or conspire
9 to sell, manufacture, cultivate, deliver,
10 purchase, or bring into this state, or actually or
11 constructively possess or attempt to become an
12 actual or constructively possess or attempt to
13 become in actual or constructive possession of
14 28 grams or more, but less than 100 grams of
15 cocaine mixture or cocaine base.

16 And finally, ladies and gentlemen, an
17 indictment alleges that in Beaufort County, South
18 Carolina, on or about June 11, 2020, the defendant
19 Latavious Terell Williams did knowingly or
20 intentionally possess less than 28 grams or one
21 ounce of marijuana or 10 grams of hashish all in
22 violations of the code of laws of South
23 Carolina.

24 Now, folks, I want to tell you right now,
25 these indictments are not evidence. I want to

1 tell you again. These indictments are not
2 evidence. They are merely pieces of paper. They
3 are the charging documents that bring this matter
4 into court. That's it. And I want you to know
5 that, and I cannot over-emphasize that.

6 The defendant in this matter has pled not
7 guilty and has requested a jury trial.

8 Now, ladies and gentlemen, the defendant
9 in this case is Latavious Terrell Williams. So
10 what I'd like to do -- what I'm going to do at
11 this point is, I'm going to ask, is there any of
12 the jury panel who is related by blood, connected
13 by marriage, or had a close or personal
14 relationship, a business relationship, any
15 connections whatsoever with the defendant
16 Latavious Terrell Williams. If so, I need you to
17 stand.

18 MR. NEWMAN: If it pleases the Court,
19 Mr. Williams is here in the courtroom.

20 THE COURT: Oh, okay. I'm sorry. Come
21 on up, Mr. Williams.

22 MR. NEWMAN: I didn't want to interrupt
23 the court.

24 THE COURT: That's all right.

25 Hey, Mr. Williams. Mr. Williams, do you mind

47
1 standing around just so the jury can take a look. All
2 right, great. Anybody know Mr. Williams? Have any
3 relationship with him whatsoever? Business, personal
4 marriage, blood, anything at all? (No response.)

5 All right. Thank you so much.

6 Mr. Newman, you want to introduce
7 yourself while I've got you up, sir?

8 MR. NEWMAN: Good morning, ladies and
9 gentlemen. My name is Jared Newman. I practice
10 law here in Beaufort County, and I represent
11 Mr. Williams on these charges today. Thank
12 you-all.

13 THE COURT: Thank you so much, Mr.
14 Newman.

15 Is any member of the jury panel related
16 by blood, connected by marriage, have any
17 relationship whatsoever, business or personal,
18 with Mr. Newman? Yes, sir. Your number,
19 please.

20 JUROR 243: 243.

21 THE COURT: 243?

22 JUROR 243: Yes, sir.

23 THE COURT: Yes, sir.

24 JUROR 243: As discussed prior, I was
25 previously in law enforcement and had multiple

1 cases.

2 THE COURT: All right. You've had
3 dealings through your professional capacity, sir?

4 JUROR 243: Yes, sir.

5 THE COURT: All right. Let me get you to
6 come up. Come on up.

7 THE BAILIFF: Juror 243, Your Honor.

8 THE COURT: Sir, it sounds like you've
9 had some professional dealings with Mr. Newman in
10 the past, and I think you also said with the
11 solicitor's office also.

12 JUROR 243: He tried some of my cases.

13 THE COURT: Let me ask you this, sir: Is
14 that going to affect your ability to be fair and
15 impartial in this case? Would you be able to set
16 those experiences aside, listen to the evidence
17 that comes in via the witness stand, the law that
18 I instruct you, and then bring back a verdict
19 that's fair, fair to the State and fair to the
20 defense? That's what I need to know.

21 JUROR 243: Yes, sir.

22 THE COURT: Thank you very much. You can
23 stay with us.

24 JUROR 243: I believe I know some of the
25 officers. Am I going to have to keep coming up

1 here?

2 THE COURT: Yes, sir. Well, you're going
3 to have to -- yes, sir. I'm going to list some
4 witnesses in just a minute.

5 JUROR 243: I apologize.

6 THE COURT: No problem.

7 All right. And so, at this point, I'd
8 like to have the attorneys in this matter who are
9 appearing on behalf of the State of South
10 Carolina, if they would, please introduce
11 themselves.

12 MS. MAIN: Good morning. My name is
13 Monica Main and this is Hannah Kidd and Samantha
14 Molina and we work for the 14th Circuit
15 Solicitor's Office.

16 THE COURT: All right. Ladies and
17 gentlemen, any member of the jury panel related by
18 blood, connected by marriage to any of these
19 attorneys who were introduced to you, have any
20 business dealings with them, personal relationship
21 with them, or related to anyone who works at the
22 14th Judicial Circuit solicitor's Office? If so,
23 I need you to stand. (No response.)

24 All right. Thank you.

25 All right. Ladies and gentlemen, I have

1 a list of potential witnesses in this matter.
2 Okay? And these are -- and that's just what I
3 said, potential. Okay? All of these witnesses
4 called, some of the witnesses may be called, but
5 we list all the potential witnesses in this case.
6 So what I'm going to do is, I'm going to go
7 through and I'm going to name out probably four
8 witnesses and then give you a chance to respond,
9 and then name four more. So if any of these
10 questions apply to you, I'm going to want you to
11 come forward so I can just ask you a few follow-up
12 questions, and I appreciate your patience, folks.

13 All right. Ladies and gentlemen,
14 potential witnesses in this matter; Matthew
15 Huggins with the Beaufort County Sheriff's Office;
16 Erin Morris, Beaufort County Sheriff's Office;
17 William Squires, Beaufort County Sheriff's Office;
18 Daniel Mooney, Beaufort County Sheriff's Office.
19 That's Matthew Huggins, Erin Morris, William
20 Squires, Daniel Mooney, and it looks like they are
21 all with the Beaufort County Sheriff's Office.

22 So, ladies and gentlemen, if you are
23 related by blood, connected by marriage, have any
24 relationship with any of these officers business
25 relationship, friendship, acquaintances, any

1 connection whatsoever with these officers, I need
2 you to please come forward. Thank you.

3 THE BAILIFF: Juror Number 98, Your
4 Honor.

5 THE COURT: You were telling me earlier
6 and I sat you down. Now is the time. Tell me
7 about it, yes, sir.

8 JUROR 98: The lead investigator in this
9 case William Squires, my son-in-law.

10 THE COURT: William Squires is your
11 son-in-law?

12 JUROR 98: Yes, sir.

13 THE COURT: All right.

14 JUROR 98: He is also a neighbor of mine
15 and a close friend.

16 THE COURT: All right. I tell you, if
17 he's your son-in-law, sir, I think I'm going to
18 excuse you from service in this case. Okay?

19 JUROR 98: Thank you.

20 THE COURT: Thank you very much. If you
21 just have a seat, sir, I'll tell you what to do.

22 THE BAILIFF: Juror 223, Your Honor.

23 THE COURT: So is it one or more than one
24 of those.

25 JUROR 223: Erin Morris and Daniel

1 Mooney.

2 THE COURT: How do you do know them, sir?

3 JUROR 223: Through professional classes
4 and stuff. On the road, Mooney came and did my
5 drug searches.

6 THE COURT: So let me ask you this, sir:
7 The fact that you have this relationship, what
8 I'll call -- it seems like primarily a
9 professional relationship with these potential
10 witnesses in this matter, is that going to affect
11 your ability to be fair and impartial in this
12 case, sir, listen to the evidence that's
13 presented, the law that I instruct you, and then
14 return a verdict that's fair to the State, fair to
15 the defense? That's what I need to do.

16 JUROR 223: No problem, sir.

17 THE COURT: Thank you very much. You can
18 stay with us.

19 THE BAILIFF: Juror number 95, your
20 Honor.

21 THE COURT: Hey, ma'am. Yes, ma'am. Was
22 it one or more than one of the names that you
23 recognized?

24 JUROR 95: One.

25 THE COURT: Which one?

1 JUROR 95: Erin Morris.

2 THE COURT: All right. Tell me, how do
3 you know her?

4 JUROR 95: We went to high school
5 together.

6 THE COURT: All right. So, let me ask
7 you this: Since graduating from high school, or
8 leaving high school, have you-all continued to
9 communicate?

10 JUROR 95: We see each other at friends'
11 houses, yeah.

12 THE COURT: Okay. Let me ask you this:
13 The fact that you see her at friends' houses, is
14 that from time to time, or regular time?

15 JUROR 95: From time to time.

16 THE COURT: The fact that you have this
17 relationship with her, what I want to know is,
18 would you be able to put that relationship aside,
19 listen to the evidence in this case, the law that
20 I instruct you, and then render a decision that's
21 fair, fair to the State, and fair to the defense?
22 That's what I need to know.

23 JUROR 95: Yes.

24 THE COURT: You can?

25 JUROR 95: Yes.

1 THE COURT: Thank you very much. Stay
2 with us.

3 THE BAILIFF: Your Honor, 342, Your
4 Honor.

5 THE COURT: Hey, ma'am. Is it one or
6 more than one of the names that applied to you?

7 JUROR 342: I was going to ask you to
8 read them again.

9 THE COURT: I'm happy to. Those names
10 are Matthew Huggins, Erin Morris, William Squires,
11 and Daniel Mooney.

12 JUROR 342: All the names sound familiar,
13 but I think Squires -- my husband was city police
14 for a long time. We know a lot of the officers.

15 THE COURT: Well, you've answered the
16 question. What I wanted to ask you is, how is it
17 that you think you were familiar with them. I
18 think you've answered that question. Your husband
19 was with the City of?

20 JUROR 342: Beaufort.

21 THE COURT: City of Beaufort Police
22 Department?

23 JUROR 342: Yes.

24 THE COURT: How long was he with them,
25 approximately?

1 JUROR 342: More than 10 years.

2 THE COURT: More than 10 years?

3 JUROR 342: Yeah.

4 THE COURT: Is he still in law
5 enforcement?

6 JUROR 342: He is physical security at
7 the air station.

8 THE COURT: That's right.

9 JUROR 342: We're still friends with a
10 lot of people.

11 THE COURT: You told me that.

12 Let me ask you this: How long has he been
13 away from law enforcement or the City of Beaufort?

14 JUROR 342: Maybe about 10 years.

15 THE COURT: Let me ask you this, ma'am:
16 The fact that you, it sounds to me, recognize some
17 of these names, and based upon the relationship
18 that your husband has had in law enforcement, is
19 that going to affect your ability to be fair and
20 impartial in this case? Do you think you can set
21 aside that relationship, listen to the evidence
22 that is presented, the law as I instruct you, and
23 then render a decision that's fair, fair to the
24 State, and fair to the defense, ma'am? That's
25 what I got to ask.

1 JUROR 342: I don't know.

2 THE COURT: Well, you know, let me tell
3 you, I appreciate that you bring life experiences
4 into court.

5 JUROR 342: Yeah.

6 THE COURT: So what I need to know is,
7 can you set that aside, or do you not know if
8 you're going to be able to do that? And if you
9 can't, I certainly understand.

10 JUROR 342: I don't know. I think, but I
11 don't know.

12 THE COURT: I appreciate your honesty.
13 As a result, ma'am, I'm going to excuse you from
14 service on this case. I'm going to ask that you
15 have a seat and I'm going to give you instructions
16 about the rest of the week. Thank you.

17 JUROR 342: Okay.

18 THE COURT: Thank you so much.

19 All right. Ladies and gentlemen, a
20 couple other potential witnesses in this matter:
21 Craig Karafa with the Bluffton Police Department;
22 Ryan Carter, Beaufort County Sheriff's Office;
23 Jessica Ziepfel, formerly with the Beaufort County
24 Sheriff's Office; Renita Berry. That's Craig
25 Karafa, Ryan Carter, Jessica Ziepfel, and Renita

1 Berry. You got to stop making a habit of this.
2 We want you to know, we want to err on the side of
3 disclosing. Because, again, you see we're dealing
4 with very important matters. Important to the
5 State and important to the defendant. So we want
6 to get as much accurate information as we can.
7 Thank you very much.

8 Yes, sir. All the names this last time?

9 JUROR 243: Craig Karafa, Ryan Carter,
10 Renita Berry.

11 THE COURT: And primarily professionally?

12 JUROR 243: Professionally, Craig Karafa,
13 through a friend of a friend I've been to social
14 functions.

15 THE COURT: All right. So let me ask you
16 this: The fact that you got this relationship
17 professional with most and perhaps somewhat
18 personal with another through a friend of a
19 friend, what I want to know is, can you set that
20 aside and listen to the evidence in this case and
21 render a verdict that's fair to the State and fair
22 to the defense, sir? That's what I need to
23 know.

24 JUROR 243: Yes, sir.

25 THE COURT: Any other potential

1 witnesses?

2 MS. MAIN: No, sir.

3 MR. NEWMAN: Just out of fairness, a
4 couple of years ago, I sued the Burton Fire
5 Department, and I deposed that gentleman before in
6 that lawsuit.

7 THE COURT: Okay.

8 MR. NEWMAN: That lawsuit settled about
9 two years ago.

10 THE COURT: All right. Thank you very
11 much.

12 MR. NEWMAN: Just to let you-all know.
13 He was just a witness in the case.

14 THE COURT: I had the attorneys introduce
15 themselves.

16 All right. Mr. Newman, counsel, these
17 are the questions that I will probably go back and
18 I think I go straight into. Do you want victim of
19 a violent crime?

20 MR. NEWMAN: Uh-huh.

21 THE COURT: Someone close to you works in
22 law enforcement?

23 MR. NEWMAN: Correct. Yes, sir.

24 THE COURT: I just want to make sure.
25 Basically, have you formed any opinion about guilt

1 in this matter, any prejudice to the State or
2 defense, anybody contributed to MAAD, SAAD, CADE?

3 MR. NEWMAN: Yes.

4 THE COURT: Any reason that you can't
5 serve with an emphasis on your ability to be fair
6 and impartial? Anything else, Mr. Newman?

7 MR. NEWMAN: That's it.

8 THE COURT: State?

9 MS. MAIN: Nothing further.

10 THE COURT: All right. Ladies and
11 gentlemen, I've got a few more questions to ask
12 you. Thank you.

13 All right. Ladies and gentlemen, I want
14 to know if you or any member of your family or
15 someone close to you has ever been the victim of a
16 violent crime? What I'm going to do is, I don't
17 want to single anybody out. I'm going to ask two
18 questions. Okay? I'm going to repeat the
19 questions. I also want to know if you or
20 someone -- a family member or someone close to you
21 works or has worked in the past in law
22 enforcement. Okay? So the two questions that I
23 need responses to are this: I'd ask that you
24 stand and come forward if you or someone close to
25 you, a family member or a close friend, has ever

1 been the victim of a violent crime, and I'd also
2 ask that you stand and come forward if you, a
3 family member, or someone close to you has worked
4 in or worked in law enforcement in the past? I
5 know that's going to be a whole bunch of people.
6 Thank you very much. I appreciate it. Come on
7 up.

8 THE BAILIFF: Juror number 6, Your Honor.

9 THE COURT: Yes, ma'am. Was it one
10 question or both questions that applies to you?

11 JUROR 6: One.

12 THE COURT: Which one?

13 JUROR 6: The second one.

14 THE COURT: The second one?

15 JUROR 6: Yes, sir.

16 THE COURT: Yes, ma'am. Let me hear from
17 you.

18 JUROR 6: My father-in-law worked in the
19 -- he's a captain in the Beaufort County Sheriff's
20 Department.

21 THE COURT: All right. Your
22 father-in-law is the captain --

23 JUROR 6: A captain in the Beaufort
24 County Sheriff's Department.

25 THE COURT: All right. Let me ask you

1 this: Given the fact that your father-in-law --
2 given the fact that your father-in-law is a
3 captain in the Beaufort County Sheriff's Office is
4 that going to affect your ability to be fair and
5 impartial in this matter?

6 JUROR 6: I'll be completely honest with
7 you, I don't think people end up in this courtroom
8 by chance.

9 THE COURT: All right. What I'm going to
10 do is, I'm going to excuse you from service in
11 this case. If you'll go back and have a seat and
12 I'll be with you as it relates to what you need to
13 do for the rest of the week. Okay?

14 JUROR 6: Yes, sir.

15 THE COURT: Thank you, ma'am.

16 THE BAILIFF: Juror 47, Your Honor.

17 THE COURT: Ma'am, was it one or both
18 questions that apply to you?

19 JUROR 47: The first one.

20 THE COURT: The first one, a violent
21 crime?

22 JUROR 47: Yes. I was a victim of sexual
23 assault.

24 THE COURT: You are?

25 JUROR 47: Uh-huh.

1 THE COURT: And let me ask you this:
2 When did that assault occur? More than five years
3 ago.

4 JUROR 47: 2019.

5 THE COURT: 2019. Was there --

6 JUROR 47: Sorry, 2018.

7 THE COURT: Was there any litigation that
8 came out of that?

9 JUROR 47: Yes, and the verdict was not
10 guilty.

11 THE COURT: The verdict was not guilty.
12 Let me ask you, ma'am: The fact that you were the
13 victim of a sexual assault, went to court, and
14 found not guilty, is that going to affect your
15 ability to be fair and impartial in this case?

16 JUROR 47: I don't believe so.

17 THE COURT: This case does not involve
18 sexual assault.

19 JUROR 47: Right.

20 THE COURT: Let me ask you this, ma'am:
21 You answered that you don't believe so. And so
22 what I will tell you is, where normally that would
23 be an adequate answer, what I need to know really
24 in this case is, are you going to be able to set
25 that aside, listen to the evidence, the law that I

1 instruct, and then return a verdict that's fair to
2 the State and fair to the defendant?

3 JUROR 47: Yes.

4 THE COURT: You will be able to do that?

5 JUROR 47: Yes.

6 THE COURT: All right. I'll have you
7 stay with us. Thank you.

8 THE BAILIFF: Juror number 1, Your
9 Honor.

10 THE COURT: Hi. Yes, ma'am, was it one
11 or both questions that apply?

12 JUROR 1: One.

13 THE COURT: One. Yes, ma'am. Which one?

14 JUROR 1: The law enforcement.

15 THE COURT: Yes, ma'am.

16 JUROR 1: I have a niece and three
17 nephews that work in law enforcement.

18 THE COURT: Where do they work in law
19 enforcement?

20 JUROR 1: One niece and her brother work
21 for LAPD, and my other nephew works for -- he just
22 got sergeant in the city of Industry, California,
23 and another nephew in the department of
24 corrections in Florence, Arizona.

25 THE COURT: All right. Let me ask you

1 this: The fact that you have these relatives who
2 are involved in law enforcement in various
3 capacities, is that going to affect your
4 ability --

5 JUROR 1: It hasn't in the past.

6 THE COURT: Hold on one second. I'm
7 sorry, just for the record, is that going to
8 affect your ability to be fair and impartial in
9 this case, ma'am?

10 JUROR 1: Oh, not at all.

11 THE COURT: Thank you very much. You can
12 stay with us.

13 THE BAILIFF: Your Honor, 131, Your
14 Honor.

15 THE COURT: Hey, ma'am. Is it one or
16 both --

17 I'm sorry. She's going to remain with us.
18 Was it one?

19 JUROR 131: The first one.

20 THE COURT: The first one. Yes, ma'am.
21 Were you or someone close to you a victim of a
22 violent crime?

23 JUROR 131: Uh-huh.

24 THE COURT: Who was that?

25 JUROR 131: My husband. My father tried

1 to shoot my husband.

2 THE COURT: Okay. I'm sorry to hear
3 that. When was that, ma'am?

4 JUROR 131: In 2021.

5 THE COURT: 2021. Were there any charges
6 that arose out of that?

7 JUROR 131: Yes, but he's still going.

8 THE COURT: It's still pending?

9 JUROR 131: Uh-huh.

10 THE COURT: Okay. Was that here in this
11 area?

12 JUROR 131: Yes.

13 THE COURT: Let me ask you this, ma'am.
14 The fact that have you that experience and it's
15 still pending, is that going to affect your
16 ability to be fair and impartial in this case?

17 JUROR 131: No.

18 THE COURT: No?

19 JUROR 131: No.

20 THE COURT: Great. Thank you very much,
21 ma'am.

22 THE BAILIFF: Your Honor, Juror 342, Your
23 Honor.

24 THE COURT: All right. Welcome back.

25 JUROR 342: I wasn't sure if I needed to

1 come up again if you excused from this one.

2 THE COURT: No. I should have -- well,
3 number 1, it doesn't necessarily include all week.
4 It includes this case. So I will give you
5 instructions about what to do in just a few
6 minutes. Okay?

7 JUROR 342: Thank you.

8 THE COURT: And, ladies and gentlemen, if
9 I excuse you from service in this case, if there's
10 any other questions that I ask about this case,
11 you don't have to come forward. So if I've
12 excused you, if you come up here and I excuse you
13 from service on this case, then I just need you to
14 have a seat and I'll give you instructions about
15 the rest of the week, but you don't have to come
16 back up here. Okay? Thank you.

17 THE BAILIFF: Juror 84, Your Honor.

18 THE COURT: Hey, sir.

19 JUROR 84: I'm chapter president for a
20 local law enforcement known as LAMC, Brotherhood
21 of Heroes. Anthony Buchanan is our national
22 president who is the sergeant in Dorchester
23 County.

24 THE COURT: Well, I know Anthony
25 Buchanan. I think I saw you in Walterboro.

1 JUROR 84: Probably so, sir.

2 THE COURT: So let me ask you this, sir,
3 the fact that you are a member of this
4 organization that is supportive of law
5 enforcement --

6 JUROR 243: Yes, sir.

7 THE COURT: -- and Mr. Buchanan who has
8 been in law enforcement for all his life --

9 JUROR 84: A couple years now.

10 THE COURT: -- to the present, is that
11 going to affect your ability to be fair and
12 impartial in this case? I don't mean to cut you
13 off. For the record, is that going to affect your
14 ability to be fair and impartial, sir, in this
15 case? You will be able to put that aside, listen
16 to the evidence and the law that I instruct you,
17 and then bring back a verdict that's fair to the
18 State and fair to the defendant?

19 JUROR 84: I can absolutely do that.

20 THE COURT: All right. Thank you.

21 JUROR 84: Yes, sir.

22 THE BAILIFF: Your Honor, Juror 243, Your
23 Honor.

24 THE COURT: Yes, sir.

25 JUROR 243: Twelve years law enforcement.

1 THE COURT: Okay. And let me ask you,
2 the fact that you've been in law enforcement --
3 well, you're employed as a fire officer now,
4 correct?

5 JUROR 243: Yes, sir.

6 THE COURT: Prior to that, you've been in
7 law enforcement?

8 JUROR 243: Yes, sir.

9 THE COURT: The fact that you have been
10 in law enforcement in the past is that going to
11 affect your ability to be fair and impartial in
12 this case, sir?

13 JUROR 243: No, sir.

14 THE COURT: Thank you. Stay with us.

15 THE BAILIFF: Juror 140, Your Honor.

16 THE COURT: Yes, ma'am. Was it one or
17 more than one of the questions that apply to you?

18 JUROR 140: One.

19 THE COURT: Which one.

20 JUROR 140: Violent crime.

21 THE COURT: Yes, ma'am. Was it you or
22 someone close to you?

23 JUROR 140: One was my daughter, and my
24 aunt, and her son.

25 THE COURT: And so what was the nature of

1 these offenses?

2 JUROR 140: How detailed do you want
3 me --

4 THE COURT: Most general. I mean, for
5 instance, was it an assault case, was it a
6 burglary, was it --

7 JUROR 140: It was burglary, drug, and
8 money, and they were both killed.

9 THE COURT: I'm very sorry. Let me ask
10 you, ma'am: The fact that you have this
11 experience in your past with your family, is that
12 going to affect your ability to be fair and
13 impartial in this case?

14 JUROR 140: I don't think so. It has
15 nothing to do with it.

16 THE COURT: Well, let me ask you this:
17 Normally, what you just told me might be an
18 acceptable answer, except here what I got to know
19 is, you bring your life experiences into the
20 courtroom, and I understand that, but what I need
21 to know, ma'am, is, would you be able to set those
22 experiences aside, listen to the evidence in this
23 case, the law that I instruct you, and then render
24 a verdict that's fair, fair to the State, fair to
25 the defense? That's what I need to know.

1 JUROR 140: I would try.

2 THE COURT: All right. And what you're
3 telling me is, you think that it might be
4 difficult. And so what I'm going to do, as a
5 result of that, ma'am, is excuse you from the
6 trial of this case. Just go back and have a seat.
7 I'll give you some instructions about the rest of
8 week. Thank you very much.

9 JUROR 140: Okay.

10 THE BAILIFF: Juror 14, Your Honor.

11 THE COURT: Hey, buddy. Was it one or
12 more than one of the questions that apply to you?

13 JUROR 14: The second one about law
14 enforcement. My neighbor who's like a father
15 figure, 28 years.

16 THE COURT: All right. So you got a
17 neighbor who's like a father figure to you --

18 JUROR 14: He was in law enforcement.

19 THE COURT: Was in law enforcement. All
20 right. Is that going to affect your ability to be
21 fair and impartial in this case, sir?

22 JUROR 14: No.

23 THE COURT: All right. Thank you very
24 much.

25 THE BAILIFF: Juror 322.

1 THE COURT: Welcome back.

2 JUROR 322: Thank you for having me.

3 THE COURT: Yes, ma'am. Was it one or
4 both of the questions that apply to you?

5 JUROR 322: Both.

6 THE COURT: Yes, ma'am.

7 JUROR 322: So, yes, to the first one.

8 THE COURT: All right. And was it you or
9 someone close to you?

10 JUROR 322: Me.

11 THE COURT: And could you -- in the most
12 general sense, was it an assault, burglary, was it
13 a robbery?

14 JUROR 322: Robbery.

15 THE COURT: And so let me ask you this:
16 Given that experience, do you think that's going
17 to make it hard for you to put that experience
18 aside and render a fair verdict in this case?
19 That is, listen to the evidence, the law that I
20 give you, and then return a verdict that's fair to
21 the State and fair to the defense? That's what I
22 need to know.

23 JUROR 322: On that answer, no, I can be
24 fair on that one. It's the other one.

25 THE COURT: All right. What about the

1 other one, dealing with law enforcement?

2 JUROR 322: Law enforcement.

3 THE COURT: Yes, ma'am. Go ahead.

4 JUROR 322: I'm a retired detective.

5 THE COURT: Right.

6 JUROR 322: I was also, for five years, a
7 task force with the FBI dealing with narcotics.
8 I've been a part of buyer busts, warrants,
9 wiretaps, all of it.

10 THE COURT: Well, given that experience,
11 do you believe it's going to be difficult for you
12 to be fair and impartial in this case?

13 JUROR 322: Yes, absolutely.

14 THE COURT: In that case, I'm going to
15 excuse you from the trial of this case. If you
16 just go back and have a seat, I'll give you
17 instructions about the rest of the week.

18 JUROR 322: Thank you, sir.

19 THE COURT: Yes, ma'am.

20 THE BAILIFF: Your Honor, 232, Your
21 Honor.

22 THE COURT: Yes, ma'am.

23 JUROR 232: Yes. A personal friend is in
24 law enforcement. She was in charge of southern
25 Beaufort County in 2020 and now she's in charge of

1 communications for Beaufort County Sheriff's
2 Office.

3 THE COURT: What's her name?

4 JUROR 232: Angela Vience.

5 THE COURT: The fact that you have this
6 relation with her, let me just ask you, is that
7 going to impact your ability to be fair and
8 impartial in this case? Would you be able to put
9 that aside --

10 JUROR 232: Yes.

11 THE COURT: -- listen to the evidence and
12 the law that I give you and then return a verdict
13 that's fair to the State and fair to the
14 defendant? That's what I want to know.

15 JUROR 232: Yes.

16 THE COURT: Thank you. You can stay with
17 us.

18 THE BAILIFF: Juror 95, your Honor.

19 THE COURT: Hello. Yes, ma'am. Was it
20 one or both questions that apply?

21 JUROR 95: One.

22 THE COURT: Which one?

23 JUROR 95: The second one. My husband
24 works for South Carolina Department of
25 Corrections.

1 THE COURT: All right. And how long has
2 he worked for the South Carolina Department of
3 Corrections?

4 JUROR 95: Twenty-four years.

5 THE COURT: The fact that he works for
6 South Carolina Department of Corrections, ma'am,
7 is that going to affect your ability to be fair
8 and impartial in this case?

9 JUROR 95: No.

10 THE COURT: All right. Thank you. You
11 can stay with us.

12 THE BAILIFF: Juror 239, Your Honor.

13 THE COURT: Yes, sir. Was it one or both
14 of the questions.

15 JUROR 239: Just one.

16 THE COURT: Which one is that?

17 JUROR 239: Having a relative.

18 THE COURT: Okay. Yes, sir.

19 JUROR 239: I have a brother-in-law who's
20 a retired SLED agent who's currently running for
21 Lexington County sheriff.

22 THE COURT: So he's presently running for
23 Lexington County sheriff?

24 JUROR 239: Uh-huh. Yes.

25 THE COURT: Let me ask you this: The

1 fact that you've got a brother-in-law who's
2 retired law enforcement running for sheriff now,
3 is that going to affect your ability to be fair
4 and impartial in this case, sir? That is, listen
5 to the evidence in this case, the law that I
6 instruct you, and return a verdict that's fair to
7 the State and fair to the defendant, sir? That's
8 what I need to know.

9 JUROR 239: It will not affect it.

10 THE COURT: Thank you very much.

11 THE BAILIFF: Juror 223, Your Honor.

12 THE COURT: Hello. Yes, ma'am. Was it
13 one or both of the questions that applied to you?

14 JUROR 223: Just the one with who I know
15 in --

16 THE COURT: Law enforcement? Yes, ma'am.
17 Tell me about it.

18 JUROR 223: By daughter's father-in-law
19 is Christopher Sankowski, a former DEA agent in
20 Beaufort County.

21 THE COURT: Okay.

22 JUROR 223: A good friend of mine, Joe
23 Glory, I believe is FBI, Beaufort County. My
24 former neighbor works for Beaufort County
25 Sheriff's Office.

1 THE COURT: All right. Well, let me ask
2 you this: The fact that you've got, it sounds
3 like, some good friends that are presently
4 involved in law enforcement, or have been in the
5 past, is that going to affect your ability to be
6 fair and impartial in this case, ma'am? Would you
7 be able to set that friendship or relationship
8 aside, listen to the law, and listen to the
9 evidence, and then render a verdict that's fair to
10 the State and fair to the defense? That's what I
11 need to know.

12 JUROR 223: Yes.

13 THE COURT: You can do that?

14 JUROR 223: Yes.

15 THE COURT: You can stay with us. Thank
16 you.

17 THE BAILIFF: Juror 319, Your Honor.

18 THE COURT: Yes, sir.

19 JUROR 319: My son-in-law is a corporal
20 with the Bluffton Police Department.

21 THE COURT: Let me ask you this, sir:
22 The fact that your son-in-law is a corporal with
23 the Bluffton Police Department, is that going to
24 affect your ability to be fair and impartial in
25 this case? Would you be able to put that aside,

1 listen the evidence in this case, the law I
2 instruct you, and then render a verdict that's
3 fair to the State and fair as to the defendant,
4 sir? That's what I need to know.

5 JUROR 319: Yes.

6 THE COURT: You will be able to do that?

7 JUROR 319: Yes.

8 THE COURT: Thank you. You can stay with
9 us.

10 THE BAILIFF: Juror 171, your Honor.

11 THE COURT: Yes, ma'am. Was it one or
12 both of the questions that apply?

13 JUROR 171: Both.

14 THE COURT: Okay. The one about the
15 crime, was it you or someone close to you?

16 JUROR 171: It was my parents.

17 THE COURT: Your parents. In the most
18 general sense, what was this?

19 JUROR 171: I guess it was armed
20 robbery.

21 THE COURT: Armed robbery. Okay, that's
22 all I need to know.

23 JUROR 171: Okay.

24 THE COURT: Let me ask you this: How
25 long ago did this happen?

1 JUROR 171: About five years ago.

2 THE COURT: About 5 years ago. Did that
3 case go to trial, is it still pending?

4 JUROR 171: Never found them.

5 THE COURT: Let me ask you this, ma'am:
6 The fact that you have this experience were your
7 parents, is that going to affect your ability to
8 be fair and impartial in this case? That is,
9 listen to the evidence that has been -- that will
10 be presented, the law that I instruct you and
11 bring back a verdict, a verdict that's fair,
12 ma'am, to both the State and the defense? That's
13 what I need to know in this case.

14 JUROR 171: I don't think I can.

15 THE COURT: You think it will difficult
16 to be fair and impartial?

17 JUROR 171: Yes.

18 THE COURT: I understand. I'm going to
19 excuse you from service in this case. I'll give
20 you instructions about the rest of the week.

21 THE BAILIFF: Juror 10, Your Honor.

22 THE COURT: Yes, sir.

23 JUROR 10: My brother-in-law is in law
24 enforcement.

25 THE COURT: Your brother-in-law. Where?

1 JUROR 10: In New York.

2 THE COURT: In New York, okay. Let me
3 ask you this: The fact that your
4 brother-in-law -- what does he do?

5 JUROR 10: Internal affairs. He's a
6 lieutenant.

7 THE COURT: Okay. The fact that your
8 brother-in-law is involved in law enforcement
9 in -- did you say New York?

10 JUROR 10: New York, yeah.

11 THE COURT: Is that going to affect your
12 ability to be fair and impartial in this case,
13 sir?

14 JUROR 10: No.

15 THE COURT: All right, thank you. You
16 can stay with us.

17 THE BAILIFF: Juror 178, Your Honor.

18 THE COURT: Yes, ma'am. Was it one or
19 both of the questions that apply?

20 JUROR 178: No, sir. The latter one.
21 The last one.

22 THE COURT: The one about law
23 enforcement.

24 JUROR 178: No. The first one then.

25 THE COURT: The first one about a victim

1 of a crime.

2 JUROR 178: Yes.

3 THE COURT: Was it you or someone close
4 to you?

5 JUROR 178: No. It was a grand-nephew
6 that lives in the state of Georgia.

7 THE COURT: Yes, ma'am.

8 JUROR 178: That was involved and
9 currently serving a sentence.

10 THE COURT: So he was accused and
11 convicted?

12 JUROR 178: Yes, sir.

13 THE COURT: So let me ask you -- do you
14 know what type of crime it was?

15 JUROR 178: Yes, sir. It was
16 drug-related.

17 THE COURT: Let me ask you this: The
18 fact that you have a nephew who was convicted of
19 some type drug-related crime, is that going to
20 affect your ability to be fair and impartial in
21 this case?

22 JUROR 178: No, sir.

23 THE COURT: Okay, great. Thank you. You
24 did exactly what I wanted you to do. You can stay
25 with us.

1 JUROR 178: Yes, sir.

2 THE BAILIFF: Juror 24, Your Honor.

3 THE COURT: Yes, sir. Was it one or both
4 of the questions that apply to you?

5 JUROR 25: I'll stick with the law
6 enforcement question.

7 THE COURT: All right. Yes, sir.

8 JUROR 25: You just want family members?

9 THE COURT: All right. Well, any family
10 members or anybody close to you that's involved
11 presently or in the past in law enforcement.

12 JUROR 25: My brother is a retired Lee
13 County, Florida, police officer. My grandfather
14 was a police aide. My uncle is a sheriff. And my
15 best friend works with the county police officer
16 as a dispatcher. A lot of officers.

17 THE COURT: Well, let me ask you this:
18 It sounds like you've got a lot of relatives who
19 are or were in law enforcement. So what I need to
20 know is this: Are you going to be able to put
21 that aside and that life experience and then
22 basically return a verdict listening to the
23 evidence and the law that I instruct you, and
24 bring back a verdict that's fair, fair to the
25 State and fair to the defense? That's what I got

1 to know.

2 JUROR 25: I believe I can do that.

3 THE COURT: All right. Well, let me tell
4 you, normally "I believe I can do that," is a
5 pretty good answer.

6 JUROR 25: Okay.

7 THE COURT: The problem is, in this case,
8 I've got to know that you can push that aside.
9 And there's not a right answer or a wrong answer,
10 sir. What I do want you to know is that you do
11 bring those life experiences in. So, I got to
12 know, either you can be, or you're not sure. And
13 if you're not sure, that's fine, but I got to
14 know.

15 JUROR 25: I'm not sure, because I hear a
16 lot.

17 THE COURT: What I'm going to do, sir,
18 I'm going to excuse you from service in this case,
19 sir. If you go back and have a sit. He's
20 excused, Juror Number 24. I'm going to excuse you
21 from service in this case. If you go back and
22 have a seat, I'll give you some instruction about
23 what to do the rest of the week. Okay.

24 JUROR 25: Okay.

25 THE BAILIFF: Juror 188.

1 THE COURT: Is he really the last person
2 or is somebody going to get up and stand and come
3 around? That's what always happens.

4 188, was it one or both questions that
5 apply to you?

6 THE WITNESS: Actually, both.

7 THE COURT: Start with the victim of a
8 violent crime. Was that someone close to you?

9 THE WITNESS: My wife.

10 THE COURT: Your wife. Is that something
11 that happened more than five years ago?

12 THE WITNESS: Oh, yes.

13 THE COURT: Was that prosecuted?

14 THE WITNESS: No.

15 THE COURT: All right.

16 THE WITNESS: She never made a report.

17 THE COURT: I'm sorry.

18 THE WITNESS: She never made a report.

19 THE COURT: Okay. Let me ask you this,
20 sir: The fact that your wife experienced this,
21 I'm very sorry, but the fact that she experienced
22 this, is that going to affect your ability to be
23 fair and impartial in this case? Can you set that
24 aside because you bring your experiences into the
25 courtroom. But can you set that aside, listen to

1 the evidence and the law that I instruct you and
2 bring back a verdict that's fair to the State and
3 fair to the defense?

4 THE WITNESS: I think so.

5 THE COURT: Normally, "I think so," would
6 be a fine answer. But the problem is, in this
7 case, I got to know. Hold on a second. You know,
8 you do bring your life experiences into the
9 courtroom, but I got to know, *Yeah, I can be fair,*
10 or maybe the answer is, *Judge, I just don't know.*
11 But I got to put you on the spot and I got to try
12 to find out the answer to that question. You
13 follow me?

14 THE WITNESS: Yes, sir.

15 THE COURT: What do you think?

16 THE WITNESS: Yes, sir, I believe I
17 can.

18 THE COURT: Again, sir --

19 THE WITNESS: Yeah. I'm sorry. Yes,
20 sir, I can.

21 THE COURT: You can be fair?

22 THE WITNESS: Yes, sir.

23 THE COURT: So talk to me about the
24 second question.

25 THE WITNESS: I got an uncle and a

1 cousin, both in law enforcement. They're both
2 deceased.

3 THE COURT: The fact that you got an
4 uncle and a cousin who were both in law
5 enforcement, they're both passed away so it sounds
6 like sometime in the past, is that going to effect
7 your ability to be fair and impartial in this
8 case?

9 THE WITNESS: No, sir.

10 THE COURT: Thank you, sir. You can stay
11 with us.

12 All right. Ladies and gentlemen, any
13 member of the jury panel already formed an opinion
14 about any issue in this case, including guilt, I
15 need you to come forward.

16 Any member of the jury panel have any
17 bias or prejudice for the State or for the
18 defense, I need you to come forward.

19 So anybody who's already formed some type
20 of opinion about any issue in this case, included
21 guilty, I need you to come forward.

22 If you have any bias or prejudice for the
23 State or the defense, I need you to come forward.

24 Ladies and gentlemen, if you've
25 contributed to any groups such as -- if you're a

1 member or contributed to any group such as MAAD,
2 SAAD, CAVE, any victim's rights organization or
3 law enforcement organizations, if you contributed
4 or if you are a member of any of those
5 organizations, I'm going to need you to come
6 forward. So if any of those three questions
7 apply, I'm going to need you to come forward. (No
8 response.)

9 All right. Ladies and gentlemen, is
10 there any reason that you should not serve on this
11 case with emphasis on your ability to be fair and
12 impartial? (No response.)

13 All right. Does the State have any
14 additional voir dire?

15 MS. MAIN: One moment. Nothing more,
16 Your Honor.

17 THE COURT: Mr. Newman, any additional
18 voir dire, sir?

19 MR. NEWMAN: None, sir.

20 THE COURT: All right. Thank you.

21 All right. I'm going to find the panel
22 qualified and I'm going to have the clerk go ahead --
23 the strikes in this matter, are they five and five?
24 Are they five and five, Solicitor?

25 MS. MAIN: Yes, sir.

1 THE COURT: All right. I'm going to have
2 the clerk pull a jury, or pull us a list.

3 THE CLERK: How many alternates, Your
4 Honor?

5 THE COURT: Two alternates, please. This
6 is my favorite time because I get to repeat my
7 favorite story. You know, I'm getting old enough
8 that my wife constantly tells me I say the same
9 thing, I say the same story over and over again.
10 And everybody in here who's up front, they've
11 heard it, but it's my chance to tell you the story
12 because it's going to take them just a moment for
13 them to pull up the list.

14 Folks, pulling up the list by the
15 computer is a new thing. It used to be that the
16 names were actually cut and put into small
17 capsules. They came up with your name, they put
18 your name in a capsule, they sealed it, they put
19 the capsule into a barrel, they spun the barrel
20 around, and then the capsules were removed,
21 opened, and name pulled out. That's how it was
22 done. The statute actually provided that the
23 person pulling the name out of the barrel had to
24 be a child or a blind person. Okay? I'm serious.

25 And so what happened was that my

1 children, when they were young and I was
2 practicing, not on cases that I was trying,
3 obviously, but they would get to go to the
4 courthouse and they would be able to sit in the
5 clerk's lap, and they would be able to go and make
6 the -- round and round the barrel goes and then
7 they would pull out the capsule, and they just
8 thought that was the greatest thing in the world.
9 They got to sit up there and make all that noise
10 with the capsules rattling against each other.

11 But what they thought was even better
12 than that was that about two weeks later, they got
13 a check -- you-all got a card -- about two weeks
14 later, they got a check from the county for \$10,
15 and they just thought that was the greatest thing
16 in the world to be able to get a check for doing
17 nothing but sitting on the clerk's lap and pulling
18 some capsules out of a barrel. So the computer
19 has put young children, perhaps, out of business.

20 We are now pulling that, and we'll be
21 able to begin the striking of the jurors.

22 All right. Madame Clerk?

23 THE CLERK: If you'll just stand when I
24 call your number.

25 Number 257. What say the State?

1 MS. MAIN: Please present this juror.

2 THE CLERK: What say the defense?

3 MR. NEWMAN: Please swear the juror.

4 THE BAILIFF: Come forward please, sir.

5 If you get chosen, please bring all your
6 possessions with you.

7 THE CLERK: Juror number 10. What say
8 the State?

9 MS. MAIN: Please present this juror.

10 THE CLERK: What say the defense?

11 MR. NEWMAN: Please swear the juror.

12 THE CLERK: Juror number 9. What say the
13 State?

14 MS. MAIN: Please present this juror.

15 THE CLERK: What say the defense?

16 MR. NEWMAN: Please swear the juror.

17 THE BAILIFF: Come forward, please,
18 ma'am.

19 THE CLERK: Juror 162. What say the
20 State?

21 MS. MAIN: Please present this juror.

22 THE CLERK: What say the defense?

23 MR. NEWMAN: Please swear the juror.

24 THE BAILIFF: Come forward please, sir.

25 THE CLERK: Juror 344.

1 THE BAILIFF: 344.

2 THE CLERK: What say the State?

3 THE BAILIFF: Please stay right there,

4 sir.

5 MS. MAIN: Please excuse this juror.

6 THE BAILIFF: You can sit down, sir.

7 Thank you.

8 THE CLERK: Juror 84. What say the

9 State?

10 MS. MAIN: Please present this juror.

11 THE CLERK: What say the defense?

12 MR. NEWMAN: Please excuse the juror.

13 THE BAILIFF: You can sit down, sir.

14 THE CLERK: Juror 221. What say the

15 State?

16 MS. MAIN: Please present this juror.

17 THE CLERK: What say the defense?

18 MR. NEWMAN: Swear the juror.

19 THE BAILIFF: Come forward, please,

20 ma'am.

21 THE CLERK: Juror 123. What say the

22 State?

23 MS. MAIN: Please present this juror.

24 THE CLERK: What say the defense?

25 MR. NEWMAN: Please excuse the juror.

1 THE BAILIFF: You can sit down, ma'am.

2 Thank you.

3 THE CLERK: Number 37. What say the

4 State?

5 MS. MAIN: Please present this juror.

6 THE CLERK: What say the defense?

7 MR. NEWMAN: Please swear the juror.

8 THE BAILIFF: Please come forward,

9 ma'am.

10 THE CLERK: Number 188. What say the

11 State?

12 MS. MAIN: Please present this juror.

13 THE CLERK: What say the defense?

14 MR. NEWMAN: Please excuse the juror.

15 THE BAILIFF: You can sit down, sir.

16 Thank you.

17 THE CLERK: Number 213. What say the

18 State?

19 MS. MAIN: Please present this juror.

20 THE CLERK: What say the defense?

21 MR. NEWMAN: Please excuse the juror.

22 THE BAILIFF: You can sit down, sir.

23 Thank you.

24 THE CLERK: Number 160. What say the

25 State?

1 MS. MAIN: Please present this juror.
2 THE CLERK: What say the defense?
3 MR. NEWMAN: Please swear the juror.
4 THE BAILIFF: Come forward, please,
5 ma'am.
6 THE CLERK: Number 331. What say the
7 State?
8 MS. MAIN: Please present this juror.
9 THE CLERK: What say the defense?
10 MR. NEWMAN: Please swear the juror.
11 THE BAILIFF: Come forward, please,
12 ma'am.
13 THE CLERK: Number 319. What say the
14 State?
15 MS. MAIN: Please present this juror.
16 THE CLERK: What say the defense?
17 MR. NEWMAN: Please swear the juror.
18 THE BAILIFF: Come forward, please,
19 sir.
20 THE CLERK: Number 69. What say the
21 State?
22 MS. MAIN: Please present this juror.
23 THE CLERK: What say the defense?
24 MR. NEWMAN: Please swear the juror.
25 THE BAILIFF: Come forward, please,

1 ma'am.

2 THE CLERK: Number 232. What say the
3 State?

4 MS. MAIN: Please present this juror.

5 THE CLERK: What say the defense?

6 MR. NEWMAN: Please excuse the juror.

7 THE BAILIFF: You can sit down, ma'am.

8 Thank you.

9 THE CLERK: Number 95. What say the
10 State?

11 MS. MAIN: Please present this juror.

12 THE CLERK: Strike for cause?

13 MR. NEWMAN: Please swear the juror.

14 THE BAILIFF: Come forward, please,

15 ma'am.

16 THE CLERK: Number 8. What say the
17 State?

18 MS. MAIN: Please present this juror.

19 MR. NEWMAN: Please swear the juror.

20 THE BAILIFF: Come forward, please,

21 ma'am.

22 THE CLERK: First alternate. Number 182.
23 What say the State?

24 MS. MAIN: Please present this juror.

25 THE CLERK: What say the defense?

1 MR. NEWMAN: Please swear the juror.
2 THE BAILIFF: Come forward please, sir.
3 THE CLERK: Second alternate. Number 83.
4 What say the State?
5 MS. MAIN: Please present this juror.
6 THE CLERK: What say the defense?
7 MR. NEWMAN: Please excuse the juror.
8 THE BAILIFF: You can sit down, ma'am.
9 Thank you.
10 THE CLERK: Number 223.
11 MS. MAIN: Please present this juror.
12 MR. NEWMAN: Please swear the juror.
13 THE BAILIFF: Come forward, please,
14 ma'am.
15 THE COURT: Thank you, Madame Clerk.
16 All right. Any motions or matters that
17 need to be taken up concerning jury selection,
18 jury qualification? Any motions at all on the
19 part of the State?
20 MS. MAIN: None from the State, Your
21 Honor.
22 THE COURT: Mr. Newman?
23 MR. NEWMAN: Yes, sir.
24 THE COURT: All right. Approach.
25 Yes, sir, Mr. Newman.

1 MR. NEWMAN: I got a motion to quash the
2 entire -- the petty juror and venire as the -- my
3 client is an African American. I believe that the
4 racial make up the county isn't anywhere near
5 reflected in this jury venire.

6 THE COURT: So would this be what I call
7 a cross-section agreement, sir?

8 MR. NEWMAN: Yes, sir.

9 THE COURT: All right. So what I'm going
10 to do is: I'm going to discharge the jury and
11 tell them to come back two o'clock, because I'm
12 assuming you want to make your argument on the
13 record.

14 MR. NEWMAN: Yes, sir.

15 THE COURT: I mean, do you want to tell
16 me more than that? Or whatever you want to do. I
17 want to accommodate you as it relates to that
18 matter.

19 MR. NEWMAN: Yeah. I'm trying to save
20 you, for that matter. The argument is not
21 specific as to this jury that's sitting here. Any
22 of them that happen to be this 12 or 14.

23 THE COURT: So what you're telling me is
24 that you're not aware of anything specifically the
25 clerk did wrong or different.

1 MR. NEWMAN: Correct.

2 THE COURT: That she's followed the law
3 as it relates to this. But what you're saying is
4 that, basically, it's not random in a sense. I
5 don't know that -- you're not saying it's a
6 computer glitch. You're just saying what pulled
7 and who showed up was not -- I just want to make
8 sure.

9 MR. NEWMAN: Yeah. I don't care what the
10 cause is. It's the effect. And the effect is --

11 THE COURT: Let me hear from you.

12 MS. MAIN: *Duren v. Missouri* and *State v.*
13 *Patterson* and *State v. Robertson* say that the
14 defense, if they want to make that argument, have
15 to prove some purposeful discrimination. So he's
16 not meeting step 3 of the three-part test.

17 THE COURT: I would tend to agree.
18 That's my understanding. I understand what you're
19 saying, Mr. Newman, you want to preserve the
20 record. The ultimate effect, I think, is what
21 you're making reference to. But, no, sir, I don't
22 think you've met the burden. And I think that
23 there's been nothing shown, nothing with any
24 particularity that was done here. And so I'm
25 going to respectfully deny that motion.

1 Does that adequately protect everybody?

2 MR. NEWMAN: As long as your court
3 reporter got all that.

4 THE COURT: You've got all that, don't
5 you, Sharon?

6 THE COURT REPORTER: Yes, sir.

7 MR. NEWMAN: Okay.

8 THE COURT: Is everybody good? State?

9 MS. MAIN: Yes, sir.

10 THE COURT: Mr. Newman?

11 MR. NEWMAN: Yeah, we're good. You're
12 going to leave the jury unsworn; is that correct?

13 THE COURT: Yes, sir. I always do
14 that.

15 MR. NEWMAN: I'm sorry, we are going to
16 -- I know we're going to let them go today.

17 THE COURT: I'm going to let them -- I'm
18 going to let them call back tomorrow after 6:00.

19 MR. NEWMAN: Okay.

20 THE COURT: It's probably going to be --
21 I don't know how Jerri wants to do it -- it's
22 probably going to be a message for our jury.

23 MR. NEWMAN: These guys.

24 THE COURT: Yes. And there will probably
25 be a message for the jury panel.

1 MR. NEWMAN: Okay.

2 THE COURT: And I'm going to indicate
3 that they need to listen for either they're on the
4 jury or the panel. I'll give them instructions.

5 More than likely, what I'll do is probably
6 come back Wednesday.

7 MR. NEWMAN: Okay.

8 THE COURT: We'll see how it goes, but
9 I'm going to discharge them. I'm going to give
10 them some instructions and I'm going to discharge
11 them and tell everybody to call back tomorrow
12 after six o'clock.

13 Is that satisfactory to the State?

14 MS. MAIN: Yes, sir.

15 THE COURT: Mr. Newman.

16 MR. NEWMAN: That's fine. And, again, I
17 lost a step. On again, off again. Are you
18 unavailable tomorrow?

19 THE COURT: I'm unavailable. My wife is
20 having surgery tomorrow.

21 MR. NEWMAN: I got that. I just --

22 THE COURT: Well, I was on and off too.
23 It was on and then it was off.

24 MR. NEWMAN: Because I read your email
25 saying we're good to go.

1 THE COURT: Well, I got a call at 8:30
2 this morning that we're on. So, to my knowledge,
3 we're on.

4 MR. NEWMAN: That's fine. That's not a
5 problem.

6 THE COURT: Madame Clerk, let me ask you
7 very quickly -- Jerri?

8 THE CLERK: Yes, sir.

9 THE COURT: What I want to do is, I want
10 to send everybody home.

11 THE CLERK: Okay.

12 THE COURT: I want them to call back
13 tomorrow at 6:00.

14 THE CLERK: Yes, sir.

15 THE COURT: Can we combine two messages?
16 In other words, I'm going to tell the jury to
17 listen for a specific instruction and the jury
18 panel to listen for a specific instruction. So we
19 can do that?

20 THE CLERK: We call them the trial jury
21 and the jury panel.

22 THE COURT: All right. Ladies and
23 gentlemen of my jury, okay, what I'm going to do
24 is this: I'm going to ask in just a few moments
25 that you retire to the jury room. The bailiff

1 will show you where the jury room is. The jury is
2 where you will report to.

3 Tomorrow after six o'clock, I think you
4 should have a number to call. They have a jury
5 information line. Okay, if you don't have it, the
6 bailiff can get it to you. Tomorrow after six
7 o'clock, I need you to call that number, and that
8 message will give you, the trial jury -- you
9 folks, will be the jury panel. Trial jury. Jury
10 panel. So there will be instructions as to when
11 you folks need to come back, and there will be
12 additional instructions for you folks. Perhaps
13 yours may say, *Hey, call back the next day*, and
14 yours may say, *Come in ten o'clock or two o'clock*,
15 or whatever it may be. But on that recorded
16 message, there will be two messages. One for the
17 trial jury; one for the jury panel.

18 So, folks, let me tell you this: Number
19 1, do not talk about this case with anyone. Do
20 not talk about this case amongst yourselves. Do
21 not conduct any research on this case. Do not go
22 on Facebook, Internet, Google, whatever it is,
23 TikTok. I don't care. Anything. I don't want
24 you going on any social media types of matters to
25 do any research on this matter. I don't want you

1 to look up this or that, or look up something
2 about the judge, or look up something about the
3 court staff, or the lawyers. I don't want you to
4 do any research.

5 Because, folks, what's going to happen is
6 this, all the evidence in this case is going to
7 come from the witness stand and exhibits that come
8 in through witnesses. And it's only that that
9 you're going to go and base your decision on.

10 So no talking amongst yourselves or with
11 anybody else about this case. No research of any
12 type on this case, even if you think it might be
13 helpful to your fellow jurors. No research.

14 If you see these lawyers and they just
15 walk by you like this and don't give you the nod
16 or waive, or whatever the case may be, they're
17 following my instructions. They are to have no
18 contact with you. You can certainly understand
19 why that's important.

20 All right. So with that having been
21 said, anything else as relates to my instructions
22 to the jury from the State?

23 MS. MAIN: Nothing from the State.

24 THE COURT: Mr. Newman, have I left
25 anything out?

1 MR. NEWMAN: No, sir.

2 THE COURT: All right. So tomorrow after
3 6:00, you're going to call the number and listen for
4 the instructions for the trial jury. All right?
5 Great. Thank you-all very much. I'm going to excuse
6 at this time.

7 When you do come back, ladies and
8 gentlemen, I would ask, something that you could
9 do to help us move things along, if you could
10 elect a foreperson. The foreperson has no greater
11 right than anybody else. It's just that if
12 something has to be brought to my attention,
13 they'll write that down on a note, hand it to the
14 bailiff, and he brings it to me. The foreperson
15 can be anybody on the jury except my alternates.
16 My alternates can participate in the election of
17 the foreperson. Fine. But my alternates cannot
18 be the foreperson. All right? So if you could
19 just do that when you come back after you get the
20 instructions tomorrow night that will tell you
21 when to come back, when you get back here, if you
22 would do that for me, I'd appreciate it. Thank
23 you very much.

24 (Jury exits the courtroom at 12:30 a.m.)

25 THE BAILIFF: Jury is clear, Your

1 Honor.

2 THE COURT: Thank you.

3 Ladies and gentlemen of the jury panel,
4 okay, you're going to call back tomorrow after six
5 o'clock and it will give you -- that message will
6 give you instructions as to what you need to do.
7 They may say call back Thursday. I don't know
8 what it's going to say yet because everything --
9 we're a little bit in flux, and I apologize for
10 that, okay. There are some places I've got to be
11 tomorrow, and there's other motions that we got to
12 entertain all day today, and so that's what we're
13 doing and what's going on. I promise you, we're
14 working, we're not goofing off. I'm trying to be
15 as --- I understand the sacrifice that you're
16 making being here. Okay?

17 I will tell you this, you dodged the
18 first one. So to that extent, in all seriousness,
19 I don't know that we're going to need you again.
20 We do have one other case on the trial roster this
21 week. Okay? And it's possible that case could be
22 called for trial. I don't know yet. It's just
23 going to depend on the circumstances and how this
24 week unfolds. But I ask you to bear with us. I
25 apologize for the disruption that this is causing

1 in your life. But, you know, this is an important
2 thing that you give back to your community, to
3 your county, and to your fellow citizens.

4 With that having been said, I'm going to
5 discharge you. Call back tomorrow after six
6 o'clock for your instructions.

7 Thank you.

8 (Jury panel is excused at 12:30 p.m.)

9 THE COURT: All right. We've got some
10 motions to take up, and so I would suggest that we
11 go ahead and break for lunch and maybe be back
12 here at 1:30 to begin the motions.

13 Is that okay from the State?

14 MS. MAIN: Yes, sir. I anticipate the
15 motions will take longer than this afternoon.

16 THE COURT: Well, we'll get started on it
17 and see where we go.

18 Is that all right, Mr. Newman, to start back
19 at 1:30, sir?

20 MR. NEWMAN: If I could, Your Honor, I do
21 need to go back to my office for a little bit.
22 Could we start at 2:00, right at 2:00?

23 THE COURT: Sure, that's fine.

24 MR. NEWMAN: I'll not ask as many
25 questions.

1 MS. MAIN: And, Your Honor --

2 THE COURT: I'm not going to hold you to
3 that, Mr. Newman. Don't you worry.

4 MS. MAIN: Your Honor, for scheduling
5 purposes with our office, should I let our office
6 know that we're not going to be doing non-jury
7 matters this week?

8 THE COURT: Well, other than -- now there
9 may be non-jury matters we can do tomorrow.

10 MS. MAIN: We do have some scheduled in
11 front of Judge Goldsmith.

12 THE COURT: Right.

13 MS. MAIN: Anything scheduled for
14 Thursday and Friday?

15 THE COURT: Well, I mean, it just
16 depends. I think it's probably going to be highly
17 unlikely. I can tell you this, I think regardless
18 of how this matter resolves, I think it's unlikely
19 that we would start another trial. I think -- it
20 just depends. But I think probably what we end up
21 doing is, if, for some reason, this gets resolved,
22 we can do motions if you-all got some motions in
23 other matters. We'll just have to see. I mean, I
24 can't -- I just don't know how things are going to
25 shake out. I apologize for that, Solicitor. I'll

1 work with you as much as I can.

2 MS. MAIN: Yes, sir.

3 THE COURT: All right. So we'll be at
4 two o'clock, Mr. Newman? Is that fine?

5 MR. NEWMAN: Yes, sir. Thank you.

6 THE COURT: Yes, sir.

7 MR. NEWMAN: That will give me time to do
8 a couple errands that I need to do.

9 THE COURT: Yes, sir.

10 (A break was taken from 12:25 p.m. to 2:10 p.m.)

11 MR. NEWMAN: We can go ahead and get
12 started, and he'll waive his presence for the
13 first minute or two.

14 THE COURT: No problem.

15 All right. I just wanted -- I've got a
16 juror foreperson, Juror Number 10. They went
17 ahead and deliberated and have appointed a
18 foreperson. So I at least wanted to let you know
19 that the jury foreperson is Juror Number 10. It's
20 on a piece of paper right here. I'm going to mark
21 this as Court's Exhibit 1, I believe, 1. That's
22 going to be marked and up front and is available
23 for your review.

24 (COURT EXH. 1, Foreperson, was marked for
25 identification.)

1 THE COURT: Hold on one second.

2 All right. I understand that we have
3 several matters that we're going to need to take
4 up this afternoon. I've got a State's pretrial
5 motions signed by Solicitor Main indicating that
6 there's a *Jackson v. Denno* hearing that she's
7 requesting.

8 Let me ask you, Mr. Newman, do you have a
9 preference, sir, as it relates to moving forward
10 on those motions?

11 MR. NEWMAN: Your Honor, I think it would
12 be easiest to let's go ahead and the search and
13 seizure motion. Because intertwined within that,
14 if you find after hearing the evidence that the
15 State didn't have reasonable cause, that this was
16 an unreasonable seizure without a warrant --

17 THE COURT: All right.

18 MR. NEWMAN: We would be ask, as fruit of
19 the poisonous tree -- and I've got the case law
20 cited and proof -- you would, likewise, if you
21 suppress the evidence, that you would suppress any
22 statements as a result of the unlawful detention
23 under the circumstances.

24 THE COURT: Solicitor, is that
25 satisfactory to you?

1 MS. MAIN: Yes. I'm fine with doing the
2 suppression first, Your Honor.

3 THE COURT: All right. Mr. Newman, yes,
4 sir.

5 MR. NEWMAN: If it pleases the court,
6 Your Honor --

7 THE COURT: Do I need -- Mr. Newman, do I
8 need to give you my decision as it relates to
9 these records that were provided to me, sir? Do I
10 need to do that as a preliminary matter? Or how
11 do you want to do that, sir?

12 MR. NEWMAN: Yes, sir. That may help
13 because, as you know, one of the -- I don't know
14 if you had a chance to read the motion, but one of
15 the central components of this motion is that
16 Mr. Williams was under intense scrutiny by members
17 of the drug task force, metro narcotics, whatever
18 they call themselves at the time, and that he was
19 being watched and he was being followed. I'm
20 going to be able to show that through statements
21 of Squires that are captured on the body-worn
22 cameras.

23 However, Squires is very detailed in his
24 level of following Mr. Williams as a concerted
25 effort. There's got to be some type of record or

1 something in a file, details of any surveillance,
2 particularly surveillance they conducted that day.
3 Because Squires says on one of the videos, and I
4 apologize, I can't tell whether he says 6:30 or
5 9:30. He says, *Dude, I'm getting tired. We have*
6 *to go ahead and stop you. I've been following you*
7 *since 6:30 or 9:30 this morning.* The stop was at
8 about 12:38 in the afternoon.

9 So, there has to be some type of records,
10 debriefings, briefings, on how we're going to
11 conduct this operation because it's clear it was a
12 planned operation. I can show that in the video.
13 No less than six deputies involved and a K-9 --
14 five deputies and a K-9 officer and an K-9
15 involved in this. Just like in *State vs. Adams*
16 when it said, *This ain't your regular traffic stop*
17 *for not using a blinker.*

18 THE COURT: All right. Solicitor, what
19 say you?

20 MS. MAIN: The defense is not entitled to
21 those records. They have nothing to do with this
22 case. It's a traffic stop.

23 The defendant was made aware of some
24 surveillance. Again, he was not -- this arrest
25 did not take place as a result of their

1 surveillance. It took place as a result of the
2 traffic stop.

3 Additionally, in order for us to have to
4 disclose that, it has to be favorable to the
5 accused and material to guilt or punishment from
6 *United v. Bagley*. It's neither of those. In
7 fact, arguably, it's propensity evidence.

8 Additionally, the information contained
9 within that relating to the identity of the
10 confidential informant, the defense is not
11 entitled to that information. They have a burden
12 to prove that the facts and circumstances show
13 that they're entitled to that disclosure, and I
14 provided some cases to Your Honor. Again, the
15 confidential informant is not the reason for these
16 charges. And, thus, it serves no purpose.
17 They're not material. And, thus, they're not
18 entitled to that information.

19 THE COURT: All right. I've reviewed the
20 documents, as well as, I also reviewed,
21 Mr. Newman, the incident report -- several
22 incident reports in this matter that were provided
23 to me. I plan on keeping this incident report
24 because I've already marked it up when I was
25 looking at and reviewing the documents.

1 Mr. Newman, I'm going to deny your motion
2 or request for production of these documents. I
3 will tell you, sir, from my review of these
4 documents, and also I have a feeling -- I mean,
5 the first thing -- the sentence talks about
6 conducting surveillance in the report. And I
7 think that, quite frankly, the information that's
8 contained in this report -- when I say this
9 report, I'm talking about the law enforcement
10 report. Sir, I just don't think there's anything
11 that you're entitled to hear. I don't think it's
12 going to add -- it's not going to add anything as
13 it relates to the stop. And I think that,
14 certainly, as it relates to surveillance and what
15 may have been going on -- and some of the degree
16 of surveillance, I think that would be something
17 that you certainly could cross-examine on.

18 And so for those reasons, sir, I'm not
19 going to provide this document, the documents they
20 provided me. But I do believe that -- I just
21 don't think there's anything in here that's going
22 to be relevant to your case and what you're
23 looking at establishing, sir. Particularly, in
24 light of having now reviewed your memorandum, sir,
25 which was thorough, and having reviewed the police

1 report. So I'm going to return that to you. I am
2 going to keep the police report because there's
3 some notations that I made in it that I may need
4 to ask questions about it when we get into these
5 motions.

6 MR. NEWMAN: When you say police report,
7 that's the DEA report?

8 THE COURT: That is -- the police report
9 that I have that says Beaufort County Sheriff's
10 Office and it's about 14 pages long.

11 MR. NEWMAN: Okay.

12 THE COURT: I mean, if you need it, I'm
13 happy to show you this. This is what she handed
14 up.

15 MR. NEWMAN: Right. I'm assuming that's
16 the same as this.

17 THE COURT: Yes, sir. Because mine is
18 stamped with the red in the bottom just like
19 yours.

20 MR. NEWMAN: Yeah, that's it.

21 THE COURT: Yes, sir.

22 MR. NEWMAN: I did give you a copy of
23 this yesterday. This is from the DEA report and I
24 wanted to make sure that you had this.

25 THE COURT: Yes, sir.

1 MR. NEWMAN: This is a report generated
2 by Officer Squires where he notes that the BCSO
3 violent crimes task force, along with TFO, William
4 Squires conducted surveillance on Latavious
5 Williams. Subsequently, due to the surveillance,
6 conducted a traffic stop on Williams and he was
7 subsequently arrested. I'll pass that up.

8 THE COURT: Yes, sir. You want to make
9 that a Court's exhibit?

10 MR. NEWMAN: Part of that a Court
11 exhibit, yes, sir.

12 THE COURT: You want to make that a
13 Court's exhibit, sir?

14 MR. NEWMAN: I do, Your Honor.

15 THE COURT: So we'll make this Court's
16 Exhibit 2. Any objection?

17 MS. MAIN: No, sir.

18 THE COURT: All right. We'll make that
19 Court's Exhibit 2. Thank you, Sharon.

20 (COURT EXH. 2, Report; BCSO Violent Crimes
21 Task Force, TFO, was marked for identification.)

22 THE COURT: All right. Mr. Newman, yes,
23 sir.

24 MR. NEWMAN: If it pleases the Court, as
25 I said, in a situation like this, the defendant

1 does not have the burden of proof on showing that
2 a warrant for search is reasonable and can be
3 upheld. That is the government's burden at this
4 point to do. I think the State has to put up
5 their evidence subject to cross-examination on
6 this traffic stop.

7 THE COURT: Solicitor?

8 MS. MAIN: Ready to go.

9 THE COURT: Okay.

10 MR. NEWMAN: Thank you.

11 MS. MAIN: The State calls Craig Karafa.

12 Your Honor, is the basis for his motion -- is
13 Your Honor taking the basis from the motion that he
14 gave you, Your Honor?

15 THE COURT: Yes, ma'am.

16 MS. MAIN: Okay. All right. Thank
17 you.

18 THE CLERK: If will you raise your right
19 hand. Do you solemnly swear or affirm to answer
20 all questions asked of your by this court so help
21 you God?

22 THE WITNESS: Yes, ma'am.

23 THE CLERK: Thank you.

24 WHEREUPON:

25 CRAIG KARAFa,

1 Testimony of Craig Karafa
2 after having been sworn, testified as follows:

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3 DIRECT EXAMINATION

4 BY MS. MAIN:

5 Q Where do you work?

6 A Bluffton Police Department.

7 Q All right. And have you ever worked with the
8 Beaufort County violent crimes task force?

9 A Yes, ma'am.

10 Q In what capacity?

11 A I was assigned there as -- you can call it
12 investigator, agent, however you want to put it,
13 for about -- I think it was about one year. There
14 was an MOU created between Bluffton PD and
15 Beaufort County Sheriff's Office. I was still
16 employed by Bluffton Police Department and I
17 worked under the direction of the violent crimes
18 task force.

19 Q Did you say MOU?

20 A Yes, ma'am.

21 Q What is that?

22 A Memorandum of understanding.

23 Q And what does that allow you to do?

24 A Basically, it gives me jurisdiction within
25 Beaufort County, and I fall under their
 guidance.

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1 Q So were you working with the violent crimes task
2 force on June 11, 2020?

3 A Yes, ma'am.

4 Q And were you involved in the stop of
5 Latavious Williams at 1000 Fording Island Road in
6 Bluffton on that day?

7 A Yes. I believe it was close to the area of
8 240 Fording Island Road, but, yes.

9 Q And when he came -- when you came into contact
10 with him, why was that?

11 A For two separate traffic violations.

12 Q And what were they?

13 A One was a speeding violation. One was a
14 marking violation.

15 Q When you came into contact with him, was this
16 reported?

17 A It was.

18 Q How was it recorded?

19 A Body-worn camera.

20 MS. MAIN: May I approach the witness?

21 THE COURT: Yes, ma'am.

22 MS. MAIN: Let me show him.

23 BY MS. MAIN:

24 Q Can you tell me what this is?

25 A I believe that is the DVD or CDR and my

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1 initials on the disk that is my body-cam footage.

2 Q And how do you know it's your body-cam footage.

3 A I watched that video.

4 MS. MAIN: State moves this in as Court's
5 Exhibit 3.

6 THE COURT: Any objection, Mr. Newman?

7 MR. NEWMAN: Not for the purpose of this
8 hearing.

9 THE COURT: Yes, sir.

10 All right. Go ahead. Yes, ma'am.

11 (COURT EXH. 3, Body-Cam Footage; Karafa, was
12 marked for identification.)

13 MS. MAIN: The State is going to play
14 Court's Exhibit 3 for the Court.

15 THE COURT: Yes, ma'am.

16 BY MS. MAIN:

17 Q When you came into contact with him, what did you
18 first notice?

19 A I believe when I walked up to the car, both
20 hands were put out the window. I had a brief
21 conversation with the driver of the vehicle,
22 requesting this various information from him.

23 Q Did you notice anything else when you were talking
24 to him?

25 A There was an odor of marijuana emitting from

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1 the interior of the vehicle.

2 Q And what did you do as a result of smelling
3 marijuana?

4 A I think the point where we were going to
5 search the vehicle, we were waiting for, I
6 believe, the K-9 to respond.

7 Q Thank you, sir.

8 MS. MAIN: We're playing from the
9 beginning, Your Honor.

10 THE COURT: All right.

11 (Video played in its entirety.)

12 MR. NEWMAN: Judge, can I sit over here?

13 THE COURT: Sure, anywhere. Feel free,
14 Mr. Newman.

15 BY MS. MAIN:

16 Q And you said that you pulled over Mr. Williams for
17 speeding. How did you determine he was speeding?

18 A By pacing behind the vehicle. I'm certified
19 in radar. Part of the process of before we stop a
20 vehicle is to get behind -- well, first you have
21 to know that that's the vehicle that is speeding,
22 you have to have an observation of that vehicle,
23 you have to have an estimation of your speed, and
24 then you have to have some type of confirmation.

25 Q And did you accomplish all those things here?

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1 A Yes, ma'am.

2 Q And what was the posted speed limit?

3 A It was 55 miles per hour.

4 Q And how fast was he going?

5 A Sixty-eight miles per hour.

6 Q And you also mentioned a lane violation. How did
7 you determine that?

8 A Following directly behind the vehicle.

9 Q And would you describe what you saw.

10 A I believe he was in lane two and drifted
11 across the lane divider of lane three.

12 Q And after you go to the car and pull the defendant
13 out, did you run his driving license?

14 A Yes, ma'am, I did.

15 Q And while you're doing that, who arrived on
16 scene?

17 A I believe there was a few deputies that
18 arrived on scene. I believe it was Staff Sergeant
19 Morris, Sergeant Mooney, and maybe one other
20 person. I'm not sure.

21 Q Are you guys all part of a team?

22 A We were, yes. At that time.

23 Q And Officer Mooney arrives, does he have a dog
24 with him?

25 A He does.

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1 Q Was a sniff of the vehicle performed?

2 A There was.

3 Q But you already smelled marijuana?

4 A I did.

5 Q Did the defendant's license return prior to
6 Officer Mooney completing the sniff of the vehicle?

7 A No, it took approximately ten minutes to get
8 a return from dispatch.

9 Q After the dog was run around the car, what
10 happened?

11 A There was a search of the vehicle.

12 Q And why was that?

13 A Based upon what -- the odor that I had, and
14 then Sergeant Mooney's deployment of the K-9
15 unit.

16 Q And were suspected narcotics located?

17 A There was.

18 MS. MAIN: No other questions.

19 THE COURT: All right. Mr. Newman, do
20 you have any questions, sir?

21 MR. NEWMAN: I do.

22 THE COURT: Okay, great.

23 CROSS-EXAMINATION

24 BY MR. NEWMAN:

25 Q In June of 2020, you worked on a team with the

Testimony of Craig Karafa

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1 sheriff's department?

2 A Yes, sir.

3 Q And what team was that?

4 A The violent crimes task force.

5 Q Okay. And on that task force is Sergeant Squires,
6 correct?

7 A Correct.

8 Q Tank Morris?

9 A There was a -- don't quote me on the dates,
10 but I know there's times where they weren't with
11 us, times they were with us, so I don't know the
12 exact dates. But, at times, they were part of the
13 team. I know that they are part of a special
14 enforcement unit. Times they were with us, times
15 they weren't.

16 Q Staff Sergeant Huggins?

17 A Yes.

18 Q Karafa?

19 A Yes, sir.

20 Q Sierra 50?

21 A Yes, sir.

22 Q Huggins is Sierra 22?

23 A If I recall correctly, yes.

24 Q Squires is Sierra 10?

25 A I believe so, sir.

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1 Q Do you remember what Mooney's call sign was?

2 A I don't recall if he was still -- if he was a
3 Sierra unit or if there were Bravo units, Alpha
4 units at that point.

5 Q Okay. How about Carter?

6 A I don't recall, sir. I know the call signs
7 change so many times. I don't know.

8 Q Was he part of the team?

9 A Again, at some point, I believe they were
10 with us, other points they were not. We were --
11 when I was dedicated to that team, there were
12 certain individuals. At certain points, the
13 sheriff brought in individuals that were
14 uniformed. I was part of the plain clothes.

15 Q Okay. You were part of the plain clothes?

16 A Uh-huh.

17 Q All right. And you were riding in a car with
18 Staff Sergeant Huggins, correct?

19 A I was.

20 Q You were riding in a black pick-up truck,
21 correct?

22 A I was.

23 Q And that truck does not have a dash cam on it?

24 A It does not.

25 Q Okay. And you don't recall Tank Morris and, maybe

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1 even before you-all bailed out of the car, Mooney was
2 arriving on the scene? We'll look at the video.

3 A I remember me and Huggins getting out of my
4 vehicle and approaching that vehicle.

5 Q Right. And then Tank Morris pulls up?

6 A Right. I believe second, he was the second
7 car.

8 Q And then Mooney?

9 A I believe so.

10 Q And then Squires and Carter?

11 A I don't remember exactly.

12 Q Okay.

13 A Again, I was focused on the vehicle and the
14 driver at that point.

15 Q Let me see if this jives up with your
16 recollection.

17 MR. NEWMAN: I wanted to show something
18 on this thing.

19 MS. MAIN: Oh, okay.

20 (Off the record.)

21 BY MR. NEWMAN:

22 Q So if we take -- from what I've reconstructed from
23 the videos, we take the orange car, this would be
24 Mr. Williams. He was up front, correct? He was in
25 the turning lane to go into the Vaden.

1 A Correct.

2 Q All right. And you can actually see on the video
3 that he's got his blinker on.

4 A Okay.

5 Q Right behind him in the plain car, that was you
6 driving and Staff Sergeant Huggins, correct?

7 A Yes, sir.

8 Q And you-all make the initial contact. You come
9 out of the driver's side and go to the driver's door.
10 Sergeant Huggins is in a watching position on the
11 passenger side.

12 A We made a passenger-side approach, yes,
13 sir.

14 Q Yes.

15 All right. And Tank Morris came up, Mooney,
16 and then Squires and Carter?

17 A I don't recall everybody's placement and
18 things like that, sir.

19 Q Okay. And all of this happened within everybody
20 arriving within seconds of each other, do they not?

21 A I can't tell you everybody's arrival time,
22 sir. I don't know that information.

23 Q Okay. Do you know why Mooney decided to stop by
24 your traffic investigations for speeding?

25 A He was part of our team.

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1 Q He was part of the team?

2 A Or was with us.

3 Q Okay. So you-all were traveling together?

4 A We were together.

5 Q All right. And have you had any specific plan for
6 that day?

7 A If the vehicle that we were looking for was
8 located and probable cause --

9 Q Mr. Williams's vehicle.

10 A And probable cause was obtained to stop that
11 vehicle, we were going to stop that vehicle.

12 Q And when you say probable cause, you're not
13 talking because based on what you have was not enough.
14 You're talking about probable cause under -- if you
15 know the case. The case called *United States vs. Rand*
16 that basically says, we can't really challenge what
17 you're thinking subjectively as long as there's an
18 objective reason; i.e., probable cause, speeding for a
19 traffic stop.

20 A I stopped the vehicle based on probable
21 cause.

22 Q And the probable cause, the scope of your traffic
23 stop, your probable cause was for speeding and lane
24 drifting, I guess, blinker lane change, whatever.

25 A Marked lane violations.

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1 Q Marked lane violation.

2 All right. How was the drug dog going to
3 help you in that investigation?

4 A In what investigation, sir?

5 Q Well, you said you had probable cause to stop him
6 for speeding?

7 A Correct.

8 Q And other violation.

9 A Which I did.

10 Q How was the drug dog going to help you investigate
11 the speeding?

12 A It wasn't.

13 Q Okay. It was there purposely to be run around and
14 put into Mr. Williams's car, correct?

15 A There was an investigation prior to.

16 Q And the investigation was for speeding, correct?

17 A No, sir. There was a drug investigation by a
18 Staff Sergeant Squires.

19 Q Okay. Are you saying that the probable cause to
20 stop Mr. Williams on that day was that you had
21 probable cause that he had drugs in his car?

22 A My probable cause was a speeding violation
23 and a marked lanes violation. That's why I
24 stopped that vehicle.

25 Q I understand that. Please answer my question.

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THE COURT: Repeat your question.

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BY MR. NEWMAN:

Q The question is: You did not have probable cause to stop him for a drug violation, but you did have probable cause to stop him for a speeding violation.

A And a marked lanes violation.

Q And a marked lane violation, correct?

A Correct.

Q And that would be the scope of your investigation, would it not?

A And also the smell of marijuana after the contact with the driver would then lead me to that I can extend that traffic stop because I have probable cause of illegal activity being afoot.

Q From the drug officer on down, do you know of any reason why you're the only officer that reported he spelled marijuana?

A I was the one that completed the report, and I was the one that had the immediate contact with the driver of that vehicle and obtained his information and spoke with him.

Q And Huggins was right there.

A You have to speak with Staff Sergeant Huggins, sir.

Q And there was nothing found in the car such as

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1 shakes, seeds, lighters, Christmas trees, none of that
2 stuff, correct?

3 A Not that I recall.

4 Q No rolling papers, no matches?

5 A In the scope of that search, no.

6 Q Okay. And, in fact, Mr. Williams told you flat
7 out, *I don't smoke. I think he told you, I don't*
8 *smoke anything, cigarettes or weed. I don't smoke at*
9 *all.*

10 A Something to that effect.

11 Q Okay. And you found nothing in the car that
12 indicates that he smoked at all, isn't that correct?

13 A In the area that I searched that vehicle, I
14 did not find any contraband.

15 Q Okay. Now, before -- what time did you, Squires,
16 Huggins, Mooney, Carter, what time did you-all get
17 together on the morning of June 11th?

18 A I don't recall, sir.

19 Q Was it 6:30 in the morning?

20 A Sir, I don't recall.

21 Q 9:30 in the morning?

22 A Sir, I do not recall.

23 Q All right. How long had you been following
24 Mr. Williams?

25 A That was Sergeant Squires, sir.

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- 1 Q I'm sorry?
- 2 A That was Staff Sergeant Squires.
- 3 Q Squires was following Mr. Williams.
- 4 A He was doing the investigation, yes, sir.
- 5 Q Like he had done the day before.
- 6 A I can't tell you that, sir. That's Staff
- 7 Sergeant Squires.
- 8 Q So, Squires is following Mr. Williams. Where does
- 9 he pick Mr. Williams up at?
- 10 A I don't recall the exact location. How long
- 11 the extent of this was and how long he was
- 12 following him, sir. That would be a question for
- 13 Staff Sergeant Squires.
- 14 Q When did you get involved in this case on June the
- 15 11th?
- 16 A When the vehicle went into Beaufort County.
- 17 Q And where had it been?
- 18 A I don't know, sir.
- 19 Q And this was Squires following him into Beaufort
- 20 County?
- 21 A That's, again, a question for Staff Sergeant
- 22 Squires. I just know the vehicle was located --
- 23 Q I'm asking you, was Squires the one following the
- 24 vehicle?
- 25 A He was the one leading the investigation.

Testimony of Craig Karafa

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1 Q Was he the one following the vehicle?

2 A To the best my knowledge.

3 Q Okay. And, prior to the stop, where were you?

4 A I don't recall where I was exactly prior to
5 the traffic stop, sir.

6 Q Who called you to get involved into this traffic
7 stop?

8 A Staff Sergeant Squires, I believe it was.

9 Q Okay. So he calls you and says, *Karafa, there's a*
10 *Nissan up there, I need to get it stopped?*

11 A Again, if there was a plan for interview for
12 county, and we had probable cause to stop that
13 vehicle, we were going to stop that vehicle.

14 Q And probable cause for the speeding violation and
15 the lane whatever.

16 A No. The probable cause was the speeding
17 violation and the marked lane violation.

18 Q Okay. That's what I'm saying. So the probable
19 cause you had to see -- I want to be very clear on
20 this -- for Mr. Williams was for speeding and a lane
21 violation.

22 A Correct.

23 Q Do you not agree that limits the scope of your
24 investigation to speed and lane change?

25 A And then I smelled the odor of the marijuana,

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1 which gives me the extent that I can extend the
2 traffic stop.

3 Q Okay. But nobody else smelled the marijuana?

4 A Sir, I smelled marijuana emitting from the
5 interior.

6 Q I notice that you were the ones that searched
7 Mr. Williams. You found no marijuana on him, correct?

8 A I did not search him.

9 Q Was he searched?

10 A I checked -- you're talking about the initial
11 when we first had contact outside the vehicle?

12 Q Yes.

13 A I asked him if he had weapons on his person,
14 if it was okay if I could check for weapons. I
15 don't believe, at any point, I had to go inside
16 his pockets, or anything like that. I checked for
17 weapons on his person with his consent.

18 Q Okay. So you padded him down. He didn't have any
19 weapons.

20 A (Witness nods head up and down.)

21 THE COURT: Is that a yes?

22 THE WITNESS: To the best of my
23 knowledge, yes, sir.

24 THE COURT: Okay, go ahead.

25 BY MR. NEWMAN:

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1 Q Okay. And that was confirmed because he was later
2 searched and he didn't have any weapons?

3 A (Witness nods head up and down.)

4 Q So, you come up to the car, you get his license,
5 you get his registration, and you tell him to step out
6 of the car, correct?

7 A Correct.

8 Q He complies. He does that.

9 A Correct.

10 Q And you asked him about weapons and he initially
11 just, kind of, pulls up his shirt and everything.
12 He's wearing shorts and, like, two tee shirts, right?

13 A Something along those line, I believe. I'd
14 have to completely watch the video.

15 Q Okay. And you felt him around, around the crotch,
16 around the back between the shoulder blades, under the
17 chest and you didn't find anything.

18 A Correct.

19 Q All right. And at no time did you find any type
20 of lighter, blunt, rolling papers, anything along
21 those lines?

22 A I do not search him inside of his pockets.

23 Q My question is, whether you searched him or not,
24 at no time did you see any of these items on
25 Mr. Williams, correct?

Testimony of Craig Karafa

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1 A Correct, because I did not search him for
2 those.

3 Q Okay. So where did Squires tell you that
4 Mr. Williams's car was when he first called you?

5 A I don't remember the exact placement. I do
6 remember, I believe somewhere on 170. We picked
7 up the vehicle up on 178, somewhere in that
8 area.

9 Q Do you know why Mr. Squires just didn't stop the
10 vehicle?

11 A No, sir, I don't.

12 Q All right. So the plan was to have you and
13 Huggins stop -- find a probable cause to stop for this
14 vehicle, correct?

15 A If we could find probable cause to stop the
16 vehicle.

17 Q Okay. That was your role in the matter, in this
18 plan?

19 A That was the role in general. If there was
20 probable cause to get the vehicle stopped, we were
21 going to stop it.

22 Q Okay. You don't recall Mooney being one of the
23 first officers there to run the dog inside of that
24 car?

25 A Again, I don't remember the placement of

Testimony of Craig Karafa

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1 everybody and how they got there and what time
2 they got there. I know that, if I remember
3 correctly, once I watched my body cam, there was a
4 silver SUV and I remember Tank getting there, or
5 Erin Morris getting there. I believe it was after
6 us. Shortly after us.

7 I had asked the defendant out of the vehicle.
8 I checked him for weapons. I returned to my vehicle
9 and sat in my vehicle and wrote a warning and began
10 running his information through Beaufort County
11 communications. I was never looking directly back to
12 see exactly who was placed where, what time they got
13 there, things like that.

14 Q So you weren't trained on situational awareness to
15 know what's going on around you?

16 A I absolutely was.

17 Q Okay.

18 A But not when there's six other officers do I.

19 Q Okay.

20 A Or five other officers, or two other
21 officers, or one other officer.

22 Q All right. So where do you first recall seeing
23 Mr. Williams's vehicle?

24 A I don't remember the exact placement, the
25 exact location, but it was 170 coming onto 278, or

Testimony of Craig Karafa

135

1 on 170. Somewhere in that McGarvey's Corner, I
2 would say. In that area, if I recall.

3 Q So you were following him for how long, about two
4 miles?

5 A I don't know the exact distance, sir.

6 Q Of course not.

7 All right. So, Squires calls you and tells
8 you to do exactly what?

9 A I don't remember the exact conversation, it
10 was just something we talked about beforehand. I
11 don't remember if the phone calls were even
12 directly to me. It could have been Sergeant
13 Huggins or it could have been over the radio. I
14 don't remember the exact words that were stated,
15 when it was stated, and who it was stated to. Our
16 objective when we came into work was, if we
17 observed that vehicle in Beaufort County and we
18 had probable cause to stop that vehicle, we were
19 going to stop that vehicle.

20 Q And put the drug dog on it.

21 A If there was probable cause and we had the
22 dog available.

23 Q Well, what was the probable cause to put the drug
24 dog on him?

25 A I don't think you have to have probable cause

Testimony of Craig Karafa

136

1 to do a free air sniff, but I had probable cause
2 when I smelled the odor of marijuana.

3 Q What was the probable cause to put the dog inside
4 of the car?

5 A That question is for Sergeant Mooney. I'm
6 not a K-9 handler, sir.

7 Q Okay. Did you write any reports in this?

8 A In regards to the incident report, yes, sir.

9 Q Okay. Now, you've been on other operations where
10 this similar technique is used, is it not -- have you
11 not?

12 A What do you mean similar techniques?

13 Q Where you develop information on a suspect and
14 keep tips going, listen to the informants, maybe
15 people from the squad doing surveillance, following,
16 look at target locations, perhaps, for pick-ups or
17 drop-offs?

18 THE COURT: Solicitor, approach. Mr.
19 Newman.

20 MR. NEWMAN: Yes, sir.

21 THE COURT: I think the gentleman sitting
22 at your table is coaching this witness. He's
23 nodding when he needs to nod. He's nodding --
24 when he needs to shake, he's shaking. I don't
25 want to see that again.

Testimony of Craig Karafa

137

1 MS. MAIN: I understand.

2 THE COURT: I'm assuming. There's
3 something not right about that. All right, thank
4 you.

5 MS. MAIN: I understand.

6 MR. NEWMAN: I didn't see that.

7 THE COURT: You wouldn't, Mr. Newman, you
8 were looking forward.

9 MS. MAIN: Can I have a moment?

10 THE COURT: Yes, ma'am.

11 You can proceed, Mr. Newman.

12 MR. NEWMAN: Thank you, Your Honor.

13 BY MR. NEWMAN:

14 Q Now, I'm trying to get to a point philosophically
15 in my head. Did you-all have a meeting that morning
16 about the surveillance of Latavious Williams?

17 A I don't recall if there was a meeting. If we
18 just got together and said this is what we're
19 going to do. I don't recall if he said he was
20 following, if you guys can get in the area. I
21 don't remember what exactly transpired that
22 morning. How it came by.

23 There was an investigation being conducted.
24 And we're in the area, the vehicle came to our area.
25 It came inside Beaufort County and we had probable

Testimony of Craig Karafa

138

1 cause to stop the vehicle based upon Staff Sergeant
2 Squires's investigation and we are going to stop the
3 vehicle..

4 Q Okay. I think, at the point I was asking you, you
5 have participated in other programs or operations that
6 use this same method; is that correct?

7 A As if what you're referring to is, if you
8 watch a target location, you see something occur,
9 you find probable cause to stop the vehicle.

10 Q Not probable cause if they have drugs, because
11 you're not there yet. If you got a hunch, you got a
12 suspicion, but probable cause because they didn't use
13 a blinker, and you try to expand that stop beyond what
14 that -- the limited purpose of that stop, which is to
15 either write a ticket or warning for, say, not using a
16 blinker and running a stop -- disregarding a stop
17 sign, something like that.

18 MS. MAIN: Objection, Your Honor. I
19 think we're outside this instance in this traffic
20 stop that's at issue here.

21 THE COURT: I'm going to overrule your
22 objection. But I ask that you please rephrase
23 your question, sir.

24 BY MR. NEWMAN:

25 Q It's true that you have participated in other

Testimony of Craig Karafa

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1 operations where, based on surveillance, you follow
2 somebody, you assemble a team, a traffic officer, or
3 somebody stops them for any number of routine
4 violations, let's just use speeding like in this case,
5 and you have the drug dog with you because you know
6 you got a limited window that you might be able to --
7 and I'll talk about this later on with the judge --
8 you might be able to do this free air sniff if you can
9 get it done by the time you have a driver's license
10 run, correct? And you use this as a program to be
11 able to stop to get into vehicles and then expand the
12 scope of those stops with either the drug dog or an
13 officer saying he smells drugs, correct?

14 A Sir, I have participated in operations
15 similar to this, yes.

16 Q Yes. Okay, so this was a program that was
17 routinely run by this squad.

18 A I wouldn't say routinely. There have been
19 instances in the past where we've done it on
20 patrol.

21 Q Okay. But it is a tool, a program, that the task
22 forces uses?

23 A I don't know if I would call it a tool or a
24 program.

25 Q It's an operation that --

Testimony of Craig Karafa

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1 A If there's a operation set forth, and you
2 have what's going to occur, but then you have your
3 pieces in place.

4 Q So this was an operation.

5 A I'm not saying it's an operation. I don't
6 recall what exactly was stated in the meeting. If
7 there was people available --

8 Q Well, didn't you have people in place there? You
9 were in place.

10 A I was in place if the vehicle came to the
11 Beaufort County. If the vehicle went to Jasper
12 County, we had nothing to do with it.

13 Q Well, it went to Beaufort County. So you're in
14 place. Squires and Carter are in place following the
15 car, correct?

16 A Wherever they're at.

17 Q Well, how did you know which car to stop?

18 A We were given that information. We knew the
19 vehicle.

20 Q By who?

21 A It was Staff Sergeant Squires.

22 Q All right.

23 A He led the investigation.

24 Q All right. And did you personally find any drugs
25 or narcotics in this case?

Testimony of Craig Karafa

141

1 A No, sir. To the best of my knowledge, I did
2 not.

3 Q All right. Did you take any statements from
4 Mr. Williams?

5 A Did I take any statements from him?

6 Q Yes. Did he say anything to you?

7 A Just the basic that we had from the traffic
8 stop, that I recall.

9 Q All right. And there's no question in your mind
10 that, using a command voice or command authority, you
11 ordered Mr. Williams from his vehicle, correct?

12 A I don't if I ordered him. I asked him to
13 step out of his vehicle.

14 Q Okay. And he complied with your request, yes?

15 A He did.

16 Q Now, was there any type of post mortem that was
17 done after this traffic stop?

18 A Can you rephrase that, what you mean post
19 mortem.

20 Q Was there any type of debriefing?

21 A I don't believe so. I believe Staff Sergeant
22 Squires went back to the office and put the
23 evidence in evidence.

24 Q Why was Huggins riding with you on that day?

25 A I don't recall the exact circumstance. There

Testimony of Craig Karafa

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1 are a lot of times where we rode double unit.

2 Q Was he riding with you because you-all knew
3 you-all were going to stop Mr. Williams?

4 A I don't --

5 Q If he came into Beaufort County.

6 A I don't recall the exact circumstances. We
7 regularly put two deputies and officers in a
8 vehicle based on what we were doing.

9 Q What county was Mr. Williams coming from?

10 A That's a question for Staff Sergeant Squires,
11 where exactly he was coming from.

12 Q Had he been following him all the way since
13 Yemassee?

14 A I don't recall that, sir. I think that's a
15 question for Staff Sergeant Squires. I don't know
16 the extent of what he did that led up before all
17 this.

18 Q All right. Did you have any conversations with
19 Mooney?

20 A When?

21 Q What do you mean when? At the traffic stop.

22 A I don't think so.

23 Q Okay.

24 A I can watch my body camera, but I don't
25 recall, or I don't believe so.

Testimony of Craig Karafa

143

1 Q Okay.

2 A Maybe small talk. I don't remember having
3 any.

4 Q I meant something relevant that you put in a
5 report, something that would stick out in your mind
6 that you would think would need to be reported?

7 A I don't recall. I don't recall that, sir.

8 Q Maybe I can ask Sergeant Mooney.

9 MR. NEWMAN: Judge, I believe that's all
10 I have.

11 THE COURT: All right. Solicitor, any
12 redirect?

13 MS. MAIN: Yes, sir, but does Mr. Newman
14 intend to make what he showed on the screen a
15 Court's exhibit?

16 MR. NEWMAN: I do not.

17 MS. MAIN: Is there a way that we can
18 preserve it for the record otherwise?

19 THE COURT: What did he put on the
20 screen? Are you talking about the diagram?

21 MS. MAIN: Yes, sir. I'm just, like,
22 trying to have the record be accurate.

23 THE COURT: Yeah. I mean, I think -- I
24 don't have a problem with that. If you want to
25 make that an exhibit. He's put it up there. I

Testimony of Craig Karafa

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1 don't have a problem with doing that.

2 MR. NEWMAN: That's fine. If you don't
3 mind, it has all my notes on what the cops said.

4 THE COURT: Well, I mean, what I'd
5 like -- why don't we just make a copy. I don't
6 think that was applicable. You could maybe
7 redact -- I think the only thing that was asked
8 was as it relates to the location of the --

9 MR. NEWMAN: Cars.

10 THE COURT: -- of the cars. And maybe he
11 has a name beside each person. I think that
12 was --

13 MR. NEWMAN: I do. We can make a copy of
14 that portion of it.

15 MS. MAIN: All right.

16 THE COURT: Is that satisfactory? I
17 think that's what you want, isn't it?

18 MS. MAIN: Yes, sir. I just wanted to
19 make sure the record knew what was being
20 referenced.

21 THE COURT: All right. So what we're
22 going to do is make a court exhibit of the outline
23 of the vehicles. So if somebody can play with
24 that a little bit and make that an exhibit.
25 That's fine.

Testimony of Craig Karafa

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1 Thank you.

2 Yes, ma'am.

3 MS. MAIN: When Your Honor is ready, I
4 have a couple of questions for redirect.

5 THE COURT: I'm sorry? You have no other
6 questions?

7 MS. MAIN: I do. I do.

8 THE COURT: Go right ahead. Yes, ma'am.

9 REDIRECT EXAMINATION

10 BY MS. MAIN:

11 Q Would you have pulled the defendant over if he did
12 not commit a traffic violation?

13 A No, ma'am.

14 Q If you're on a team, is it normal to travel
15 together or show up together?

16 A Yes.

17 Q Upon approach of the vehicle when you were
18 speaking with the defendant, what did you notice?

19 A While speaking with him.

20 Q While speaking with him, what, if anything, did
21 you notice?

22 A The odor of marijuana coming from the
23 interior of the vehicle.

24 Q Do you know if marijuana was ultimately found in
25 the vehicle?

Testimony of Craig Karafa

146

1 A I'm pretty sure a substantial amount was
2 located.

3 Q And did you give a warning relating to the
4 speeding or lane violation?

5 A I gave warnings for the speeding and marked
6 lanes violation.

7 Q And the dogs sniff of the vehicle, did that occur
8 after you noticed the odor of marijuana?

9 A It was after.

10 MS. MAIN: No other questions.

11 THE COURT: Anything else, Mr. Newman?

12 MR. NEWMAN: No, sir, not for this
13 witness.

14 THE COURT: All right. Thank you.

15 Thank you, sir.

16 THE WITNESS: Thank you.

17 THE COURT: Solicitor, you can call your next
18 witness.

19 MS. MAIN: The State calls Daniel
20 Mooney.

21 THE COURT: All right.

22 THE CLERK: Do you solemnly swear or
23 affirm to truthfully answer all questions asked of
24 you by this court so help you God?

25 THE WITNESS: Yes, sir -- yes, ma'am,

Testimony of Craig Karafa

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Testimony of Daniel Mooney

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1 do.

2 WHEREUPON:

3 DANIEL MOONEY,

4 after having been sworn to tell the truth, testified
5 as follows:

6 DIRECT EXAMINATION

7 BY MS. MAIN:

8 Q Where do you work?

9 A Beaufort County Sheriff's Office.

10 Q And how long have you been with the Beaufort
11 County Sheriff's Office?

12 A Eighteen years.

13 Q And what's your current title?

14 A I'm an investigator with the violent crimes
15 task force.

16 Q And were you on that team in 2020?

17 A Yes, I was.

18 Q And do you have any -- did you have any special
19 duties in 2020 relating to the violent crimes task
20 force?

21 A Yes, I was part of the uniformed division of
22 the violent crimes task force and I was a K-9
23 handler at the time.

24 Q And what K-9 were you assigned?

25 A What's that, ma'am.

Testimony of Daniel Mooney

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1 Q What K-9 were you assigned?

2 A K-9 Enzo.

3 Q And how long have you been with K-9 Enzo in
4 2020?

5 A At that time, two-and-a-half years.

6 Q What, if anything, was K-9 Enzo certified to do?

7 A He was a dual-purpose dog, meaning he could
8 do tracking and narcotics detention and drug
9 detection.

10 Q And can you tell me about the training that is
11 needed to a K-9 unit?

12 A Yes, ma'am. We went to get certified, and
13 then we continue doing the training throughout the
14 dog's span in service.

15 Q So there's continued training and certifications
16 with the dog?

17 A Yes, ma'am. I have to do an annual
18 certification with drugs and tracking and criminal
19 apprehension. And then every single Wednesday, I
20 train Enzo for anywhere from six to eight hours.

21 Q All right. And on June 11, 2020, did you respond
22 to a traffic stop in Beaufort County involving the
23 defendant, Latavious Williams?

24 A I did.

25 Q And how long after the stop was initiated did you

1 arrive.

2 A Approximately two minutes.

3 Q Two minutes?

4 A Yeah.

5 Q And was K-9 Enzo used at the stop?

6 A Yeah, he was.

7 Q And while at this stop, was all your interaction
8 recorded?

9 A Yes, ma'am.

10 Q And how was it recorded?

11 A Body-worn camera.

12 MS. MAIN: May I approach?

13 THE COURT: Yes, ma'am.

14 BY MS. MAIN:

15 Q Do you recognize this?

16 A Yes, ma'am, I do.

17 Q How do you recognize it?

18 A Because it has my signature on there and my
19 initials.

20 Q And what is it?

21 A It's a DVD of my body-worn camera.

22 MS. MAIN: Your Honor, the State moves
23 this in as Court's Exhibit 5 (sic).

24 THE COURT: For the purposes of this
25 hearing?

Testimony of Daniel Mooney

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1 MR. NEWMAN: Correct.

2 THE COURT: All right. It's admitted
3 without objection for purposes of this hearing
4 without objection.

5 (COURT EXH. 4, DVD; Mooney, was marked for
6 identification.)

7 THE COURT: All right. Go ahead, ma'am.
8 Solicitor.

9 MS. MAIN: We are playing this at two
10 minutes, 50 seconds.

11 (Video played.)

12 THE COURT: Hold on. Let's back that up.
13 I want to see the beginning of his body-worn
14 camera.

15 MS. MAIN: Yes, sir. We'll play it from
16 the beginning. Just give us a moment. Our mouse
17 is malfunctioning. You want it played from the
18 actual beginning?

19 THE COURT: Yeah. You started it -- hold on
20 one second, Mr. Newman.

21 You started it two minutes in?

22 MS. MAIN: Yes, sir.

23 THE COURT: I want to start it at zero.

24 Mr. Newman, yes, sir.

25 MR. NEWMAN: I was going to show you,

Testimony of Daniel Mooney

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1 they had a picture of what I had just drawn and
2 how the cars were.

3 THE COURT: Mr. Newman --

4 MR. NEWMAN: I'll do it when I
5 cross-examine.

6 THE COURT: All right, sir.

7 Go ahead.

8 MS. MAIN: Yes, sir.

9 (COURT EXH. 4 played in its entirety.)

10 BY MS. MAIN:

11 Q Officer Mooney, what was that right there at the
12 passenger side door?

13 A The dog was alerting. The dog was
14 alerting.

15 Q Thank you.

16 (Video played.)

17 BY MS. MAIN:

18 Q And what is that, Officer Mooney? What are we
19 seeing on the screen now?

20 A Wherever he's scratching, it's an indication
21 meaning he located the source.

22 Q Thank you.

23 (Video played.)

24 MS. MAIN: We're stopping it at 4:31 for
25 the record.

Testimony of Daniel Mooney

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1 BY MS. MAIN:

2 Q So he mentioned there was an alert and indication
3 that we saw on the screen. What is the difference
4 between those?

5 A Alert is when the dog comes into the odor and
6 does a body language change and the rapid
7 sniffing, and then he will then proceed with the
8 rest alert. Usually a stop or sit, or you can
9 teach him down or nose first.

10 Indication means, when they come to the
11 source of where the drugs or narcotics are located,
12 there are going to scratch where they believe the
13 source is coming from.

14 Q And so, in this case, where did Enzo alert?

15 A He alerted to the passenger door.

16 Q And then do you recall where he indicated?

17 A Yes, ma'am. The center console and there was
18 a box that was in the back seat.

19 Q Okay. And what was the body language shape that
20 you noticed in Enzo here?

21 A So, initially, as he was approaching the
22 passenger door, he was rapid sniffing, and then he
23 leapt on the door and came down and then stopped.

24 Then, typically, when he looks at me with
25 that goofy look that he does, that's usually him

Testimony of Daniel Mooney

154

1 saying, *I got it.*

2 Q And how can you be sure that Enzo is alerting to
3 the smell of narcotics and not something else?

4 A Because we do proofing in our training. So,
5 you know, a lot of people like to say it's food or
6 stuff like that. We proofed the dog against food
7 and run plenty of clean cars to make sure that the
8 dog isn't alerting to just a car engine.

9 And then in the training, we do train a clean
10 car amongst all the drug cars as well.

11 Q Okay. And, in this instance, following the alert
12 and indication, what do you do after that?

13 A So initially, when the alert happens, that's
14 telling me, obviously, the dog has alerted to the
15 vehicle. At that point, I now have probable cause
16 to conduct a search of the car. I then proceed to
17 put the dog inside the car to do a search of the
18 car, and then the dog will do its indication from
19 there. And then what I end up doing is, once the
20 dog has indicated inside the car, or, if he
21 doesn't indicate, that's where I pull the dog
22 outside the vehicle. And then I go back to the
23 officer and typically tell him where the dog has
24 alerted and indicated to.

25 Q And did you do that in this case?

Testimony of Daniel Mooney

155

1 A Yes, ma'am, I did.

2 MS. MAIN: No other questions.

3 THE COURT: Mr. Newman?

4 MR. NEWMAN: Yes, sir. If it pleases the
5 Court, if we could finish the video.

6 THE COURT: Yeah, let's play the video.

7 MS. MAIN: It might take a second, Your
8 Honor. We just unplugged. Is the State playing
9 the entirety of the video?

10 MR. NEWMAN: I wanted those -- she
11 stopped at 3:41. Go back to 3:40. There's a
12 statement that Mooney makes that I wanted the
13 Court to hear.

14 MS. MAIN: I stopped at 4:31, so I'll
15 play from there.

16 THE COURT: She stopped at -- she said
17 she stopped 4:31.

18 MR. NEWMAN: That's what I said, Your
19 Honor.

20 THE COURT: Oh, I'm sorry. I apologize.
21 All right, go ahead.

22 MR. NEWMAN: If we can start it a second
23 or two before that.

24 MS. MAIN: We're 4:24 right now, Your
25 Honor.

Testimony of Daniel Mooney
(Video played.)

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1

2

MR. NEWMAN: That was all I needed.

3

Thank you.

4

CROSS-EXAMINATION

5

BY MR. NEWMAN:

6

Q So you're telling Squires that Enzo alerted to the center console and box in the back, correct?

7

8

A The second time, yes.

9

Q Yeah. And nothing was found in the console, was it?

10

11

A No, there wasn't.

12

Q Okay. Now, back on June of -- specifically, this was June 11th, but June of 2020, what were you assigned to? What did you do?

13

14

A I was with the violent crimes task force.

15

16

Q Okay. And that had Squires and Huggins on it?

17

A Yes.

18

Q Tank Morris?

19

A Yes.

20

Q Carter?

21

A Yes.

22

Q The Bluffton fellow?

23

A Yes, sir.

24

Q Now, on that day, do you know how you ended up on Highway 278 at the Vaden heading east?

25

Testimony of Daniel Mooney

157

1 A Yes, I was called down there for a K-9
2 incident.

3 Q Who were you called by?

4 A I don't recall.

5 Q All right. Would you agree you get to the traffic
6 stop within a minute?

7 A A little more than a minute.

8 Q I mean, did you know where you were going?

9 A Yeah, I can hear him over the radio.

10 Q Okay. So they were telling you. You knew where
11 you were going to go for the dog search.

12 A Or a traffic stop, yes.

13 Q And one of the officers, I don't remember if it
14 was Huggins or not, did you express a concern that you
15 wanted to get there and they replied back to you,
16 *Don't worry, we're still rolling?* Because you know
17 you had to get there in a certain time, correct?

18 A That's correct.

19 Q Okay. You only get a very limited window of
20 opportunity?

21 A That's correct.

22 Q Now, on this, they said they made the stop for
23 probable cause for speeding and some kind of lane
24 change violation. Is there anything that Enzo can do
25 in the investigation of a lane change violation?

1 A No.

2 Q Is there anything Enzo can do in the investigation
3 of a speeding ticket?

4 A No.

5 Q All right. And I see you smile. I say that
6 facetiously. We all know the answer to that.

7 A Yes, sir.

8 Q All right. And there's no question that Enzo was
9 inside the vehicle, correct?

10 A That's correct.

11 Q All right. Did you personally recover any illegal
12 substances, narcotics?

13 A No.

14 Q And, to be fair, that wasn't your duty, was it?

15 A No, it's not.

16 Q And would you describe yourself with Huggins and
17 Carter and all the others as part of a team?

18 A Yes, I would.

19 Q And part of the operations of that team is to
20 follow the vehicles as targets that you gain certain
21 intelligence on, correct?

22 A That would be correct.

23 Q All right. And you follow that vehicle, and you
24 call for another unit, or other team units to get
25 behind the vehicle to see if it would commit some type

Testimony of Daniel Mooney

159

1 of fortuitous traffic infraction, correct?

2 A Correct.

3 Q And a stop is made, and then you get there right
4 away and put the dog on the car.

5 A There were times where I've done the traffic
6 stop.

7 Q I'm sorry.

8 A I said, there were times when I've done the
9 traffic stop.

10 Q No, I understand that. But in this type of
11 scenario -- let's use the scenario where you were the
12 K-9 officer?

13 A Uh-huh.

14 Q Not just that you happen to be the K-9 officer and
15 make a traffic stop. You were on that team for a
16 specific purpose, correct?

17 A That's correct.

18 Q And that was to run the dog around cars that had
19 been stopped for reasons with limited scope such as
20 speeding?

21 A Will you rephrase that?

22 Q I think we already established that Enzo couldn't
23 help you out in a traffic investigation.

24 A That's correct.

25 Q Running a red light, you know, no blinker,

Testimony of Daniel Mooney

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1 speeding, any of that kind of stuff?

2 A That's correct.

3 Q Okay. So it would be fair to say that you were in
4 the area and purposely available so you could get to
5 Mr. Williams's car so you could put the dog on it,
6 correct?

7 A If they called for it, yes.

8 Q As part of an operation.

9 A If they call for it, yes. I'm available for
10 that.

11 Q And this was where these units called you there,
12 correct?

13 A That's correct.

14 Q And you knew this was going to happen on that
15 day?

16 A I didn't know it was going to happen.

17 Q I'm sorry?

18 A If they didn't pull the car over, then it
19 wouldn't have happened.

20 Q I understand that. It's very fortuitous that you
21 get there a minute or so where they stopped him that
22 you just happened to be in that area where he was
23 stopped. Was that just magic fortuitous luck?

24 A I wouldn't call it luck. It just happened to
25 be --

Testimony of Daniel Mooney 161

1 Q Were you following or keeping communication with
2 Huggins?

3 A I was listening to the radio, yes.

4 Q Okay. So you were monitoring what was going on?

5 A Yes.

6 Q And when you got the word the stop was happening,
7 you headed that way immediately?

8 A Well, they called me. So, yes, I did.

9 Q Okay. And you got out and you immediately took
10 the dog out, took Enzo out?

11 A Yes, sir.

12 MR. NEWMAN: Thank you.

13 THE COURT: Solicitor, any redirect?

14 MS. MAIN: Moment of the Court's
15 indulgence.

16 THE COURT: Yes, ma'am.

17 MS. MAIN: Yes, Your Honor.

18 THE COURT: Go ahead.

19 REDIRECT EXAMINATION

20 BY MS. MAIN:

21 Q So where did the dog alert?

22 A He alerted to the passenger door.

23 Q And where did the dog give indications?

24 A Center console and a box that was located in
25 the back seat.

Testimony of Daniel Mooney

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1 Q Were narcotics found in either of those places?

2 A There was narcotics located in the box in the
3 back seat.

4 Q Is there a reason the dog would have given an
5 indication to the center console?

6 A Yes. There's residual transfer. So in a
7 case of where somebody was smoking marijuana and
8 they touch anything inside their car, or if they
9 handle drugs, then the dog would alert or
10 indicate.

11 Q Okay.

12 MS. MAIN: No other questions.

13 THE COURT: Anything else, Mr. Newman?

14 MR. NEWMAN: Yes, sir. I'd like to
15 follow-up on that.

16 RECROSS-EXAMINATION

17 BY MR. NEWMAN:

18 Q You talked about residual things like marijuana.
19 If -- let's say I took a bag of, I don't know, good
20 quality, fresh-cut marijuana, just in a Ziploc bag,
21 nothing else, and I put it in my car for a day or two
22 in the heat, overnight, and all that, and I take it
23 out of the car. Let's say a half hour after I take
24 that bag out of the car, you-all stop me and put the
25 dog on it, would Enzo alert to marijuana?

Testimony of Daniel Mooney

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1 A He would alert to the odor of drugs or
2 narcotics.

3 Q Okay.

4 A Not specifically marijuana.

5 Q Not specifically marijuana, but he would alert to
6 that?

7 A Yes.

8 Q So Enzo can't tell you whether the drugs are
9 actually in the car at the time he is smelling them;
10 is that correct?

11 A That's usually what the indication is for.

12 Q Okay. But he can't tell you that drugs hadn't
13 been in that car, but aren't in that car right now.
14 He can just tell you, at some point, I picked up the
15 smell.

16 A Typically, whenever you're doing your
17 training, it's there. So if you touch something,
18 in this case, say your door handle and you
19 recently handle it, yes. Now, if it rained the
20 same day, no.

21 Q Okay. Well, what I'm saying is, just because the
22 dog alerts, does not mean that there are narcotics in
23 the vehicle, isn't that true?

24 A That's true.

25 Q Okay. And the K-9 cannot distinguish -- can the

Testimony of Daniel Mooney

164

1 K-9 smell, let's say, OxyContin?

2 A Oxycontin is -- it's derivative from opioids
3 (sic), correct?

4 Q Yes.

5 A Heroin is also derivative from heroin,
6 correct?

7 Q I believe it is. It's synthetic.

8 A Yes.

9 Q Okay. And OxyContin can be legal or illegal?

10 A That's correct.

11 Q I mean, I could have a bad pain in my hip and my
12 doc is generous and gives me five milligrams of
13 OxyContin.

14 A That's correct.

15 Q I fill my script, I save and put it in my little
16 pill caddy, like old people do so I know when to take
17 my pill, and you-all stop me and ran the dog, would
18 Enzo alert to narcotics in that car?

19 A So Enzo is not trained on OxyContin, but more
20 than likely yes, because it's derivative of
21 heroin.

22 Q So my point is, even though he alerted, it doesn't
23 necessarily give you probable cause to search because
24 I could say, *Mooney, look, I got my script right here*
25 *from my doctor, damn it, I just picked these things*

Testimony of Daniel Mooney

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1 up?

2 A I believe, in your case, it would probably be
3 the totality of circumstances why I would even put
4 my dog in the car in the first place.

5 Q Yeah. Because you're stopping me for not using a
6 blinker.

7 A Again, the totality of the circumstances.

8 Q Yeah?

9 A There's more than one thing that's going to
10 be going on before I even pull the dog out. I'm
11 not just running my dog on any car just because
12 they're speeding or they didn't use a blinker.
13 I'm civic minded in that case.

14 Q You put it on this case, because you-all wanted to
15 do a search. This whole thing was driven to do a
16 search of Mr. Williams's vehicle, correct?

17 A This is also in reference to a drug
18 investigation that was conducted by Staff Sergeant
19 Squires.

20 Q I understand that. But the purpose was to be able
21 to get into and search Mr. Williams's vehicle without
22 a warrant, was it not?

23 A That would something you would have to ask
24 Staff Sergeant Squires.

25 Q Cold you get into Mr. Williams's vehicle and

Testimony of Daniel Mooney

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1 search it without a warrant?

2 A It was established through probable cause,
3 not only from the sent of marijuana but a free air
4 K-9 sniff. That also established probable cause a
5 second time. And then the dog was put inside the
6 car and indicated to the drugs, which was also
7 indicated.

8 Q Okay. But the reason that you were called in to
9 put the dog on the car was specifically to do a sniff
10 for drugs, correct?

11 A They called me to do a free air sniff around
12 the vehicle.

13 Q And a free air sniff is not inside the car, is
14 it?

15 A Say again.

16 Q Free air sniff is not inside the car, is it?

17 A No, it's on the exterior of the vehicle.

18 Q Okay. Thank you.

19 MR. NEWMAN: Thank you, Judge.

20 THE COURT: Anything else, Solicitor?

21 MS. MAIN: No, Your Honor.

22 THE COURT: Thank you, sir.

23 Solicitor, do you have another witness?

24 MS. MAIN: Yes, sir. We call Officer
25 Squires.

Testimony of Daniel Mooney

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1 THE COURT: All right.

2 THE CLERK: Do you solemnly swear or
3 affirm to truthfully answer all questions asked of
4 you by this court so help you God?

5 THE WITNESS: Yes, ma'am, I do. Thanks.

6 THE COURT: Sharon, you good or do you
7 need to take a break? Let's take a break for a
8 moment.

9 MS. MAIN: The officer is already seated
10 up there.

11 THE COURT: He can step down. It's not a
12 problem. Let's take a break. We've been going at
13 it for a while.

14 Step down, sir, and then we'll come
15 back.

16 (A break was taken from 3:19 p.m. to 3:30 p.m.)

17 THE BAILIFF: All rise. This court is
18 back in session.

19 THE COURT: All right. State ready to
20 proceed?

21 MS. MAIN: Yes, sir.

22 THE COURT: Good. Go right head. Sir,
23 you're still under oath.

24 THE WITNESS: Okay.

25 WHEREUPON:

Testimony of William Squires
WILLIAM SQUIRES,

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after having been sworn to tell the truth, testified
as follows:

DIRECT EXAMINATION

BY MS. MAIN:

Q Where do you currently work?

A I work for the Beaufort County Sheriff's
Office.

THE COURT: He was sworn in, wasn't he?

THE WITNESS: Yes, sir.

THE COURT: Okay. Go right ahead. Thank
you.

BY MS. MAIN:

Q And how long have you worked with the Beaufort
County Sheriff's Office?

A Going on 18 years.

Q And are you assigned to any particular team?

A Yeah, I'm assigned to the violent crimes task
force and TFO with the DEA out of Charleston.

Q How long have you been with the violent crimes
task force?

A I've been part of that team -- it has changed
names -- probably 15 years. Probably going on 15
years.

Q And then you said DEA task force. What's that?

Testimony of William Squires

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1 A It's a task force officer. I'm assigned to
2 the DEA out the Charleston which gives the
3 jurisdiction to work basically drug crimes, kind
4 of, wherever I want.

5 Q What are your duties as a DEA task force?

6 A To work primarily drug investigations.

7 Q Okay. And as a DEA task force officer, did you
8 wear a body camera?

9 A No, ma'am. Back when this incident happened,
10 the task force officers were not using body
11 cams.

12 Q And were you involved in the traffic stop of
13 Latavious Williams on June 11, 2020?

14 A Yes, ma'am.

15 Q And did this occur on Ford Island Road in Beaufort
16 County?

17 A Yes.

18 Q All right. And who stopped the defendant?

19 A Detective Karafa did the traffic stop.

20 Q And would he have stopped -- hold on a second.

21 All right. And so once the defendant is
22 stopped, when do you arrive?

23 A I was there probably five minutes afterwards.
24 I wasn't on scene. I was in a different location
25 watching what was happening.

Testimony of William Squires

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1 Q And what's going on when you arrive on scene?

2 A When I walked up on scene, I believe the K-9
3 already alerted to the vehicle. So I assisted
4 with actually looking inside the vehicle.

5 Q How did you know the K-9 had already alerted to
6 the vehicle?

7 A Speaking with officers on scene.

8 Q And were you aware of the smell of marijuana when
9 you arrived?

10 A No, ma'am.

11 Q Was the search of the vehicle occurring when you
12 arrived?

13 A No, ma'am. It was me and, I believe, Karafa
14 searched it together.

15 Q Both of you searched it together?

16 A I believe so, yes, ma'am.

17 Q And Officer Karafa is the one who initiated the
18 traffic stop?

19 A Yes.

20 Q What was located in the vehicle?

21 A I located in the back of the vehicle a -- it
22 was, kind of, like a coffee container. I believe
23 it was inside a blue bag. And within that bag,
24 there was suspected marijuana, white powder,
25 numerous pills, were, kind of, located in that bag

Testimony of William Squires

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1 in, kind of, like a coffee container.

2 MS. MAIN: No other questions.

3 THE COURT: Thank you.

4 Mr. Newman?

5 MR. NEWMAN: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. NEWMAN:

8 Q Drugs were actually found inside a blue backpack;
9 isn't that correct?

10 A It's, kind of, like a blue bag.

11 Q I thought it was more described like the backpack.

12 A I just remember in the report, I don't have
13 it here, it was, kind of, I believe, described as
14 a blue bag. But I would have to look at the
15 report to say exactly what's in there.

16 Q Okay. And let me go off -- let me see if I can
17 get this. This was off of Tank Morris's, not
18 body-worn, but dash cam.

19 A Okay.

20 Q You had a conversation with Mr. Williams when he's
21 secured --

22 A Yes, sir.

23 Q -- in Sergeant Morris's vehicle?

24 A Yes, sir.

25 Q Let me see if I can find where I'm going with

Testimony of William Squires

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1 that. I'm trying to find the specific spot. Bear
2 with me, please.

3 THE COURT: Take your time, Mr. Newman.

4 MR. NEWMAN: How do we get volume out of
5 this?

6 MS. MAIN: I think you have to switch it
7 from ours to his table.

8 Your Honor, for the record, this is
9 Officer Morris's dash cam?

10 MR. NEWMAN: Yes. For some reason, I
11 can't get the sound.

12 THE COURT: Marshal, can we turn that up
13 in the closet? Let's see if we can get it higher
14 in the closet.

15 (Video played.)

16 BY MR. NEWMAN:

17 Q All right. And that was Tank Morris talking to
18 Latavious Williams?

19 A It sounds like it is, yes, sir.

20 Q And he's saying, *You're the man with the plan.*
21 *That's what we do?*

22 A I don't know what their conversation is. I
23 guess his plan was to transport. I don't know
24 what they talk about, but that is Morris, I
25 believe.

Testimony of William Squires

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1 Q Okay.

2 (Video played.)

3 BY MR. NEWMAN:

4 Q Okay. Part of what you did when you got there,
5 that's when you were talking to him, to Latavious, at
6 Mr. Williams's car -- not Mr. Williams's. Tank's car.
7 You had a conversation with Mr. Williams when you
8 pulled up during this traffic stop, did you not, on
9 the side of the road?

10 A Yes, sir. We just watched it.

11 Q All right. You told them on that video, and I can
12 pull that up from -- actually it might be Huggins's
13 video. I can pull that up.

14 You tell -- the first thing you tell
15 Latavious -- in fact, he's out of the car. He's in
16 handcuffs and he's guarded by two other officers,
17 correct?

18 A Yes.

19 Q Okay. And the first thing you say, *I'm going to*
20 *be straight with you, I've been watching you for a*
21 *long time.*

22 A Yeah.

23 Q And that was a truthful statement?

24 A Yes, sir.

25 Q All right. *I've been watching you for over six*

Testimony of William Squires

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1 months, a long time?

2 A Yes, sir.

3 Q All right. *I've also got you recorded and stuff,*
4 *okay? You mentioned something about his mom leaving*
5 *in the morning. Hey, wait a minute, you didn't stay*
6 *with your mom. So you knew where he was staying,*
7 *correct, when you were talking with him.*

8 A Yes, sir.

9 Q Okay. You knew that his mom drove a red car, or
10 burgundy car.

11 A Yes, sir. I work investigations. I try to
12 get all the facts.

13 Q All right. And you knew that he had two vehicles
14 and two liens on those vehicles?

15 A Yes, sir.

16 Q All right. You told him you're a FED, DEA, we
17 might end up going to Charleston.

18 A Yes, sir.

19 Q And then someone asked you during that exchange,
20 *Should we get a search warrant,* and it sounds like you
21 *say, I don't know.*

22 MS. MAIN: Objection, Your Honor. I
23 think we're outside the scope of determining
24 probable cause here.

25 THE COURT: Overruled.

Testimony of William Squires

175

1 BY MR. NEWMAN:

2 Q Do you recall that?

3 A Could you ask your question again?

4 Q Yeah. On the tape, it sounds like you say, I
5 don't know. Another officer, it sounds like, asked
6 you or asked for direction, *Should we get a search*
7 *warrant*, and *I don't know* is the answer, is the
8 response?

9 A Yes, sir.

10 Q Okay. And then one of the last things you said to
11 him, *I was with you yesterday in Yemassee and you took*
12 *I-95*. Did that mean that you were following him where
13 he lives in Yemassee?

14 A Yes, sir.

15 Q And that you decided to break off at that time?

16 A Yes, sir.

17 Q Okay. Did you have a team with you at that
18 time?

19 A No, sir.

20 Q How is it that you came to have on June 11th at
21 about 12:38 in the afternoon, p.m., that you happen to
22 have Tank Morris, Huggins, Karafa, Mooney, Carter,
23 and, of course, Mooney with Enzo, all assembled? How
24 did that happen?

25 A So we were all part of the same team. Back

Testimony of William Squires

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1 when this incident happened, we had guys that were
2 in marked vehicles, and we had guys that were in
3 plain clothes. I'm the only one that's allowed to
4 go outside the jurisdiction. So they worked in
5 Bluffton that day. I was going to conduct
6 surveillance on Mr. Williams. I knew where the --
7 I knew where the team was working. Mr. Williams,
8 I followed him into Beaufort and we had the
9 opportunity to stop him. We were going to stop
10 him if he committed a traffic offense. So they
11 were all, kind of, working in Bluffton. If he
12 went to Beaufort, we had nobody in Beaufort. If
13 he went to Ridgeland, we had nobody in
14 Ridgeland.

15 Q All right. And you just have to wait for a
16 fortuitous traffic violation no matter how minor,
17 correct?

18 A Sometimes you got to take your chances. He
19 had a TI offense that Mr. Crawford watched, and we
20 decided to do a traffic stop on him.

21 Q And, of course, that wasn't captured on any type
22 of video?

23 A Usually, all our vehicles, if they're
24 unmarked, they don't have any video cameras in
25 them, sir.

Testimony of William Squires

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1 Q Okay.

2 A They never have.

3 Q Okay. So the alleged probable cause in this case
4 is not captured on video?

5 A That is correct. Yes, sir, to the testimony
6 that he gave earlier.

7 Q And Karafa testified he smelled marijuana?

8 A Yes, sir.

9 Q And I believe you testified you did not?

10 A No. I walked up and searched the vehicle. I
11 don't think I testified that I didn't smell
12 marijuana. We'd have to go back and listen to
13 that.

14 Q Okay. That's how I heard it, because there's
15 nothing in your report about that.

16 A Right.

17 Q All right. And you agree there's nothing in your
18 report about you smelling marijuana.

19 A No. It is not in my report, no, sir.

20 Q Okay. So you and Carter -- what time did you
21 start following Mr. Williams that morning?

22 A I believe I got out to Mr. Williams's
23 location where he was sleeping probably 7:30 in
24 the morning.

25 Q Okay. And where was Carter?

Testimony of William Squires

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1 A I have no idea.

2 Q All right. Did Carter come on the scene?

3 A We have to watch on the body cam. I have no
4 idea, sir.

5 Q Okay. I got him listed as being at the scene.

6 A He might have showed up for back-up.

7 Q So you were riding by yourself.

8 A Yes, sir, I was.

9 Q Who knew where you were?

10 A We got our own special radio channel that we
11 could talk amongst ourselves. I believe my boss
12 knew I was out there working Mr. Williams, that
13 was actually in Ridgeland.

14 Q Okay. And where did you start following him?

15 A Off Argent where he was laying his head.
16 It's actually -- there's -- kind of, near Walmart,
17 right off of Argent.

18 Q In Jasper County?

19 A Yes, sir.

20 Q You have a MOU with Jasper County?

21 A I work with the DEA, sir.

22 Q Okay, okay. No problem. No problem.

23 So, you're following him and he gets on the
24 road, is it obvious to you that he's going to head
25 into Beaufort County.

Testimony of William Squires

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1 A No, sir. I didn't know where he was going to
2 head into once we left his complex.

3 Q Okay. You said "we," who was with you?

4 A No, me. Like saying "we," as us that was
5 here today. We didn't know where he was going
6 that day. That's why I said "we."

7 Q But all of you-all were in communications. This
8 was a concerted pre-planned effort, correct?

9 A Yes, sir.

10 Q All right. And that's why the dog was brought
11 there, correct?

12 A The dog was already working in Bluffton. And
13 if there was actual probable cause to run the dog,
14 we were going to run the dog that day, yes, sir.

15 Q Okay. Well, I thought probable cause for the stop
16 was some kind of lane violation and speeding. How
17 could the dog help with that?

18 A They smelled, also, marijuana on scene.

19 Q You say "they."

20 A They got traffic violations and they smelled
21 marijuana on scene.

22 Q Did you smell marijuana?

23 A I don't recall if I did while searching, to
24 be honest with you.

25 Q All right. And if you had smelled marijuana, you

Testimony of William Squires

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1 probably would have put that in your report?

2 A Yes.

3 Q All right. And when you went through the car,
4 there was no leaf, no shakes, no buds, no seeds?

5 A I only recall locating the bag in the back of
6 the car that had all the suspected narcotics in
7 it.

8 Q Okay. But my point is --

9 A I wasn't looking for leaves on the ground, or
10 anything like that.

11 Q I understand that. But when you're in cars,
12 you're a trained officer, you notice lighters, rolling
13 papers --

14 A Right.

15 Q -- hollowed out cigars, all that. There was none
16 of the accoutrement that goes with smoking marijuana
17 in that car.

18 A I don't actually recall because I wasn't
19 looking for that.

20 Q You're doing a drug investigation and you weren't
21 looking for drugs.

22 A I wasn't looking for rolling papers,
23 marijuana seeds. No, sir, I was not looking for
24 that.

25 Q How about joints, roaches?

Testimony of William Squires

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1 A Sometimes we do.

2 Q Okay. But his car had no joints, no roaches, no
3 papers?

4 A Not that I collected, no, sir. No, I don't
5 think it did.

6 Q Didn't even have Christmas trees in it?

7 A Are you talking about air fresheners.

8 Q Yes.

9 A I don't think it did, no, sir.

10 Q Okay.

11 A It did actually have marijuana, though.

12 Q And that was inside the backpack, inside the
13 coffee can?

14 A In the back of the car.

15 Q And it wasn't in any way burnt marijuana.

16 A No, sir, I don't believe so.

17 Q So, there's no doubt this is just a rolling
18 roadblock to see if he's going to commit a traffic
19 violation, correct?

20 A Not necessarily. I went out there. I
21 conducted a surveillance on him. And it got to
22 the point in the investigation that if we felt he
23 was going into Beaufort County and we had
24 resources where we need them, we were going to
25 take a chance on the traffic stop and see where

Testimony of William Squires

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1 the drug investigation went to.

2 Q Okay. That's because you didn't have enough
3 information to get a search warrant, correct?

4 A For the vehicle?

5 Q Yes.

6 A We didn't need one that day.

7 Q That's not my question.

8 A I did not have a search warrant that day, no,
9 sir.

10 Q That's not my question.

11 THE COURT: Repeat your question.

12 BY MR. NEWMAN:

13 Q My question was: You didn't have enough
14 information to get a search warrant?

15 A I didn't know. I didn't have the affidavit
16 and go to talk to the judge. We searched the
17 vehicle based on a K-9 sniff.

18 Q Right. Based on the probable cause stop for a
19 lane change violation and speeding.

20 A And a K-9 sniff, yes, sir.

21 Q And a K-9 sniff. Do you agree with me that when
22 you stop somebody for the speeding and a lane change
23 violation, the scope of your traffic stop, you're
24 given limited authority to seize them? And when you
25 put your blue light, you agree that you seize that

Testimony of William Squires

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1 person on the side of the road?

2 A Okay.

3 Q Or people in the car.

4 A Correct.

5 Q And you're authority, I say you as a police
6 officer, a governmental agent, is given that you have
7 to -- on a warrantless stop, have to limit the scope
8 of what you're doing and narrowing tailor it to the
9 purposes of the stop, is that not true?

10 A So your question, as soon as that dog hits on
11 a vehicle, we didn't need a warrant to search the
12 vehicle.

13 Q No, that's not my question at all.

14 A Can you ask it again?

15 Q That's not my question at all.

16 Working it backwards a little bit, even
17 with all of what you're doing in surveillance, the
18 only probable cause you have to stop that car is
19 for the two traffic infractions.

20 A That day, yes, sir.

21 Q Would that not limit the scope of what you were
22 doing in the investigation and be limited to an
23 investigation into a speeding and a lane change
24 violation?

25 A Up to the point where the officers smelled

Testimony of William Squires

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1 marijuana and up to the point where the dog hits.

2 So the scope can extend itself as the probable
3 cause adds on.

4 Q I understand that. I understand Karafa's the only
5 one that claimed he smelled marijuana when nothing
6 loose was found.

7 But the whole point is, you're making a stop
8 to specifically get a drug dog there.

9 A If the probable cause called for us to use a
10 drug dog, yes, sir.

11 Q All right. And the probable cause in this case
12 was for speeding, 68 in a 55, and a lane change
13 violation, correct?

14 A Was the initial, yes, sir.

15 Q All right. Now, when Mr. Williams was removed
16 from his vehicle, he was not in his vehicle when you
17 got there a few minutes later; is that correct?

18 A He was already out of his vehicle, yes,
19 sir.

20 Q All right. And when you get there, he was already
21 handcuffed behind his back.

22 A I don't know if he was handcuffed yet. We'd
23 have to watch on the video.

24 Q We can watch on the video. I'll tell you, it
25 looks like to me like he's handcuffed to me, Tank is

Testimony of William Squires 185

1 standing next to him, and Huggins is standing next to
2 him.

3 A All right.

4 Q All right. So when the dog is in the vehicle and
5 subsequently when you're searching the vehicle,
6 Mr. Williams never goes back into, near, or inside
7 that vehicle, isn't that correct?

8 A Yes, sir.

9 Q And he's secured at all times in handcuffs?

10 A When he was put in handcuffs, I don't have
11 the exact --

12 Q But at least at the point of when you go to search
13 the car, he is handcuffed?

14 MS. MAIN: Objection, Your Honor. I
15 think that is a misstatement of the facts, when he
16 was handcuffed.

17 THE COURT: I'm going to overrule that.
18 Go ahead.

19 MS. MAIN: Okay.

20 BY MR. NEWMAN:

21 Q Was he handcuffed when you were searching the car?

22 A I don't recall if he was in handcuffs yet
23 when I was searching the vehicle.

24 Q All right. Let's see if we can look at the
25 videos.

1 A Okay.

2 Q Would you agree that there's no way that he would
3 have access to get back into his car?

4 A That is correct. Once the dog hits, we don't
5 let anyone go back into the vehicle.

6 Q And you have him secured?

7 A Yes, sir.

8 Q And there was nothing that would prevent you from
9 seizing items based, I guess based on the sniff, and
10 attempting to convince a magistrate to give you a
11 search warrant?

12 A I never asked the magistrate.

13 Q I understand that, but there's nothing that
14 prevented you from doing that, correct?

15 A We do have a time out there. I believe the
16 search warrant was more of a search warrant we
17 were going to do on his residence. We were never
18 anticipating doing a search on the vehicle.

19 Q Okay. My question is, nothing would have
20 prevented you from doing that, correct?

21 A Well, for us to do that, we might have had to
22 move the vehicle off the roadway, so I guess you
23 would say time.

24 Q Well, you weren't too concerned with the vehicle,
25 because you-all didn't even tow this vehicle, did

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1 you?

2 A No, sir. He had -- I believe someone showed
3 up on scene.

4 Q Yeah, and you just let him drive it off.

5 A Once we were done.

6 Q So would have no --

7 A Upon his request.

8 Q There would have been no inventory due to towing
9 the vehicle, a search, nothing like that, correct?

10 A No, sir. We searched it after the K-9.

11 Q Okay. Bottom line is, the car wasn't towed. It
12 was driven off by a friend?

13 A Under his request, yes, sir.

14 Q That's fine. That's fine.

15 MR. NEWMAN: That's all I have, Judge.

16 THE COURT: All right. Anything else,
17 Solicitor.

18 MS. MAIN: No, Your Honor.

19 THE COURT: Great. Thank you, sir.

20 THE WITNESS: Thank you.

21 MS. MAIN: Your Honor, I would just ask,
22 if there's a way after the fact that we can make
23 the dash camera from Officer Morris a court
24 exhibit at some point.

25 MR. NEWMAN: That's fine.

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1 THE COURT: Yes. That will be Court

2 Exhibit -- whatever the next number is.

3 MR. NEWMAN: Do you have Morris's
4 dash-cam video?

5 MS. MAIN: Not with me.

6 MR. NEWMAN: Because I don't. Mine's
7 just on electronic storage.

8 THE COURT: Well, would you-all agree
9 that we can make a disk, have that be an exhibit?
10 I think that you-all wouldn't disagree as to what
11 that --

12 MR. NEWMAN: We know what it's called.
13 Tank Morris's dash-cam video.

14 THE COURT: That's to be provided by
15 agreement by the parties.

16 Yes, ma'am. Anything else?

17 MS. MAIN: The State has no more witnesses
18 for the suppression motion.

19 THE COURT: All right. Mr. Newman.

20 MR. NEWMAN: If it pleases the Court,
21 Your Honor, I can, if the Court wants to see the
22 videos. I covered it with the witness. Squires,
23 to my recollection, admitted to a number of things
24 I asked him. So unless you want me to play the
25 video where I asked him when he was interviewing

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1 Mr. Williams initially, telling him we've been
2 following you for months and all that, you can
3 hear that. TFO Squires said that.

4 THE COURT: Yes, sir. I don't think I
5 need to hear that. I think I've got that and the
6 officer testified essentially to that.

7 Yes, sir, go ahead.

8 MR. NEWMAN: So, what I've asked the
9 Court to look at is the initial seizure of
10 probable cause and then the extension of the scope
11 and duration of the seizure. And the cases -- and
12 highlighted them to Your Honor that I think are
13 most important -- the *City of Indianapolis vs.*
14 *Edmond*. That is the case where the City wanted
15 to, in certain areas of the town, do traffic stops
16 with a dog for drug suppression and investigation
17 purposes. And in *Edmond*, I believe it was
18 unanimous with the Supreme Court, that said you
19 can't do that. And expression and how *Edmond*
20 dealt with it. The court in *Edmond* -- well, we've
21 got this *Whren* case that's been so misinterpreted
22 that, well, if you have probable cause, if an
23 officer has probable cause to stop a vehicle, you
24 can't ask about any of the subjective intentions
25 about why he's doing that. Is this really a drug

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1 offense?

2 And I take it, going all the way back to
3 *Whren*, where scholars -- a lot of people forget
4 about that scholars point out when they write
5 about *Whren*, *Whren* was a plain view case. *Whren*
6 was not a case where they exploited a traffic stop
7 and expanded the scope of it without reasonable
8 suspicion. In *Whren*, there were some detectives
9 that worked for drug enforcement in the City of
10 Washington, D.C.

11 Late one afternoon -- one night, I don't
12 know, the detectives decided to stop a car for no
13 blinker, rolling a stop sign, not something that
14 Washington, D.C. detectives normally do because
15 they suspected that *Whren* and his friend who was
16 driving the car were up to something. So they
17 took the opportunity to say, all right, we all
18 know what's going on. We're drug cops and we want
19 to stop these guys and talk to them. And his
20 friend said, well, let's just look at objectively
21 what went on. They ran a stop sign. That's
22 probable cause to stop a vehicle, *Delaware vs.*
23 *Prouse* says that.

24 Now, the point there of *Whren* being a plain
25 view case is, when the officer walked up, *Whren* had the

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1 drugs in his hand. I mean, just right out, right
2 there. What you have to be careful of is not saying,
3 or when you analyze *Whren* to say that we can just
4 screw it into any twist and turn we want to try and
5 avoid the prescriptions of the Fourth Amendment,
6 Article I, Section 10, the right to privacy.

7 *State vs. Adams* actually addressed that.
8 That was the North Charleston case.

9 THE COURT: All right. Well, talk to me
10 about that case. One of the things in that case
11 is, they acknowledged that there was probable
12 cause for the stop, is my understanding, correct?
13 The defense did.

14 MR. NEWMAN: The defense did, yes.

15 THE COURT: So, are you acknowledging --

16 MR. NEWMAN: To stop -- I'm sorry. I
17 didn't mean to interrupt. To stop for a traffic
18 violation.

19 THE COURT: Yes, sir. And so -- right.
20 But what I want to do right now is, so you would
21 agree that they had probable cause to stop, at
22 least for traffic violation; is that correct?

23 MR. NEWMAN: I'll concede, but only for
24 the sake of argument, because I think you also
25 have to do a credibility determination of whether

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1 or not that actually occurred because it's not on
2 video. You got one officer saying he smelled
3 marijuana when nobody else did.

4 THE COURT: Well, when I reviewed it,
5 that's one of the things that just, kind of, stuck
6 out immediately when I saw that. I wanted to see
7 if we were able to pair down. That's why I wanted
8 to ask you. Go ahead and talk to me about the
9 *Adams* case, sir.

10 MR. NEWMAN: Okay. And I will say that,
11 *Adams* -- and let's take the GPS thing out of it.
12 It really doesn't have anything to do with the
13 analysis for *Edmond* or here. I'll explain.

14 THE COURT: Don't you think the GPS is
15 what really soured that case? Don't you think
16 that's really what started to spoil the well
17 there?

18 MR. NEWMAN: It may, but the Supreme
19 Court, I think, sent us a message because the
20 Court of Appeals said that, yeah, the GPS is a --
21 that that's a violation that's trespassory, and
22 we're going to be talking about trespassory in a
23 minute, that you came into the core, or on the
24 car, or under the car and put a GPS. That's
25 trespassory. The government needs a warrant for

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1 that, and that's how Adams saw it too.

2 The Court of Appeals said, yeah, you're
3 right, but the taint of the Fourth Amendment violation
4 is attenuated by the new criminal conduct. And that
5 is the -- it's almost the exact same thing here,
6 speeding and a lane change violation.

7 THE COURT: Right.

8 MR. NEWMAN: And what happens on Adams is
9 the same thing that's happening here. You got a
10 drug cop that's on a radio to basically a traffic
11 cop saying, *Get on I-95, get behind this guy*, and
12 they follow him. And if you read through it -- it
13 doesn't exactly say it, but they're basically
14 waiting to get back into the jurisdiction, just
15 like here in North Charleston, and they light up
16 Adams. And they light him up for speeding and a
17 lane change violation. And the Court of Appeals
18 said, well, that attenuated the taint, then they
19 can stop him and let's see if the officers could
20 get enough information to do a drug dog and this
21 and that.

22 The Supreme Court said, No, no, no, no,
23 no. That traffic stop does not attenuate a
24 violation like this, because you are
25 programmatically trying to get around the Fourth

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1 Amendment in Article I, Section 10, by a systemic
2 -- and that's what *Edmond* was. *Edmond* was a
3 system, a program to be able to stop people on
4 less than probable cause for general criminal
5 searches.

6 And *Adams* said you can't do that. It said
7 we're not going to allow, you know, unwinning traps
8 for the court because we're not going to allow a minor
9 traffic violation, and it says that in *Adams*. In
10 *Adams* two. The Supreme Court *Adams*, not the Court of
11 Appeals *Adams*, about the expansion of the stop.

12 You also have -- that actually calls into
13 question, kind of, in a rhetorical *State vs. Fraiser*,
14 as to *Whren*. *Fraiser* was a North Charleston drug cop,
15 saw *Fraiser* at the bus stop.

16 THE COURT: Right.

17 MR. NEWMAN: He was looking around. They
18 thought he was nervous. Looking around. Gets in
19 the car with Miss Jones. She ostensibly, I think,
20 if you read it, may be speeding. Anyway, they get
21 her stopped for a minor traffic violation. And
22 the question in *Fraiser* was the same thing. Did
23 they have information to expand the stop?

24 Now, *Fraiser* did not have a drug dog involved
25 in it. And this is the one where Deadra Jefferson

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1 said, *Hey, this says 50/50.* And the Supreme Court
2 said, *If it's 50/50, the defendant wins, okay,* when it
3 comes to a search issue because the government has the
4 burden to prove that these stops were reasonable, that
5 they're not tried and true in ways to circumvent the
6 Fourth Amendment, Article I, Section 10, right to
7 privacy.

8 THE COURT: Let me ask you, in the
9 *Fraiser* case, which is like a 2022 case --

10 MR. NEWMAN: Yes, sir, it is.

11 THE COURT: So law enforcement is across
12 the street from the bus station, I think, and they
13 see this gentleman walk out of the bus station. I
14 don't know if they saw him get off a bus and go in
15 the bus station. I'm a little bit fuzzy about
16 that.

17 MR. NEWMAN: They knew the bus had just
18 come in from New York.

19 THE COURT: And so he comes out. They
20 say he cases the parking lot, for lack of better
21 words.

22 MR. NEWMAN: Right.

23 THE COURT: He then gets into the car.

24 MR. NEWMAN: Miss Jones's car.

25 THE COURT: And, at that point, the

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1 detectives notify, what I would call a road patrol
2 officer.

3 MR. NEWMAN: Sergeant Hall, yes.

4 THE COURT: And tells them, *Hey, we need*
5 *this guy pulled over if there's a reason to pull*
6 *him over.* He's a passenger in this car driven by
7 this woman. And they pull him over for a third
8 tail light that maybe is out.

9 MR. NEWMAN: Third tail light, exactly.

10 THE COURT: All right. Well, A, they
11 weren't -- I mean, in this case, they're after a
12 specific person. In this case at bar, they're
13 after your client, correct?

14 MR. NEWMAN: Or after the vehicle. One
15 or the other.

16 THE COURT: Because if -- well, because
17 they're after -- to me, they're after -- they
18 don't know who that fellow was in North Charleston
19 from anybody, right?

20 MR. NEWMAN: Well, they knew he'd be a
21 target. He came in on a bus from New York.

22 THE COURT: They know drugs come from New
23 York. But they weren't looking at him
24 specifically. They were looking at any
25 generalized person coming off of that bus, right?

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1 MR. NEWMAN: That's why I mentioned these
2 cases. Because the *Adams* case, they were looking
3 at just like this case.

4 THE COURT: Okay.

5 MR. NEWMAN: Personally. They were
6 looking at Mr. Adams. Called him by name.

7 THE COURT: All right. Go ahead.

8 MR. NEWMAN: So when you marry these
9 cases together, you're using a system -- since
10 you're talking about traffic infractions that you
11 can make or can make administrative inspections
12 and searches.

13 So based on probable cause limited to
14 speeding and a lane violation, the officers really
15 can't go beyond that. That's what the whole point
16 is.

17 What the program and purpose in this case
18 that makes it administrative in nature is, if you
19 look at minor traffic tickets as administrative
20 enforcement, which is what the court in *Delaware*
21 *vs. Prouse* almost said, because it's a regulated
22 area, it's in the public this and that, what law
23 enforcement and the government can't do on
24 administrative searches without search warrants is
25 turn those into general criminal investigations.

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1 An example is if -- let's say the
2 sheriff, or ABC officer, task officer, decide they
3 want to go into the a bar at night and make sure
4 they're closed at two o'clock.

5 THE COURT: Yes, sir, go ahead.

6 MR. NEWMAN: Well, under alcohol beverage
7 control, it's a control agency, our courts say,
8 they can come in, they can look around on the
9 premises, they can check the licenses, they can
10 check to make sure, if it's after 2:00, the cooler
11 boxes are locked, those types of things. And this
12 is, kind of, akin to what you got going on here.
13 What you can't do use that, and that happens in
14 the case I cited for you, is bring in -- what they
15 did in this one case is bring in drug dogs to do
16 the administrative liquor enforcement. And the
17 Supreme Court, and it's gone over in the *Edmond*
18 case, said that you're using, kind of, an
19 administrative inspection process through
20 licensing and those types of things to do a
21 general criminal investigation, and we're going to
22 be hard core, 100 percent and stern on that, and
23 have been since the 1960's uniformly.

24 So when you're in a situation that you
25 are purposely using two different gimmicks to get

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1 around the Fourth Amendment and then a third one
2 under *Arizona vs. Gant* by not ceasing the property
3 and getting a warrant, which is what Gant says we
4 now have to do, that our Supreme Court in *Adams*,
5 and it gives the reason for the Supreme Court
6 opinion, as to why that is unreasonable and
7 impermissible. I mean, there's simply no reason,
8 if I'm going to stop you for speeding, to bring a
9 drug dog with me.

10 THE COURT: Well, let me ask you this:
11 In the *Fraiser* case, didn't the officer actually
12 finish the warning ticket and then go and begin
13 asking all the questions about the zipper of the
14 pants being down and nervous, didn't all that
15 arise after the officer -- because so many of
16 these cases, Mr. Newman, in my recollection, is
17 they talk about extending the scope of the stop
18 particularly after the warning ticket is written.
19 Was it not written in that case?

20 MR. NEWMAN: It doesn't matter. You can
21 still expand the scope of the stop even though
22 you're still waiting on a driving license thing to
23 come back. So that's -- I don't think that's the
24 end-all, be-all issue on that.

25 The issue to extend the stop, the only

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1 thing they now have is -- I'm sorry.

2 THE COURT: The officer's testimony about
3 the smell of marijuana.

4 MR. NEWMAN: Right, and not finding
5 any.

6 THE COURT: And let me ask you this,
7 Mr. Newman, one of the things I noted in the
8 Fraiser case -- I actually read that case -- was
9 that it talked about the officer's objective types
10 of -- there's a lot of objective criteria that the
11 officer relied upon based upon his years of
12 experience. I think she outlined some of those
13 thing, Judge Jefferson did.

14 MR. NEWMAN: She did, and they weren't
15 sufficient in the court's opinion.

16 THE COURT: I'm with you on that.

17 My question is: Smelling marijuana, do
18 you submit that that's an objective or a
19 subjective matter; and the dog hit, is that an
20 objective or a subjective finding? Because that's
21 one of the things that, kind of, riddled me
22 because the court, to me, made a big deal about
23 objective findings as it relates to that. And I
24 may be off base completely on that. I'm asking
25 you, sir.

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1 MR. NEWMAN: Those to me -- you know, if
2 I smell something and I say, *It smells like peanut*
3 *butter*, you're asking for my subjective opinion on
4 that's what it smelled like. You might smell it
5 and say it smells like jelly. You know, what I'm
6 saying? So I'm not giving you an objective
7 evaluation when I tell you that I smelled
8 something.

9 But I think what they're looking at on
10 the objective versus subjective, when you look at
11 *Whren* and what they wanted to do is, let's just
12 face it -- let's just peel down that curtain. We
13 knew what three directors in the downtown hood in
14 Washington, D.C. were doing. We know exactly what
15 they were doing. They could care less whether
16 those fellows in *Whren's* car -- or the passenger
17 *Whren*, they could care less whether they didn't
18 use a blinker. They wanted to get there and root
19 around. And the Supreme Court said, well, we're
20 not going to look at your subjective intent. If
21 you got probable cause that they committed a real
22 traffic offense and you have real probable cause,
23 then we're not going to go behind that, except
24 when we look at cases like *Edmond* and *Adams* that
25 allow you to do that. Because the officer's

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1 subjective intent in this case was not to stop
2 Mr. Williams to search for drugs and all that.
3 Their objective intent was to stop the car to
4 search for drugs.

5 So we're not -- I'm not saying that, you
6 know, we can't look behind -- they had probable
7 cause because of the speeding, so you can't look
8 behind that. Now we get to this fixed point where
9 we got this person, kind of, in a trap.

10 The problem is objectively that's what we
11 set out to do. So we don't need to look behind
12 anything under *Whren*. We're looking directly at
13 what they admitted they do. We got a planned
14 operation here, and it's planned to get around
15 these certain requirements. It's got to be timed
16 out perfectly so that we can get that dog in a
17 reasonable time and get it within the time we're
18 supposed to run a license check, either issue a
19 ticket, or issue a warrant. And it's all tailored
20 to do nothing but get around the Fourth Amendment,
21 Article I, Section 10, and Article I, Section 10's
22 right to privacy.

23 THE COURT: All right.

24 MR. NEWMAN: You can get stopped for not
25 using a blinker and here's five cops and a drug

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1 dog in your car all because they've been following
2 you. You know, it's just a little too convenient.

3 THE COURT: All right. What else,
4 Mr. Newman?

5 MR. NEWMAN: I ask you to look really
6 well at the *Edmond* vs. -- *Indianapolis vs. Edmond*.
7 I think it lays out -- it lays out what
8 problematic searches are. It lays out what the
9 rules for them are. That the court cannot
10 sanction stops justifiable only by generalized
11 ever-present possibilities that interrogation and
12 inspection may review that any given motorist has
13 committed some type of crime. And that's in the
14 *Edmond* case, and they go through that.

15 I have set out in my brief two reasons
16 why I believe, initially, and why I believe *Adams*
17 and *Edmond* back me up, that the drug dog was
18 improperly married and interjected into this case
19 into Mr. Williams's car through basically deceit,
20 and getting around the Fourth Amendment. That is
21 outlined in the cases and I believe *Adams* fully
22 supports that.

23 Also, I believe that the dog coming into
24 the car was a trespassory invasion. Our South
25 Carolina Supreme Court would have talked about --

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1 and the Appeals Court for that matter -- when it
2 talked about bumper beeper, it's main reason said,
3 the reason it's bad is, you have to trespass. You
4 actually have to physically touch that car to
5 place that magnet. I guess it's a magnet beeper
6 that goes up under the bumper and that's a
7 trespass.

8 Well, to confirm doing what they're doing
9 to do the search, they put the dog inside the car.
10 That cannot be any type of free air sniff when you
11 have this person taken out of a car because he's
12 speeding, handcuffed, secured by deputies, and
13 then here's this dog scratching around inside of
14 his car. Now, even though it's a car, there's
15 still some privacy interest triggered in there. I
16 cited the South Carolina cases on that.

17 I think *Arizona vs. Gant* is important. It's
18 been overlooked. I think what the officers admitted
19 in this case -- with *Gant*, if this Court will
20 remember, for years we used to have what's called the
21 Belton Ross rule, that if you arrested a -- I'll make
22 it easy. If you arrested the driver of the motor
23 vehicle, you go to the rule in *Schimmel* that says you
24 can search the incident to arrest the area of the
25 arrestee.

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In *Belton* and *Ross*, for 30-something

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2 years, the court's noted that they tried to make
3 an easy rule that, if a person is arrested, that
4 the police officer may contemporaneously search
5 the passenger compartment, including all
6 containers. The court said they were wrong on
7 that, so that's not the law anymore. As an
8 incident to arrest.

9 In *Arizona vs. Gant*, Mr. Gant was arrested
10 for a suspended driver's license, he was taken out of
11 the car, he was handcuffed, and he was put with
12 another deputy or police officer either into a car,
13 off the side of the road. They searched the car
14 incident to the arrest, incident to probable cause,
15 and found a jacket that contained, I think, 1100 grams
16 of cocaine. The Supreme Court rejected that. I ask
17 you to read the brief. I have all the reasoning in
18 there for that.

19 But the rationale for the search incident
20 to arrest is so that the arrestee can't produce a
21 weapon and hurt me, or can't flee or try and get
22 rid of evidence.

23 If you take that away -- what the Supreme
24 Court said in *Gant*, if you take that away, if you
25 take the arrestee out of the car and you cuff him

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1 and you secure him, what is the rationale to
2 search incident to arrest? Well, it's to make
3 sure that he can't get a weapon and hurt you.
4 That doesn't exist because he's handcuffed and
5 away from the car. And that he can't destroy or
6 manipulate evidence. Well, he can't do that if
7 he's handcuffed and locked up away from the car.

8 So *Gant* says that, under those
9 circumstances -- and it goes all the way back to a
10 '70s case, *United States vs. Place*, and said --
11 and *Place* was a drug sniff case, that they found
12 was unreasonable because they had seized a piece
13 of luggage for about 90 minutes before they put
14 the dogs on it, or maybe it's before they got a
15 warrant. I don't remember.

16 But *Place* says, in *Arizona vs. Gant*, go
17 back to the rules where it's basically, if you
18 cant get a warrant, you need to get a warrant. So
19 that backpack in there, they had in the car, they
20 had it seized, it's 12:40 in the afternoon, the
21 magistrate's court -- I'd ask the State to take
22 judicial notice that the magistrate's court is
23 probably less than ten minutes from where this
24 traffic stopped occurred in Bluffton. So, we're
25 doing a search --

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1 THE COURT: What day of the week was
2 this?

3 MR. NEWMAN: Wednesday?

4 MS. MAIN: June 11, 2020. That's all I
5 know.

6 THE COURT: Yeah, June 11, 2020, doesn't
7 help me. I was just wondering if it was a week
8 day.

9 MR. NEWMAN: I don't know. Let's see.
10 Maybe it was a weekend.

11 MR. WILLIAMS: It was a week day.

12 THE COURT: It was a week day. Okay.

13 All right. Go ahead.

14 MR. NEWMAN: So they was -- anyway, there
15 was nothing that prevented them from getting a
16 warrant. And what gets looked over is, you know,
17 when we talk about probable cause to make a
18 traffic stop, our courts -- *State vs. Sikes* says
19 that it is very limited. It uses the exact words,
20 must be strictly tailored to the needs for the
21 investigation of the seizure. Sikes was,
22 likewise, a traffic stop. And Sikes was the one
23 that started the line of cases for saying, this
24 wasn't really a traffic stop. It just evolved
25 into a drug investigation right after, *Can I have*

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1 your license?

2 And our courts in South Carolina have
3 been -- if you look through *Sikes, State vs.*
4 *Williams, State vs. Pichardo*, which I'm assuming
5 you're familiar with. It's a case from Judge
6 Buckner out of Colleton County --

7 THE COURT: Yes, sir.

8 MR. NEWMAN: -- as to what you can and
9 cannot do. And our Supreme Court on traffic stops
10 has been very tight.

11 And when you look to -- the rationale is,
12 we're not going to take this warrantless, suspicious
13 actions, and, on a fortuitous term of luck, try to get
14 us to where we can end up searching a vehicle. It
15 doesn't work like that. This isn't a case where --
16 you know, like Mooney said, he's a drug unit. He
17 stops somebody for speeding and he gets out with his
18 dog. Okay? That happens. That's not what this is.
19 This was specific to get around a warrant and to marry
20 that dog to this car.

21 If there's any other cases or any other
22 thing you would like me to go over -- I would go
23 say that on these, under *Wong Sun*, we definitely
24 have fruit of poisonous tree. South Carolina
25 Supreme Court, *State vs. Adams*, says it must be

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1 suppressed, as well as we're also moving to
2 suppress the items seized and the backpack that
3 the dog did not alert on without a warrant, and to
4 suppress any statements made by the defendant as a
5 result of this tainted traffic stop as it was
6 analyzed in *Adams*.

7 Thank you, Your Honor.

8 THE COURT: Solicitor, yes, ma'am.

9 MS. MAIN: Yes, sir.

10 So just to start with the traffic stop,
11 *Whren vs. United States*, 517 U.S. 806, where
12 probable cause exists to believe that there's a
13 traffic violation, the decision to stop the
14 automobile is reasonable per se. The traffic stop
15 can be extended and Fourth Amendment juris
16 prudence provides that lengthening the detention
17 for further questioning once the initial stop is
18 even completed, where it wasn't even completed
19 here, it's allowed if the officer is questioning
20 on unrelated items to the initial stop and they
21 have an objectively and reasonable and articulable
22 suspicion that illegal activity has occurred/is
23 occurring.

24 Here the defendant is pulled over for a
25 traffic violation. We heard Officer Karafa say he

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1 would not have been pulled over had he not
2 committed a traffic violation. When he goes to
3 the window, he smells marijuana. That alone is
4 actually not even reasonable suspicion; that's
5 probable cause. And that comes to us from *United*
6 *States v. Carter*. And I have a copy of that case
7 for Your Honor. However, this is, kind of, a
8 belt-and-suspenders argument where, not only did
9 they have probable cause alone from the smell of
10 marijuana, they run the dog.

11 So, in -- as soon as they smell
12 marijuana, they have the reasonable suspicion to
13 run the dog. The dog is not simply put inside the
14 vehicle. The dog is run around the vehicle, a
15 free air sniff, as we heard from Officer Mooney.
16 The dog alerts, which is different from an
17 indication. The dog alerts at the passenger side
18 on the outside of the vehicle. At that point,
19 there was probable cause to search the vehicle.
20 The dog is placed in the vehicle and indicates,
21 meaning tells us where the narcotics could be
22 located. So, the dog being inside the vehicle is
23 not an issue. The free air sniff occurred and the
24 alert was appropriate, and we saw that on the body
25 camera.

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1 As far as a search of the bag, police can
2 search an automobile and its containers within and
3 where they have probable cause to believe
4 contraband or evidence is contained. That comes
5 from *California v. Acevedo*, 500 U.S. 565. It's
6 also in *United States v. Carter*, which I've handed
7 you. This is because of the automobile exception.
8 Officers do not have to wait and get a search
9 warrant to search an automobile. That would be
10 extraordinary and unusual.

11 The authority to search is extended to
12 search, not only the containers within the
13 vehicle, it's also even the possession of a
14 passenger. And that comes to us from *Wyoming v.*
15 *Houghton*, 526 U.S. 295, and I have a copy of that
16 case for Your Honor as well.

17 MR. NEWMAN: What is that? '96, '99?

18 MS. MAIN: '99.

19 For example, Your Honor, a 2014 case,
20 *United States v. Davis*. The court found that the
21 defendant's motion to suppress was properly denied
22 when the officer searched the bag located
23 underneath the defendant's vehicle, and they ruled
24 that the officers had probable cause to search
25 based on the odor of marijuana, and that actually

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1 extended to the bag.

2 Taking the *Arizona v. Gant* issue, in
3 *Gant*, the defendant was arrested for driving with
4 a suspended license, and then handcuffed, and
5 locked in the back of the patrol car when officers
6 searched his vehicle incident to arrest.

7 This vehicle is not searched incident to
8 arrest. Officers are limited when they're
9 searching incident to arrest to places that are
10 reachable by the defendant and they have to be
11 looking for evidence of a crime. Driving under
12 suspension, there's nothing more to look for in
13 the car. That's why this is distinct from *Gant*.

14 Here, the police have reason to believe
15 that there is something in the car. They have the
16 smell of marijuana, which gives them probable
17 cause to search alone, as well as the free air
18 sniff.

19 THE COURT: All right. Well, let me ask
20 you something.

21 MS. MAIN: Yes.

22 THE COURT: Let's assume for a moment
23 that they did not have the marijuana smell.

24 MS. MAIN: Okay.

25 THE COURT: Because amongst other things,

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1 I think one of the things that the Court would
2 have to take into consideration is the totality of
3 the circumstances, the testimony that was provided
4 to me as it relates to that.

5 MS. MAIN: Yeah.

6 THE COURT: So let's say the Court didn't
7 find that credible, and let's say that the
8 Court -- we push that aside for a moment. If
9 there is no marijuana smell, where does that leave
10 you? If the Court concludes that there isn't a
11 marijuana smell, despite the testimony that's been
12 given, where does that -- where does that leave
13 you as it relates to the dog? The sniff? Where
14 does that leave you?

15 Give me one second. Yes, ma'am.

16 MS. MAIN: Well, to first address your
17 question, we believe that the testimony proves
18 credible for many reasons including the fact that
19 marijuana is found in the car. Where there's
20 smoke, there's fire.

21 THE COURT: I understand.

22 MS. MAIN: But, however, the drug
23 investigation --

24 THE COURT: I guess what I'm asking,
25 would the dog still be able to sniff the car if

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1 the officer didn't smell marijuana? That's what I
2 want to know.

3 MS. MAIN: Yes, sir. The State would
4 submit that they would based on the totality of
5 the circumstances relating to the drug
6 investigation, that they would still be able to
7 perform the free air sniff.

8 Additionally, free air sniffs can be
9 performed if a car is lawfully stopped and it does
10 not measurably extend the stop. There's no
11 extension here. The driver's license doesn't even
12 come back from dispatch before the dog has alerted
13 to the free air sniff. The dog is part of this
14 team that comes to the scene. The violent crimes
15 task force is a team. They travel in groups. I'm
16 sure Your Honor has seen a car pulled over on the
17 side of the road and it's not unusual to see four
18 to six vehicles there with it, because they travel
19 in groups for officer safety.

20 So, relating to that, the lawful stop and
21 the fact that this was performed and completed
22 before measurably extending the stop, there is
23 absolutely adequate basis for the officers to have
24 performed a free air sniff prior to -- even if you
25 did not find the testimony relating to smelling

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1 marijuana credible.

2 I'm trying to make sure I address all of
3 Mr. Newman's arguments. If you can give me a
4 moment.

5 THE COURT: Well, in the *Fraiser* case, I
6 think it talked about that a lot of the officer's
7 conclusions -- I think they said were subjective
8 in nature. Is that correct, Mr. Newman, as oppose
9 objective?

10 MR. NEWMAN: I mean, you'd look at it
11 like that, because, I mean, that's the analysis
12 they're making. Somebody looked nervous. Okay,
13 yeah, people getting stopped look nervous.

14 THE COURT: All right. So what I'm
15 asking, Solicitor, is this: Do you consider the
16 smell of marijuana to be, in this case, objective?

17 MS. MAIN: Yes, Your Honor, it's
18 objective. First, it's objective because it's
19 confirmed by the fact that they ultimately found
20 narcotics. And I think the analogy that was used
21 is, if you say it smells like peanut butter and I
22 say it smells like jelly, I would disagree. I
23 don't think we're mistaking the smell. And this
24 is absolutely an objective observation by the
25 officer.

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Not to mention dog sniffs in the

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1
2 *Indianapolis v. Edmond* case that Mr. Newman is
3 referencing, it actually talks about how dog
4 sniffs are less intrusive than an ordinary search.
5 And *Edmond* is distinct because it's talking about
6 a check point, and that is the hang up, in the
7 State's opinion, for the Supreme Court. The issue
8 is the lack of the individualized suspicion using
9 drug dogs for these check points. This is not a
10 check point. That's not the issue here.

11 In fact, The 4th Circuit Court of Appeals
12 has come out with cases since, one in 2018, *United*
13 *States v. Bowman*, talking about how you can
14 perform a dog sniff for an unrelated investigation
15 as long as it does not measurably extend the
16 detention or you have new reasonable suspicion.

17 I'm going to pass up a copy of that to Your
18 Honor as well.

19 And then relating to the surveillance,
20 Your Honor, *State v. Adams* is distinct from here.
21 *State v. Adams*, the State submits, the hang up in
22 that case was the GPS tracker, because the
23 officers didn't follow the statute for placing a
24 GPS tracker on the suspect vehicle, and they
25 follow that suspect based on the tracker, and they

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1 also did wait until the suspect was within a
2 university campus which allowed them to add an
3 additional charge for proximity to a school. So,
4 as a result, that was the hiccup there.

5 We don't have that there. In fact, even
6 in *State v. Adams*, it talks about how you can --
7 excuse me. You can follow or surveil people with
8 your naked eye. There is no expectation to
9 privacy in a vehicle, especially when you're
10 traveling on a public highway, and that's what we
11 have here. Specifically, *Cardwell v. Lewis*,
12 417 U.S. 583, it says: "One has a lesser
13 expectation of privacy in a motor vehicle because
14 its function is transportation and it seldom
15 serves as one's residence or as repository of
16 personal effects."

17 We would submit that, based on that,
18 there is no issue with the fact that officers are
19 surveilling the defendant with their naked eye.

20 In fact, we would submit that our case is
21 more similar to *United State v. Knotts*, which I'm
22 going to pass a copy up to Your Honor. And in
23 that case, the Supreme Court found that there was
24 no Fourth Amendment Violation upholding a
25 warrantless use of a beeper in a container that

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1 was ultimately given to the defendant. But they
2 say a person traveling, again, in an automobile on
3 public thoroughfares had no reasonable expectation
4 of privacy.

5 THE COURT: All right.

6 MS. MAIN: Additionally, Your Honor, I
7 would just like to point out. *Arkansas v.*
8 *Sullivan*, 532 U.S. 769 says: "A minor traffic
9 arrest will not be rendered invalid by the fact
10 that it is mere pretext for a narcotics search."
11 That's the situation we have here. We would
12 submit that that does not create an issue with the
13 search.

14 So, to summarize our arguments, any sort
15 of surveillance was absolutely appropriate based
16 on the lack of an expectation of privacy. The
17 basis for the stop was a traffic violation. He
18 would not have been pulled over if he did not
19 commit one. The stop was extended based on the
20 smell of marijuana and the dog sniff, if the Court
21 doesn't find the smell of marijuana to be credible
22 on its own, it happened during a lawful traffic
23 stop, and it didn't measurably extend this stop,
24 which makes it appropriate. The alert happened on
25 the outside of the vehicle making a free air

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1 sniff. The dog was placed in the car following
2 the alert, so there's no issue there. And then
3 the bag, there is no issue in searching the bag.
4 The officers did not have to get a search warrant.
5 The case law shows us that, you are able to search
6 for evidence of the criminal activity that's
7 afoot, and the bag and the other effects in the
8 car are the reason for that. And case law heavily
9 supports that a search warrant is not necessary.

10 THE COURT: All right. Mr. Newman,
11 anything in response?

12 MR. NEWMAN: Yes, sir, I do have to
13 respond briefly to some of those, Your Honor.

14 As to *Whren*, it clearly says, and the
15 South Carolina Supreme Court found this too, that
16 when you examine programmatic seizures -- this
17 comes from another case -- "Accordingly, *Whren*
18 does not preclude an inquiry into the programmatic
19 purpose of such seizures." They cite a number of
20 U.S. Supreme Court cases, one that I've cited in
21 here before was the *Burger* case. So you can look
22 at it.

23 I think you hit the nail on the head, or
24 as close as it can be -- I know there's moving
25 parts to this -- when you asked where does the

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1 Solicitor's case end up if the one officer,
2 without any other corroborating evidence, except
3 for the fact they did find some marijuana sealed
4 later on after having to look for it, that if
5 they're not there, how did they get that dog to
6 that car under these circumstances, and how they
7 get there is by hook and crook. This is setting a
8 trap.

9 If you look at the scope of it, and we keep
10 focus on the scope of the speeding traffic infraction,
11 you don't need a dog. This was a planned thing. This
12 wasn't just somebody that happened to come along and
13 all that. This was a deliberate, circumventing --

14 THE COURT: Is it a pretextual stop?

15 MR. NEWMAN: I say it's not pretextual
16 because we knew exactly what we're doing. We're
17 making a warrantless --

18 THE COURT: Because the Supreme Court
19 didn't say -- it said -- they're not saying you
20 can't make pretextual stops, right?

21 MR. NEWMAN: It doesn't look favorable,
22 but, yes, they said we're not going to go that
23 far.

24 THE COURT: In the 2020 --

25 MR. NEWMAN: *Adams*.

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1 THE COURT: In *Adams*? I thought it was
2 *Fraiser*.

3 MR. NEWMAN: They said it in *Fraiser*.
4 You're correct.

5 THE COURT: Maybe it was *Fraiser* quoting
6 *Adams*.

7 MR. NEWMAN: You're correct. They said
8 it in *Fraiser*.

9 THE COURT: I mean, it said -- basically,
10 they said, hey, pretextual stops. Okay, we're not
11 saying they're not. Right?

12 MR. NEWMAN: But when we look at --
13 that's just a pretextual stop. A random officer
14 coming out there and seeing your law clerk not
15 using a blinker or something, decide to stop them.
16 That happens with traffic stops all the time.

17 THE COURT: Well, what's the difference
18 between --

19 MR. NEWMAN: This is part of a program.
20 This is an objective program. It has an object,
21 so the stop is not pretextual. The stop is, as
22 Squires wrote in his report to the FED, based on
23 surveillance, we wanted to stop to search for
24 drugs, and that's exactly what they did. Now,
25 they've tried to dress it up by throwing in the

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1 random traffic-violation thing in there.

2 THE COURT: Sure.

3 MR. NEWMAN: Well, he got -- our star,
4 you know, officer said he smelled marijuana. It
5 gives us probable cause right there. That's not
6 found credible. There's no reason to get that dog
7 there. There's no reason to expand the scope of
8 that stop, even momentarily, which is what
9 *State vs. Sikes* says. None whatsoever. So that's
10 the gist of it.

11 THE COURT: Well, let me ask you this:
12 If it hadn't been an operation -- you're using the
13 word -- did you use the word operation?

14 MR. NEWMAN: Operation or program.

15 THE COURT: Program, operation. If it
16 hadn't been an operation program and the officer
17 is going by with the dog Enzo -- or what's his
18 name?

19 MS. MAIN: Enzo.

20 MR. NEWMAN: Enzo.

21 THE COURT: He happens to be riding by
22 with Enzo and he stops and he's got him pulled
23 over, would there be anything wrong with Enzo
24 taking a free air sniff at that point, if this was
25 not an operation or program?

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1 MR. NEWMAN: If it was not an operation
2 or program and it was done within that
3 infinitesimal time --

4 THE COURT: Yes.

5 MR. NEWMAN: -- and does not exceed the
6 scope --

7 THE COURT: Sure. And they're calling
8 in --

9 MR. NEWMAN: And the dog does not go
10 inside the vehicle --

11 THE COURT: Well, that's another -- I
12 understand that's another argument.

13 MR. NEWMAN: Right.

14 THE COURT: But you would agree if the
15 officers called in the license, I mean, he's
16 awaiting for the results from dispatch, and the
17 officer pulls by with Enzo, at that point, I mean,
18 Enzo could go and walk the car.

19 MR. NEWMAN: Perhaps. I am going to go
20 back and look tonight, because I believe that
21 the --

22 THE COURT: I'm not -- well, I am trying
23 to put you on the spot there. I just want to make
24 sure it's the program -- you're saying it's the
25 program, slash, operation, that takes it out.

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1 MR. NEWMAN: It is a tool. I look at it
2 as -- in the lines, because that's how *Edmond*, and
3 *Place* some extent, actually analyze -- and *Adams*
4 actually analyzed it as, kind of, when you're
5 looking at an administrative inspection or search.
6 When you're looking in those areas. And it's
7 easily equated to cars because they have license
8 plates on them, registration, insurance, all kinds
9 of things, all kinds of identifying stickers. If
10 you go and live on a plantation or something,
11 there's all kinds of things on a car.

12 THE COURT: Okay.

13 MR. NEWMAN: That's where I think we get
14 to, when you're in that area, when you're
15 regulating things -- and let's say we're
16 regulating traffic laws -- that's why you have to
17 look at these programmatic purposes and what they
18 do. In *Edmond*, it was the fact that the -- what
19 that drug dog at the scene was basically doing was
20 nothing more than general law enforcement. You
21 can't use it. That is a program that we have to
22 look and it has to be strictly tailored.

23 The example I gave you where you can have
24 me and a tax agent come in right at a bar's
25 closing time and do a quick inventory, write a

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1 citation if something is out, is that different
2 than me coming in because I've administrative
3 authority with five sheriff's deputies, three drug
4 dogs, pointing weapons, and searching for drugs.
5 I can't do that because that exceeds the
6 administrative -- that exceeds what the law gives
7 me authority to act as a law enforcement officer,
8 and that's what I'm saying happened here.

9 THE COURT: All right.

10 MR. NEWMAN: I think if you analyze it to
11 that point, this is just bad.

12 THE COURT: All right.

13 MR. NEWMAN: I don't think it can
14 stand.

15 THE COURT: So what else do we have to
16 do? I heard those arguments. I've got to make a
17 decision here. What else do we need to do?

18 MS. MAIN: A Jackson v. Denno hearing.

19 THE COURT: That would rise and fall with
20 what my ruling is here; is that right?

21 MS. MAIN: Yes, sir. And the only thing
22 that we wanted to say is, we think that any of
23 this -- any of the things raised by the defense
24 goes more to weight than admissibility, and we'll
25 leave our argument at that.

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1 THE COURT: All right. So then, assuming
2 I'm back here at 2:00, or I'm probably going to
3 bring the jury in. I'll try to see. I wait until
4 tomorrow to call in, or I'll get my clerk to call
5 in about what message to tell our jurors, but as
6 far as any additional lengthy arguments, if this
7 argument were denied, then the only argument left
8 would be the Jackson -- the only motion left would
9 be the Jackson v. Denno?

10 MS. MAIN: As far as the State is
11 aware.

12 THE COURT: All right. That's not going
13 to take too long, is it?

14 MS. MAIN: I think it might take --

15 THE COURT: 30 minutes.

16 MS. MAIN: -- 30 minutes, 40 minutes.

17 THE COURT: All right. Then we'll plan
18 on doing that -- probably plan on doing that as
19 soon as I get back on Wednesday. And I'll let
20 you-all know. I'll give you a heads-up. I'll
21 have a better idea tomorrow as to what the
22 situation is.

23 And also, you-all can give me good news
24 tomorrow when you-all call to tell me that you-all
25 got something worked out on this case. Okay?

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1 MR. NEWMAN: That would be fine with
2 me.

3 THE COURT: You-all can work something
4 out on this case. This is interesting. It's a
5 little bit different. It's a little bit different
6 from my review of the law that's out there. And
7 so you-all ought to be to see about working
8 something out. If you can, great. If you can't,
9 great. Just let us know.

10 In the meantime, I've got something to
11 look at tomorrow and keep my mind occupied, and
12 I'll be in touch with you-all as soon as I can
13 tomorrow afternoon letting you know what the
14 status is for Wednesday. Okay?

15 Great, thank you very much.

16 (Court adjourned.)
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Testimony of William Squires
CERTIFICATE OF REPORTER

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I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, 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 of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

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

February 24, 2024



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 The State of South Carolina,

5 vs. Transcript of Record
6 2020-GS-07-01205
2020-GS-07-01206
2020-GS-07-01207

7 Latavious Williams,
8 Defendant.

9
10 August 23, 2023
11 Beaufort, South Carolina
12 Volume II of III

13
14 B E F O R E:

15 The HONORABLE ROBERT J. BONDS

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

17 Monica Main, Solicitor
18 Hannah Kidd, Solicitor

19 Jared Newman, Representing the defendant

20

21

22

23

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

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1 THE BAILIFF: All rise.

2 THE COURT: Thank you. You can be
3 seated. We are on the record in State vs.
4 Latavious Williams.

5 All right. I've reviewed the information
6 that's been provided to me. And, Mr. Newman, your
7 motion to suppress is respectfully denied, sir.

8 When I look at this case, the first thing
9 I want to say is, I look to *State vs. Fraiser*, and
10 that's a 2022 case in which our State Supreme
11 Court case has said that pretextual stops are not
12 illegal. I believe that this was a pretextual
13 stop. I believe that clearly the testimony
14 revealed, and quite frankly, whether the testimony
15 revealed it or didn't reveal it, it's clear that
16 the defendant was under surveillance, had been
17 under surveillance, and was being followed into --
18 I think maybe from Jasper into Beaufort, and then
19 into the Bluffton area with, quite frankly, an
20 understanding from the crime task force, or the
21 violent crime task force, that the understanding
22 was that these individuals were going and intended
23 to pull over the defendant in the event that he
24 committed some type of traffic infraction.

25 To that extent, I believe from the

1 testimony that's presented that a traffic
2 infraction was, in fact, committed, and that the
3 defendant was lawfully pulled over. That is,
4 there was probable cause for the stop.

5 And the evidence presented indicates that
6 the probable cause for the stop was speeding and
7 failure to maintain a lane -- I think it was
8 failure to maintain a lane, or failure for
9 crossing the fog line, or some other type of lane
10 violation. And clearly, I think the writing of
11 these two tickets was not the officer's goal in
12 the stop. I do believe that.

13 In the Fraiser case, the 2022 Supreme
14 Court case, the officer told dispatch that he was
15 going to issue a warning ticket and try to obtain
16 consent to search, and that's one of the things
17 that I think the court looked at as it basically
18 said that the Fraiser drugs should have been
19 suppressed.

20 In this case, testimony was presented by
21 the Bluffton police officer that he smelled the
22 odor of marijuana. I believe -- I understand that
23 other officers did not recollect that they smelled
24 marijuana. I don't believe that anything was
25 placed -- I'm not sure if anything was written in

1 any report about the smell of marijuana, but this
2 officer testified that he smelled marijuana and I
3 believe it is -- I believe it is reflected on the
4 video.

5 In addition to that -- and, as a result,
6 let me just say, I think looking at the language
7 written, again, in the Fraiser case, I think that
8 per the court in Fraiser, "The smell of marijuana
9 is a factor that could demonstrate potential
10 criminal activity."

11 What I believe in this situation is an
12 objective finding, not a subjective hunch, which
13 is what the court in Fraiser made repeated
14 references to. In addition, I think the evidence
15 shows that within two minutes of the stop, a drug
16 dog arrived and alerts on what I think is
17 described as an air sniff. Again, I believe that
18 this is an objective sign of, again, potential
19 criminal activity.

20 So, to that extent, I don't even know
21 that the stop was really delayed because of these
22 actions. Quite frankly, they happened almost
23 simultaneously with the stop. The stop occurred
24 and within minutes this happened.

25 Again, here I believe that there are

1 signs, objective signs of potential criminal
2 activity that were found by the officers. And,
3 again, unlike in Fraiser where the officer is just
4 trying to get consent afterwards.

5 I believe that once the officers had the
6 probable cause for the stop that the marijuana was
7 identified, or the officer testified that he
8 smelled marijuana, and that the dog searched --
9 excuse me. The dog air sniffed on the vehicle. I
10 find that the actions of law enforcement, I
11 believe, based upon the case law that I've
12 reviewed and been presented by the solicitor, and
13 having reviewed that, I believe that they had the
14 right to search the car at that point and to
15 include a search that allowed them to look into --
16 I believe it was a blue bag or a book bag,
17 backpack, however it wants to be described.

18 And so for those reasons, I'm going to
19 respectfully deny Mr. Newman's motion.

20 All right. So, at this point, do we need
21 to move forward with the *Denno* hearing, or what do
22 we need to do now?

23 MS. MAIN: The State is prepared to move
24 forward with the *Denno* hearing, Your Honor.

25 THE COURT: Mr. Newman?

1 MR. NEWMAN: Yes, sir. I understand your
2 ruling. I'm not trying to argue with it. I would
3 ask in your ruling for the record that you also
4 cover the United States versus -- I'm sorry -- the
5 *Arizona vs. Gant* issue, that even if they did make
6 a lawful seizure, under *Gant*, since he's already
7 locked up, they would have needed to go to a
8 magistrate to give them the facts to determine
9 whether or not -- and that's under *United States*
10 *vs. Prouse*. That's the free air sniff case. It
11 still said you needed a warrant even after the dog
12 identified, or believed and identified he had
13 drugs. They still needed a warrant. That's *U.S.*
14 *vs. Prouse* and *Arizona vs. Gant*, which says he's
15 out of the car, he seized it, there's no reason
16 you can't go to a magistrate and get a warrant.
17 You heard the fact. This is a weekday just after
18 lunch now.

19 THE COURT: Yes, sir.

20 All right. I just -- that's not the
21 reading that I have, and I note your objection for
22 the record, sir.

23 Are you ready to move forward with the
24 *Denno* hearing, or what do you want to do?

25 MR. NEWMAN: However the Court wishes to

1 do it?

2 THE COURT: All right. I think that
3 would be appropriate.

4 Yes, ma'am.

5 MS. MAIN: All right. The State calls
6 Matthew Huggins.

7 All right.

8 THE CLERK: Raise your right hand. Do
9 you solemnly swear or affirm to truthfully answer
10 all questions asked of you by this court so help
11 you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you.

14 WHEREUPON:

15 MATTHEW HUGGINS,
16 after having been sworn, testified as follows:

17 CROSS-EXAMINATION

18 BY MS. MAIN:

19 Q Where do you currently work?

20 A Beaufort County Sheriff's Office.

21 Q And how long have you been with the Beaufort
22 County Sheriff's Office?

23 A About 10 years.

24 Q Are you on any teams with the Beaufort County
25 Sheriff's Office?

1 A I work with the violent crimes task force.

2 Q And were you involved in the stop of the defendant
3 Latavious Williams on June 11, 2020?

4 A I was.

5 Q All right. Can you tell us about that stop?

6 A Yeah, I was a passenger in Officer Karafa's
7 vehicle at the time of the stop. I was a cover
8 officer on the passenger's side of the door where
9 the window was rolled up at the time. Officer
10 Karafa asked him to step out of the vehicle. At
11 that time, the remainder, I just stayed with
12 Mr. Williams.

13 Q And when he's asked to step out of the vehicle and
14 you're standing with him, at that time is he
15 handcuffed?

16 A No.

17 Q And as you're talking to him, is this conversation
18 captured in any way?

19 A Yes, it's on a body camera.

20 Q And as you're talking to him, at some point, do
21 you -- is he placed in handcuffs?

22 A Yeah, at some point in time. I believe it
23 was somewhere between the K-9 sniff of the vehicle
24 and when the drugs were located.

25 BY MS. MAIN:

1 Q Okay. Do you recognize this?

2 A Yeah, the CD from my body camera.

3 Q How do you know what it is?

4 A It's got my signature.

5 MS. MAIN: The State moves this in for
6 the purposes of this hearing as Court's Exhibit, I
7 think it will be 7.

8 THE COURT: All right. Any objection for
9 the purposes of this hearing, sir?

10 MR. NEWMAN: Not for the purposes of this
11 hearing.

12 THE COURT: All right. Admitted as
13 State's 7.

14 MS. MAIN: Court's Exhibit 7?

15 THE COURT: All right.

16 (COURT EXH. 7, Body Cam; Huggins, was marked
17 for identification.)

18 BY MS. MAIN:

19 Q And when you're talking to the defendant and he's
20 place in handcuffs, do you give him Miranda?

21 A Yeah, I believe once he was placed in
22 handcuffs, Staff Sergeant Squires asked for me to
23 read him Miranda.

24 Q And as you're talking to him and you're giving him
25 Miranda, does he appear to understand the warnings

1 that were given to him?

2 A Yes, he appeared to.

3 Q Did he appear to have any disability that would
4 prevent him from understanding the Miranda warnings?

5 A No.

6 Q Did he continue speaking with you?

7 A He spoke with Officer Squires. I don't
8 believe I had any questions for him at that time.

9 Q And did you threaten him in any way?

10 A No.

11 Q Did you promise him anything?

12 A No.

13 (Video played.)

14 BY MS. MAIN:

15 Q So when you gave the defendant Miranda, did you
16 read from a card?

17 A I did not.

18 Q Can you repeat for us the Miranda warnings that
19 you give him?

20 A Yes. You have the right to remain silent.
21 Anything you say can be used against you in a
22 court of law. You have the right to talk to a
23 lawyer and have them present with you before any
24 questioning. If you can't afford to hire a
25 lawyer, one will be appointed to represent you for

1 any questioning, if you wish.

2 THE COURT: Hold on. You got to slow
3 down. Go back to *hire a lawyer*.

4 THE WITNESS: If you can't afford to hire
5 a lawyer, one will be appointed to represent you
6 for any questions, if you wish. You can decide to
7 exercise your rights, not answer any questions, or
8 make any statements.

9 Q And did he ask for a lawyer?

10 A He did not.

11 Q And after you read these Miranda warnings, were
12 you involved in any further questioning of him?

13 A No.

14 Q No? Okay.

15 You turned your body camera off. Are you
16 allowed to do that?

17 A Yes.

18 Q How are you allowed to do that?

19 A We do it during our confidential debriefs,
20 things that Staff Sergeant Squires didn't want to
21 be on the body camera.

22 Q And is that within the Beaufort County Sheriff's
23 Office's policies?

24 A It is.

25 MS. MAIN: No other questions.

1 THE COURT: Mr. Newman.

2 CROSS-EXAMINATION

3 BY MR. NEWMAN:

4 Q So what statements did Mr. Williams make to you
5 that you intend to introduce?

6 A Sir?

7 Q What statements did Mr. Williams make to you?

8 A After Miranda?

9 Q Yes.

10 A I don't believe he made any to me. Not that
11 I can recall.

12 Q Then I have no further questions.

13 THE COURT: All right. Thank you.

14 All right. Solicitor, you can call your next
15 witness.

16 MS. MAIN: Thank you. The State calls
17 Officer Squires.

18 THE CLERK: Do you solemnly swear or
19 affirm to truthfully answer all questions asked of
20 you by this court so help you God?

21 THE WITNESS: Yes, ma'am, I do.

22 THE CLERK: Thank you.

23 WHEREUPON:

24 WILLIAM SQUIRES,
25 after having been sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MS. MAIN:

3 Q All right. Where do you work?

4 A I work for the Beaufort County Sheriff's
5 Office in the DEA out of Charleston, South
6 Carolina.

7 Q And on June 11, 2020, were you involved in the
8 traffic stop with the defendant Latavious Williams?

9 A Yes, ma'am, I was.

10 Q And in what capacity were you involved in that?

11 A I was the lead investigator.

12 Q And so when you arrived on scene, what was going
13 on?

14 A When I arrived on scene, I believe they just
15 got done running the K-9 dog, and I searched the
16 vehicle after that was done.

17 Q Okay. As you're searching the vehicle, what
18 happens at that point?

19 A When we were searching the vehicle, I located
20 the blue bag that was in the back of the vehicle.
21 Opened the blue bag. Once I realized what was
22 inside the bag, I went up to Mr. Huggins, told him
23 to read him his rights, and to actually get him in
24 handcuffs.

25 Q So once the defendant was read his Miranda rights,

1 did you speak with him?

2 A Yes, ma'am, I did.

3 Q And when you were speaking with him, did he ever
4 say he wanted to stop talking?

5 A No, ma'am, he did not.

6 Q Did he ever say he wanted his lawyer?

7 A No, ma'am.

8 Q Did he indicate in any way to you that he didn't
9 understand his Miranda warnings?

10 A No, ma'am.

11 Q Did he keep talking to you?

12 A Yes, ma'am, we did have a conversation.

13 Q And this conversation you had, was it recorded in
14 any way?

15 A It was.

16 Q And how was it recorded?

17 A On Staff Sergeant Morris's, his actual dash
18 cam.

19 Q Do you recognize this?

20 A Yes, ma'am.

21 Q And how do you recognize it?

22 A My signature is on the CD.

23 Q And what is this again?

24 A The dash cam.

25 MS. MAIN: State moves this as Court's

1 Exhibit 8.

2 THE COURT: All right. Any objection for
3 the purposes of this hearing?

4 MR. NEWMAN: Not for this hearing.

5 THE COURT: Go right ahead. Yes, ma'am.

6 (COURT EXH. 8, Body Cam; Morris, was marked
7 for identification.)

8 BY MS. MAIN:

9 Q And was any of your conversation also captured on
10 the body camera?

11 A I believe so, yes, ma'am.

12 Q Was it kept on your body camera?

13 A No, ma'am. Mine actually wasn't on.

14 Q And is that what's in your policy and
15 procedures?

16 A Yes, ma'am.

17 Q Whose policies and procedures?

18 A Actually, Beaufort County and the DEA at the
19 time.

20 MS. MAIN: We are playing this starting
21 at 16 minutes, for the record.

22 (Video played.)

23 BY MS. MAIN:

24 Q And as you're talking with the defendant, what, if
25 anything, does he indicate to you about the substances

1 found in the back of his vehicle?

2 A When I was trying to have a confidential
3 conversation with him, he, kind of, made a comment
4 that stated that he was at the end of his supply.
5 He was at the end of what he had, is how I
6 interpreted it.

7 Q And that was in response to a question that you
8 asked while in Miranda?

9 A Yes, ma'am.

10 (Video played in its entirety.)

11 THE COURT: I can't hear it.

12 (Video restarted.)

13 BY MS. MAIN:

14 Q So you indicated that the defendant said to you
15 that he was towards the end; is that right?

16 A Yes, ma'am. Throughout that conversation, I
17 recall him, kind, of, making a comment of how much
18 he had left and it was, *Towards the end*, or, *I was*
19 *running out*, something along those effects. It's
20 really hard to hear on that video.

21 Q And did you offer him the opportunity to call
22 somebody at some point during your conversation with
23 him?

24 A I believe I told him I was going to make some
25 telephone calls and to give me a call when he got

1 out. I don't know if I asked him if he wanted to
2 make a call or not.

3 MS. MAIN: No other questions.

4 THE COURT: Mr. Newman.

5 CROSS-EXAMINATION

6 BY MR. NEWMAN:

7 Q Solicitor was asking you about whether you were
8 following the rules of the sheriff's department and
9 the DEA about the use of body-worn cameras; is that
10 correct?

11 A Yes, sir.

12 Q All right. And some of the calls you made in this
13 case, you, several times, told Mr. Williams that
14 you're DEA, with the FEDS, that we may be going to
15 Charleston.

16 A Yes, sir. There was a

17 A Lot of moving parts happening that day, yes,
18 sir.

19 Q I understand that. And, ultimately, the DEA based
20 upon advice of the prosecuting attorney declined to
21 prosecute this case; is that correct?

22 A No, sir. I was going to trying to go back to
23 the residence that day, so I was trying to see
24 what type of probable cause I had to go back to
25 the residence he left from. I don't believe the

1 AUSA declined to take this case or not. I'll have
2 to look back at the notes.

3 Q Yeah.

4 THE COURT: All right. Anything
5 redirect?

6 MS. MAIN: No other questions.

7 THE COURT: You can call your next
8 witnesses.

9 MS. MAIN: No other witnesses, Your
10 Honor.

11 THE COURT: All right. Anything you want
12 to argue to me?

13 MS. MAIN: We just believe that the
14 defendant's statement --

15 THE COURT: You can step down, sir.
16 Thank you very much.

17 THE WITNESS: Thank you.

18 MS. MAIN: -- regarding the fact that he
19 was towards in the end in response to the being
20 questioned about the drugs that were in his
21 vehicle was voluntary following Miranda, and, as a
22 result, it should be admissible during the trial
23 of this case.

24 THE COURT: Well, isn't the issue at this
25 point whether or not the statement was voluntary?

1 MS. MAIN: Yes, sir.

2 THE COURT: All right. So whether the
3 statement is voluntary and whether this is
4 admissible are two completely different matters,
5 right?

6 MS. MAIN: Yes, sir.

7 THE COURT: Mr. Newman, let me hear you
8 on the admissibility -- or let me hear you on the
9 voluntariousness issues, because I'm sure there
10 are other issues you will get to. Let me hear on
11 the voluntariousness of this questioning.

12 MR. NEWMAN: Well, one, in that video, I
13 guess it was made a Court's Exhibit. I'd like to
14 play it further on because contrary to what
15 Squires testified to, Mr. Williams not only asked
16 for an attorney, he asked for me by name and that
17 is on the video. And the way Squires phrased it
18 is why I think we need to watch it. He get's a
19 little frustrated and he goes, *You know what,*
20 *you've already told me you wanted an attorney, so*
21 *let's just go ahead and get you going.*

22 So can we play the rest of the interview?

23 MS. MAIN: These statements were made
24 prior to that. And this one, I guess, we're just
25 simply taking argument. But if the Court would

1 like it to be played --

2 THE COURT: Well, I didn't get him -- if
3 he wants to play it -- let me ask you this,
4 Mr. Newman --

5 MR. NEWMAN: Unless the Solicitor admits
6 it.

7 THE COURT: You're telling me that on the
8 tape at sometime subsequent after they stopped it,
9 your client says he wants a lawyer and that he
10 mentions you by name.

11 MR. NEWMAN: Right, during this
12 interview.

13 THE COURT: Yes, sir, during the
14 interview.

15 MR. NEWMAN: Yes.

16 THE COURT: Do you dispute that,
17 Solicitor? I'm talking about after. I understand
18 what you played for me. Obviously, he said it
19 after what you played for me. So I'm just asking
20 you, did he say that on the video? Have you heard
21 it? I don't know.

22 MS. MAIN: At some point on this video,
23 he mentions speaking with a lawyer. Whether he
24 invoked it with the necessary specificity, I can't
25 say for certain.

1 THE COURT: Let me ask you this,
2 Mr. Newman, the fact that he asked for a lawyer --
3 he's talking, talking, talking, talking, asks for
4 a lawyer, everything else, I'm with you. But is
5 that going to effect --

6 MR. NEWMAN: I can't tell you when he
7 asked for the lawyer because -- I think we need to
8 watch it because the way Squires phrased it --

9 THE COURT: All right.

10 MR. NEWMAN: He goes, *Okay, you already*
11 *asked for a lawyer, so we're enemies.*

12 THE COURT: Well, let's play it.

13 MS. MAIN: Yes, sir. I just want to say,
14 I think the statements that we're concerned about
15 are the portions that we played.

16 THE COURT: I understand.

17 MS. MAIN: Okay.

18 THE COURT: So can we just continue it
19 from where she stopped it, Mr. Newman?

20 MR. NEWMAN: Sure.

21 THE COURT: All right. Sure, we'll do
22 that.

23 MR. NEWMAN: Is this Morris's body cam?

24 MS. MAIN: Yes -- dash cam.

25 (Video played.)

1 THE COURT: See if you can turn it down
2 a little bit, please.'

3 Okay, that would be fine. Thank you. Cut it
4 off.

5 All right. Yes, sir, Mr. Newman.

6 MR. NEWMAN: If it pleases the Court, Your
7 Honor, you know, I'll be frank with you, it may be me
8 getting older, I didn't hear about 90 percent of what
9 the conversation was, the dialect with Mr. Williams on
10 that tape.

11 The one blaring thing that's not on
12 there, the officer does acknowledge that he had
13 asked for a lawyer. We don't know at what point
14 that came in because I think most of it is
15 inaudible.

16 But what really marks it as a
17 prophylactic violation is, you have to have
18 Miranda, and Miranda has a second part to it and
19 that the *Johnson vs. Zerbst* waiver. You have to
20 have a knowing and intelligent waiver of Miranda.

21 The second part of Miranda is, having
22 those rights in mind, do you wish to waive those
23 rights and speak to us here today without an
24 attorney. They never asked him that. They do
25 what's called a seamless transition, the right --

1 the silent right to an attorney, one will be
2 appointed for you and all that. Now, let me ask
3 you something, and they go right into it. That's
4 how they're trained to do it. Legally, they're
5 not trained to do it that way because they need to
6 get that waiver. On the street they do it that
7 way because as long as somebody is talking, let's
8 just keep him engaged talking. There is
9 absolutely no waiver on that tape. And,
10 therefore, any statements on those grounds, as
11 well as on the previous ground, we believe it's an
12 illegal stop. You already ruled on that.

13 On those grounds, we ask that any
14 statements that they wish to be suppressed is a
15 violation of *Johnson vs. Zerbst* as to the waiver
16 of those rights.

17 THE COURT: All right. What about that,
18 Solicitor?

19 MS. MAIN: To introduce any statement of
20 the defendant, the State just has to prove by a
21 preponderance of the evidence that it was
22 voluntarily, knowingly, and intelligently waived.
23 The portions of -- the statement that I want in is
24 prior to what we've heard, and we know that that's
25 true because we heard Officer Squires ask him if

1 he wanted a lawyer and he didn't answer. He kept
2 talking to Officer Squires. And, at that point,
3 that's when Officer Squires is asking about if he
4 could go back to his house, which he's referencing
5 the statement that the State wants in -- or thinks
6 is voluntarily regarding if he was at the end in
7 reference to the narcotics found.

8 Additionally, this is voluntary because
9 we heard the defendant. He's cutting up with the
10 officers. They're being nice. He's being nice.
11 He continues to initiate conversations with them.
12 So there's no coercion, threats, or his will is
13 not overborne. And when he -- it says, "Call
14 Jared Newman," he's talking to his friend on the
15 phone when they let him call his friend to come
16 get the towed car. That's not directly said to
17 law enforcement.

18 But even when Officer Squires says, *Oh,*
19 *so you said you want a lawyer,* the defendant then
20 says, *So let me ask you something.* So I think, at
21 that point, it's pretty clear that he continues to
22 want to have conversations with law enforcement
23 and doesn't tell them that he wants an attorney.

24 THE COURT: All right.

25 MS. MAIN: And so we submit that it was

1 voluntarily under the preponderance of evidence
2 standard.

3 THE COURT: All right. But burden is on
4 the State to prove by a preponderance of the
5 evidence that the defendant's rights were
6 voluntarily waived. The trial judge must
7 determine if the totality of the circumstances a
8 statement was knowingly and intelligently and
9 voluntarily made. I think that when you look at
10 the totality of the circumstances in this case,
11 clearly the rights -- I think the rights were
12 complied with. When you listen to the entire
13 statement, he knows Mr. Newman. He asks for
14 Mr. Newman. He knows Mr. Newman's number. He
15 talks about how he doesn't want this general
16 sessions. This is somebody -- and he constantly
17 engaged these officers.

18 Clearly, I think the State has met its
19 burden of proof by a preponderance of the evidence
20 and has shown by the totality of the
21 circumstances, this statement was voluntarily and
22 knowingly waived in compliance with Miranda. I
23 think that's clear here.

24 Now, Mr. Newman, I agree with you. Most
25 of that tape or recording, I couldn't hear a good

1 bit of it. And also, as it relates to -- I'm sure
2 there will be motions as it relates to what's
3 coming in and what's not coming in. But as it
4 relates to the voluntariness of the statement,
5 I find that the statement was voluntarily made.

6 MR. NEWMAN: By a preponderance.

7 THE COURT: Yes, sir. Yes, sir. I do
8 find that.

9 Now, whether these statements are relevant,
10 whether these statements -- as it relates to those
11 types of matters, that's something -- you know,
12 obviously, that's something for the Court to consider
13 at another time. But as it relates to the statement,
14 I think the statement is -- they've shown by a
15 preponderance, yes, sir, it's been voluntarily made.

16 All right. What other pretrial matters
17 do we have?

18 MS. MAIN: Nothing more from the State.

19 THE COURT: All right. Mr. Newman.

20 MR. NEWMAN: I have -- the State, I don't
21 know how they intend to introduce it, however, I
22 have an objection to the camera coming in with a
23 lot of this dialog back and forth under *State vs.*
24 *Brewer*, which is a case I tried right in this
25 courtroom, that the Supreme Court found that, you

1 know, interviews themselves aren't admissible.
2 What's admissible is what he said in response to a
3 question.

4 So if they want to play any of these for
5 the jury about what's going on in this, I don't
6 think any of that is admissible. It's strictly
7 limited to what Mr. Williams said to them.

8 THE COURT: Solicitor?

9 MS. MAIN: We agree. We have no
10 intention of putting the video in evidence.

11 THE COURT: Right. I agree with you
12 completely, Mr. Newman. Just, amongst other
13 things, that case came up on an early case that I
14 tried in Georgetown County. Yes, sir. Just
15 because it's on a video doesn't mean it gets
16 played. If they couldn't say it right here on the
17 stand, yes, sir. And I think that's the case, and
18 what they're making reference to, there will be
19 none of that. No, sir. Okay?

20 So if there's portion's they want to get
21 in, then they have to make sure that there's been
22 appropriate redaction and that you agreed to
23 those. Or they present you with that redaction,
24 if you-all can't agree, then I would make a
25 ruling. Absolutely, sir.

1 All right. Anything else?

2 MS. MAIN: Nothing more from the State.

3 THE COURT: All right. Let me see
4 counsel in chambers.

5 (Off the record.)

6 THE BAILIFF: All rise.

7 THE COURT: All right. We about ready,
8 Solicitor?

9 MS. MAIN: Yes, sir.

10 THE COURT: Okay. I want to go back on
11 the record in Mr. Williams's case. I asked to
12 have a conference with counsel in my chambers.
13 And, at that time, a discussion arose concerning
14 the use of the violent crime task force. And, I
15 believe, Mr. Newman indicated that it would be his
16 preference that that not be referred to. And,
17 Mr. Newman, is that the case?

18 MR. NEWMAN: Yes, sir.

19 THE COURT: I want to make sure. And I
20 would agree. I don't believe it's appropriate.
21 They can referred to as a team, but -- I don't
22 want any mention of "violent task force." Also,
23 we need to make sure you talk to your witnesses
24 about that.

25 MS. MAIN: Yes, sir.

1 THE COURT: The second thing that came up
2 was, conversation concerning prior surveillance
3 and following and six months and all of this stuff
4 that went on with things that I would say predated
5 the traffic stop. I think that Mr. Newman had
6 indicated -- Mr. Newman, it would be your opinion
7 that all of that needs to be excluded, sir?

8 MR. NEWMAN: Yes, sir.

9 THE COURT: All right. I think that's
10 appropriate, Solicitor. I think the prejudicial
11 effect substantially outweighs any probative value
12 as it relates to this matter. So I want to make
13 sure in opening, and then also your witnesses not
14 make any reference to what went on in the past.

15 Certainly, you know, as it relates to the
16 stop, they can talk about all of the. But the
17 getting into anything dealing with observations
18 earlier, the grandma's, all that stuff, I don't
19 think any of that needs to come in. I just want
20 to, for right now, as to opening to let you know
21 that that would be my ruling.

22 Anything you need to put on the record
23 concerning that?

24 MS. MAIN: No. I just would like to
25 clarify.

1 THE COURT: Yes, sir.

2 MS. MAIN: Is it Your Honor's ruling that
3 they can't talk about how they, like, watched him
4 earlier that day, or just stick strictly to the
5 traffic stop?

6 THE COURT: Well, I think -- I think that
7 he would be entitled to say that he followed him
8 into the county, or something along those lines.

9 Mr. Newman, what are you saying?

10 MR. NEWMAN: Judge, I strongly disagree
11 with that. The State is telling you and made an
12 argument all day long yesterday that this is just
13 a probable-cause traffic stop for speeding.

14 THE COURT: Right.

15 MR. NEWMAN: So, no. That's like, well,
16 we were following him and he happened to be
17 speeding. Why were you following him? If I were
18 a jury, *Why were you following him? I don't know*
19 *maybe he had drugs on him.* It's not proper.

20 They said the reason they stopped this
21 gentleman, the probable cause --

22 THE COURT: The probable cause for the
23 stop.

24 MR. NEWMAN: -- was the speeding and the
25 lane thing.

1 THE COURT: All right. I'm going to keep
2 it there.

3 MS. MAIN: That's fine. Can I just make
4 sure? To have, like, two seconds to talk to my
5 witnesses.

6 THE COURT: Do you want these witnesses
7 sequestered?

8 MR. NEWMAN: Yes, sir.

9 THE COURT: All right. And we're going
10 to sequester the witnesses.

11 MS. MAIN: Okay.

12 THE COURT: Your case agent can obviously
13 stay in here.

14 MS. MAIN: Okay.

15 THE COURT: All right. Thank you. Let's
16 go ahead and do that.

17 Anything else we need to take up,
18 Mr. Newman?

19 MR. NEWMAN: No, Your Honor.

20 THE COURT: Solicitor?

21 MS. MAIN: Are we bringing the jury in in
22 about five minutes?

23 THE COURT: I want to bring -- I want you
24 to talk to your folks, but I want to get the jury
25 in here as soon as we can. Yes, ma'am.

1 MS. MAIN: Okay.

2 THE COURT: Are you saying you need a
3 break for a minute or two? Go ahead and do that,
4 Solicitor. Go ahead and do that. That's no
5 problem.

6 MS. MAIN: Thank you.

7 THE COURT: Go ahead.

8 MS. MAIN: Thank you.

9 THE COURT: Yes, ma'am.

10 (Break was taken from 2:19 p.m. to 2:25 p.m.)

11 THE COURT: All right. Anything further
12 from the State before we bring the jury in?

13 MS. MAIN: No, Your Honor.

14 THE COURT: From the defense?

15 MR. NEWMAN: No, Your Honor.

16 THE COURT: Let's bring the jury in.

17 THE BAILIFF: Jury is entering the
18 courtroom, Your Honor.

19 THE COURT: Okay, thank you.

20 (Jury enters the courtroom at 2:25 p.m.)

21 THE BAILIFF: Jury is seated, Your
22 Honor.

23 THE COURT: Thank you very much.

24 Ladies and gentlemen, thank you. Welcome
25 back. I see that you have already elected or

1 appointed a foreperson. Mr. Foreperson, thank you
2 for your willingness to serve.

3 First thing we're going to do is, I'm
4 going to have the clerk swear you in.

5 Could you please swear them in, please?

6 THE CLERK: Yes. Raise your right hand.
7 Do you solemnly swear or affirm to well and truly
8 try and true and deliverance make between the
9 State of South Carolina and the accused and a true
10 verdict give according to the evidence so help you
11 God?

12 JURY PANEL: I do.

13 THE COURT: Thank you very much.

14 Ladies and gentlemen of the jury, the
15 case we are about to try is the case in the State
16 of South Carolina vs. Latavious Terrell Williams.
17 Now, ladies and gentlemen, before we begin the
18 trial, I want to tell you this trial is going to
19 be different than what you might expect because
20 most people don't have an opportunity to actually
21 come to court, serve on a jury, as you're doing
22 now, and you may think from watching TV, reading
23 books, or watching movies, that trials are always
24 full of high drama, intense action, and riveting
25 circumstances. What I will tell you is that all

1 of these things may be true at times, the
2 difference is, this trial is not for
3 entertainment. It's a fundamental part of our
4 democracy. I think I told you this the other day.
5 It's often a slow, deliberative, and repetitive
6 process. The exact opposite of books, movies, and
7 TV. And, again, as we talked about, that's
8 because we don't have the opportunity to just cut
9 a new scene or take a new picture, or whatever the
10 case may be. We got to do our best to make sure
11 that we get it right.

12 So, ladies and gentlemen, I want you to
13 know that the courtroom is a place of honor. It's
14 dedicated to the protection and preservation of
15 citizen's rights through what many have called the
16 greatest justice system ever created. The
17 attorneys who are appearing before you are
18 advocates for the parties they represent, but,
19 first and foremost, they are officers of the
20 court, sworn to uphold the integrity and fairness
21 of our judicial system, and you should expect them
22 to be professional, competent, and ethical in
23 their representation of their client's interest.

24 And, ladies and gentlemen, you just took
25 an oath and you're also expected to be

1 professional, reasonable, and ethical.

2 I thank you for accepting this
3 responsibility, and your service do, and your
4 contribution to our justice system.

5 Now, I want you to know, what I'm saying
6 right now is intended to serve as an introduction
7 to the trial of the case. These remarks are not a
8 charge on the law, and I'm going to instruct you
9 on the law applicable to the case at the end of
10 the trial before you retire to consider your
11 verdict. That's when I'm going to give you what
12 the law is. This is merely an explanation of the
13 procedure that we're going to follow, folks, in
14 the trial of the case that you may have a better
15 understanding of what's happening.

16 Now right off the bat, I want to tell you
17 right now, I'm going to ask that you do not take
18 notes during the trial. Some judges are of the
19 take-note variety and others are not. I'm of the
20 not version. Let me just tell you why. My
21 experience over the years in school is that
22 sometimes some folks just perceived as better note
23 takers than others. Perhaps their handwriting is
24 better. Perhaps they write more down and their
25 notes or more detailed. But the problem is, just

1 because someone's handwriting is neater, and just
2 because someone writes more rather than less, it
3 doesn't mean that their notes are right. Okay?
4 And sometimes there's a tendency to rely upon
5 notes that may not even be right as opposed to
6 someone else who is remembering.

7 The other thing that I want you to know
8 is that sometimes notes can be distracting. And
9 there's a time to doodle or just be distracted.
10 And the reason that it's important, in my opinion,
11 that you don't take notes and that you listen
12 carefully is because, folks, you are the finders
13 of fact. I'm going to get into that. You
14 determine what the facts are in this case. Where
15 do the facts come from? The witness stand and
16 exhibits that will be introduced through
17 witnesses. Sometimes when you're taking notes,
18 it's going to require you to be looking down,
19 maybe not looking, maybe not listening as intently
20 to the witness, and I prefer that you look at and
21 listen to that witness because it's going to be
22 your job to evaluate the demeanor, the
23 credibility, the believability of each witness.

24 Finally, before I move on, I want to tell
25 you, you're going to say, *Well, Judge, I see you*

1 taking notes. Why can't I? Okay, I'm just going
2 to get to that right now. The reason is, I'm not
3 the finder of fact. Your role in this matter is
4 you're the finder of fact. And that's where the
5 facts come from. That's where your attention
6 needs to be. That's the difference between the
7 job that I have and the job that you have. Okay?

8 Now, the defendant is charged by indictments
9 filed in this court --

10 Counsel, approach.

11 THE COURT: I have trafficking in
12 cocaine, trafficking in methamphetamine.

13 MR. NEWMAN: Right.

14 THE COURT: Possession of marijuana.

15 MR. NEWMAN: Correct.

16 THE COURT: All right, thank you.

17 Ladies and gentlemen, the defendant in
18 this matter is charged with crimes of trafficking
19 in cocaine, trafficking methamphetamine, and
20 possession of marijuana. The elements of each
21 charge will be explained to you later.

22 Now, we talked about this yesterday -- or
23 Monday, excuse me. The indictments in this case,
24 these indictments, they're merely the charging
25 documents. They're the documents by which the

1 case is brought into court, and these documents
2 are not in any sense evidence of the allegations
3 contained therein. The defendant has pled not
4 guilty to the indictments. The State, therefore,
5 has the burden of proving each indictment -- each
6 of these elements, excuse me, of the indictment
7 beyond a reasonable doubt, and it will be your
8 duty, ladies and gentlemen, to decide whether the
9 State has met that burden.

10 Your purpose as jurors is to find and
11 determine the facts. You, folks, are the sole
12 judge of the facts. If, at any time, I make any
13 comment concerning the facts, you must disregard
14 it. All right? Ladies and gentlemen, you're to
15 determine the facts from the testimony you hear
16 and the other evidence introduced into court, and
17 it's up to you to determine the inferences which
18 you feel may be properly drawn from the evidence.
19 It's especially important that you perform your
20 duty and determine the facts diligently and
21 conscientiously because, ladies and gentlemen, I
22 will tell you, ordinarily, there is no way to
23 correct an erroneous determination of the facts by
24 a jury.

25 On the other hand with equal emphasis,

1 the same law that makes you the judge of the facts
2 makes me the judge of the law. The law, ladies
3 and gentlemen, is given by the Court is the only
4 law you may consider. You must accept and follow
5 it even though you may disagree with it. I cannot
6 tell you what the facts are, and you can't
7 disagree with me about what the law is or should
8 be. Your job, folks, is to take the law as I give
9 to you and apply it to the facts as you find them
10 from the testimony of the witnesses and other
11 evidence that may be introduced. And, after doing
12 that, you will render your verdict under the
13 solemn oath that you just took as jurors.

14 Now, folks, until I advise you, do not
15 begin your deliberations. You must not discuss
16 this case with anyone, including your fellow
17 jurors, families, friends, family members, and
18 anyone else involved in the case. This includes
19 the discussions face-to-face, those by telephone,
20 email, text, blogs, or any other method of
21 communication. You may not use a computer,
22 cellular telephone, or other electronic devices
23 with communication capabilities at any time while
24 in the courtroom, or during your deliberations.

25 Now, folks, during breaks for meals or

1 overnight, if necessary, you may use these
2 devices. However, you may not at any time -- and,
3 again, we talked about this yesterday. You may
4 not at any time use these devices to get or send
5 information about the case. That includes
6 information about a party, a witness, an attorney,
7 a court officer, news accounts about the case,
8 research on any topics, or any topic that you
9 think would be helpful in deciding the case, or
10 any testimony presented by any witness.

11 During the trial, I don't want you to
12 read, listen, or watch any news reports about the
13 case. This includes anything that you may see in
14 newspapers, on Internet, radio, television. You
15 must not consider anything that you may have read
16 or heard about the case outside the courtroom.
17 Whether before or during the trial.

18 Now, after the case is submitted to you,
19 you must discuss it only in the jury room with
20 your fellow jurors. The attorneys and parties in
21 this case have been advised that they are not to
22 talk to you at all. So, if you see them -- again,
23 we talk about this yesterday. So if you see
24 anybody involved in the case and they don't even
25 say hello, they're not being unfriendly. They're

1 just doing what I told them to do, following my
2 instructions.

3 It's important that you keep an open mind
4 and not decide any issue in the case until you've
5 heard all the evidence, all the evidence has been
6 presented, the parties have made their closing
7 arguments, and I've instructed you on the law in
8 this case. It's your solemn responsibility to
9 determine whether the State has proven the
10 defendant guilty beyond a reasonable doubt, and
11 your verdict must be based solely on the evidence
12 that is presented to you in this trial and the law
13 as I instruct you during and at the close of the
14 trial.

15 Now, in just a minute, the solicitor is
16 going to make what's called an opening statement.
17 And, basically, the solicitor will explain to you
18 the issues in the case, or at least what the
19 solicitor believes the issues are in the case.
20 Okay?

21 The attorney for the defendant may also
22 make an opening statement, although he is not
23 required to do so.

24 Now, I want to make sure you understand
25 something: What the lawyers say in their opening

1 statements is not evidence in the case. It's only
2 their contention as to what issues are. That,
3 again, the evidence in the case will be presented
4 to you by testimony of sworn witnesses from the
5 witness stand and/or exhibits that may be
6 introduced into evidence.

7 Now, from time to time, you're going to
8 hear lawyers say something like, Your Honor, I
9 believe we have a question or a matter of law to
10 discuss with you, or, Your Honor, may we approach
11 the bench. Or just like a moment ago, I asked the
12 lawyers to come up and I needed to ask them a
13 question. Sometimes it may be necessary for me to
14 excuse you from the courtroom for a short while so
15 the attorneys and I can discuss a matter of law.
16 And let me tell you what the reason is for that.
17 The reason for that is because you're the judge of
18 the facts of this case, and sometimes, when I am
19 making a decision or discussing matters of law
20 with the attorneys, it may be necessary for me to
21 make some comment as to the facts in connection
22 with the ruling. Whether a particular law may or
23 may not apply. I'm not supposed to tell you what
24 I think the facts are, so I'll excuse you from the
25 courtroom while these discussions take place so

1 that in no way will you be influenced by anything
2 that I might say or do in connection with the
3 facts.

4 In determining what the facts are in this
5 case, you must decide whether or not the testimony
6 of the witness is believable. It will be my
7 responsibility to determine and rule, as a matter
8 of law, as to whether certain testimony is
9 admissible at all or not. Once the testimony is
10 admitted, whether or not you believe it is solely
11 for you to determine. In deciding whether to
12 believe a witness, you have the right to consider
13 the interest of any witness, the bias of any
14 witness, the prejudice of any witness, the
15 opportunity for the witness to have seen the
16 matters and things about which the witness may
17 testify and the way the witness acts on the
18 witness stand. You have a right to consider
19 anything that's in the record that will help you
20 evaluate the testimony of the witnesses. This
21 means, ladies and gentlemen, that it's your duty
22 to pay close attention to the witnesses, to
23 observe the witnesses, to listen to the witnesses,
24 and pay attention to the lawyers and the Court.
25 Try not to let your thoughts wander, but pay

1 strict attention to the testimony in this case so
2 that at the end of all the testimony, after the
3 arguments of counsel, and my charge to you on the
4 law, you then will be in a position to determine
5 what the facts are, apply the law to those facts,
6 and thus render a verdict.

7 Now, Mr. Foreman, it's going to be your
8 additional duty to preside in the jury room and to
9 be the jury's spokesman here in court. It will
10 also be your duty to write the verdict, but I'm
11 going to give you some instructions about that
12 later at the conclusion of the case.

13 So, now in order to preserve everyone's
14 rights, I want to give the parties an opportunity to
15 object to anything that the Court may have said.

16 Any objection as to these introductory
17 statements by the State?

18 MS. MAIN: Nothing from the State.

19 THE COURT: Mr. Newman?

20 MR. NEWMAN: No, sir. Thank you.

21 THE COURT: Thank you very much.

22 All right. We're now going to begin the
23 trial, ladies and gentlemen.

24 Solicitor.

25 OPENING STATEMENT

1 MS. MAIN: Yes, sir.

2 The case today is about drugs. On
3 June 11, 2020, the defendant, Latavious Williams,
4 was pulled over in Beaufort County on Fording
5 Island Road. For a speeding violation and a lane
6 violation.

7 While the officers are there, you will
8 hear they smelled marijuana, and a dog with the
9 Beaufort County Sheriff's Office did a free air
10 sniff around the vehicle and it alerted. As a
11 result, they searched the defendant's vehicle and
12 you will hear, we'll put a chemist on the stand,
13 that they found marijuana, meth, and cocaine. And
14 as a result, the defendant is charged with
15 trafficking cocaine, trafficking meth, and
16 possession of marijuana.

17 And after you hear all the evidence and
18 use your common sense to consider it, I will come
19 back before you in my closing and I will ask you
20 to find the defendant guilty.

21 Thank you.

22 THE COURT: All right. Thank you,
23 Solicitor.

24 Mr. Newman.

25 MR. NEWMAN: If pleases the Court, Your

1 Honor.

2 THE COURT: Yes, sir, Mr. Newman.

3 OPENING STATEMENT

4 MR. NEWMAN: Thank you.

5 Mr. Foreman, ladies and gentlemen, excuse
6 me. I carry my water with me. It must be pollen.
7 I've been dried out all day long today. I don't
8 really know why.

9 With that being said, I represent
10 Latavious Williams who is seated over there in
11 this case. It's a 2020, a little over three years
12 ago. All I'm going to ask you at this point is
13 something a little unusual. It helps you along.
14 All I'll ask you at this point is, do like he
15 says, keep an open mind, open hearing, and open
16 heart until you hear all the evidence that comes
17 in. And remember, also, in fact it's in the
18 Bible, a man cannot prove himself innocent. And
19 that's why in our law, in the greatest country in
20 the world, we have a system of jurors. Because
21 you would be telling the government. You become
22 the ones that the government has to prove to you
23 each and every element of the crime. Not
24 Mr. Williams. He doesn't say, well, I didn't do
25 it, or I didn't know, this or that. He doesn't

1 have to say anything if this case goes the way I
2 think it will. We don't even need to put up a
3 defense. We can just send it right to you after
4 you hear the State's case.

5 But if you remember that, they got to
6 prove it beyond a reasonable doubt. Keep an open
7 mind, and then -- a citizen never has to be
8 required to prove himself innocent of a crime.
9 The government has to do it. It's just the
10 opposite.

11 It shouldn't be a long trial, but it
12 doesn't mean it's not an important trial.

13 Thank you-all very much.

14 THE COURT: All right. Thank you, Mr.
15 Newman.

16 Solicitor, you can call your first witness.

17 MS. MAIN: The State calls Craig Karafa.

18 THE BAILIFF: Come right up here.

19 THE CLERK: If you state your name and
20 spell it for the record.

21 THE WITNESS: Craig Karafa, C-r-a-i-g,
22 K-a-r-a-f-a.

23 THE CLERK: Do you solemnly swear or
24 affirm to truthfully answer all questions asked of
25 you by this court so help you God?

Testimony of Craig Karafa

1 THE WITNESS: Yes, ma'am.

2 THE CLERK: Thank you.

3 THE COURT: Come on around, yes, sir.

4 WHEREUPON:

5 CRAIG KARAFA,

6 after having been sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. MAIN:

9 Q Where do you currently work?

10 A The Bluffton Police Department.

11 Q And how long have you worked at the Bluffton
12 Police Department?

13 A I believe it was November of 2017 is when I
14 started with the Bluffton Police Department.

15 Q Did you work anywhere before that in law
16 enforcement?

17 A Yes, ma'am. I previously started my career
18 in Ohio in 2006. And then prior to Bluffton PD, I
19 worked for the Beaufort County Sheriff's Office.

20 Q So how long have you been in law enforcement then,
21 the total amount of years?

22 A I believe it was little over 17.

23 Q And were you working on June 11, 2020?

24 A Yes, ma'am, I was.

25 Q Were you involved in the stop of the defendant,

Testimony of Craig Karafa

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1 Latavious Williams?

2 A Yes, ma'am, I was.

3 Q Did this occur on Fording Island Road in
4 Bluffton?

5 A Yes, ma'am.

6 Q And what county is that in?

7 A Beaufort County.

8 Q How were you involved in the stopping of the
9 defendant?

10 A I actually conducted the traffic stop of the
11 defendant's vehicle.

12 Q And why did you stop him?

13 A There was a speeding violation and a marked
14 lanes violation.

15 Q And when you first approached the car, after
16 pulling him over, what did you do?

17 A Made contact with the driver of the vehicle
18 from the driver's side and I requested the
19 necessary information, usually driving license,
20 registration, proof of insurance.

21 Q And how many people were in the car?

22 A Just the operator of that vehicle.

23 Q And after you requested this information from him,
24 did you notice anything else?

25 A Yes, ma'am. In the conversation, I smelled

Testimony of Craig Karafa

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1 an odor of marijuana emitting from the interior of
2 the vehicle.

3 Q And what did you do as a result of that?

4 A I requested the driver to exit the vehicle.

5 Q And when the defendant is out of the vehicle, what
6 do you do at that point?

7 A I had asked, which is something I commonly do
8 on the side of the road, if he had any weapons on
9 his person. Being outside of the vehicle, I
10 requested consent to check his person for
11 weapons.

12 Q Did you find any?

13 A No, ma'am.

14 Q And in regards to his license, did you run his
15 license?

16 A At that time I believe, or shortly after that
17 time, I did begin the process of running the
18 information through Beaufort County
19 communications.

20 Q And, as you're doing that, does anyone else arrive
21 on the scene?

22 A At the time of this traffic stop, I was a
23 double unit. I did have a passenger who was
24 Deputy Huggins.

25 Q And what do you mean double unit?

Testimony of Craig Karafa

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1 A So, basically, I was the driver of that
2 vehicle. On that given day, I had another officer
3 with me, which was Deputy Huggins.

4 Q Did anyone else arrive on the scene after you
5 pulled the defendant over?

6 A Yes. I distinctly -- there was a silver
7 vehicle. I believe it was Staff Sergeant
8 Morris.

9 Q And as you're at the scene, did Officer Mooney
10 arrive at any point?

11 A He did.

12 Q And what are you doing as these officers are
13 coming on scene?

14 A I believe after I had asked the driver from
15 the vehicle, I had returned to my vehicle and
16 began writing a warning for the violations that I
17 had observed while waiting for a return from
18 Beaufort County communications to confirm that the
19 driver's license was valid or whatever it may have
20 been.

21 Q What else is going on as you're doing this?

22 A I believe, at the time, a K-9 and Sergeant
23 Mooney had arrived on scene.

24 Q Okay. And what happens as you're writing this
25 ticket?

Testimony of Craig Karafa

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1 A Sergeant Mooney deployed the K-9 unit.

2 Q And as a result of that, what did you do?

3 A As a result of?

4 Q As a result of him deploying his K-9 unit, what
5 happened?

6 A We ended up searching the vehicle.

7 MS. MAIN: Beg the Court's indulgence.

8 THE COURT: Yes, ma'am.

9 MS. MAIN: No other questions.

10 THE COURT: All right, thank you.

11 Mr. Newman.

12 MR. NEWMAN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. NEWMAN:

15 Q You said you were riding double unit and that was
16 with Huggins?

17 A Yes, sir. Sergeant Huggins.

18 Q Sergeant Huggins. I'm sorry.

19 And you said when you approached, I guess
20 when the driver had his window down, you said you
21 smelled marijuana.

22 A Yes, sir.

23 Q Burnt marijuana?

24 A I don't recall if it was burnt.

25 Q Raw marijuana?

Testimony of Craig Karafa

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1 A I don't recall that, sir.

2 Q All right. And on your view of the car, you
3 didn't see any joints, blunts, rolling papers, spoons,
4 grinders, Baggies, lighters, anything, did you?

5 A No, sir.

6 Q Okay. The car, in other words, what you saw, was
7 clean?

8 A Can you specify by seen?

9 Q Yeah. I mean, you stop cars where there's --
10 you-all call it shakers, hollowed out cigars.

11 A In, like, plain view, per se?

12 Q Yes.

13 A Yes. I didn't observe any of those items.

14 Q Okay. That's what I meant. The car was clean in
15 that --

16 A Correct. When I walked up to the vehicle,
17 spoke with the operator of the vehicle, I did not
18 observe anything unclean.

19 Q Okay. And I noted that you didn't notice any
20 smell on Mr. Williams himself?

21 A I did not notate any of that in my report,
22 no, sir.

23 Q Okay. And he was searched and he didn't have
24 anything incriminating on him, did he?

25 A I just padded him down for weapons, sir. I

Testimony of Craig Karafa

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1 did not search him.

2 Q And you didn't find anything.

3 A I did not find any weapons, sir.

4 Q Okay. Or any -- in your training and all that, if
5 you feel certain lumps and bumps that you recognize to
6 be drugs, you can pull those out, correct?

7 A Correct, sir.

8 Q Okay. And you didn't find anything that you
9 needed to pull out?

10 A No, sir.

11 Q Okay, thank you.

12 MR. NEWMAN: No further questions. Thank
13 you, Judge.

14 THE COURT: All right. Anything further?

15 MS. MAIN: Nothing further from the
16 State.

17 THE COURT: Thank you so much, sir.

18 MS. MAIN: Thank you.

19 THE COURT: Solicitor.

20 MS. MAIN: The State calls Matthew
21 Huggins.

22 THE CLERK: State your name and spell it
23 for the record.

24 THE WITNESS: Matthew Huggins,
25 M-a-t-t-h-e-w, H-u-g-g-i-n-s.

Testimony of Matthew Huggins

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1 THE CLERK: Okay. Raise your right hand.

2 Do you solemnly swear or affirm to truthfully
3 answer all questions asked of you by this court so
4 help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you.

7 WHEREUPON:

8 MATTHEW HUGGINS,

9 after having been sworn to tell the truth, testified
10 as follows:

11 DIRECT EXAMINATION

12 BY MS. MAIN:

13 Q Where do you currently work?

14 A Beaufort County Sheriff's Office.

15 Q And how long have you been with the Beaufort
16 County Sheriff's Office?

17 A About 10 years.

18 Q Were you working on June 11, 2020, with
19 Officer Karafa when you pulled over the defendant?

20 A I was.

21 Q Why were you guys riding together?

22 A We were just a two-man unit. Sometimes we
23 just ride together.

24 Q Do you recall why the defendant was pulled over?

25 A I believe it was speeding and a lane

1 violation.

2 Q And so after you pulled over, what are you
3 doing?

4 A I was a cover officer for Office Karafa. I
5 was on the passenger side of the vehicle. During
6 that interaction, he had asked the defendant out
7 of the vehicle, at which time I just stayed with
8 the defendant. Just helped with him at the back
9 of that vehicle.

10 Q And as you're talking to him, is he handcuffed at
11 that point?

12 A He is not.

13 Q And then does anyone else arrive on scene?

14 A Yes.

15 Q Who arrives?

16 A Staff Sergeant Morris arrived, and then
17 Sergeant Mooney arrived with Corporal Ryan Carter
18 and then Staff Sergeant Squires.

19 Q And, at any point, is the defendant placed in
20 handcuffs?

21 A He is.

22 Q And why was that?

23 A It was after the K-9 sniff of the vehicle, I
24 believe. Sometime between the K-9 sniff of the
25 vehicle and the items being located.

Testimony of Matthew Huggins

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1 Q And when he's placed in handcuffs, did you read
2 him Miranda?

3 A I did.

4 Q Can you please repeat to us the Miranda warnings
5 you gave him?

6 A Yes. He had the right to remain silent.
7 Anything he said can and will be used against him
8 in a court of law. He had a right to an attorney
9 and can have him present while being questioned.
10 And if he couldn't afford an attorney, one would
11 be appointed to represent him for any question
12 that he wished.

13 Q Did the defendant appear to understand these
14 warnings?

15 A He did.

16 Q Did he appear to have any physical or mental
17 disability that would prevent him from understanding
18 these warnings?

19 A He did not.

20 Q Did you promise him anything?

21 A No.

22 Q Did you threaten him?

23 A No.

24 Q And where was this taking place when you read him
25 his Miranda warnings?

Testimony of Matthew Huggins

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1 A Right outside the vehicle, on 278 in
2 Bluffton.

3 Q Is that in Beaufort County?

4 A It is.

5 Q After you read Miranda warnings, did you do
6 anything else?

7 A I believe that's pretty much it.

8 MS. MAIN: No other questions.

9 THE COURT: All right. Mr. Newman.

10 CROSS-EXAMINATION

11 BY MR. NEWMAN:

12 Q Looking through the reports, I noted that you
13 didn't smell any marijuana on Mr. Williams, correct?

14 A That's correct.

15 Q Okay. And, generally, there's nothing in the
16 report that noted that you actually smelled marijuana
17 on or near the car; is that correct?

18 A When I was at the window, the passenger side
19 window to the vehicle was rolled up.

20 Q But you didn't smell anything?

21 A I did not.

22 Q Okay, thank you.

23 MR. NEWMAN: No further questions.

24 THE COURT: Anything else, Solicitor?

25 MS. MAIN: No other questions.

Testimony of Danial Mooney

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1 THE COURT: Thank you so much, sir.

2 THE WITNESS: Thank you.

3 MS. MAIN: The State calls Daniel Mooney.

4 THE CLERK: If you will state your name
5 and spell it for the Court, please.

6 THE WITNESS: Daniel Mooney, D-a-n-i-e-l,
7 M-o-o-n-e-y.

8 THE CLERK: Do you solemnly swear or
9 affirm to truthfully answer all questions asked of
10 you by this court so help you God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Thank you.

13 WHEREUPON:

14 DANIEL MOONEY,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MAIN:

18 Q Where do you currently work?

19 A Beaufort County Sheriff's Office.

20 Q And how long have you worked there?

21 A Eighteen years.

22 Q And were you working on June 11, 2020?

23 A Yes, ma'am, I was.

24 Q And did you have any special assignment in 2020?

25 A Yes, ma'am. I was a K-9 handler of K-9

1 Enzo.

2 Q And when were you assigned K-9 Enzo?

3 A It was approximately two-and-a-half years
4 prior to that.

5 Q And how long have you been a K-9 handler?

6 A I've handled three other dogs prior to that,
7 so approximately 14 years.

8 Q And K-9 Enzo, that's the dog you said you had on
9 June 11, 2020?

10 A Yes, ma'am.

11 Q And was K-9 Enzo certified in anything?

12 A Yes. He's a dual purpose dog. He's
13 certified in drugs and narcotics, tracking, things
14 of that nature.

15 Q Is there any training needed to be a dog
16 handler?

17 A Yes, ma'am. I go to a class, and then I
18 continue training Enzo which takes place at least
19 four times a month, between eight and six hours a
20 day.

21 Q So were you asked to respond to a traffic stop
22 involving the defendant, Latavious Williams, on
23 June 11, 2020?

24 A Yes, ma'am, I was.

25 Q How were you asked to respond?

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1 A I heard the traffic stop as it was coming out
2 and I responded to the location of the traffic
3 stop.

4 Q And was K-9 Enzo used at this stop?

5 A Yes, ma'am, he was.

6 Q And, when you responded, did you have on your
7 body-worn camera?

8 A Yes, ma'am, I did.

9 Q So is this entire interaction recorded?

10 A Yes, ma'am, it is.

11 (STATE EXH. 1, DVD; Mooney, was marked
12 for identification.)

13 BY MS. MAIN:

14 Q Do you recognize this?

15 MS. MAIN: I'm showing the witness what
16 has been premarked as State's say Exhibit 1.

17 THE COURT: Yes, ma'am.

18 THE WITNESS: Yes, ma'am, I do.

19 BY MS. MAIN:

20 Q How do you recognize it?

21 A It has my initials on it.

22 Q What is it?

23 A It's a DVD.

24 Q And what's on the DVD?

25 A The traffic stop.

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1 MS. MAIN: The State moves State's

2 Exhibit 1 into evidence.

3 THE COURT: Mr. Newman? Sir?

4 MR. NEWMAN: I object to it, Your Honor.

5 THE COURT: Okay.

6 MR. NEWMAN: It might have been relevant
7 for other purposes as to, like, the search issues,
8 but it's not relevant here.

9 THE COURT: All right. I'm going to
10 overrule. Go ahead.

11 MS. MAIN: Permission to publish, Your
12 Honor.

13 THE COURT: Yes, ma'am.

14 (STATE EXH. 1, DVD; Mooney, was entered into
15 evidence.)

16 MR. NEWMAN: Is this going to be without
17 audio?

18 MS. MAIN: No, sir. This contains audio.

19 THE COURT: Let me ask you this --
20 Counsel, approach.

21 (Bench conference.)

22 THE COURT: You plan on playing an
23 excerpt of the video and the audio, correct?

24 MS. MAIN: Yes, sir. It's just the
25 section of the sniff. Nothing really before that

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1 or after that.

2 THE COURT: So, I mean, when you say "of
3 the sniff," you mean the dog --

4 MS. MAIN: Free air.

5 THE COURT: -- walking around the car?

6 MS. MAIN: Yes, sir.

7 THE COURT: All right. And as it relates
8 to the audio portion of it, I take it there's
9 nothing other than him saying, "Good boy."

10 MR. NEWMAN: I guess. I don't know.

11 MS. MAIN: Yes.

12 THE COURT: Hold on. You understand what
13 I'm asking?

14 MS. MAIN: Yes, sir.

15 THE COURT: "Good boy," "Good dog." I
16 heard that a gazillion times. What I want to know
17 is: We're not getting into any other officer
18 coming up, saying anything. We don't have any
19 other -- anything that we talked about that
20 shouldn't be admitted into this; is that correct?

21 MS. MAIN: Yes, sir. The only portion
22 that would come in and his mentioning to another
23 officer that the dog alerted.

24 THE COURT: I'll allow that.

25 BY MS. MAIN:

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1 Q So when you responded to the traffic stop, you
2 said that you used K-9 Enzo at the traffic stop?

3 A Yes, ma'am.

4 Q And how did you use him?

5 A Conducted a free air sniff around the
6 exterior of the vehicle.

7 Q And is this free air sniff captured on your
8 body-worn camera?

9 A Yes, ma'am, it is.

10 (Video played.)

11 BY MS. MAIN:

12 Q Officer Mooney, what was that that we just saw on
13 the screen?

14 A When Enzo jumped up and stopped, that was the
15 alert.

16 MS. MAIN: Keep playing.

17 (Video played.)

18 BY MS. MAIN:

19 Q And what are we seeing right there?

20 A So this is Enzo doing what we call an
21 indication. What that means is, he has now
22 located the source of the drugs or the odor of the
23 drugs. So what he does on the outside, because we
24 don't want anybody to get their paint scratched,
25 he'll typically do -- when he comes to the odor,

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1 what occurs is, he'll do the stop or the sit. And
2 then when he goes into the interior of the car, he
3 will typically, when he finds where the dope is
4 at, he does a scratch.

5 What happens is, when he's off camera in
6 the back seat, he indicates by scratching on the
7 box. And then he comes back, and because I want
8 him to do the entire car, I'll have him do another
9 search, and he indicates again at the center
10 console.

11 Q And so you reference alert and indication. Can
12 you explain the difference exactly between those two
13 things?

14 A Yes. So the initial alert, whenever a dog
15 comes into the odor of drugs, anybody that has a
16 pet, you hear -- when he's, like, rapid sniffing,
17 where you hear (indicating) and you hear that
18 rapid sniffing, well, that's what a dog does
19 initially when it comes into a source. Dogs
20 typically smell 100 times -- or 20 times faster
21 than we do.

22 So as the dog comes into the odor, it begins
23 the rapid sniff. And then the chain reaction to the
24 dog coming into the sourced odor, the dog then will
25 proceed to sit down or stop and stay. Right?

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1 Then when we go and we have them do the
2 interior search of the vehicle to try and locate where
3 the source of said odor is, right, he will go inside
4 to the vehicle. And, if the drugs are inside the car,
5 the dog will then go scratch at where he perceives the
6 drugs are located.

7 Q So, how can you be sure that Enzo is not alerting
8 to something like food?

9 A In training what we do is, we proof the dog
10 on food. Typically, what we do is, we allow food
11 to be in the area and we try to make sure that the
12 dog does not alert. If the dog does alert to
13 that, you would give the dog a correction. The
14 other way of being able to proof a dog is use just
15 clean cars. Like an absolute clean car. I used
16 to take my dog to a car dealership and run them
17 around clean cars. And what that does is, it
18 makes and ensures that the dog is not alerting to
19 anything except what we're training the dog to
20 do.

21 Q You said, in this case, Enzo did alert?

22 A Yes, he did, ma'am.

23 Q Where did he indicate to?

24 A All right. The indication, that's where we
25 were talking about the scratch. He scratched at

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1 the center console and there was a box that was
2 located in the back passenger seat.

3 Q And after he alerts and indicates, what do you do
4 at that point?

5 A The dog -- so for the dog, his reward for
6 locating the source, there's a red ball or a red
7 cone, he is fed that as his reward. That is his
8 ultimate reward. He does get fed food. That's
9 the reason why dogs don't alert to food. That's
10 why he gets the ball. That's how they're trained
11 up. Then the dog is taken back. He's praised and
12 then he's put back in the patrol vehicle.

13 Q And then did you do anything else at this stop
14 after that?

15 A No, ma'am.

16 MS. MAIN: No other questions.

17 THE COURT: Mr. Newman,
18 cross-examination, sir?

19 MR. NEWMAN: If it pleases the court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. NEWMAN:

23 Q What I noted through the report, I think when I
24 asked you the other day, you didn't smell any
25 marijuana; is that correct?

1 A No.

2 Q All right. And along with your dog, I mean,
3 you're trained in what the smell of marijuana smells
4 like, right?

5 A Yes.

6 Q Sure. I mean, you've been doing this 18 years.

7 So you didn't smell anything out in the open;
8 leaves, pipes, grinders, spoons, Baggies, lighters?
9 You didn't notice anything like that in the car, did
10 you?

11 A I wasn't focused on that. I was focused on
12 working the dog.

13 Q I understand that. But if you'd seen a bunch of
14 rolling papers and stuff like that, you would have
15 noted that, wouldn't you?

16 A Yes, I would.

17 Q Okay. And you didn't note anything like that?

18 A No, sir, I didn't.

19 Q All right.

20 MR. NEWMAN: I don't have any further
21 questions.

22 THE COURT: Thank you very much.
23 Anything else?

24 MS. MAIN: Yes, Your Honor.

25 REDIRECT EXAMINATION

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1 BY MS. MAIN:

2 Q Did K-9 Enzo alert to this vehicle?

3 A Yes, he did.

4 Q Did he alert -- and why did he alert to this
5 vehicle?

6 A Because he smelled drugs or narcotics.

7 MS. MAIN: No other questions.

8 THE COURT: Need anything else,
9 Mr. Newman?

10 MR. NEWMAN: Yes, sir, if I could
11 follow-up on that.

12 THE COURT: Sure.

13 RECROSS-EXAMINATION

14 BY MR. NEWMAN:

15 Q Dogs can also pick up residual smells, can they
16 not?

17 A Yes, they can.

18 Q So a dog alerting doesn't necessarily mean that
19 there are drugs in that vehicle; isn't that correct?
20 It means there could have been drugs in that vehicle.

21 A That is correct.

22 Q All right. And I think you and I had discussed
23 before if a drug -- we'll take, like, OxyContin,
24 that's a morphine based -- your dog can pick up
25 morphine-based drugs, right?

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1 A Opiate based?

2 Q Sure. Opiate based.

3 A Yes, sir.

4 Q So if I had come back from the hip doctor and he
5 had given me a script for 40 OxyContin and I got that
6 sitting in my car in the console or the cup holder, or
7 whatever, would the dog pick up on that?

8 A If we were asked to conduct a sniff around
9 the exterior of the vehicle, yes.

10 Q Sure. I'm a lawyer in Beaufort, you put the dog
11 on my car, it would probably alert, correct?

12 A Just because you're a lawyer in Beaufort
13 County doesn't mean that I'm going to be pulling
14 you over and asking you to step out your vehicle
15 to conduct a drug sniff, sir.

16 Q Oh, come on.

17 A I know what you do for a living.

18 Q Let's say you did, just for laughs, the dog should
19 alert to the presence of a narcotic in my car, should
20 it not?

21 A Yes, he would. But he is not trained to
22 sniff out OxyContin.

23 Q Okay. Is he trained to sniff out any drugs that
24 you can get a prescription for?

25 A No. So, opiate-based OxyContin, obviously,

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1 has opium in it, which is a derivative and what is
2 used to make heroin. That is what the dog is
3 alerting to. So, OxyContin, being an opiate base,
4 then, yes, he would be able to alert that.

5 Q That's what I was asking.

6 A Yes.

7 Q But here's what the dog doesn't know, is whether I
8 got a prescription for it or not, correct?

9 A That would be something that I have to figure
10 out.

11 Q All right. Thank you.

12 MR. NEWMAN: I don't have anything
13 further.

14 THE COURT: Solicitor, anything else?

15 MS. MAIN: Nothing further.

16 THE COURT: Thank you, sir.

17 MS. MAIN: The State calls William
18 Squires.

19 THE COURT: All right.

20 THE CLERK: State and spell your name.

21 THE WITNESS: William Squires,
22 W-i-l-l-i-a-m, S-q-u-i-r-e-s.

23 THE CLERK: Do you solemnly swear or
24 affirm to truthfully answer all questions asked of
25 you by this court so help you God?

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THE WITNESS: Yes, ma'am, I do.

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WHEREUPON:

WILLIAM SQUIRES,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MAIN:

Q Where do you currently work?

A I work for the Beaufort County Sheriff's
Office.

Q And how long have you been with the Beaufort
County Sheriff's Office?

A Going on 18 years now.

Q And do you work with any other agencies?

A Yes, I work with the DEA out of Charleston,
South Carolina.

Q And what's the DEA?

MR. NEWMAN: Your Honor?

THE COURT: Yeah. Come on up.

MR. NEWMAN: I have an objection and a
point of law.

THE COURT: Tell you what, ladies and
gentlemen, let me send you back for just a minute,
and we will get you back in here in the next 10 or
15 minutes. Don't talk about the case, please.

(Jury exits the courtroom at 3:13 p.m.)

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1 THE BAILIFF: Jury is clear, Your

2 Honor.

3 THE COURT: All right. Mr. Newman, yes,
4 sir, you got an objection?

5 MR. NEWMAN: I do have a motion. Exactly
6 what we talked about. This is a traffic stop and
7 drug enforcement, a federal drug enforcement agent
8 coming up in there. He's a Beaufort County
9 Sheriff's deputy is what he is and that's the
10 capacity he was in on this. We specifically
11 talked about this. Now, I got the jury hearing
12 that, not only does he get stopped on a traffic
13 stop just by a uniform police officer, now we got
14 the DEA that's showing up here. And that's
15 exactly what we were not going to do. Because now
16 I got to find a reason or an answer why the DEA is
17 at a traffic stop with Mr. Williams. This was
18 totally improper. We got into that. You know,
19 that's the same as the violent crimes unit and all
20 that.

21 Why do I got drug enforcement, federal
22 drug enforcement agent that's also a deputy
23 sheriff involved in this traffic stop? He could
24 have left it right where it was, with the
25 sheriff's department. He's got the DEA. And as

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1 I'm standing up while he's answering that, the
2 follow-up, what is the drug enforcement
3 administration? That's exactly what we talked
4 about in this trial, and that is highly improper.
5 It goes to the defendant's character under these
6 circumstances, and I don't think it can be
7 cured.

8 THE COURT: All right. Solicitor?

9 MS. MAIN: Yes, sir. We didn't talk
10 about that. We talked about the violent crimes
11 task force. I didn't think to inquire about that,
12 because I didn't know that was going to be an
13 issue because it was never brought up.

14 However, we're talking about the DEA
15 because my goal is to talk about how he has
16 narcotics training. That's the point of me
17 eliciting that testimony. It does not prejudice
18 the defendant. There's no connection between
19 those. It's simply background of how he works
20 with the Beaufort County Sheriff's Office and how
21 he works with the DEA task force. If it was going
22 to be a problem, it would have been pertinent to
23 know that before I started.

24 THE COURT: All right. Anything in
25 response, Mr. Newman?

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1 MR. NEWMAN: Well, I mean, I just think
2 it's reasonable. We know the spirit of why we're
3 not saying that we're on some kind of violent
4 crimes task force, drug task force, and those type
5 of things. It calls attention out to it and it's
6 improper. It's also burdenship.

7 THE COURT: All right. The question
8 was -- you talked about -- Madame Court Reporter,
9 can you back us up? I want to hear exactly what
10 the question was and his answer to that. Can you
11 get that for me? Is that possible?

12 COURT REPORTER: Yes, sir.

13 (Question and answer played back by the
14 court reporter.)

15 THE COURT: So he had he worked with the
16 DEA out of Charleston, and then she asked what the
17 DEA was?

18 MS. MAIN: Yes, sir.

19 Your Honor, are you willing to hear
20 anything further on this?

21 THE COURT: Sure.

22 MS. MAIN: We think it's akin to asking
23 Officer Mooney if he had any particular duties,
24 but he works for another agency and that goes to
25 background knowledge on narcotics. That's how he

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1 is able to identify when he sees something in the
2 bag in the back of the car, he understands that
3 that's a narcotics bag that was being alerted to.

4 Additionally, if this was an issue, it
5 was not brought up pretrial and so it's hard for
6 the State to anticipate the arguments of opposing
7 counsel that are not brought to our attention. We
8 don't believe that we went against any of the
9 Court's rulings.

10 THE COURT: Anything else, Mr. Newman?

11 MR. NEWMAN: Again, I just think it's
12 unduly prejudicial. It's unfairly prejudicial.
13 It violates the spirit of the order of this Court.
14 I believe it's also burden shifting. We now have
15 to come up with ways to explain why the DEA out of
16 Charleston is involved with this guy. It's simply
17 relevant to nothing in this case.

18 If he wants to talk about his training,
19 he doesn't have to -- I don't have to be a cop to
20 get training in drug detection, if I want to. It
21 has nothing to do with it. I now got to answer in
22 front of this jury why the DEA is on this guy's
23 behind, and I can't do it. I can't unring that
24 bell. I ask for a mistrial.

25 THE COURT: I denying your motions. Let

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1 me just say, first of all, it's interesting. I
2 brought that up in chambers and put it on the
3 record as it relates to not getting into the prior
4 surveillance and so forth. And, you know, this
5 whole DEA situation was never discussed.

6 MR. NEWMAN: I can't get everything. I
7 mean --

8 THE COURT: I understand, Mr. Newman.
9 Allow me to make my ruling, sir, and then I'll
10 allow you to put anything else you want on the
11 record. And what I'll say is, that just -- no one
12 brought that up. And I disagree, Mr. Newman, I
13 don't think that that question was in violation of
14 the spirit of this Court's order.

15 I, kind of, look at it as though it's
16 part of CV and he's just stating what his
17 experience is. He's probably done six different
18 things with the Beaufort County Sheriff's Office.
19 He can go and he can testify -- I just think it's
20 listing what his experience is as an officer and
21 his training. I don't think it gives rise to the
22 fact that this means -- I just don't think that it
23 gives rise or that's going to let the jury assume
24 -- I don't think the jury is going to assume that
25 that means, *Oh, that means the DEA is on his tail.*

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1 Nothing about this case has indicated that anybody
2 is on anybody's tail, and we've cut that out.

3 I just think it's -- I think it goes
4 to his training, and I think that's where they're
5 going with this.

6 And so, though I think I would like to
7 get away from the DEA as soon as possible, but I
8 don't think it has prejudiced this jury. I don't
9 think they've violated anything. I just don't
10 think that -- any order of this court, and I just
11 don't think this is grounds for a mistrial.

12 Anything else that you want to put on the
13 record, Mr. Newman?

14 MR. NEWMAN: Yes, Your Honor. We also
15 discussed, when we were talking about the violent
16 crime unit, about Miss Leggette, calling for a
17 mistrial by saying she worked for the career
18 criminal team. That's why I was thinking that we
19 were all within the spirit of that. There's
20 reasons that you don't do that.

21 And as for some prior knowledge, I don't
22 know what the heck the State is going to ask a
23 witness. I can't sit there and, you know, file a
24 memo of you can ask this, you can't ask that.
25 That's why you have to make your objections

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1 contemporaneously.

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2 THE COURT: Well, that's --

3 MR. NEWMAN: I also think that his
4 training has zero relevance. This is a case that
5 they stopped a car for speeding, a drug dog alerts
6 on it, they searched it. How much training do you
7 got to do to find a bag that's got drugs in it?
8 It doesn't have nothing to do with it at all.

9 THE COURT: All right. I disagree. And,
10 again, I just think that -- again, I understand
11 the conversation about Miss Leggette, but I just
12 don't think that covers to -- part of what this
13 man's training is as it relates to that, and I
14 think he can testify as to what his training is.

15 So that's going to be my ruling. I'm
16 going to deny your motions.

17 Let's take a few-minutes break while
18 we're here. Thank you.

19 (A break was taken from 3:24 p.m. to 3:30 p.m.)

20 THE BAILIFF: All rise. This court is
21 back in section.

22 THE COURT: You-all can be seated.

23 Anything from the State before we bring
24 the jury in?

25 MS. MAIN: I just want to ask a point of

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1 clarification.

2 THE COURT: Yes, ma'am.

3 MS. MAIN: Am I allowed to finish asking
4 what the DEA is and then move away from that?

5 THE COURT: Yeah, that's all. I'm not
6 going to go into any more of it.

7 MS. MAIN: Understood.

8 THE COURT: All right. Let's get the
9 jury in.

10 Solicitor, Mr. Newman, could you approach
11 for one second?

12 MR. NEWMAN: Sure.

13 THE COURT: Are those your chemist and
14 lab people?

15 MS. MAIN: Yes.

16 THE COURT: Okay. I was asking if those
17 are the chemist and lab people.

18 So we may be able to finish the evidence
19 today, perhaps.

20 MS. MAIN: The State can rest.

21 MR. NEWMAN: Yeah, I think so.

22 THE COURT: We can do everything else in
23 the morning.

24 MR. NEWMAN: Yeah, I think that would be
25 good. I told Renita she doesn't need to be

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1 sequestered. She's not a fast witness.

2 THE COURT: Mr. Newman, your hip is
3 bothering you today.

4 MR. NEWMAN: It's been not good.

5 THE COURT: All right. I'm sorry to hear
6 that, sir. We'll continue. I just saw them and
7 they looked like they might be chemists. I
8 shouldn't say that.

9 MS. MAIN: There's something about them.

10 MR. NEWMAN: I saw Renita, I said, I
11 asked them, you can come on in.

12 (Off the record.)

13 THE COURT: So let's get the jury in
14 here.

15 THE BAILIFF: Jury is entering the courtroom.

16 (Jury enters courtroom at 3:30 p.m.)

17 THE BAILIFF: Jury is seated.

18 THE COURT: I'm going to overrule your
19 objection, Mr. Newman.

20 Solicitor, you can please proceed. Yes,
21 ma'am.

22 BY MS. MAIN:

23 Q So you currently work with the Beaufort County
24 Sheriff's Office?

25 A Yes, ma'am.

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1 Q And how much time do you have with the Beaufort
2 County Sheriff's Office?

3 A Going on eighteen years.

4 Q And did you say you work with any other agency?

5 A Yeah, I'm a task force officer with the DEA
6 out of Charleston, South Carolina.

7 Q And what is the DEA?

8 A Drug Enforcement Administration.

9 Q And as part of your training and experience, have
10 you received any other additional training?

11 A I received numerous training related to drug
12 offenses.

13 Q Were you involved in the traffic stop of the
14 defendant, Latavious Williams, on June 11, 2020?

15 A Yes, ma'am, I was.

16 Q And did this take place on Fording Island Road in
17 Bluffton, South Carolina?

18 A Yes, ma'am.

19 Q And what county is that in?

20 A That's in Beaufort County.

21 Q And how did you come to be involved in that stop?

22 A I arrived at the stop just about after the
23 K-9 was done. I assisted in the search of the
24 vehicle with one other deputy. And I searched the
25 vehicle and located suspected narcotics inside the

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1 vehicle.

2 Q And during your search, did you look at anything
3 else?

4 A During the search, I just searched the
5 vehicle.

6 THE COURT: All right. Hold on.
7 Counsel, approach.

8 I don't want you to be getting into the
9 Nike shoe stuff.

10 MS. MAIN: Oh, no, no.

11 THE COURT: Okay. I just --

12 MS. MAIN: I'm trying to elicit the fact
13 that he had to two scales.

14 THE COURT: All right, but okay.

15 MS. MAIN: Yeah, it's certainly not my
16 intention to elicit that, but I understand what
17 Your Honor is saying.

18 THE COURT: All right, go ahead.

19 BY MS. MAIN:

20 Q Following the search of the vehicle, in the bag
21 that you said you located, did you find anything else
22 in that bag?

23 A In the bag, we also located a digital
24 scale.

25 MR. NEWMAN: I object to the bag.

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1 THE COURT: Yes, ma'am.

2 MS. MAIN: May we approach, Your Honor?

3 THE COURT: Sure. Yes, ma'am.

4 MS. MAIN: The State intends to show this
5 to the officer. Mr. Newman, when I showed it to
6 him, plans to object. And once it's opened,
7 there's two items in here and he objects to one.

8 MR. NEWMAN: What I object to is the bag
9 itself because it's got my name all over it and
10 all that. This bag is not evidence.

11 THE COURT: Okay, okay. All right. So,
12 Mr. Newman, your objection is to the bag itself.

13 MR. NEWMAN: Yes.

14 THE COURT: Particularly given the
15 fact -- and that bag, not any bag.

16 MR. NEWMAN: Correct. What's inside of
17 that, I don't object to.

18 THE COURT: What he'll do is, he'll look
19 at it and he can testify that it's -- the evidence
20 that he put in that bag, he marked, or whatever
21 the hell he did -- excuse me. Pardon my French.
22 And he can pull it out. And then, if they want to
23 put it in some other bag that doesn't have that on
24 there --

25 MR. NEWMAN: That's fine. I don't want

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1 this in evidence. What's inside of it is fine.

2 THE COURT: I understand. I understand.
3 I don't have a problem with that.

4 MS. KIDD: We can seal it.

5 MS. MAIN: We intend to contain it.

6 MR. NEWMAN: I'm not objecting to the
7 chain of custody. It's stipulated.

8 THE COURT: He's not going to going to
9 object to the chain of custody. Just find another
10 bag.

11 MS. MAIN: When this trial is over, it
12 will need to be placed back in that bag.

13 MR. NEWMAN: That's fine.

14 THE COURT: He's got no objection to
15 that, and he's already said he's not objecting to
16 any chain of custody. He's not going to waive
17 anything by doing that. Everybody understands why
18 it's being done, because that bag has specific
19 writing on it that he's objected to and I'll
20 sustain that. Is that good?

21 MS. MAIN: Your Honor, my only point of
22 clarification is placing an evidence sticker,
23 specifically, like right on the evidence.

24 THE COURT: Well, get another bag, and
25 Mr. Newman will agree to allow you on the plain

Testimony of William Squires

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1 bag to put a State's Exhibit 2 sticker.

2 MR. NEWMAN: Sure.

3 MS. MAIN: Understood.

4 THE COURT: Is that okay, Mr. Newman?

5 MS. MAIN: And we'll do that before it
6 goes back to the jury.

7 THE COURT: And we'll do that before it
8 goes back to the jury.

9 MS. MAIN: Okay.

10 MR. NEWMAN: It's on the actual drugs
11 themselves. It's also the same issue --

12 THE COURT: I understand.

13 MR. NEWMAN: I'm just letting you know.

14 THE COURT: I can see that.

15 MS. MAIN: The officer sealed this bag,
16 so he's allowing to identify it.

17 THE COURT: He can identify it.

18 MR. NEWMAN: I'm not objecting to that.

19 THE COURT: Okay.

20 All right. Solicitor, you can proceed.

21 BY MS. MAIN:

22 Q Can you please identify this?

23 A This is the evidence bag that I used.

24 Q And how do you know that?

25 A It's got my handwriting, my name, and my

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1 signature on it.

2 Q All right. And was it sealed by you?

3 A Yes, ma'am.

4 Q What did you do after you sealed it?

5 A I turned it in as evidence.

6 Q And what --

7 MS. MAIN: Your Honor, permission to put
8 State's Exhibit 2 into evidence and have it
9 published to the jury.

10 THE COURT: Well, you're going to
11 identify the contents and publish the contents --

12 MS. MAIN: Yes, sir.

13 THE COURT: -- to him. But pursuant to
14 our previous statement here, you can do that.
15 Allow him to open it and allow him to identify and
16 publish those items to the jury.

17 Mr. Newman, is that satisfactory?

18 MR. NEWMAN: Yes, sir, that's correct.

19 THE COURT: Solicitor, go ahead.

20 (STATE EXH. 2, Bag from Search and Contents,
21 was marked and entered into evidence.)

22 THE WITNESS: Do you want me to open it
23 up?

24 BY MS. MAIN:

25 Q Yes, sir, please.

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1 A (Witness complies.)

2 Q And can you please describe the contents of the
3 bag and publish them to the jury?

4 A Yes. Inside the bag we have -- we have a
5 blue bag. You want me to explain what's inside
6 the blue bag?

7 Q Come on down.

8 A It's a coffee filter. So inside the blue
9 bag, we have a coffee filter, a scale, and a Baggy
10 inside the blue bag.

11 Q Thank you very much.

12 And where were those located?

13 A This was located inside the vehicle towards
14 the back.

15 Q And you were the one who located it?

16 A Yes, ma'am.

17 Q And whose vehicle was that?

18 A It was Mr. Williams's vehicle.

19 Q And how do you know that?

20 A Through the registration.

21 Q And was the defendant searched at any time during
22 this traffic stop?

23 A He was -- after we located the contents of
24 the vehicle, he was handcuffed and he was searched
25 before he was put in the back of a cop car.

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1 Q And what, if anything, was found?

2 A Also, what I located, was a green plant
3 material, a white powder substance, and numerous
4 pills.

5 Q And did you find anything else when you were
6 searching his person and his vehicle that is pertinent
7 to this investigation?

8 A To this investigation, no, ma'am. I think we
9 took a telephone or two.

10 Q Two telephones?

11 A Yes, ma'am.

12 (STATE EXH. 3, Evidence Bag; Two Cell
13 Phones, was marked for identification.)

14 MR. NEWMAN: Same objection.

15 THE COURT: Same objection, okay. And so
16 we'll take the same steps. Is that satisfactory,
17 Mr. Newman?

18 MR. NEWMAN: Yes, sir.

19 THE COURT: Is that satisfactory,
20 Solicitor?

21 MS. MAIN: Yes, sir.

22 THE COURT: Go right ahead. Solicitor,
23 do you mind taking that bag. It blocks the view
24 of my jury.

25 MS. MAIN: Yes, sir.

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1 THE COURT: Thank you very much.

2 BY MS. MAIN:

3 Q Okay. What is this?

4 MS. MAIN: Oh, the State is showing what
5 has been marked as State's Exhibit 3.

6 THE COURT: All right.

7 THE WITNESS: This is another evidence
8 bag with my handwriting that I used.

9 BY MS. MAIN:

10 Q And was it sealed by you?

11 A Yes, it was.

12 Q Are your initials on it?

13 A Yes, ma'am.

14 Q What are the contents of that?

15 A Two cell phones.

16 MS. MAIN: Your Honor, the State moves
17 State's 3 into evidence and requests permission to
18 publish.

19 THE COURT: Any objection subject to the
20 previous discussion we had, sir?

21 MR. NEWMAN: I do. The cell phones, I
22 object on relevance.

23 THE COURT: I'm going to overrule that.
24 Go ahead.

25 (STATE EXH. 3, Evidence Bag; Two Cell

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1 Phones, was entered into evidence.)

2 THE WITNESS: Inside the evidence bag is
3 two telephones.

4 BY MS. MAIN:

5 Q And where were those phone?

6 A Suspect vehicle is what I got listed on the
7 evident bag.

8 MS. MAIN: Your Honor, I'm taking this
9 and placing it over here as well.

10 THE COURT: Yes, ma'am. Thank you.

11 MS. MAIN: Court's indulgence, please.

12 THE COURT: Yes, ma'am.

13 BY MS. MAIN:

14 Q And you said you found other items in the vehicle
15 as well previously relating to this investigation
16 inside that bag. What were those items?

17 A A green plant material, a white powder
18 substance and numerous pills.

19 (STATE EXH. 4, Evidence Bag; 9
20 Marijuana bags, was marked for identification.)

21 MS. MAIN: I'm showing the witness what
22 has been marked for identification purposes at
23 this point as State's Exhibit 4 for
24 identification.

25 THE COURT: Okay.

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1 BY MS. MAIN:

2 Q Can you please tell us what that is?

3 A This is another evidence bag that I used
4 during the incident with my name and initials on
5 it.

6 Q And you sealed and signed that?

7 A Yes, ma'am, I did.

8 Q And that was collected from the vehicle?

9 A Yes, ma'am.

10 Q And what are the contents of this?

11 A The contents are nine plastic bags with
12 marijuana is what's listed on the evidence bag.

13 MS. MAIN: I'm showing the witness what
14 has been premarked as State's Exhibit 6, 7 -- 5,
15 6, 7, identification purposes only.

16 THE COURT: Yes, ma'am.

17 (STATE EXH. 5, Plastic Bag; Cocaine,
18 was marked for identification.)

19 (STATE EXH. 6, 264 Pills, was marked
20 for identification.)

21 (STATE EXH. 7, Orange Pills, was marked for
22 identification.)

23 BY MS. MAIN:

24 Q Can you please tell us what those are?

25 A Yes, ma'am. The inside bag is the evidence

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1 bag that I used during the incident. All three of
2 those, the inside bag, is what I used.

3 Q Okay. And so are these signed and sealed by
4 you?

5 A Yes, ma'am, they are.

6 Q And how do you know that?

7 A My handwriting, my name, and my initials.

8 Q Were these all taken from the vehicle?

9 A Suspect vehicle.

10 Q And whose vehicle is that?

11 A Mr. Williams.

12 Q And when you collected these items, what did you
13 do with them?

14 A I submitted them in those bags and turned
15 them into the Beaufort County Sheriff's Office in
16 our tent storage, I believe is what's listed on
17 there.

18 Q And then do you see the defendant in the courtroom
19 today?

20 A Yes, ma'am, I do.

21 Q And where is he?

22 A He's sitting right next to Mr. Newman.

23 MS. MAIN: Let the record reflect that
24 the witness has identified the defendant.

25 THE COURT: Yes, ma'am, he has.

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1 MS. MAIN: No other questions.

2 THE COURT: All right. Mr. Newman, do
3 you have any cross-examination, sir?

4 MR. NEWMAN: I got a little bit.

5 THE COURT: Go right ahead.

6 CROSS-EXAMINATION

7 BY MR. NEWMAN:

8 Q I wanted to make something clear because I heard
9 it one way, and maybe I got it wrong. There were not
10 actually any drugs found on Mr. Williams; is that
11 correct? On his person.

12 A That is right, yes, sir.

13 Q Okay. In fact, you didn't take any evidence from
14 his person?

15 A No, sir, I did not.

16 Q Okay. And his car was pretty clean, was it not?

17 A I would say so, yes, sir.

18 Q I mean, you've seen cars -- I read dozens of your
19 police reports?

20 A Yes, sir, you have.

21 Q Ash trays jammed with roaches in it, rolling
22 papers around.

23 A There has been those vehicles, yes, sir.

24 Q Christmas tree air-fresheners, you know, stacked
25 up all over the place?

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1 A Yes, sir.

2 Q This car had none of those attributes, right?

3 A Not that I recall, no, sir.

4 Q Okay.

5 MR. NEWMAN: I don't have any further
6 questions.

7 THE COURT: Thank you very much.
8 Anything else, Solicitor?

9 MS. MAIN: Moment of the Court's
10 indulgence.

11 THE COURT: Yes, ma'am.

12 RE CROSS-EXAMINATION

13 BY MS. MAIN:

14 Q Do you see the person who was the owner and
15 operator of the car that Mr. Newman is referring to
16 where the suspected drugs were found?

17 A Yes, ma'am. Mr. Williams.

18 MS. MAIN: Let the record reflect he's
19 identified the defendant.

20 THE COURT: All right.

21 MS. MAIN: No other questions, Your
22 Honor.

23 THE COURT: He did identify the defendant
24 Mr. Williams.

25 Anything else, Mr. Newman?

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1 MR. NEWMAN: No, sir.

2 THE COURT: Thank you so much, sir.

3 THE WITNESS: Thank you.

4 THE COURT: Solicitor.

5 MS. MAIN: Can we approach for one
6 moment?

7 THE COURT: Yes, ma'am.

8 MR. NEWMAN: I also wanted to make sure
9 that -- the three items, you have not moved those
10 into evidence yet; is that correct?

11 MS. MAIN: Can we approach first?

12 THE COURT: Okay. Let's approach.

13 Yes, ma'am.

14 MS. MAIN: The State would just ask for
15 about five minutes so we can mark the drugs that
16 we need to mark with our chemist.

17 THE COURT: All right.

18 MS. MAIN: Maybe ten minutes is actually
19 a better request.

20 THE COURT: In answer to Mr. Newman's
21 question, you did not move the drugs into
22 evidence.

23 MS. MAIN: I did not.

24 THE COURT: You had him identify them and
25 made those an exhibit.

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1 MS. MAIN: Yes.

2 MR. NEWMAN: Just like marijuana, or
3 suspected marijuana.

4 MS. MAIN: Yes.

5 MR. NEWMAN: The reason I want to do that
6 is because I have to make a contemporaneous
7 objection when they come in as to the search
8 issue.

9 THE COURT: I understand.

10 MR. NEWMAN: And I think it's silly, but
11 you know our preservation rules say even though
12 you've ruled --

13 THE COURT: There's a recent case on
14 that.

15 MR. NEWMAN: Yeah, I need to do it
16 contemporaneously or it's waived.

17 THE COURT: Okay. I'll send the jury
18 out.

19 MS. MAIN: Thank you, Your Honor.

20 THE COURT: Thank you very much.

21 Ladies and gentlemen, I'm going to need
22 to take a break. There's a couple things that the
23 State has got to get ready for the next witness.
24 Okay? So I'm going to ask that we take another
25 break. And I'll get you back in here probably 10,

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1 15 minutes. I'll have you in here no later than
2 15 minutes. Thank you. Don't talk about the
3 case.

4 (Jury exits the courtroom at 3:52 p.m.)

5 THE BAILIFF: Jury is clear, Your
6 Honor.

7 THE COURT: Thank you.

8 On an unrelated matter, Solicitor, where
9 do we stand for tomorrow and what I think is the
10 last case that possibly could be for trial?

11 MS. MAIN: Miss Kidd can ask that
12 question.

13 MS. KIDD: That is my case, Your Honor.
14 I anticipate it will take a day and a half to two
15 days, so I'm just not sure if we're going to have
16 time to accomplish that.

17 THE COURT: Well, let me ask you this:
18 Is there other work for this court to do?

19 MS. MAIN: We have non-jury matters
20 currently scheduled for tomorrow and Friday.

21 THE COURT: All right.

22 MS. MAIN: Does Your Honor need to talk
23 to Mary Jordan. We can call her for you.

24 THE COURT: No, I'm fine. I just wanted
25 to know that. We'll be at ease. Thank you.

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(A break was taken from 3:53 p.m. to 4:00 p.m.)

THE BAILIFF: All rise. This court is
back in session.

THE COURT: Thank you. You can be
seated.

Solicitor, are we ready?

MS. MAIN: I just wanted to get one point
of clarification.

THE COURT: Hold on. Let me get Mr.
Newman to come back over here.

MR. NEWMAN: I'm sorry.

THE COURT: That's all right.

Yes, ma'am.

MS. MAIN: Regarding the drugs,
Mr. Newman made an objection, for the
identification purposes, about the bag. We don't
want to have to keep approaching, so we just want
to clarify that point with Your Honor.

The concern here, I don't know if -- I
anticipate he's going to object to those bags like
he did for the bags for the cell phones and the
scale.

The issue with this situation is, on
these bags, there is nothing the jury doesn't
know. And we can show it to Your Honor. But,

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1 like, it has the charge, where it came from, but
2 it has open drugs in it.

3 THE COURT: All right.

4 MS. MAIN: And so there's a safety
5 concern to opening this that we'd like Your Honor
6 to consider.

7 THE COURT: Well, I'm particularly
8 sensitive to bags and drugs being opened. I
9 believe Mr. Newman was with me in Jasper County
10 when there was a --

11 MR. NEWMAN: Mr. Wright.

12 MS. MAIN: Yes, sir.

13 THE COURT: And so hold on one second.

14 MS. MAIN: I can get the other ones for
15 Your Honor if you'd like.

16 MR. NEWMAN: Is there just any way to
17 redact his name off of there? I don't need the
18 drugs to be opened, and, you know, based on what
19 happened, and we all know what can happen. I
20 don't have any objection. Those bags can all stay
21 sealed.

22 MS. MAIN: I mean, obviously, they know
23 that it came from this investigation associated
24 with the defendant, and they know what he's
25 charged with.

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1 THE COURT: Hold on one second.

2 All right. Submitting agency, BCSO, case
3 number. It's got the case number. Item number, it's
4 got that collection date, it's got the date of
5 collection. Time of collection. Who it was collected
6 by, Officer Squires. Badge number. Description of
7 enclosed evidence. Plastic bag with unknown
8 assortment of orange pills. Where collected. Suspect
9 vehicle. Type of offense, trafficking cocaine.

10 So what's your concern -- and victim's
11 name, State of South Carolina. What's your
12 concern about those entries, Mr. Newman?

13 Yes, ma'am. They all say about probably
14 the same.

15 MR. NEWMAN: If I can just see one of
16 them.

17 THE COURT: Yes, sir. Actually, there
18 are two different types of bags, Mr. Newman. I'll
19 let you look at both of them. Hold on one second.
20 Okay?

21 MS. MAIN: And then this one, Your
22 Honor --

23 THE COURT: Hold on. Hold on.

24 MS. MAIN: Yes, sir.

25 MR. NEWMAN: The one with the orange

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1 pills is marked differently than the other ones
2 are.

3 THE COURT: Right. Well, the bag is
4 different for sure.

5 MR. NEWMAN: Yeah, the bag is different
6 and they're marked different. And there's nothing
7 that identifies -- it just says location, suspect
8 vehicle. I don't have a problem with that.

9 THE COURT: All right. And I would
10 agree. The orange bag, I didn't see anything on
11 the orange bag.

12 MR. NEWMAN: As to --

13 THE COURT: The bag -- excuse me. The
14 bag with the orange pills.

15 MR. NEWMAN: The bag with the orange
16 pills. And as to State's proposed Exhibit 5, the
17 only objection I have on that, because, again, it
18 says suspect vehicle, I don't have a problem with
19 that. But it does have trafficking in cocaine.
20 You may end up charging a lesser offense in this
21 case and I just don't -- I need to know why that
22 needs to be on there.

23 THE COURT: Yes, sir. And probably the
24 same thing for that one.

25 MR. NEWMAN: This one -- and this one is

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1 additionally objectionable because it does say
2 suspect, Latavious Williams, on it, which that's
3 not what the evidence is. The evidence is the
4 cocaine that's in there.

5 THE COURT: Solicitor, let me ask you a
6 question --

7 MS. MAIN: Yes, sir.

8 THE COURT: -- are you planning on having
9 those bags -- there's a plastic bag and then there
10 is a --

11 MR. NEWMAN: Paper.

12 THE COURT: -- paper bag, correct?

13 MS. MAIN: Yes.

14 THE COURT: So are you planning to have
15 them open the plastic bag? .

16 MS. MAIN: Well, we didn't want to
17 open -- we did not want to open these because
18 they're see through. So our intention was to
19 place this into evidence because it -- otherwise,
20 you have, like, loose unsealed drugs in now an
21 opened bag.

22 THE COURT: Okay. So your intention was
23 to basically hand her the bag, allow her to
24 potentially identify, or whatever she's going to
25 do with the bag, and maybe -- I don't know. Maybe

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1 it shows the drugs, or whatever. But you weren't
2 planning on cutting those plastic bags and getting
3 into it; is that correct?

4 MS. MAIN: That's correct. And the State
5 would just like to say that the trafficking
6 cocaine offense, I mean, that's read in the
7 indictment to them. They know what we're seeking
8 to charge.

9 THE COURT: All right. What I'm going to
10 rule -- all right. What's the marijuana
11 situation?

12 MS. MAIN: So, we would like this bag,
13 all of these bags to come into evidence, but we
14 were going to place the individual tested
15 marijuana, which is more sealed, into evidence, if
16 that makes any sense.

17 THE COURT: Do what now?

18 MS. MAIN: We would like to have this
19 entire thing in evidence. So the plastic bag, the
20 paper bag, and then inside this, the individual
21 packages of marijuana all of that in evidence.

22 THE COURT: Why do you need the paper
23 bag? You've already got -- if he identifies and
24 we swap that one out the way Mr. Newman wants?

25 MS. MAIN: It just shows the chain of

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1 custody.

2 MR. NEWMAN: I'm not objecting to that.

3 MS. MAIN: It's not prejudicial.

4 THE COURT: All right. Let me tell you
5 what I'm going to do: On the marijuana that's
6 already in a bag, I want to do the same thing
7 we're doing with the marijuana.

8 MS. MAIN: Okay.

9 THE COURT: Mr. Newman, on those two,
10 sir, I understand your objection, but I am not
11 inclined to open those drugs, sir. We had a bad
12 situation in -- you're aware of that. You were
13 there.

14 MR. NEWMAN: I understand that. I think
15 there's a simple solution that can --

16 THE COURT: Yes, sir, I'm listening.

17 MR. NEWMAN: We've got a qualified
18 chemist that is here. A well-qualified chemist
19 that is here. I've known Miss Berry for a long
20 time.

21 I think that an incision can be made in
22 this piece, and it's only on one of these bags.
23 The paper bag that's in here, you make a small
24 incision there, remove it, and then seal it back,
25 and that takes care of that.

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1 MS. MAIN: I think that runs the same
2 risk, Your Honor.

3 THE COURT: I note your objection for the
4 record, Mr. Newman. I'm not going to open those
5 bags. The State is not planning on opening them.
6 I personally had a situation where bags were
7 opened and had a SLED agent have a reaction and
8 had to use Narcan to bring her back and was in the
9 hospital. In that case, I'm just not going to do
10 that. I'll note your objection for the record on
11 those three.

12 On the others where we could to do it,
13 and, in my opinion, do it safely, that's what
14 we're going to do.

15 MS. MAIN: Your Honor, just for
16 clarification, for the marijuana, this has been
17 identified. Can we have the witness identify it
18 and then send it back without this bag?

19 THE COURT: Yes, ma'am.

20 MS. MAIN: Okay, great. Thank you.

21 THE COURT: Mr. Newman, you don't have any
22 objection to that?

23 I understand. I just want to make sure.

24 MS. MAIN: Okay, Thank you for the
25 clarification. I appreciate it.

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1 THE COURT: And no objection to the
2 marijuana, right, Mr. Newman?

3 MR. NEWMAN: Well, yeah, there's going to
4 be.

5 THE COURT: Yes, sir.

6 MR. NEWMAN: I have to do it
7 contemporaneously when it happens.

8 THE COURT: I understand that. I
9 understand that.

10 MR. NEWMAN: But I understand your
11 ruling.

12 THE COURT: Yes, sir.

13 All right. Anything before we bring the jury
14 in from the State?

15 MS. MAIN: No, Your Honor.

16 THE COURT: All right. Is this going to
17 be your last witness?

18 MS. MAIN: Yes, Your Honor.

19 THE COURT: All right. Well then, in
20 that case, Mr. Newman, anything before we bring
21 the jury in, sir?

22 MR. NEWMAN: No. We're finishing with
23 Miss Berry?

24 MS. MAIN: Yes.

25 MR. NEWMAN: Okay.

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1 THE COURT: They're going to call her as
2 their next witness.

3 MR. NEWMAN: Okay. And I know the State
4 likes to do it, but I know Miss Berry, I've known
5 her for years, I know her qualifications, I will
6 stipulate that she is a forensic chemist, that she
7 is studied and licensed, and can perform her
8 opinions as to drug analysis.

9 THE COURT: All right.

10 MR. NEWMAN: If she wants to go through
11 the whole CV, I can't stop her.

12 THE COURT: I understand that. I'll
13 leave that to the State's discretion. He's
14 willing to stipulate to her expertise.

15 But, in any event, let's go ahead and
16 let's bring the jury in, please.

17 THE BAILIFF: Yes, sir.

18 THE COURT: Thank you.

19 MS. MAIN: Your Honor, can we release the
20 other witnesses?

21 THE COURT: Sure.

22 MS. MAIN: Do we need to bring them back
23 tomorrow?

24 THE COURT: Do you have any reason for me
25 to need to bring them back, Mr. Newman?

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1 MR. NEWMAN: I'm not calling anybody.

2 MS. MAIN: Okay.

3 THE COURT: So then they can be released,
4 yes.

5 MS. MAIN: Thank you, Your Honor.

6 THE COURT: Thank you.

7 THE BAILIFF: Jury is entering the
8 courtroom, Your Honor.

9 THE COURT: Thank you.

10 (Jury enters the courtroom at 4:24 p.m.)

11 THE BAILIFF: Jury is seated, Your
12 Honor.

13 THE COURT: All right. Foreman, ladies
14 and gentlemen, the State is ready to call their
15 next witness.

16 Solicitor.

17 MS. MAIN: The State calls Renita
18 Berry.

19 THE COURT: Yes, ma'am.

20 THE CLERK: If you will state your name
21 and spell it for the Court, please.

22 THE WITNESS: Renita L. Berry,
23 R-e-n-i-t-a, B-e-r-r-y.

24 THE COURT: Thank you. Raise your right
25 hand. Do you solemnly swear or affirm to

Testimony of Renita Berry
1 truthfully answer all questions asked of
2 you by this court so help you God?

3 THE WITNESS: Yes, I do.

4 THE CLERK: Thank you.

5 THE COURT: Hello. You doing okay?

6 THE WITNESS: I am, sir.

7 THE COURT: Good.

8 WHEREUPON:

9 RENITA BERRY,
10 after having been sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MAIN:

13 Q Where do you currently work?

14 A Beaufort County Sheriff's Office.

15 Q And what is your title with the Beaufort County
16 Sheriff's Office?

17 A I am the lab director for the Beaufort County
18 Sheriff's Office forensic services lab.

19 Q And so what are some of your job duties?

20 A My primary duties as the lab director is to
21 supervise and manage the laboratory and its
22 operations and personnel and to ensure
23 accreditation for the laboratory.

24 Q And how long have you been with the Beaufort
25 County Sheriff's Office?

Testimony of Renita Berry

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1 A I've been with the sheriff's office since
2 November 2001, so almost 22 years.

3 Q And what is your educational background?

4 A I have a chemistry degree, a degree in
5 chemistry from the University of South Carolina,
6 and I also have a master's in management from
7 Western University.

8 Q Do you have any other additional certifications,
9 or do you have any other continuing education?

10 A As a drug chemist, or in forensics, the
11 continuing education is always. So on a routine
12 basis, we complete classes. We complete classes
13 on the different drugs that are out there, along
14 with the instrumentation and methods that we need
15 to use.

16 Q How many items would you estimate that you've
17 analyzed for suspected narcotics?

18 A Thousands.

19 Q And have you ever previously testified as an
20 expert?

21 A Yes, I have.

22 Q In what field?

23 A Drug chemistry.

24 Q About how many times would you say you testified
25 as an expert?

Testimony of Renita Berry

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1 A Over 95 times.

2 Q And then you said you keep up with accreditations.

3 Is the Beaufort County lab accredited?

4 A Yes, we are.

5 Q And what is accreditation?

6 A Accreditation is when you have outsiders that
7 come in, outsiders in that profession that come in
8 to evaluate you to see if you're meeting the
9 standards. So we are accredited under 16-17-025.

10 Q And can you explain what's involved in keeping
11 your accreditation?

12 A Making sure that we do -- we follow our
13 procedures, of course, and then also the standard
14 in 17-025, making sure that we're always
15 maintaining our documentation and making sure that
16 we are performing our analysis and anything else
17 that we're doing according to those standards.

18 Q And, in the lab, is there any peer review of
19 work?

20 A Yes. We have 100 percent peer review of all
21 cases.

22 Q And what about proficiency testing?

23 A So we are proficiency testing at least -- the
24 requirement is at least once a year in the drug
25 analysis lab, and even in the entire lab. We

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1 received at lease three efficiency tests, three
2 for drug chemistry. So three per year per
3 analyst.

4 MS. MAIN: Your Honor, at this time, the
5 State moves Miss Berry as an expert in forensic
6 drug chemistry and identification of controlled
7 substances.

8 THE COURT: All right. Any objection?

9 MR. NEWMAN: Without objection, and
10 limited to that field.

11 THE COURT: All right. So, ladies and
12 gentlemen, I'm going to find that she is, in
13 fact -- that this witness is, in fact, an expert
14 in the field of forensic drug -- chemistry?

15 MR. NEWMAN: Analysis.

16 THE COURT: Analysis. Thank you.

17 Now, folks, I want you to know something:
18 Normally, a person cannot give opinion testimony.
19 Normally, when a person testifies, they've got to
20 testify to what they saw, heard, maybe what they
21 smelled, or something of that nature. However,
22 there's an exception when someone is qualified,
23 because of education or experience, they're
24 permitted to give their opinion in certain areas
25 if this Court qualifies them as such. And so I am

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1 qualifying her as an expert in this field and
2 she's qualified to give opinion testimony in that
3 area.

4 Now, I want you to know that the fact --
5 that does not mean that because she is an expert
6 that you must accept her opinion, but it is
7 evidence for you to use, folks, in any way you see
8 fit.

9 All right. Solicitor, you can continue.

10 BY MS. MAIN:

11 Q Were you asked to test substances in this case?

12 A Yes, I was.

13 Q And before you test a substance, where is it
14 retrieved from?

15 A Evidence is stored at the Beaufort County
16 Sheriff's Office evidence section.

17 Q Is it securely stored there?

18 A Yes, it is.

19 Q And then after it's retrieved from there, where
20 does it go?

21 A After it is retrieved from our evidence
22 building, it is brought over to the lab and it is
23 logged into our system. And then we place it in a
24 secure location the entire time that it is
25 there.

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1 Q Is that evidence sealed when it's stored?

2 A Yes, it is.

3 Q And is the movement of evidence typically tracked
4 and logged?

5 A Yes, it is.

6 Q And, in this instance, prior to testing the
7 substances, had they been tested before?

8 A Yes, it was.

9 Q By whom?

10 A Jessica Zipfield, she was a chemist that was
11 with us at the time and she's since gone back home
12 to Kansas.

13 Q So, you asked to retest the drugs in this case?

14 A Yes.

15 Q Did you review anything prior to retesting these
16 substances?

17 A I did review her notes to see her method for
18 testing and what she had found.

19 Q And when the items that you were testing came to
20 you, were they sealed?

21 A Yes.

22 Q Would you have tested them if they weren't
23 sealed?

24 A No, we would not have.

25 Q When you were reviewing what had previously been

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1 done to them, would you have proceeded with testing if
2 it was outside of lab standards?

3 A Repeat that, please.

4 Q Would you have proceeded with retesting the
5 substances if it was outside -- if anything was done
6 outside of lab standards?

7 A No, I wouldn't have.

8 Q Did the items come to you signed as well? Did the
9 items come to you signed as well on the seals?

10 A Yes.

11 Q Now, how do you go about testing these items?

12 A So, one item is removed at a time, and it is
13 first examined visually to make sure that the seal
14 and everything is in tact. Once that's done, then
15 the evidence is opened and we conduct a series of
16 preliminary testing. And that preliminary testing
17 may be chemical tests, microscopic tests,
18 microscopic testing, and even a visual test
19 because you're looking to see how that evidence --
20 how that substance, or type of substance it is,
21 the form of it, the color. We're looking at all
22 of those different things when we're doing
23 preliminary testing.

24 After you conduct the preliminary testing,
25 then you perform what we call confirmatory testing.

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1 The main instrument that we use for confirmatory
2 testing is our gas chromatograph mass spectrometer,
3 and that's a two-part instrument where the GC mass
4 spec -- GC is the first part where the sample is
5 introduced to that instrument, and then it's later
6 introduced to the mass spec. Then you're getting your
7 information from both of those instruments along with
8 your preliminary testing to make a determination.

9 Q And is that the testing that you used in this
10 case?

11 A Yes, it is.

12 MS. MAIN: Your Honor, I am showing the
13 witness what has been premarked as State's 4, 5,
14 6, 7, 8, 9, 10, 11, 12, and 13.

15 THE COURT: All right.

16 (STATE EXH. 8, Marijuana, was marked for
17 identification.)

18 (STATE EXH. 9, Marijuana, was marked for
19 identification.)

20 (STATE EXH. 10, Marijuana, was marked for
21 identification.)

22 (STATE EXH. 11, Marijuana, was marked for
23 identification.)

24 (STATE EXH. 12, Marijuana, was marked for
25 identification.)

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(STATE EXH. 13, Marijuana, was marked for

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1
2 identification.)

3 BY MS. MAIN:

4 Q Can you tell me what this is?

5 A What do you want to know?

6 Q Do you recognize that?

7 A Yes, I do.

8 Q Are those items that you tested?

9 A Yes.

10 Q And that plastic bag that's it's in, did you cut
11 that open?

12 A I did.

13 Q There are seals on that. What are those?

14 A So the seals on the bag is just where the bag
15 is sealed, along with my initials and the date
16 that it was sealed.

17 Q And then inside that is a paper bag. Do you
18 recognize it?

19 A Yes.

20 Q Is that still sealed as well?

21 A No, I unsealed it over there.

22 Q And you did that when?

23 A Just a few minutes ago.

24 Q And the inside bag, the paper bag, is that signed
25 as well by you?

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1 A Yes, it is.

2 Q And other than testing the contents of the bag,
3 did you alter them in any way?

4 A No, I did not.

5 Q And when you were done, did you seal it and take
6 it back to evidence lock up?

7 A Yes.

8 Q And then inside that bag, do you recognize the
9 contents of inside that bag?

10 MS. MAIN: I'm showing the witness what
11 is labeled as State's 8, 9, 10, 11, 12.

12 THE COURT: Yes, ma'am.

13 THE WITNESS: Yes, I do.

14 BY MS. MAIN:

15 Q And were -- is the seal on those items in tact
16 still?

17 A Yes.

18 Q And are they signed as well?

19 A Yes.

20 Q And other than testing, did you alter those items
21 in any way?

22 A I did not.

23 Q And when you were done were they resealed and
24 taken back to evidence lock up?

25 A Yes.

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1 MS. MAIN: Your Honor, at this time,
2 State moves State's Exhibit 4, 8, 9, 10, 11, 12,
3 and 13 into evidence.

4 THE COURT: Any objection, Mr. Newman?

5 MR. NEWMAN: Yes, Your Honor.

6 THE COURT: Do we need to take this
7 outside the presence of the jury or can you
8 approach? Have you already made this argument?

9 MR. NEWMAN: I think I can do it in two
10 quick sentences.

11 THE COURT: Yes, sir.

12 MR. NEWMAN: We renew and maintain our
13 objection on the 4th Amendment and Article I
14 Section 10 SC Constitution grounds.

15 THE COURT: All right.

16 MR. NEWMAN: Therefore, we object to the
17 admission of those items on both grounds.

18 THE COURT: Yes, sir. And for the same
19 reasons, sir, that I gave earlier, I respectfully
20 deny your motion.

21 MR. NEWMAN: Yes, sir.

22 (STATE EXH. 4, Evidence Bag; 9 Marijuana
23 bags, was entered into evidence.)

24 (STATE EXH. 8, Marijuana, was entered into
25 evidence.)

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1 (STATE EXH. 9, Marijuana, was entered into
2 evidence.)

3 (STATE EXH. 10, Marijuana, was entered into
4 evidence.)

5 (STATE EXH. 11, Marijuana, was entered into
6 evidence.)

7 (STATE EXH. 12, Marijuana, was entered into
8 evidence.)

9 (STATE EXH. 13, Marijuana, was entered into
10 evidence.)

11 MS. MAIN: And, Your Honor, the State is
12 showing the witness what's been premarked as
13 State's 5, 6, and 7.

14 BY MS. MAIN:

15 Q Do you know recognize these?

16 A Yes.

17 Q Are those items sealed?

18 A Yes, they are.

19 Q And are they signed with a signature as well?

20 A Yes, they are.

21 Q And other than testing these items, did you alter
22 them in any way?

23 A I did not.

24 Q And after you were done with them, did you reseal
25 them and take them to evidence lock up?

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1 A Yes.

2 MS. MAIN: At this time, Your Honor,
3 State moves State's Exhibit 5, 6, and 7 into
4 evidence.

5 THE COURT: Mr. Newman, any objection?

6 MR. NEWMAN: Same objection.

7 THE COURT: Same objection, and I note my
8 same rationale also. I respectfully deny it.

9 (STATE EXH. 5, Plastic Bag; Cocaine, was
10 marked for identification.)

11 (STATE EXH. 6, 264 Pills, was entered
12 into evidence.)

13 (STATE EXH. 7, Orange Pills, was entered
14 into evidence.)

15 THE COURT: Go ahead, Solicitor.

16 MS. MAIN: Permission to have the witness
17 step down, Your Honor.

18 THE COURT: Yes, ma'am.

19 MS. MAIN: Permission to publish these
20 exhibits.

21 THE COURT: Yes, ma'am.

22 BY MS. MAIN:

23 Q All right. Can you explain -- you tested those
24 items?

25 A Yes.

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1 Q Okay. And when you performed your analysis -- you
2 can pull them out -- did you collect a weight for
3 these items?

4 A Yes, I did.

5 Q And can you tell us the weight of each of these
6 items for the jury? Let's start with lab item 1.2.

7 A Okay. Let me put them in order. One second.
8 Okay.

9 Q All right. So let's start with State's Exhibit 8.
10 You tested this item?

11 A Yes, I did.

12 Q And can you tell us the weight of this item?

13 A The weight of that item is 3.47 grams.

14 Q And based on your analysis of this item, did you
15 come to a conclusion about the contents of this item?

16 A Yes, I did.

17 Q And what was that?

18 A Based on the testing that was conducted,
19 Delta-9-THC concentration greater than one
20 percent.

21 Q What about State's Exhibit 9, lab item 1.3? You
22 tested this item?

23 A Yes, I did.

24 Q And what was the weight of this item?

25 A 3.20 grams.

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1 Q And did you come to a conclusion based on your
2 analysis about the contents of this bag?

3 A Yes, I did.

4 Q And what was that?

5 A In my opinion, and based on the testing,
6 Delta-9-THC concentration greater than one
7 percent.

8 Q State's Exhibit 10, this is lab item 1.4, you
9 tested this item?

10 A Yes, I did.

11 Q And what was the weight of this item?

12 A The weight of that item was 3.30 grams.

13 Q And based on your analysis of this item, did you
14 come to a conclusion about the contents of the bag?

15 A Yes, I did.

16 Q And what was that?

17 A Delta-9-THC concentration greater than one
18 percent.

19 Q In regards to State's 11, you tested this item?

20 A 1.5 --

21 Q And this is lab item 1.5?

22 A Yes.

23 Q And you tested this item?

24 A Yes, I did.

25 Q And what was the weight of the substances in this

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1 item?

2 A The weight of that item was 3.27 grams.

3 Q And based on your analysis of this substance, did
4 you come to a conclusion about the contents of this
5 item?

6 A Yes.

7 Q And what was that?

8 A Delta-9-THC concentration greater than one
9 percent.

10 Q And this is State's Exhibit 12. You tested this
11 item? This is lab item 1.7?

12 A Yes.

13 Q And what was the weight of this item?

14 A The weight of item 1.7 was 13.64 grams.

15 Q And based on your testing, did you come to any
16 conclusion about the contents of this bag?

17 A Yes, I did.

18 Q And what was that?

19 A Delta-9-THC concentration greater than one
20 percent.

21 Q And this is State's 13, lab item 1.8. You tested
22 this item?

23 A Yes, I did.

24 Q And what was the weight of this item?

25 A The weight of that item was 13.60 grams.

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1 Q And, based on your analysis, did you come to any
2 conclusion about the contents of this bag?

3 A Yes, I did.

4 Q And what was that?

5 A Delta-9-THC concentration greater than one
6 percent.

7 Q And then this item, did you test this item?

8 A Yes, I did.

9 Q And what are the contents of that item based on
10 your analysis of the substances in there? Is this lab
11 item number 2?

12 A Yes, it is. The substance from the five bags
13 were analyzed and found to contain cocaine.

14 Q And did you weigh this item?

15 A Yes, I did.

16 Q And what was the weight of the contents of that
17 bag?

18 A For the total net weight of analyzed
19 substance was 34.57 grams.

20 Q Thank you. And then this is State's Exhibit 6, is
21 this lab item 3?

22 A Yes, it is.

23 Q And you tested that item?

24 A Yes, I did.

25 Q And, based on your analysis of the substance in

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1 there, did you come to a conclusion about the contents
2 of that bag?

3 A Yes.

4 Q And what was that?

5 A Methamphetamine.

6 Q And did you weigh the items in that bag?

7 A Yes, I did.

8 Q And what was the weight that you came to?

9 A 38.01 grams.

10 Q Okay. This is State's Exhibit 7. Is this lab
11 item number 4?

12 A Yes, it is.

13 Q And, based on your analysis in that bag, did you
14 come to any conclusion about the contents of the
15 bag?

16 A Yes, I did.

17 Q And what was that?

18 A Methamphetamine.

19 Q Did you weigh the items in that bag?

20 A Yes, I did.

21 Q And what was your conclusion as to the weight of
22 the substances in that bag?

23 A 6.69 grams.

24 Q Thank you.

25 MS. MAIN: No other questions, Your

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1 Honor.

2 THE COURT: Thank you.

3 Mr. Newman, do you have any
4 cross-examination, sir?

5 MR. NEWMAN: I just --

6 CROSS-EXAMINATION

7 BY MR. NEWMAN:

8 Q Miss Berry, you don't, in this case, and probably
9 most cases, play a role in collecting any of the
10 evidence. You work in the lab and you test substances
11 right?

12 A Yes. Yes, only in the lab.

13 Q Right. You're not the investigator. You don't
14 deal with suspects, all that kind of stuff. You just
15 test?

16 A No, I don't.

17 Q Thanks.

18 A Thank you.

19 THE COURT: Solicitor, anything further?

20 MS. MAIN: Court's indulgence one moment,
21 please.

22 THE COURT: Yes, ma'am.

23 REDIRECT EXAMINATION

24 BY MS. MAIN:

25 Q And when you test these items and you come to the

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1 conclusions about these, they are within lab
2 standards?

3 A Yes, they are.

4 Q And you mentioned cannabis, THC. What is that?

5 A So cannabis, THC, tetrahydrocannabinol, is
6 the active ingredient found in marijuana.

7 MS. MAIN: No other questions, Your
8 Honor.

9 THE COURT: Mr. Newman, anything else?

10 MR. NEWMAN: No, Your Honor.

11 THE COURT: Thank you so much. Have a
12 great afternoon.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: All right. Solicitor, call
15 your next witness.

16 MS. MAIN: At this time, the State rests.
17 And I ask that this witness be released from her
18 subpoena.

19 THE COURT: Any objection to her being
20 released from her subpoena, Mr. Newman?

21 MR. NEWMAN: No.

22 THE COURT: All right. Thanks. She can
23 be released. Have a great afternoon.

24 MS. MAIN: Your Honor, at this time, the
25 State rests.

1 THE COURT: All right. Thank you.

2 All right. Ladies and gentlemen, the
3 State has rested in this matter. And so, at this
4 point, there are several matters of law that are
5 going to need to be taken up outside of your
6 presence. I think now would be an excellent time
7 to break for the day. I would ask that you be
8 back tomorrow morning at ten o'clock and we
9 will continue with the trial of the case. Please
10 do not conduct any research, and please do not
11 talk about the case amongst yourselves or with
12 anyone else. I'll see you back tomorrow morning
13 at ten o'clock. Thank you very much.

14 (Jury exits the courtroom at 4:47 p.m.)

15 THE BAILIFF: Jury is clear, Your Honor.

16 THE COURT: All right. Mr. Newman, the
17 State has rested. Do you have any motions, sir?

18 MR. NEWMAN: Well, I was going to move to
19 adjourn to get a beer, but that might be
20 premature. So I'll make motion pertinent to this
21 case.

22 THE COURT: All right, Mr. Newman. Go
23 ahead, sir.

24 MR. NEWMAN: First of all, Your Honor, I
25 make a motion as to the last witness as to the

1 extent necessary to strike her testimony. At no
2 time was she asked as to any of the substances
3 whether to a reasonable degree of forensic
4 certainty or a reasonable degree of forensic
5 certainty or reasonable degree of certainty in
6 forensic chemistry are these items, X, Y, and Z
7 meant whatever it came out to be; cocaine and
8 marijuana.

9 I think with that, that would also
10 bootstrap into a motion for directed verdict that
11 there is no evidence properly submitted before the
12 Court as to the substances of the drugs. There
13 was also no testimony that those substances were
14 in violation of the controlled substances law.

15 Therefore, I think strongly on that, that
16 the chemist's testimony has to be stricken and
17 that the directed verdict needs to be granted as
18 to those grounds.

19 Also, as to the -- I make the motion for
20 directed verdict that the State, in these types of
21 charges, that the gravity of the defense is the
22 defendant's knowledge coupled with possession,
23 either actual or constructive. I would submit
24 that there has been no shred of evidence entered
25 that Mr. Williams knew of, knew what the drugs

1 were, knew that these items were in his car, was
2 ever shown or questioned about these items.
3 There's no -- nothing connecting them to him.
4 There's no -- they were found in a bag in a box in
5 a back seat. There is no testing for touch DNA
6 fingerprints, hair fiber, any other type of
7 analysis, and the -- as I understand, in this box,
8 or whatever, that was found in the back in the bag
9 was not out, open, and obvious. The bag itself
10 was a sealed container. And I would move under
11 *State vs. Brown* that there is a lack of showing of
12 knowledge on Mr. Williams's part.

13 I would imagine the State is going to
14 argue an inference. If you are operating a
15 vehicle or have dominion and control over it, that
16 there is a permissive inference that you would
17 have dominion and control of any items in that
18 vehicle. However, that is an inference only.

19 I will get the case before tomorrow, but,
20 as Your Honor knows, in a -- this came out two
21 years ago, and I will get you the case. I just
22 don't have it on me. The court, the Supreme Court
23 now says you cannot charge permissive inferences
24 as to -- in constructive possession cases anymore,
25 because that is a fact for the jury and that's not

1 a charge that the Court can give.

2 The case alluded that the solicitor may
3 be able to argue that, but that is not a charge on
4 the law that can be given. I would say with that
5 that there is not enough nexus. That was found in
6 the box in a bag in a car. There is simply no
7 evidence.

8 Only one officer said he smelled
9 marijuana. No officers said they smelled anything
10 on him. There was nothing in the car. It wasn't,
11 quote, dirty. There was no shake, no papers,
12 Christmas trees, grinders, spoons, wrappers, any
13 of these type of stuff that was out in this
14 vehicle.

15 But also we knew, now that you've heard
16 all the testimony and the State's grounds for this
17 speeding stop, I think now that you have heard all
18 the evidence, I want to renew my motion to
19 suppress the evidence because I think they have
20 clearly now admitted that they have coupled --
21 maybe things they did in a vacuum might have been
22 okay. But when you marry them and couple them to
23 each other -- de-coupled, they might be fine, but
24 coupled they're not. You know, our main argument
25 on that is that you don't -- the way this was set

1 up, putting this drug dog on there, expanding the
2 scope of the stop.

3 I think Your Honor hit it, you know,
4 perfectly yesterday. If they didn't have a reason
5 to put that dog on there, they're out. Because of
6 the scope of their stop is limited to -- and I
7 don't know what you investigate in a speeding
8 ticket other than trying to get somebody to
9 confess that, *Yeah, I was going too fast*, or
10 whatever. So they're not there.

11 I am renewing the grounds to suppress the
12 evidence on that, and for a directed verdict as to
13 the State to prove -- did not prove actual
14 possession and did not prove knowledge coupled
15 with some type of possession; actual or
16 constructive.

17 Thank you, Your Honor.

18 THE COURT: All right. Solicitor, yes,
19 ma'am.

20 MS. MAIN: Yes, sir.

21 A directed verdict, Your Honor weighs in
22 the light most favorable to the non-moving party.
23 In this case, to address his arguments as he made
24 them, the defense says that we needed to ask her
25 if they were within a reasonable degree of

1 certainty. He wants us to use that language
2 exactly.

3 Based on the entire testimony, it's
4 obviously that she used lab standards. I asked if
5 all of the results were within lab standards.
6 Mr. Newman said she's very qualified, and we
7 agree. We qualified her and she said that she
8 made her conclusions based on her testing that she
9 is qualified to do. So we believe that we do not
10 need to strike her testimony. It was adequately
11 testified to, her knowledge, experience, training,
12 and that was used to test and come to the
13 conclusion about the substances.

14 And in response to her claiming it was in
15 violation of the Controlled Substances Act, she's
16 not a lawyer. She doesn't need to explain that in
17 great detail.

18 And in reference to Mr. Newman's claim
19 about knowledge and possession, the defendant was
20 in actual possession of the bag in the car that is
21 registered to him. He's the only person in the
22 car. And *State v. Taylor* and *State v. Raffel*
23 actually says the defendant doesn't need to know
24 the precise identity of the controlled substance
25 and we don't need to prove that. That's not

1 standard. Trafficking is possession and weight,
2 and we feel like we have met that burden.

3 As far as the motion to suppress, Your
4 Honor, we don't feel a need to address that unless
5 Your Honor wishes for us to address it at this
6 time, but we believe, at this point, it's a matter
7 for the jury to consider.

8 THE COURT: All right. Mr. Newman, I'm
9 going to deny your motions. As it relates to the
10 underlying stop, we've been through that. And,
11 you know, like I said, assuming we didn't believe
12 the officer -- and I'm not assuming I didn't.
13 That testimony came in. In fact, at this point, I
14 think that's a matter for the jury to decide.

15 But even if you didn't have that
16 testimony, which you do, and I'm going back now to
17 the underlying motion, we had a dog. I just
18 think -- you know, we've been through it. I
19 understand, and I think I outlined why I had to
20 grant (sic) your motion to suppress.

21 As it relates to your other matters, I'm
22 going to respectfully deny it.

23 I think that -- you know, as it relates
24 to the reasonable degree of certainty, you know, I
25 kind of think that falls within -- and there may

1 have been a case about this, but what I call, kind
2 of, magical words that need to be used. There may
3 have been a case concerning that. I just don't
4 think that we've got to use a certain word or
5 certain phrase. And I think that we look at the
6 totality of the information that was provided by
7 the lab director.

8 And, again, I'm looking for the existence
9 of evidence. I'm not looking for -- I'm not here
10 finding -- other than looking to the existence.
11 And I think when we look to the totality of the
12 testimony that's provided. I just think that that
13 is going to -- I think that prevents evidence to
14 get over the threshold at a directed verdict
15 stage. The same with the knowledge and control
16 aspect. I think that the information, I'm looking
17 at the existence. I think certainly there's the
18 existence of evidence and how strong that is.
19 That's another matter.

20 Then finally, you know, the expert
21 witness not testifying that cocaine is in
22 violation, or methamphetamine is in violation of,
23 I guess -- is it Title 44?

24 MR. NEWMAN: 44.

25 THE COURT: 44. I just think that,

1 again, that almost runs akin to what I consider to
2 be the magical words. I think the information
3 that's been provided -- when we look at it in the
4 totality of circumstances, I think there's enough
5 there to allow this matter to move forward.

6 So, with all due respect, sir, I'm going to
7 deny your motions.

8 All right. Mr. Newman, would now be an
9 appropriate time to go over your client's rights,
10 about his right to testify, sir?

11 MR. NEWMAN: Uhm ...

12 THE COURT: I'm assuming you've talked to
13 him about that.

14 MR. NEWMAN: I have not.

15 THE COURT: Okay. Well, do you want to
16 do that first thing in the morning, Mr. Newman?

17 MR. NEWMAN: We can do that. My
18 inclination -- we haven't talked about. I'm not
19 going to have him -- it's his choice, obviously,
20 and the Court would question him. I just want to
21 let Mr. Williams know that the Court will question
22 him about his right to testify and not testify.

23 THE COURT: And that's what I was
24 planning on doing. If he has any questions about
25 that, that's what I was planning on doing.

1 MR. NEWMAN: We're not going to put up a
2 case, Your Honor.

3 THE COURT: All right. At this point,
4 let me do this, let me go ahead and read him his
5 rights as it relates to your right to testify.

6 Let me did this, sir: Could you raise
7 your right hand. Do you swear to tell this Court
8 the truth, the whole truth, and nothing but the
9 truth so help you God?

10 MR. WILLIAMS: Yes, I do, Your Honor.

11 THE COURT: Thank you very much.

12 All right. Sir, could you state your name
13 for me, please.

14 MR. WILLIAMS: My names is Latavious
15 Terell Williams.

16 THE COURT: Mr. Williams, at this time,
17 Mr. Williams, I'm going to explain to you your
18 rights. If you do not understand anything I say,
19 Mr. Williams, I'd ask that you please let me know.
20 If you want me to explain anything in more detail,
21 Mr. Williams, please let me know. Do you
22 understand me, Mr. Williams?

23 MR. WILLIAMS: Yes, Your Honor.

24 THE COURT: Okay. So, Mr. Williams,
25 we've now reached the stage in the trial where you

1 may present your defense. You have the right to
2 claim the protections given to you, Mr. Williams,
3 by the Fifth Amendment to the Constitution of the
4 United States, sir, which reads in part: "No
5 person shall be compelled in any criminal case to
6 be witness against himself." This means,
7 Mr. Williams, that you cannot be required to
8 testify in this case. You have the right to
9 testify on your own behalf. However, no one can
10 make you testify. This as a personal right and no
11 one can waive this right except for you. Do you
12 understand that, Mr. Williams?

13 MR. WILLIAMS: Yes, Your Honor.

14 THE COURT: Thank you.

15 Mr. Williams, if you decide to testify,
16 you will be subject to the same rules that govern
17 other witnesses, sir, and you may be examined and
18 cross-examined on any relevant issue in this case.
19 In addition, Mr. Williams, if you have any
20 convictions involving dishonesty or false
21 statements, or for crimes punishable by
22 imprisonment for more than one year, sir, and this
23 Court determines that the probative value of
24 admitting this evidence outweighs its prejudicial
25 effect to you, the solicitor will be able to

1 introduce your record to attack your credibility.

2 Do you understand that, Mr. Williams?

3 MR. WILLIAMS: Yes, Your Honor.

4 THE COURT: Speak up just a little bit
5 for me.

6 MR. WILLIAMS: Yes, Your Honor.

7 THE COURT: Thank you, Mr. Williams.

8 All right. Mr. Williams, if you decide
9 to testify, this decision on your part, sir, must
10 be freely, voluntarily, and intelligently made
11 with the knowledge of the protections given to
12 you, Mr. Williams, by the Fifth Amendment and the
13 consequences of your decision to testify. Do you
14 understand that, Mr. Williams?

15 MR. WILLIAMS: Yes, Your Honor.

16 THE COURT: So, Mr. Williams, I want you
17 to know this: If you decide not to testify, I
18 will instruct the jurors that they cannot give the
19 fact that you did not testify any consideration
20 whatsoever, and that is there is to be absolutely
21 no prejudice to you, sir, because you did not
22 testify.

23 It is left entirely up to you whether or
24 not you testify. You may talk with your attorney,
25 family, friends, anyone else, but the final

1 decision, Mr. Williams, will be left entirely up
2 to you.

3 Mr. Williams, let me ask you, sir: Do
4 you understand what I've explained to you?

5 MR. WILLIAMS: Yes, sir.

6 THE COURT: Okay. Mr. Williams, do you
7 have any questions of me about what I've explained
8 to you, sir?

9 MR. WILLIAMS: Not at all, sir.

10 THE COURT: Okay. And have you had a
11 chance to talk with your lawyer about whether you
12 should or should not testify, sir?

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: You've talked to Mr. Newman
15 about that?

16 MR. WILLIAMS: Yes, sir.

17 THE COURT: Let me ask you: Do you need
18 any more time to talk with Mr. Newman about that?

19 MR. WILLIAMS: No, Your Honor.

20 THE COURT: So let me ask you, sir,
21 Mr. Williams: Do you wish to testify, sir?

22 MR. WILLIAMS: No.

23 THE COURT: Okay, Great. Thank you very
24 much. You can be seated.

25 All right. What I would plan on doing

1 now is, tomorrow morning, get the jury in here at
2 10:00. Mr. Newman, I would then allow you, at
3 that point, to proceed. I'm assuming you would
4 say that the State rests. Excuse me, the defense
5 rests. I apologize. And then, at that point, we
6 would be in a position to take up any motions,
7 which probably will be brief, and then go into
8 closing arguments and my charge on the law.

9 All right. What I plan to do is to have
10 my clerk forward to you proposed charges. These
11 are just some proposed charges that we put
12 together. I want you to take a look at them. If
13 there are other charges or anything else that you
14 want to bring to the Court's attention, I'll look
15 at that.

16 In addition, I'd like you-all to be here
17 at 9:30 so we can go over the charges. I don't
18 know that you've tried -- have you tried a case --
19 I don't think you've tried a case with me to
20 verdict, Mr. Newman.

21 MR. NEWMAN: (Witness nods head up and
22 down.)

23 THE COURT: You have? I can't remember.
24 Time flies.

25 But, in any event, what I'm going to end

1 up doing is, you know, basically I'll ask, is
2 there any objection to a particular charge, and we
3 go forward. I like to get it on the record as it
4 relates to each charge as we move forward. But
5 I'm happy to look at and consider any other
6 charges that anybody presents me. Just have that
7 for me. Email that to my clerk. That would be
8 great. And he'll also work at putting together a
9 verdict form.

10 If you-all want to put together a verdict
11 form and have one also, I'm happy to look at that.

12 Anything further from the State before we
13 break for the evening?

14 MS. MAIN: No, Your Honor. Will the
15 bailiff be here at 9:00 or 9:30 for us to make the
16 appropriate changes to the evidence bags that are
17 to be locked up in there?

18 THE COURT: I think somebody can be here
19 to allow you to do that, yes, ma'am. And then
20 we'll start at 9:30 and we'll, kind of, go with
21 the charge conference and look at what we got. So
22 hopefully we can get the jury in here as close to
23 10:00 as we can and go straight on in.

24 Mr. Newman, anything else, sir?

25 MR. NEWMAN: Yeah, just, when I do a

1 little research tonight looking through some
2 things -- is the State -- is the theory of their
3 case it's an actual possession case? I heard her
4 say something about that.

5 THE COURT: I can't tell you that. I
6 mean, that would be something you can take up with
7 them. Typically, I would -- I would -- well, this
8 case right now, I'd probably be inclined to
9 charge -- well, you-all let me know what you want
10 to charge. You-all let me know what you suggest
11 the charge is.

12 I certainly will say, there is no
13 evidence in the record that he had -- well, he was
14 never touching the drugs, as I understand. They
15 found no drugs on his person. I think that
16 evidence is abundantly clear.

17 You would agree, Solicitor?

18 MS. MAIN: Yes, sir.

19 THE COURT: All right. So from there,
20 what may be out there as it relates to the law, I
21 haven't researched that. You-all bring that to my
22 attention and we'll get on that tomorrow morning.
23 Okay?

24 MS. MAIN: Thank you, sir.

25 THE COURT: Anything else, Mr. Newman?

1 MR. NEWMAN: Not that I can think of.

2 THE COURT: All right. Thank you.

3 (Court adjourned.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, 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 of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

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

February 26, 2024

A handwritten signature in cursive script, reading "Sharon G. Hardoon", written in dark ink.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF BEAUFORT

4 The State of South Carolina,
5 vs. Transcript of Record
6 2020-GS-07-01205
7 2020-GS-07-01206
8 2020-GS-07-01207
9 Latavious Williams,
10 Defendant.

11 August 24, 2023
12 Beaufort, South Carolina
13 Volume III of III

14 B E F O R E:

15 The HONORABLE ROBERT J. BONDS

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

17 Monica Main, Solicitor
18 Hannah Kidd, Solicitor

19 Jared Newman, Representing the defendant

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21

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SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

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1 THE COURT: Mr. Newman, Solicitor, are we
2 ready to go through the jury charges?

3 MS. MAIN: Yes, Your Honor.

4 THE COURT: Mr. Newman?

5 MR. NEWMAN: Yes, Your Honor. I forgot
6 my cell phone this morning. Your staff was kind
7 enough to let me in the back, but I was unable to
8 make a call. I wanted to call my office. My
9 client is not here. I told him to be here at
10 9:30.

11 THE COURT: All right. So you're telling
12 me you were not able to call your office?

13 MR. NEWMAN: I was not able to get
14 through. I dialed the 9, but it just looked at me
15 like I was crazy.

16 THE COURT: All right.

17 MR. NEWMAN: I wanted to see if I could
18 get the chance real quick to call Dawn and see if
19 she's heard --

20 THE BAILIFF: Would you like to try this?

21 MR. NEWMAN: -- from Latavious.

22 THE COURT: Let him use that, that would
23 be perfect.

24 (Off the record.)

25 MR. NEWMAN: To quote my paralegal, go

1 ahead with jury charges. We waive his presence
2 for that part of it.

3 THE COURT: Yes, sir. Have you-all had a
4 chance to look at the jury charges, Mr. Newman?

5 MR. NEWMAN: I have not, Your Honor.

6 THE COURT: All right. Well, we're going
7 to go through them right now, Mr. Newman.

8 MR. NEWMAN: Yes, sir. That was what I
9 was hoping we'd do.

10 THE COURT: And, Solicitor, have you had
11 a chance to look at them?

12 MS. MAIN: I have, Your Honor.

13 THE COURT: Let me ask you this then: As
14 it relates to page 1 and 2 of the jury charge,
15 which is basically an introduction and information
16 to the jury concerning the case, any objection
17 from the State?

18 MS. MAIN: Yes, Your Honor.

19 THE COURT: What's that?

20 MS. MAIN: It says traffic methionine 10
21 grams or more but less than 28 grams. The charge
22 is trafficking methamphetamine and it's more than
23 28 grams, but less than a 100 grams.

24 THE COURT: All right. You can make that
25 chance for me. Methamphetamine.

1 MS. MAIN: More than 28 grams, but less
2 than 100 grams, similar to the language for
3 trafficking cocaine.

4 THE COURT: All right. Mr. Newman,
5 anything else from you, sir?

6 MR. NEWMAN: Do you have a printout of
7 the charges? I was not able to go by office this
8 morning.

9 THE COURT: Can you print a copy out for
10 Mr. Newman, please?

11 MR. NEWMAN: Thank you. That would be
12 very helpful.

13 THE COURT: So, Solicitor, I take it that
14 on page 3 that needs to be changed also?

15 MS. MAIN: Yes, sir. Similarly
16 trafficking methamphetamine more than 28 grams,
17 but less than 100 grams.

18 THE COURT: Yes, ma'am.

19 Mr. Newman, let me ask you: Have you
20 read the first page and second page?

21 MR. NEWMAN: Yes, sir. I'm up to
22 page 4.

23 THE COURT: All right. Hold on one
24 second, because what I want to do/is, I want to go
25 through what we got right now.

1 On page 1 and 2, the change that the
2 solicitor made mention of that it's actually
3 trafficking in methamphetamine 28 grams or more, but
4 less than 100 grams, you would agree that needs to be
5 changed, sir?

6 MR. NEWMAN: Sure, if that's what the
7 indictment says.

8 THE COURT: I believe that's what the
9 indictment says.

10 Solicitor?

11 MS. MAIN: That is.

12 THE COURT: All right. We're going to
13 make that change.

14 Any other objection to 1 and 2, sir?

15 MR. NEWMAN: No.

16 THE COURT: On page 3, Solicitor, it
17 looks like under multiple charge indictment 3 that
18 we need to make the same change?

19 MS. MAIN: Yes, sir.

20 THE COURT: 3 and 4 are charge, arrest,
21 and indictment not evidence. Any other changes
22 from the State?

23 MS. MAIN: No, Your Honor.

24 THE COURT: So, Mr. Newman, have you had
25 a chance to look at that?

1 MR. NEWMAN: Yes, sir. I was through
2 page 4.

3 THE COURT: All right. Well, then -- go
4 ahead. Are you finished with page 4?

5 MR. NEWMAN: Yes, sir. I'm through
6 page 6.

7 THE COURT: What I want to do is, when
8 you get to the end of each subsection, that's what
9 I want to do. I want to now go and look at
10 charge, arrest, indictment. The solicitor has
11 indicated on number 3, indictment number 3, the
12 bottom of page 3, that ought to be changed to
13 trafficking in methamphetamine 28 grams or more,
14 but less than 100 grams, which I believe is what
15 the indictment reflects.

16 Do you have any objection to that charge,
17 sir?

18 MR. NEWMAN: No.

19 THE COURT: So no other modifications
20 other than that one, sir?

21 MR. NEWMAN: No, sir.

22 THE COURT: All right. Go ahead and look
23 at duties of the judge on 5 and 6, please.

24 MR. NEWMAN: Already read it. No
25 objection.

1 THE COURT: And, Solicitor, do you have
2 any objections to duty of the judge on 5 and 6,
3 ma'am?

4 MS. MAIN: No, sir.

5 THE COURT: All right. Solicitor, what
6 about 7 and 8, credibility of the witnesses?

7 MS. MAIN: Nothing from the State.

8 THE COURT: All right. Take your time,
9 Mr. Newman.

10 MR. NEWMAN: No objection.

11 THE COURT: All right, thank you. Page 9
12 and 10, Solicitor, expert witness, any objection
13 to that charge?

14 MS. MAIN: Nothing from the State.

15 THE COURT: All right.

16 MR. NEWMAN: No objection.

17 THE COURT: Thank you, Mr. Newman.

18 All right. Page 11 and 12 presumption of
19 innocence, any objection from the State?

20 MS. MAIN: None from the State.

21 MR. NEWMAN: No objection to the
22 reasonable charge, reasonable doubt charge 1.

23 THE COURT: I'm sorry? Mr. Newman, I'm
24 sorry. I was distracted.

25 MR. NEWMAN: No objection to the first

1 part of the reasonable doubt charge, only the
2 second part of it.

3 THE COURT: All right. Well, let me ask
4 you, any objection to the reasonable doubt charge?

5 MS. MAIN: No, Your Honor.

6 THE COURT: All right. Thank you.

7 Mr. Newman, go ahead.

8 MR. NEWMAN: No objection.

9 THE COURT: All right. Solicitor,
10 page 15 and 16, direct and circumstantial
11 evidence, any objection from the State?

12 MS. MAIN: No objection.

13 MR. NEWMAN: As to the charge itself,
14 Your Honor, on direct and circumstantial, the
15 charge itself is correct, but I don't think it is
16 necessary in this case. I don't think there was
17 any circumstantial evidence in this case. You
18 either believe the cops or you don't.

19 THE COURT: All right. I'll note that
20 for the record. I'm going to keep the charge as
21 it exists.

22 All right. Solicitor, page 17, failure of
23 the defendant to testify.

24 MS. MAIN: No objection from the State.

25 MR. NEWMAN: I have no objection to that,

1 but I would request that it not be called a
2 failure of the defendant to testify because there
3 is no requirement that he testify.

4 THE COURT: All right. Hold on one
5 second. And in -- the heading says that,
6 Mr. Newman, but I don't read the heading to them.
7 Is that all right, sir?

8 MR. NEWMAN: That's fine.

9 THE COURT: And I didn't indicate that.
10 The heading is just something, as we go through
11 the page, it allows me to identify in general what
12 that is. I don't think the contents of the charge
13 reflects "failure."

14 Any other objections, Mr. Newman, to that
15 charge?

16 MR. NEWMAN: No, sir.

17 THE COURT: All right. Page 18, 19,
18 intent, Solicitor?

19 MS. MAIN: Nothing from the State.

20 THE COURT: All right. Mr. Newman?

21 MR. NEWMAN: If I can have a moment, Your
22 Honor.

23 THE COURT: Go ahead. Yes, sir.

24 MR. NEWMAN: As to the intent, the Court
25 goes on to give different levels of intent,

1 purpose intent, knowledge of recklessness. I
2 think it should be paired back because the
3 question in this case is that, what the State has
4 to prove is, they have to prove intent and coupled
5 with knowledge of the substances.

6 So what the State has to prove beyond a
7 reasonable doubt is that the defendant had knowledge
8 of the substances that it is alleging.

9 THE COURT: All right. I was going to
10 note your objection for the record. I'm going to
11 charge as is. Thank you.

12 MR. NEWMAN: All right. The portion that
13 says, "It's not necessary to establish intent by
14 direct and positive evidence," that's a comment on
15 the facts.

16 THE COURT: Note your objection for the
17 record, sir.

18 MR. NEWMAN: And then as to the very last
19 paragraph, I do not believe that is a correct
20 statement of the law.

21 THE COURT: Note your objection for the
22 record.

23 Solicitor, yes, ma'am.

24 MR. NEWMAN: Sir?

25 THE COURT: No. Solicitor, on page 20

1 and 21, possession of cocaine.

2 MS. MAIN: The State did have a concern,
3 Your Honor.

4 THE COURT: What's that.

5 MS. MAIN: The very last sentence on page
6 21, I have a case for Your Honor. I think that
7 that charge -- that explanation is not
8 appropriate. I'm going to pass up *State v.*
9 *Stewart*. This is 433 SC 382.

10 THE COURT: Okay.

11 MS. MAIN: For Your Honor to consider.
12 And I have a copy for your law clerk as well.

13 THE COURT: So let me ask you: Do you
14 have a proposed charge?

15 MS. MAIN: I just think that that
16 sentence should probably be excluded, and the
17 basis --

18 THE COURT: Hold on. What should be
19 excluded, now, ma'am?

20 MS. MAIN: The sentence is, "The
21 defendant's knowledge and possession may be
22 inferred when the substance is found on the
23 property under the defendant's control."

24 THE COURT: Hold on. Where is this?

25 MR. NEWMAN: It's the very last

1 paragraph, Your Honor.

2 THE COURT: All right.

3 MR. NEWMAN: Well, past mere presence.
4 Very last one.

5 THE COURT: So what is your concern,
6 Solicitor?

7 MS. MAIN: In the case that I handed you,
8 on page 6 it says, "The jury instruction
9 explaining inference is improper," and they
10 overruled Adams on that point and said, "The jury
11 charge instructing a jury it may infer knowledge
12 or possession when a substance is found on the
13 property under the defendant's control should no
14 longer be given," and that's a 2021 case.

15 THE COURT: All right. So what do you
16 think should be excluded?

17 MS. MAIN: I think it's appropriate to
18 delete the sentence that says, "The defendant's
19 knowledge and possession may be inferred when a
20 substance is found on the property under the
21 defendant's control."

22 THE COURT: What about the remainder of
23 the paragraph? I mean, it would seem --

24 MS. MAIN: I feel like without the first
25 sentence, it doesn't make sense.

1 THE COURT: I would agree. So if you're
2 saying that sentence should be removed then the
3 second sentence -- or the sentence after that, the
4 "however" should be removed also?

5 MS. MAIN: I believe so, because it
6 wouldn't make sense without the first sentence.
7 It's not appropriate.

8 THE COURT: Mr. Newman?

9 MR. NEWMAN: That's correct. I cited
10 that case, and they called it a bad jury charge.

11 THE COURT: So then I'm going to take
12 that out. I'm going to take out -- the last thing
13 I'll be reading is the mere presence is not enough
14 and then it would stop right there.

15 MR. NEWMAN: Correct.

16 THE COURT: All right. Mr. Newman, any
17 other objections that you have to the marijuana
18 charge?

19 MR. NEWMAN: I do not.

20 THE COURT: All right. What about the
21 trafficking cocaine, Solicitor?

22 MS. MAIN: No objection from the State.

23 THE COURT: Mr. Newman?

24 MR. NEWMAN: Your Honor, I would ask that
25 the trafficking statute be limited to the evidence

1 that was presented at trial and trafficking in
2 this case is based solely on possession. So the
3 fact that the defendant knowingly sold,
4 manufactured, cultivated, delivered, purchased,
5 brought into the State, I think we would just have
6 to say that the defendant knowingly possessed an
7 amount of cocaine because there's no statements by
8 the defendant that were introduced at trial.

9 THE COURT: Solicitor, what do you say
10 about that? I mean, we just got this litany of
11 things, but it would seem that the issue here is
12 whether or not he possessed it.

13 MS. MAIN: I think that this is a fair
14 statement of the definition of trafficking
15 cocaine, and I think from the evidence that the
16 jury could find that he had cultivated, delivered,
17 purchased, brought into the State. I think that's
18 a fair statement of the law.

19 MR. NEWMAN: There's just no evidence as
20 to those particular acts.

21 THE COURT: All right.

22 MS. MAIN: I think the evidence of the
23 bags and the scale and the phones, it would all be
24 in one space, could leave the jury to consider the
25 language as stated.

1 THE COURT: All right. And I think
2 that's right. I'll note your objection for the
3 record, but I'm going to allow -- I'm going to
4 charge that as presented -- or as I present it.

5 What about trafficking in methionine?

6 MS. MAIN: The State would ask that it be
7 changed to methamphetamine.

8 THE COURT: Okay.

9 MS. MAIN: As well as the very last
10 sentence, 28 -- it should be 28 grams to 100
11 grams.

12 THE COURT: Right. The same changes we
13 made earlier.

14 MS. MAIN: Yes, it would be the same
15 language to the trafficking cocaine charge.

16 THE COURT: All right. Mr. Newman, you
17 see the charge -- do you have any objection to
18 what the solicitor says needs to be changed as it
19 relates to the misspelling of methamphetamine and
20 the weight needs to be changed, sir?

21 MR. NEWMAN: I do. But I also, as in the
22 other two, think the charge is slightly
23 defectively written in that the State must prove
24 beyond a reasonable doubt a certain amount. The
25 State -- it's ignored that the State must prove

1 beyond a reasonable doubt that the defendant
2 knowingly possessed these drugs.

3 THE COURT: All right. I'll note that
4 for the record. We're going to make those
5 changes. I'm going to keep it the same.

6 All right. Mr. Newman, take a look at
7 the conclusionary language that I've got there,
8 sir.

9 MR. NEWMAN: Yes, sir.

10 THE COURT: Any objection to that,
11 Mr. Newman?

12 MR. NEWMAN: No objection, Your Honor.
13 However, in addition, I think that the king charge
14 needs to be added in that each charge has to be
15 considered separately.

16 THE COURT: Didn't I do that on
17 multiple --

18 MR. NEWMAN: If you did, I didn't see it.

19 THE COURT: We should have.

20 MS. MAIN: I believe it's on page 4, Your
21 Honor.

22 THE COURT: "Each indictment charges a
23 separate and distinct offense. You must decide
24 each indictment separately on the evidence and the
25 law applicable to it uninfluenced by your decision

1 as to any other indictment."

2 MR. NEWMAN: I see that now. That's
3 fine.

4 THE COURT: Is that okay?

5 MR. NEWMAN: Yes, sir.

6 THE COURT: Mr. Newman, I want to go
7 back, sir -- all right. Let me ask you this: Any
8 additional charges that anybody is proposing needs
9 to be added to the charges that I've got here?

10 MS. MAIN: None from the State.

11 THE COURT: Mr. Newman?

12 MR. NEWMAN: No, sir.

13 THE COURT: Have you seen the verdict
14 form, Mr. Newman?

15 MR. NEWMAN: I have not.

16 THE COURT: Let me hand this to you. One
17 thing that needs to be changed on the verdict form
18 is the methionine charge that the Solicitor has
19 pointed out that my clerk failed to -- I don't
20 know maybe that's a new drug. I don't know what
21 you did. He's doing a fine job.

22 LAW CLERK: I don't know my drugs.

23 MR. NEWMAN: Yeah, that's fine.

24 THE COURT: All right. So she's going to
25 make that change. Is that all right,

1 Mr. Newman?

2 MR. NEWMAN: Yes, sir.

3 THE COURT: Mr. Newman, I want to go back
4 to your intent charge, sir, that you had a problem
5 with the intent charge.

6 MR. NEWMAN: Yes, sir.

7 THE COURT: I want to go back and look at
8 that, sir, all right?

9 MR. NEWMAN: What page is that?

10 THE COURT: I don't know. I'm turning,
11 Mr. Newman. I've got it on page 18, Mr. Newman.

12 So, Mr. Newman, can you state for me,
13 again, what your objections are to the intent
14 charge, sir?

15 MR. NEWMAN: Intent, the law of -- the
16 elements of purpose -- I guess, purposefulness,
17 intentional recklessness or criminal negligence
18 must be proven by the State. We, yeah, as a
19 general thing of law, those are your whole
20 pamphlet of mens rea elements. In this case, it's
21 intent and knowledge. *State vs. Stewart*, the case
22 that the Solicitor cited, the 2021 case, which is
23 the newest case, kind of, on this subject says
24 that -- I believe that the correct charge would be
25 that when you have a case of trafficking by

1 possession it has two elements; actual physical
2 custody of the drugs or the power to exercise
3 control over the drugs; and, two, knowledge of the
4 presence of the drugs. Knowledge means the
5 defendant must have knowledge of the drugs and the
6 intent to control their disposition and use. And
7 that is what I think from *Stewart* is the correct
8 charge on intent.

9 THE COURT: Solicitor, what do you say?

10 MS. MAIN: I think that's adequately
11 explained in the trafficking charge itself. This
12 is just a general explanation of intent and
13 criminal liability, and then the specific elements
14 that Mr. Newman is discussing is clarified within
15 the charge. I think it falls appropriately within
16 *State v. Stewart*.

17 THE COURT: Mr. Newman, what you just
18 argued to me, I'll be honest, I think that it's
19 general, and I think, when we look at what I
20 charged on the trafficking, that I think that
21 issue that you brought up is sufficiently
22 addressed. And also, I charge them that they have
23 accept my charge as a whole and not bits and
24 pieces and take some and disregard others.

25 What you brought up, sir, that I'm

1 concerned about or that piqued my interest was
2 what you indicated to be a comment on the facts,
3 because -- I think it was this, was it this charge
4 that you brought up that you were concerned about
5 a comment on the facts; sir?

6 MR. NEWMAN: That was on one of those,
7 and you don't have to --

8 THE COURT: That's what I want to go back
9 to. What charge was that that I had an issue
10 about a comment on the facts? Was it not the
11 intent, sir?

12 MR. NEWMAN: It's the intent.

13 THE COURT: Where is it? You were
14 reading a specific portion that you said you
15 thought were -- or could be considered a comment
16 on the facts. I want to review that, sir, because
17 I know there has also been an emphasis lately on
18 comments on the facts, sir.

19 MR. NEWMAN: Well, the first one is that
20 there is no way to prove intent to a mathematical
21 certainty, and that's fine in a civil case. But I
22 believe that's a comment on the facts. And then
23 it's not necessarily -- it's not necessary to
24 establish intent by direct and positive evidence,
25 but may be established in other ways. Those are

1 comments on the facts on how you look at
2 something. You don't have to establish something
3 by direct and positive evidence. That just seems
4 like above the law.

5 THE COURT: So you're thinking that
6 basically, "It is not necessary to establish
7 intent by direct and positive evidence" should be
8 removed?

9 MR. NEWMAN: Yes, sir.

10 THE COURT: And just put in then "Intent
11 may be established the same way as any other
12 fact."

13 MR. NEWMAN: Correct.

14 THE COURT: What do you say about that?

15 MS. MAIN: I don't think it's a comment
16 on the facts at all. All I think it just
17 elaborates on direct and circumstantial evidence,
18 which is appropriate and it also frames the jury
19 for how they're allowed to consider these issues
20 rather than commenting on the facts or indicating
21 that they should see a fact in any particular way.
22 It just gives them the basis for how they can
23 consider the things that are presented to them.

24 THE COURT: So, Mr. Newman, is it just
25 that one phrase that I think needs to come out?

1 MR. NEWMAN: Well, that, and there's no
2 way to prove something's "intent" to a
3 mathematical certainty. I think that's a comment
4 on the facts.

5 MS. MAIN: I think without that, I think
6 it establishes the need to prove something to a
7 mathematical certainty, which is not the standard
8 based on this language.

9 THE COURT: North Carolina has pattern
10 jury instructions, and so it makes jury charges a
11 lot easier when you have pattern jury instructions
12 that they keep up and update.

13 I'll just be honest, I don't feel that
14 this charge is commenting on the law -- or, excuse
15 me, commenting on the facts, and I'm going to keep
16 that. I'm going to keep that as is. And I note
17 your objection for the record, Mr. Newman.

18 MR. NEWMAN: If I could ask, what is
19 positive evidence? Is there such a thing as
20 negative evidence?

21 THE COURT: Where?

22 MR. NEWMAN: It says it's not necessarily
23 necessary to establish intent by direct and
24 positive evidence. I just don't know what
25 "positive" is. I never heard that term before. I

1 don't know what that means.

2 THE COURT: Would you like -- I guess,
3 "Intent can be by direct and circumstantial
4 evidence."

5 MR. NEWMAN: That's what I was wondering,
6 like it looks like that's what it should have
7 said. I just don't know what positive is.

8 THE COURT: I'm going to scratch that
9 out. I'm going to put direct and circumstantial
10 evidence, because the charge earlier says that
11 there's generally two types of evidence, direct
12 and circumstantial. And so I'm going to change
13 that.

14 MR. NEWMAN: I don't think that fixes it
15 either because the -- that says it's not necessary
16 to establish it by circumstantial evidence.

17 THE COURT: Well -- go ahead.

18 MR. NEWMAN: That philosophically doesn't
19 make sense.

20 THE COURT: Let me ask you, Mr. Newman,
21 do you have a charge for me to consider? Did you
22 bring a charge for me to consider, an intent
23 charge that you prefer? Because certainly you've
24 tried enough cases that you would have an intent
25 charge or a preferred intent charge.

1 MR. NEWMAN: I do. The intent charge
2 that I wanted, as I stated, was out of *State vs.*
3 *Stewart*.

4 THE COURT: All right. Well, show me,
5 where is it? Here's *State v. Stewart*. Show me
6 what you want the definition of intent to be. I
7 need to see it.

8 MR. NEWMAN: Yes, sir. This is 3 out of
9 6.

10 THE COURT: Yes, sir.

11 MR. NEWMAN: And it looks like it's
12 starting at the bottom of the page at headnote 2.
13 It says, "To prove trafficking" --

14 THE COURT: Hold on. Hold on. I'm
15 looking. Is it from four decisions? Right here?

16 MR. NEWMAN: Yes, sir. That's it. It's
17 going to be the sentence right after that --

18 THE COURT: Yes, sir.

19 MR. NEWMAN: "To prove trafficking based
20 on possession," which is what we have here, "the
21 State must prove two elements. First, the State
22 must prove the defendant had either the
23 actual physical custody of the drugs, or the right
24 or power to exercise control over the drugs.
25 Actual possession requires actual physical custody

1 of the drugs, constructive possession is the
2 right -- to exercise dominion and control.

3 And, secondly, "The State must prove the
4 defendant had knowledge of the presence of drugs.
5 Knowledge means the accused must have an intent to
6 control the disposition or use of the drugs."

7 Those are the two elements that the State
8 must prove in the intent to control the
9 disposition or the use of the drugs beyond a
10 reasonable doubt.

11 THE COURT: Would this just need to be
12 added to a trafficking charge?

13 MR. NEWMAN: It needs to be added to all
14 the drugs charges, in my opinion, Your Honor,
15 because that's --

16 THE COURT: Yeah, but -- right. The
17 trafficking charge, wouldn't this be language that
18 would be added to the trafficking charge as
19 opposed to the intent charge. Because it seems to
20 me this is a statement talking about the
21 trafficking of drugs.

22 MR. NEWMAN: If that's where you want to
23 add it, that's fine. I just think it needs to be
24 added.

25 MS. MAIN: So I feel like it's two parts

1 now. So referencing the general intent charge, I
2 think positive evidence explains -- that would be
3 an example of, like, if the defendant said, I
4 *intended to traffic drugs*. I think that's
5 positive evidence, and I think that is adequately
6 explained in here as is.

7 In reference to what Mr. Newman is
8 specifically requesting from this case, *State v.*
9 *Stewart*, I don't think that that's appropriate in
10 the general intent charge. I actually think it is
11 confusing.

12 In the trafficking charge, I think it is
13 adequately explained what knowledge and possession
14 is.

15 THE COURT: All right. So hold on. I'm
16 going to keep the intent charge the way it is,
17 Mr. Newman. I'm not going to change anything in
18 the intent charge.

19 Let's look at the trafficking charge.
20 All right. Yes, ma'am. I'm looking at the
21 trafficking -- for instance, the trafficking in
22 cocaine charge, yes, ma'am.

23 MS. MAIN: In that it says, "Knowingly or
24 in actual or constructive possession, knowingly
25 attempt to the common actual or constructive

1 possession of cocaine," for example on page 22.

2 THE COURT: Okay.

3 MS. MAIN: I think that is --

4 THE COURT: So two elements -- hold on
5 one second, Solicitor.

6 Go ahead.

7 MS. MAIN: So I think that that is
8 adequately explained. It also follows the
9 explanation on page 20 and 21 of constructive
10 possession. So I think that it is adequately
11 explained that the State has to prove possession
12 knowingly and intentionally.

13 THE COURT: Hold on. Where is the
14 constructive possession that you're making
15 reference to?

16 MS. MAIN: Page 20 and 21.

17 THE COURT: Under the marijuana charge?

18 MS. MAIN: It's explained at length
19 there. It says, "Constructive possession means
20 that the defendant had dominion and control or the
21 right to exercise dominion and control."

22 THE COURT: Then shouldn't we include
23 that in the cocaine trafficking charge?

24 MR. NEWMAN: Yes.

25 MS. MAIN: I do think it's adequately

1 explained when they move one from the other, and
2 it says knowingly. But we're not going to object
3 to that if the Court feels that's appropriate.

4 THE COURT: I think it needs to be the
5 same. I mean, to that extent, if we're defining
6 in the marijuana statute what it is, then I think
7 it needs to be defined in the cocaine and the
8 methamphetamine statute. I would agree.

9 So now, I think I need to look to the
10 language in the marijuana statute.

11 MR. NEWMAN: I think it's the same, Your
12 Honor. They're both possessory offenses. One is
13 just by weight and the other is not.

14 THE COURT: All right. I think that --
15 it sounds to me, I think that the actual
16 possession means that the marijuana, or in this
17 case, the cocaine, or the other case, the
18 methamphetamine was in the actual physical custody
19 of the defendant, construction -- that the
20 defendant had the right of control either over the
21 marijuana itself or the property from which -- or
22 property on which the marijuana was found.

23 I'm going to include that in the two
24 remaining drug charges. I think that that
25 language is sufficient and sufficiently tracks the

1 language that is in the -- I'm sorry, Mr. Newman.
2 The *State v. Stewart* case. That's what I'm going
3 to do. I'm going to make those changes.

4 MS. MAIN: Just so I understand, you're
5 going to add the same language --

6 THE COURT: Yes.

7 MS. MAIN: -- from the possession of
8 marijuana charge to the end of the first paragraph
9 for trafficking cocaine and trafficking
10 methamphetamine, you're going to add that on to
11 each of them.

12 THE COURT: Yes, that's what I'm going to
13 do.

14 MS. MAIN: And then we'll move on to,
15 "The State must prove beyond a reasonable doubt
16 the amount."

17 THE COURT: Yes, ma'am.

18 Mr. Newman?

19 MR. NEWMAN: Your Honor, obviously we
20 object to the language we're asking out of
21 *State v. Stewart*, which is the current correct and
22 concise statement of the law directly on there
23 explaining what the two elements are in a
24 trafficking by possession case. It can't be any
25 clearer. We are asking for that charge under

1 *State vs. Stewart*, the two-elements charge,
2 physical custody and knowledge.

3 Anyway that's --

4 THE COURT: Okay, hold on. Hold on. All
5 right.

6 MS. MAIN: Your Honor, in
7 *State v. Stewart*, after the explanation that
8 Mr. Newman is referring to the court talks about
9 how these four cases describe what's needed to
10 survive directed verdict, but it says, "These
11 decisions accurately define constructive
12 possession in the context of sufficiency of
13 evidence presented in those cases," but none of
14 them dealt directing with fashioning a jury
15 instruction defining a violation of the statute.
16 And I think what has been dealt with is what's in
17 the general charge that's been presented by the
18 Court from the charge book.

19 THE COURT: All right. I'm going to go
20 and I'm going to include the language that's in
21 the marijuana charge -- on the actual and
22 constructive, I want to include that at the end of
23 the first paragraph on the cocaine and the
24 methamphetamine charge.

25 Let's take a minute, let him do that, and

1 then I'm going to look at it and we'll go from there.

2 (Off the record.)

3 THE COURT: I've made the changes to the
4 jury charge and I've also made changes to the
5 verdict form. Anything else about the jury
6 charges from the State?

7 MS. MAIN: Could Your Honor just tell me
8 the changes?

9 THE COURT: Yes.

10 MS. MAIN: What the language you deemed
11 to be appropriate was. Because the State --

12 THE COURT: All right. Well, what I did
13 is, on 2, I changed it to possession of 28 grams
14 or less of marijuana, trafficking cocaine 28 grams
15 or more but less than 100 grams, trafficking in
16 methamphetamine 28 grams or more but less than 100
17 grams.

18 On page 3, I changed that to possession
19 of 28 grams or less of marijuana, trafficking in
20 cocaine 28 grams or more but less than 100 grams,
21 trafficking in methamphetamine 28 grams or more
22 but less than 100 grams.

23 Correct, Solicitor?

24 MS. MAIN: Yes, sir.

25 THE COURT: That's what you wanted.

1 MS. MAIN: Yes, sir, trafficking in
2 methamphetamine, yes, 28 to 100.

3 THE COURT: I kept everything else the
4 same. Presumption of innocence.

5 What charge was it that we took the paragraph
6 out, Solicitor?

7 MS. MAIN: That was --

8 MR. NEWMAN: Intent.

9 MS. MAIN: -- page 21.

10 THE COURT: All right. So everything
11 remaining the same.

12 MS. MAIN: And then --

13 THE COURT: Hold on.

14 MS. MAIN: Yes, sir.

15 THE COURT: All right. 21.

16 MS. MAIN: At the end --

17 THE COURT: Yeah, "Just mere presence at
18 the scene where the drugs were found are not
19 enough," I took that paragraph out. I kept the
20 marijuana charge the same. On the trafficking in
21 cocaine charge, what I did is, after the first
22 paragraph, it's kind of a long paragraph, I then
23 put, "Actual possession means that the cocaine was
24 in the actual physical custody of the defendant.
25 Constructive possession means that the defendant

1 had the dominion or control or right to exercise
2 dominion or control over either the cocaine itself
3 or the property on which the cocaine was found."
4 That's what I put in. Which tracks the language
5 in the marijuana.

6 Yeah. You know, it's frustrating that we
7 get -- I got a jury waiting. It's been 45
8 minutes. We got off to a bad start because there
9 was some issues with Mr. Newman and contacting his
10 client, and then didn't get back to his office
11 yesterday, and so then I had to print out another
12 copy. And so now he's reading it and we're going
13 through these things and he's bringing up changes,
14 and, you know, here we are 45 minutes later, and
15 now I've made these changes. And so what's the
16 issue you've got next, Solicitor? Talk to me.

17 MS. MAIN: I guess my concern is just the
18 language "control over the property."

19 THE COURT: Well, what do you want? I
20 read that language just a minute ago now. I read
21 that language and that's the language that's in
22 the marijuana charge, isn't it?

23 MS. MAIN: Yes, sir.

24 THE COURT: Okay. So what is it that
25 you're asking?

1 MS. MAIN: I think it should just say
2 that the defendant had knowledge of the drugs and
3 the intent to control the disposition or use of
4 the drugs, period. No further explanation for
5 fear it would contradict --

6 THE COURT: All right.

7 MR. NEWMAN: And that would be our
8 position because that's the language directly out
9 of *State v. Stewart*.

10 THE COURT: Okay, hold on. You-all just
11 be quiet for a minute, please.

12 All right. So let's go back to the
13 marijuana charge because obviously you got a
14 problem with that.

15 MS. MAIN: Yes, sir.

16 THE COURT: So let's go back to the
17 marijuana charge. I'm at the marijuana charge.

18 What is it that you have a problem with
19 or a concern about in the marijuana charge?

20 MS. MAIN: On page 21 --

21 THE COURT: Yes, ma'am.

22 MS. MAIN: -- I believe it would fall in
23 line with *State v. Stewart* --

24 THE COURT: Okay.

25 MS. MAIN: -- if it said, "Constructive

1 possession means the defendant had dominion or
2 control or the right to exercise dominion or
3 control over the marijuana," period.

4 THE COURT: All right. So, Mr. Newman,
5 what is your position on that?

6 MR. NEWMAN: It has to say *and had*
7 *knowledge, dominion, and control of the marijuana*
8 *or the drug.* What Stewart took out is the
9 inference of if you have dominion or control over
10 the property --

11 THE COURT: All right.

12 MR. NEWMAN: -- you're basically
13 substituting that and telling the jury --

14 THE COURT: What do you want it to read?
15 You read it, I'm writing.

16 MR. NEWMAN: All right. The State has to
17 prove it's actual physical custody of the drugs or
18 power to exercise control over the drugs.

19 THE COURT: Hold on. Hold on. No. My
20 charge is right here in front of me.
21 "Constructive possession means that the defendant
22 had dominion or control or the right to exercise
23 dominion or control over the marijuana," and then
24 you said, and what?

25 MR. NEWMAN: And has to -- the State has

1 to prove knowledge of the presence that the
2 defendant knew the drugs were present.

3 MS. MAIN: And, obviously, we believe
4 that is explained in the paragraph.

5 THE COURT: I'm including it.

6 MS. MAIN: Yes, sir.

7 THE COURT: And the State has what,
8 Mr. Newman?

9 MR. NEWMAN: Has to prove the defendant
10 had knowledge of the presence of drugs. The
11 defendant must have knowledge of the drugs with
12 intent to control their disposition.

13 THE COURT: All right. Where are you
14 reading that from?

15 MR. NEWMAN: From --

16 THE COURT: Had knowledge of the presence
17 of the drugs.

18 MR. NEWMAN: Correct. And that's
19 directly out of *State vs. Stewart*. I'm taking it
20 out so it's going to read as follows: And the
21 cocaine charge is going to read, "Exercise
22 dominion or control over the cocaine and the State
23 has to prove that the defendant had the knowledge
24 of the presence of the drugs."

25 Mr. Newman, that's what you want?

1 MR. NEWMAN: Yes, sir.

2 THE COURT: That's what I'm giving.

3 That's how it's going to read.

4 MS. MAIN: Understood, Your Honor.

5 THE COURT: If you got an objection to
6 that, you can tell me what it is. Put it on the
7 record. I'm not changing it.

8 MS. MAIN: Understood. We do have an
9 objection. We feel like it was adequately
10 explained. The only thing we didn't want included
11 was him having dominion of the property, and that
12 would be our objection. But we understand Your
13 Honor's rulings.

14 THE COURT: All right.

15 All right. On the meth, I'm doing the
16 same thing. I'm taking out "either." It's going
17 to say, "... over the methamphetamine, and the
18 State has to prove that the defendant had
19 knowledge of the presence of the drugs." And I
20 made the change on the verdict form.

21 All right. Anything else concerning the
22 jury charges from the State?

23 MS. MAIN: We just want to note our
24 objection for trafficking charges for the record,
25 but nothing else.

1 THE COURT: All right. No problem.

2 Anything concerning the verdict form from
3 the State?

4 MS. MAIN: The changes were made as Your
5 Honor stated, methamphetamine 28 grams to 100
6 grams?

7 THE COURT: Yes. "We, the jury, in the
8 above-captioned case on the charge of trafficking
9 in methamphetamine ..." All right. Hold on.

10 Come look at the jury charge. Or the
11 verdict form, I apologize.

12 MR. NEWMAN: Yes. No objection.

13 MS. MAIN: No objection from the State.

14 THE COURT: All right. Anything from the
15 State before we bring the jury in?

16 MS. MAIN: No, Your Honor.

17 THE COURT: Anything from the defense?

18 MR. NEWMAN: No, Your Honor, other than
19 we intend to rest.

20 THE COURT: All right. I'm going to get
21 them in here. I'm going to look to you and you
22 can rest. Okay, sir?

23 MR. NEWMAN: Yes, sir.

24 THE COURT: Let me ask you this: As it
25 relates to making your motions, do you want me to

1 send the jury back out, or you want to make later,
2 or what do you want to do, Mr. Newman? I'll
3 accommodate you anything you want to do.

4 MR. NEWMAN: What I'd like to do is,
5 argue it later. What I'd like to be able to do is
6 just tell the jury -- or when you ask, you know,
7 you recognize us, say the defendant rests and
8 renews all objections. And then we can actually
9 argue them to the extent they need to be argued,
10 if that preserves it. I just want to make sure
11 it's preserved.

12 THE COURT: You got any objection?

13 MS. MAIN: No.

14 THE COURT: Let's do that. Get the jury
15 in here, please.

16 THE BAILIFF: Jury is entering the
17 courtroom, Your Honor.

18 THE COURT: Thank you.

19 (Jury enters the courtroom at 10:58 a.m.)

20 THE BAILIFF: Jury is seated, Your
21 Honor.

22 THE COURT: Ladies and gentlemen, I'm
23 sorry. I'm sorry for keeping you waiting for an
24 hour. I will tell you right now, that it is a
25 slow, deliberative, and repetitive process and

1 some of the matters we had to take up this morning
2 just took flat longer than I thought they were
3 going to, and I apologize for that.

4 I will tell you this, the clerk is going
5 to provide you lunch today. It's not a steak
6 dinner, okay? But what we're going to do is, I
7 think we'll have a working lunch and they've
8 ordered some food that will be arriving here
9 probably around noon or a little bit thereafter.
10 So I want to let you know that. I appreciate
11 you're here. I appreciate your being on time.

12 And so that having been said, you heard
13 all the -- the State has rested in this case.

14 Mr. Newman.

15 MR. NEWMAN: If it pleases the Court,
16 Your Honor, the defense rests, and we renew all
17 objections and motions.

18 THE COURT: All right. Yes, sir. We
19 understand that.

20 And, Solicitor, you understand Mr.
21 Newman's objections and how we're going to deal
22 with those?

23 MS. MAIN: Yes, sir.

24 THE COURT: All right. Thank you very
25 much.

1 Thank you, Mr. Newman.

2 All right. Ladies and gentlemen, the
3 parties have presented their evidence in this case
4 and now it's time for the attorneys to make their
5 closing arguments. The closing arguments of the
6 attorneys are not evidence in this case. Their
7 statements and arguments are meant to help you
8 understand the evidence and apply the law to the
9 evidence. You should disregard any remark,
10 statement, or argument which is not supported by
11 the evidence during the trial or the law that I
12 will instruct you or explain to you after the
13 arguments. So, thank you, ladies and gentlemen.

14 Solicitor, you're going to open in full
15 and you're going to close, Mr. Newman.

16 MR. NEWMAN: That is correct. We have
17 the last argument.

18 THE COURT: Yes, sir. Go right ahead.

19 CLOSING ARGUMENT

20 MS. MAIN: Ladies and gentlemen, I came
21 before you at the beginning of this trial and I
22 told you this case was about drugs. And now that
23 we've heard the evidence, let's talk about what we
24 know. We heard from officer Craig Karafa who was
25 riding with Officer Matthew Huggins as his

1 passenger in a double unit when Officer Karafa
2 pulled over the defendant for speeding and a lane
3 violation on Fording Island Road in Beaufort
4 County on June 11, 2020.

5 Officer Karafa approached the defendant's
6 vehicle and saw that he was the only one in the
7 car. And as he was getting his information, he
8 smelled the odor of marijuana coming from the
9 vehicle, so he pulled the defendant out of the
10 vehicle and Officer Daniel Mooney came with Enzo
11 around the car where marijuana, methamphetamine,
12 and cocaine were ultimately found.

13 Then we heard from Officer Matthew
14 Huggins who approached the defendant's car on the
15 passenger side when the defendant was pulled over.
16 We heard that when he first approached, he didn't
17 smell marijuana because the passenger side window
18 was rolled up. We also heard that he talked with
19 the defendant on the side of the road until the
20 defendant was ultimately given his Miranda rights.

21 Next we heard from Officer Daniel Mooney
22 who arrived at the traffic stop with K-9 Enzo.
23 K-9 Enzo did a free-air sniff around the
24 defendant's vehicle and alerted. Officer Mooney
25 explained that once K-9 Enzo alerted to the car

1 door, Enzo went into the vehicle where he
2 indicated to two places; the center console and
3 the bag in the back seat. We learned that alerts
4 and indicators are different. Enzo, who is a
5 trained narcotics dog, will alert, meaning he
6 detects the odor of narcotics, and then he will
7 indicate to tell Mr. Mooney where the source of
8 that smell is coming from.

9 We heard from Office William Squires who
10 came to the scene and he searched the defendant's
11 vehicle and he found several things. First, we
12 heard about the cell phones. Two cell phones are
13 found in the defendant's vehicle. Next, we heard
14 about the blue bag that was found in the back
15 seat. This blue bag. This blue bag in the back
16 seat of the defendant's vehicle with the coffee
17 container in it, a digital scale, and Baggies
18 inside this blue bag. What else was in that blue
19 bag? Narcotics in the back seat of the
20 defendant's vehicle.

21 We heard about how clean his car was. In
22 the back seat of the car that is registered to the
23 defendant, in his clean car, altogether, and the
24 car where K-9 Enzo alerted, and where Office
25 Karafa smelled the odor of marijuana, all inside

1 the blue bag (indicating).

2 Also inside the blue bag, cocaine and
3 meth inside the blue bag in the defendant's car,
4 the car that he is the registered owner of.

5 MR. NEWMAN: Your Honor?

6 THE COURT: Approach.

7 MR. NEWMAN: I ask that that be stricken.
8 There is no evidence in the record that he is the
9 registered owner of the car. Detective Squires
10 just said whose car was it, and I said it was the
11 defendant's. He didn't say anything about
12 registered owner. There's no registration in
13 evidence. There's not. There's not even a
14 license plate in evidence.

15 THE COURT: All right. Hold on.

16 MS. MAIN: When I asked Officer Squires
17 does he see the owner and operator of the vehicle,
18 he said it was the defendant. So there is
19 evidence he is the owner vehicle.

20 MR. NEWMAN: No registered owner.
21 There's no evidence of that.

22 THE COURT: I'm going to overrule you.

23 Overruled. You can proceed, Solicitor.

24 MS. MAIN: All of this from the blue bag
25 that was in the back seat of the defendant's clean

1 car -- we heard a lot about his clean car -- that
2 he is driving, that he is the registered owner.
3 He's the only one in the car. He controlled the
4 disposition of these drugs. They are his drugs.

5 Then we heard from Renita Berry. She's a
6 drug analyst from the Beaufort County Sheriff's
7 Office, and she tested these substances, and she
8 came before you, and she identified them for you.
9 She explained that these substances include
10 marijuana. Specifically, in separate bags, 3.47
11 grams of marijuana, 3.2 grams of marijuana, 3.3
12 grams of marijuana, 3.27 grams of marijuana, 13.64
13 grams of marijuana, and 13.6 grams of marijuana.

14 Then she came before you and she told you
15 she tested the substance that was believed to be
16 cocaine and it was cocaine, and she told you it
17 weighed 34.57 grams.

18 Then she told you the two bags she
19 testified were methamphetamine, and she told you
20 the one bag weighed 38.01 grams of methamphetamine
21 inside of it, and the other one was 6.6 grams of
22 methamphetamine inside of it. That totaled 44.7
23 grams.

24 Now, the judge, he'll instruct you on the
25 law, so please listen to the law as he states it.

1 But the defendant is charged with trafficking
2 methamphetamine 28 grams -- more than 28 grams but
3 less than 100 grams. He is charged with
4 trafficking cocaine more than 28 grams but less
' 5 than 100 grams.

6 Trafficking requires the State to prove
7 two things beyond a reasonable doubt. First, the
8 defendant possessed the drugs knowingly and
9 intentionally. Second, the weight of the drugs.
10 And we have met that burden today, ladies and
11 gentlemen. We heard that the defendant had these
12 drugs all together in his car. The car that he's
13 the registered owner of and operator of, the car
14 that he is driving, the car that he is the only
15 person in, the car that, when it was pulled over,
16 smelled like marijuana and identified by
17 Officer Karafa that K-9 Enzo alerted to.

18 We know these are his drugs, because
19 they're not just in his car in the back seat of
20 his clean car. We all know. They're not in the
21 trunk. They're in back seat of the defendant's
22 car. He intended to control the disposition of
23 the drugs and he possessed those drugs. He knew
24 about these drugs. And we know that Renita Berry
25 from the Beaufort County Sheriff's Office lab

1 tested all of these to confirm that they are, in
2 fact, narcotics, and she told us the weight of the
3 cocaine was 34.57 grams. And then she told us the
4 weight of the meth in two separate bags was 38.01
5 grams and 6.69 grams, which totals 44.70 grams.

6 The defendant is also charged with
7 possessing marijuana less than 28 grams. And so,
8 for that charge, the State just needs to prove the
9 defendant knowingly and intentionally possessed
10 the marijuana.

11 Again, ladies and gentlemen, we heard the
12 defendant had the marijuana in his car and we
13 heard from Renita Berry that it was, in fact,
14 marijuana.

15 Now, the State bears the burden to prove
16 these charges to you beyond a reasonable doubt.
17 That's not beyond any doubt. Proof beyond a
18 reasonable doubt is proof that leaves you firmly
19 convinced of the defendant's guilt.

20 Now, ladies and gentlemen, we ask that
21 you just use your common sense and consider the
22 evidence that's presented to you. And the State
23 submits we have met our burden. And so we ask you
24 to find the defendant guilty of trafficking
25 methamphetamine 28 grams -- more than 28 grams but

1 less than 100 grams, trafficking cocaine more than
2 28 grams but less than 100 grams, and possession
3 of less than 28 grams of marijuana.

4 Again, we ask you to find the defendant
5 guilty. Thank you.

6 THE COURT: Solicitor, thank you very
7 much.

8 Mr. Newman.

9 CLOSING ARGUMENT

10 MR. NEWMAN: Morning. I am a little bit
11 lost in this case. I've been doing this for 47
12 years.

13 The State used it four times in the
14 closing argument that Mr. Williams was the
15 registered owner of this vehicle. Well, where is
16 the registration? Do you see it? Has the State
17 shown it to you? What's the license tag number on
18 the car when he was stopped? Has the State told
19 you that? Did the State give you any kind of a
20 computer read out and prove to you that that was
21 Mr. Williams's car? He might have been driving it
22 on that day, but they didn't bring any proof to
23 you, other than Squires three years later saying,
24 *Oh, it was his car, yes.* No, they can't even
25 prove that it was his vehicle that he was driving.

1 The State says this blue bag, it's up
2 there I guess -- they went and opened the car and
3 saw it from the dog sniff and from what
4 Sergeant Mooney testified to with Enzo, is that
5 the dog alerted to and scratched the console,
6 however there were no drugs found in the console
7 of the car and that the dog alerted to something
8 in boxes, in boxes, in boxes that was in the back
9 seat, and apparently that bag was in one of those
10 boxes.

11 So what do you do? Probably want to ask
12 some questions. Saying, *What's this? Whose is*
13 *this?* No evidence of any of that. They didn't
14 ask any of that. They just, what I call, grab and
15 go. We found something, let's go. No questions
16 asked. Straight to jail.

17 Now, the reason that becomes paramount is
18 that the judge is going to charge you that merely
19 being present in an area where drugs are found is
20 not sufficient in the law -- it is not sufficient
21 in the law to convict. The State must be beyond a
22 reasonable doubt prove the element -- the
23 particular element of knowledge. They have to
24 prove that Latavious was in actual physical
25 custody of that bag and the stuff that was in it

1 coupled with and they have to prove that
2 Mr. Williams knew what was inside the box inside
3 the bag inside the coffee can. The State has to
4 prove that beyond a reasonable doubt. If they
5 have failed to prove -- the Solicitor said, *Well,*
6 *he knew it was in there.* Well, how does she know.
7 She wasn't there. All right. She doesn't know.
8 The cops don't know. They didn't ask any
9 questions. I say cops respectfully. Law
10 enforcement. I was a deputy sheriff here for
11 almost seven years in Beaufort, so I have a lot of
12 respect for law enforcement.

13 So what do you do to prove knowledge?
14 Well, there's lots of things you can do. One, you
15 can ask the fellow. *That's mine, I'm sorry, I did*
16 *drugs. I'm a bad person. Let's talk.* He didn't
17 ask him any of that. He didn't do any of that.
18 They just cuffed his stuff and went.

19 So you got to prove knowledge. Maybe one
20 way we can prove knowledge is that we heard from
21 -- I don't think she's here today -- Renita Berry,
22 that was the last witness for the State. She was
23 the chemist, and not only the chemist, Lieutenant
24 Berry, I think they told you, runs their whole
25 forensic laboratory and said they have an

1 accredited lab. So what we need to do is show
2 knowledge, very easy things to do. I don't want
3 to encroach on your space. But you take a little
4 Q-tip and you rub these things with a Q-tip. And
5 why would you do that? Why would you rub a Q-tip?
6 Why would you do that? Touch DNA. We all shed
7 about 400,000 cells a day. All of us. We
8 shedding cells right now over all over the place.
9 You can run a test for DNA on it and you can also
10 run a test for one of these. Hard surfaces, you
11 can take prints off of. You can do both. Just
12 because you do one doesn't mean you can't do the
13 other. The lab didn't do both. They have a
14 fingerprint analysis and a DNA analysis. And they
15 could say, *We didn't find any of Mr. Williams's on*
16 *there. We didn't find any of his DNA on there.*
17 Or they could say, we just got DNA on this, on
18 that, on that. There's a fingerprint on this,
19 that, and that. We don't have that. That's why
20 you do that. That's how you prove knowledge.

21 It would be kind of hard to say, well,
22 here's -- you know, those things in there with his
23 DNA or fingerprints all over it. But they didn't
24 bring that to you. And it's not our job to
25 disprove a case, because in our country, in any

1 country, if I accuse of a man of something, it's
2 not his job to disprove it. I could reach under
3 this chair where Tommy is sitting, pull out a bag
4 that's under there and say, *Hey, you know about*
5 *these drugs under there? I'm just sitting here.*
6 *I don't know about them.* That would mean we have
7 to prove Tommy knew there were drugs under that
8 chair. What's the proof in this case that
9 Detective Williams knew there were any drugs
10 inside that bag? Was there any proof he knew that
11 bag was inside the box, the boxes, that was in the
12 back of the car? Ladies and gentlemen, they just
13 didn't bring any evidence on that? These are very
14 serious charges. There is no question about that.
15 There is no question at all.

16 But as I said, today, you become the
17 government. Now, you have to follow the law as
18 Judge Bonds will give it to you, and it's pretty
19 simple when you come down through a lot of it.
20 The State has the burden and always has the burden
21 to prove its case, each and every element.
22 Particularly the element of knowledge beyond a
23 reasonable doubt. If they failed to do that, if
24 you have some questions, if you find yourself
25 asking questions, well, what was the proof that he

1 knew any of the drugs were back there? Well, it
2 was his car. Well, what's the proof it was his
3 car? We don't have a registration. We don't have
4 a license number. We don't have anything.

5 So I think when you exam those critically
6 and look at it, the State just has completely
7 failed -- failed in the most important element,
8 and was to prove that Mr. Williams -- because he
9 does not have to disprove anything -- knew that
10 these were drugs and knew that they were in that
11 bag and knew that bag was in those boxes, and
12 those boxes were in the car, and that it was his
13 car, and they have not brought that proof.

14 So I'm asking you, under your oath as
15 jurors, that when the judge charges you as to what
16 reasonable doubt is, this case is ripe with
17 reasonable doubt, I'd ask you earnestly on
18 Mr. Williams's behalf, when you look at it and you
19 look at the elements of what the State has to
20 prove, they failed completely in proving knowledge
21 of the drugs.

22 Mr. Foreman, ladies and gentlemen, thank
23 you-all.

24 THE COURT: All right. Thank you,
25 Mr. Newman.

1 Furthermore, it's important to understand
2 that the State charges the defendant with the
3 offenses known as possession of 28 grams or less
4 of marijuana, trafficking in cocaine, 28 grams or
5 more, but less than 100 grams, trafficking in
6 methamphetamine 28 grams or more, but less than
7 100 grams. To this charge or these charges, the
8 defendant has entered a plea of not guilty. This
9 plea of not guilty, ladies and gentlemen, places
10 the burden of proof on the State to prove guilt of
11 the defendant to you the jury beyond a reasonable
12 doubt.

13 Now, folks, I want to remind you that the
14 fact that the defendant was arrested, charged, and
15 indicted in this case is not evidence in this case
16 and cannot be considered by you as evidence of
17 guilt in this case, nor does it create any
18 presumption or inference of guilt. The indictment
19 is simply the formal written instrument which
20 contains the charge or charges in this case made
21 against the defendant. It's the formal document
22 by which the case is brought into court.

23 Now, folks, I want you to know that the
24 indictments in this case allege several different
25 offenses against the defendant. The charges are:

1 Indictment 1, possession of 28 grams or less of
2 marijuana; indictment 2, trafficking in cocaine 28
3 grams or more, but less than 100 grams; indictment
4 three trafficking in methamphetamine 28 grams or
5 more, but less than 100 grams.

6 Now, I want you to know, folks, that each
7 indictment charges a separate and distinct
8 offense. You must decide each indictment
9 separately on the evidence and the law applicable
10 to it, uninfluenced by your decision as to any
11 other indictment. The defendant may be convicted
12 or acquitted on any or all of the charges --
13 offenses charged. You will then be asked to write
14 a separate verdict of guilty or not guilty for
15 each indictment.

16 Now, during the trial, folks, you and I
17 have had separate duties to perform. As a trial
18 judge, it's my responsibility to preside over the
19 trial and I also have the duty to rule upon the
20 admissibility of evidence offered during the
21 process of this trial. Now, in that regard, you
22 are to consider only the competent evidence before
23 you and you are to disregard from your mind any
24 testimony ordered stricken from the record in this
25 case during the progress of the trial and you are

1 to consider only the testimony which has been
2 presented from the witness stand together with any
3 exhibit admitted into the record of this case,
4 ladies and gentlemen.

5 Furthermore, I have the additional duty
6 to charge you on the applicable law of this case,
7 and, in that regard, folks, I am the sole judge of
8 the law of this case. It's your duty, ladies and
9 gentlemen, to accept and apply the law as I state
10 it to you. If you have any preconceived ideas as
11 to what the law is or what the law ought to be and
12 doesn't agree with what I tell you the law is,
13 you're obligated under your oath to abandon these
14 preconceptions because you are sworn to accept the
15 law precisely as I state it to you.

16 Now, ladies and gentlemen, in this trial
17 you are sole and exclusive judge of the facts and
18 I'm the judge of the law. Do not infer that I
19 have any opinion about the facts in this case from
20 anything that I said during the course of the
21 trial in ruling upon the admissibility of the
22 evidence or otherwise from anything that I say
23 during the course of this charge to you.

24 Folks, in this regard, the law simply
25 does not permit me to have an opinion about the

1 facts. It's your duty alone to determine the
2 effect, the value, and the weight of the evidence
3 presented during the course of the trial.

4 Now, in determining what the facts in
5 this case are, you must judge the credibility
6 which simply means the believability of the
7 witnesses and the value or weight to be given to
8 their testimony. You alone must decide the force
9 and effect of the testimony. In making this
10 decision, there are many things that you may and
11 should, ladies and gentlemen, take into
12 consideration; such as, the appearance and manner
13 of the witness on the stand, a characteristic
14 often referred to as the demeanor of the witness.
15 Was the witness, ladies and gentlemen, forthright
16 or hesitant? Was the witness's testimony
17 consistent or did it contain discrepancies? What
18 was the ability of the witness to know the facts
19 about which he or she testified? Did the witness
20 have a cause or reason to be biased and prejudiced
21 in favor of the testimony he or she gave? Was the
22 testimony of the witness corroborated or made
23 stronger by other testimony in evidence, or was it
24 made weaker or impeached by such other evidence
25 and testimony?

1 Now, jurors, I want you to understand
2 that you have a right to believe a small portion
3 of a witness's testimony and disregard the larger
4 portion or vice versa. You may believe all of a
5 witness's testimony or none. You may believe the
6 testimony of a single witness against that of many
7 witnesses, or the other way around. In exercising
8 your mental processes in attempting to decide the
9 verdict, the law simply requires that you exercise
10 your good judgment, your common sense, your sense
11 of logic and reason, and your experiences in life.
12 You then apply these attributes, folks, to the
13 evidence and apply the law as I state it to you,
14 and thus you arrive at a verdict.

15 Now, I want you to know that the rules of
16 evidence ordinarily do not permit witnesses to
17 testify to opinions or conclusions. An exception
18 to this rule exists for witnesses we call expert
19 witnesses. A witness who by education,
20 experience, training in some art, or science,
21 profession, or calling may state an opinion as to
22 relevant and material matters in which the witness
23 claims to be an expert and may also state the
24 reasons for the opinion. You should consider any
25 expert opinion received in evidence in this case,

1 and, like any other evidence, give it the weight
2 that you think it deserves. If you decide that
3 the opinion of an expert is not based on
4 sufficient education and experience or if you
5 concluded that the reasons given to support the
6 opinion are not sound, or that the opinion is
7 outweighed by other evidence, you may disregard
8 the opinion entirely. An expert witness's
9 testimony is to be given no greater weight, ladies
10 and gentlemen, than that of other witnesses simply
11 because the witness is an expert. And, further, I
12 want you to know that you're not required to
13 accept an expert's opinion even though it's not
14 contradicted.

15 Now, something that is vital, ladies and
16 gentlemen, to understand is that the defendant is
17 presumed innocent of these charges. The defendant
18 has no obligation to prove his innocence. It's a
19 fundamental rule of our law that a defendant,
20 irrespective of the seriousness of the charges
21 against him, is always presumed innocent of the
22 crime or crimes for which he's charged unless and
23 until his guilt has been proven by evidence that
24 satisfies you, the jury, beyond a reasonable
25 doubt.

1 The presumption of innocence is not, I
2 repeat, is not a mere legal theory or a legal
3 phrase. The presumption of innocence is very
4 important. And you need to understand, ladies and
5 gentlemen, that this presumption accompanies the
6 defendant from the time of his arrest and
7 appearance in this court and continues with the
8 defendant even after you retire to the jury room
9 to deliberate. In other words, the defendant
10 receives the benefit of the presumption of
11 innocence until the very end of the trial when
12 you, the jury, will deliberate upon the evidence
13 and decide whether the State has proven his guilt
14 beyond a reasonable doubt.

15 Now, ladies and gentlemen, you may ask,
16 What's a reasonable doubt in the law? A
17 reasonable doubt is the kind of doubt that would
18 cause a reasonable person to hesitate to act.
19 Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the defendant's
21 guilt. There are very few things in this world
22 that we know with absolute certainty. So even in
23 criminal cases, the law does not require proof
24 that overcomes every possible doubt. However, if
25 based on your consideration of the evidence, you

1 are firmly convinced that the defendant is guilty
2 of the crimes charged, you must find him guilty.
3 If, on the other hands, folks, you think there is
4 a real possibility that he is not guilty, you must
5 give him the benefit of the doubt and find him not
6 guilty.

7 Jurors, please understand that reasonable
8 doubt may arise from evidence which has been
9 presented in the case or for the lack of evidence
10 in a case. It's your responsibility to determine
11 whether or not reasonable doubt exists as to the
12 guilt of the defendant.

13 Now, folks, I charge you that the
14 defendant is entitled to every reasonable doubt
15 arising in the whole case. If upon any issues of
16 fact essential to conviction and a verdict of
17 guilty you have a reasonable doubt as to that
18 issue -- as to how that issue should be resolved,
19 it will be your duty, ladies and gentlemen, to
20 resolve that reasonable doubt in favor of the
21 defendant. Thus, in summary, it's important to
22 understand that a defendant is not required to
23 prove his innocence. Instead, the State is
24 required by law to prove every essential element
25 of the offense charged against the defendant by

1 evidence which satisfies you of his guilt beyond a
2 reasonable doubt. Only then, can you convict the
3 defendant and find him guilty.

4 Now, I want you to know that there are
5 basically generally two types of evidence
6 presented during a trial; direct evidence and
7 circumstantial evidence. Direct evidence directly
8 proves the existence of a fact and does not
9 require deduction. Circumstantial evidence is
10 proof of a chain of facts and circumstances
11 indicating the existence of a fact. Crimes may be
12 proven by circumstantial evidence. The law makes
13 no distinction between the weight or value to be
14 given to either direct or circumstantial evidence.
15 However, to the extent the State relies on the
16 circumstantial evidence, the circumstances must be
17 consistent with each other and when taken together
18 point conclusively to the guilt of the accused
19 beyond a reasonable doubt. If the circumstances
20 merely portray the defendant's behavior as
21 suspicious, the proof has failed.

22 The State has the burden of proving the
23 defendant guilty beyond a reasonable doubt. This
24 burden rests with the State regardless of whether
25 the State relies on direct, circumstantial, or --

1 direct evidence, circumstantial evidence, or some
2 combination of the two.

3 Now, ladies and gentlemen, I instruct you
4 and emphasize that the fact that the defendant did
5 not testify is not a factor to be considered by
6 you in any way in your deliberation and in your
7 consideration on the question of guilt or the
8 innocence of the defendant. It must not be
9 considered by you in any manner whatsoever. A
10 defendant has the constitutional right to remain
11 silent. And the assertion of this right must not
12 be considered by you in your deliberations. I
13 repeat, under your oath you are to draw no
14 conclusion whatsoever from the fact the defendant
15 did not testify. The fact that this defendant did
16 not testify should not even be discussed in the
17 jury room.

18 The burden of proof, as I've stated to
19 you, is on the State. The defendant is not
20 required to prove his innocence. The burden of
21 proof remains on the State to prove guilt beyond a
22 reasonable doubt.

23 Now, folks, in order to establish
24 criminal liability, criminal intent is required.
25 For example, the mental state required to be

1 proven by the State for a particular crime might
2 be purpose, intent, knowledge, recklessness, or
3 criminal negligence. Criminal intent must be
4 proven by the State beyond a reasonable doubt.
5 Criminal intent is always a matter that must be
6 determined by the jury from the circumstances
7 surrounding the situation. There's no way to
8 prove intent to mathematical certainty. There is
9 no way medical science can dissect a person's
10 brain and determine what the person had in mind.
11 So the law says that criminal intent may be shown
12 from the circumstances shown to have existed.

13 This is how you make a determination of
14 whether or not the element-required intent was
15 present. It's not necessary to establish intent
16 by direct and positive evidence, but intent may be
17 established in the same way as any other fact; by
18 taking in consideration the acts of the parties
19 and all the facts and circumstances of the case.
20 Criminal intent is a mental state, a conscious
21 wrongdoing and it's up to you to determine what
22 the defendant intended to do based on the
23 circumstances shown to have existed.

24 Criminal intent can arise from an action
25 or failure to act. It may arise from negligence,

1 recklessness, or an indifference to duty, or
2 consequences that is considered by the law to be
3 the equivalent of criminal intent.

4 Now, folks, the defendant is charged with
5 possession of marijuana. The State must prove
6 beyond a reasonable doubt that the defendant
7 knowingly or intentionally possessed marijuana.
8 Knowingly means with knowledge consciously, not
9 accidentally. Intentionally means, willfully
10 intending the result which actually occurs, not
11 accidentally or involuntarily. Intent may be
12 shown by the acts and conduct of the defendant and
13 other circumstances from which you may naturally
14 and reasonably infer intent.

15 To prove possession, the State must prove
16 beyond a reasonable doubt that the defendant had
17 both the power and the intent to control the
18 disposition or use of the marijuana. Possession
19 may be either actual or constructive. Actual
20 possession means that the marijuana was in the
21 actual physical custody of the defendant.
22 Constructive possession, ladies and gentlemen,
23 means that the defendant had dominion or control
24 or the right to exercise dominion or control over
25 the marijuana, and the State has the burden to

1 prove the defendant had knowledge of the presence
2 of the drugs. Mere presence at the scene where
3 the drugs were found is not enough to prove
4 possession.

5 Now, ladies and gentlemen, the defendant
6 is charged with trafficking in cocaine. The State
7 must prove beyond a reasonable doubt that the
8 defendant knowingly sold, manufactured,
9 cultivated, delivered, purchased, brought into
10 this state, provided financial assistance, or
11 otherwise aided, abetted, attempted, or conspired
12 to sell manufacture, cultivate, deliver, purchase,
13 again, or bring into this state, was knowingly in
14 actual or constructive possession, knowingly
15 attempted to become an actual or constructive
16 possession of cocaine. Actual possession means
17 that the cocaine was in the actual physical
18 custody of the defendant. And, again,
19 constructive possession means that the defendant
20 had dominion or control or the right to exercise
21 dominion or control over the cocaine. And, ladies
22 and gentlemen, the State has the burden to prove
23 that the defendant had knowledge of the presence
24 of the drugs. The State must also prove beyond a
25 reasonable doubt that the amount of cocaine or the

1 mixture containing cocaine was 28 grams or more,
2 but less than 100 grams.

3 Ladies and gentlemen, the defendant is
4 charged with trafficking in methamphetamine. The
5 State must prove beyond a reasonable doubt that
6 the defendant sold, manufactured, cultivated
7 delivered, purchased, brought into this state,
8 provided financial assistance, or otherwise aided,
9 abetted, attempted, or conspired to sell,
10 manufacture, cultivate, deliver, or purchase, or
11 bring into this state, was knowingly in actual or
12 constructive possession, knowingly attempted to
13 become in actual or constructive possession of
14 methamphetamine. Actual possession means that the
15 methamphetamine was in the actual custody of the
16 defendant. Constructive possession means that the
17 defendant had dominion or control or the right to
18 exercise dominion or control over the
19 methamphetamine, and the State has to prove that
20 the defendant had knowledge of the presence of the
21 drugs. The State must also prove beyond a
22 reasonable doubt that the amount of
23 methamphetamine was 28 grams or more, but less
24 than 100 grams.

25 Now, folks, I want you to clearly

1 understand that you're not partisans or advocates
2 for the State of South Carolina or the defendant.
3 It's your joint deliberation. It is your duty by
4 your joint deliberations to determine the facts in
5 this case giving the defendant every reasonable
6 doubt on each and every issue. Then, to the facts
7 which you determine to be true, you should take
8 and apply the law which has been given to you by
9 this Court and thus arrive at your verdict in the
10 case.

11 Thus, when you've accomplished these
12 responsibilities, you will have satisfied your
13 oath as jurors and you will have discharged your
14 duty to this Court.

15 Once you retire to the jury room, the
16 bailiff will give the verdict form to the
17 foreperson. When you, the jury, arrive at a
18 verdict as to the offenses charged in this case,
19 the foreperson will select the verdict as to that
20 offense on the verdict form. If the State has
21 failed to prove guilt of the defendant beyond a
22 reasonable doubt, your verdict will be not guilty.
23 Likewise, if the State has proven the guilt of the
24 defendant beyond a reasonable doubt, your verdict
25 will be guilty.

1 Once a decision has been made, the
2 foreperson will check whichever choice is the
3 verdict of the jury as to the offenses charged.
4 The verdict that you render in this case must be
5 the verdict of each and every juror. It must be
6 your unanimous verdict. All 12 jurors must agree
7 on the verdict, which you authorized the
8 foreperson to write for the jury.

9 Now, ladies and gentlemen, I want you to
10 further understand, the order in which the choices
11 appear on the verdict form are not suggestive of
12 any verdict on the part of this Court. The
13 verdict in this court is to be determined by you,
14 the jury, not the Court.

15 Furthermore, ladies and gentlemen, please
16 understand that even though I will give the
17 verdict form to the foreperson -- or the bailiff
18 will deliver it to the foreperson, it is not his
19 verdict alone. It's the verdict of all 12 of you.
20 Again, I emphasize, your verdict has got to be
21 unanimous.

22 You must consider the instructions that
23 I've given you as a whole and not follow some and
24 ignore others.

25 I now ask that you retire to the jury

1 room but do not begin our deliberations until you
2 are told to do so. The law requires that I now
3 consult with the attorneys to make sure that I've
4 not left anything out of these instructions.
5 After I've checked with them, the bailiff will
6 bring the verdict form and instruct you to begin
7 your deliberations.

8 Also, should you have any questions
9 during your deliberations, I'd ask that you please
10 write them. Put them in writing and then send it
11 to me by the bailiff. The court bailiff will be
12 placed immediately outside the door of the jury
13 room during your deliberation. If you have a
14 question, do not write the breakdown of your vote
15 on the paper that you give the bailiff.

16 Once you reach your verdict, please knock
17 on the jury room door and ask the bailiff to
18 advise the Court that you've reached a verdict and
19 we will return you to the verdict room.

20 Now, ladies and gentlemen, again, when
21 you retire to the jury room, I'm going to ask you
22 not to begin your deliberations until you have
23 been advised to do so.

24 Now, what I'm going to do is, I'm going
25 to just show you, Mr. Foreperson, ladies and

1 gentlemen, you-all can see it too. This is the
2 verdict form right here. And basically we're
3 going to start with number 1. We, the jury, in
4 the above-captioned case on the charge of
5 possession of 28 grams or less of marijuana, you
6 unanimously find Latavious Terrell Williams, and
7 you're going to check one. And that's what I said
8 about the order. Don't attach no significance to
9 the order. One is above the other. But you would
10 check one. And then go to number 2, and, again,
11 you would read number 2 and decide whether to
12 check -- which one is going to be checked. And
13 then finally you would go to question number 3,
14 and you would then check the appropriate line
15 there. Mr. Foreman, you would do that, and then
16 you would sign your name here. Now, remember,
17 this is everybody's verdict. This is the
18 unanimous verdict of the jury. And the only thing
19 that he's doing would be basically writing down
20 what the jury's determination is.

21 So, I'm going to send you back right now.
22 I'm going to ask that you please do not -- do not
23 begin your deliberations. I've got to discuss one
24 or two matters with the jury -- excuse me, with
25 the parties. And as soon as I do and I get the

1 answer to that, the bailiff is going to bring the
2 verdict form back, may bring some of the evidence
3 back, but, at that point, he will tell you when
4 you can commence your deliberations. So thank you
5 so much.

6 (Jury exits the courtroom at 11:45 a.m.)

7 THE BAILIFF: Jury is clear, Your Honor.

8 THE COURT: Anything from the State
9 concerning the instructions that were read and the
10 information that I provided the jury on the
11 verdict form?

12 MS. MAIN: Nothing from the State.

13 THE COURT: Mr. Newman?

14 MR. NEWMAN: Nothing that hadn't already
15 been noted.

16 THE COURT: Yes, sir.

17 All right. Thank you.

18 All right. What I want my parties to do,
19 I'm going to go, I'm going to hand the verdict
20 form down to the clerk, and then I want you to
21 agree on what is supposed to -- what, if anything,
22 is going to go back to the jury and let's get that
23 on the record, please.

24 (Off the record.)

25 MR. NEWMAN: We're good.

1 THE COURT: So we got the verdict form
2 and we've got the evidence and we got an agreement
3 as to what's going back from the State?

4 MS. MAIN: Yes, Your Honor.

5 THE COURT: Mr. Newman?

6 MR. NEWMAN: Yes, sir.

7 THE COURT: All right. So let me ask you
8 this: Any objection to bringing the alternates
9 and then I think, under the law, I would discharge
10 the alternates at this time? Anything from the
11 State?

12 MS. MAIN: No.

13 THE COURT: Mr. Newman?

14 MR. NEWMAN: No, Your Honor.

15 THE COURT: Take all that back, or
16 whatever needs to go back with the verdict form.
17 You can get my alternates out and bring them back
18 and you can tell the jury to commence their
19 deliberations. Thank you, Mr. Bailiff.

20 THE BAILIFF: Yes, sir.

21 (Deliberations begin at 11:46 a.m.)

22 THE BAILIFF: Your Honor, the alternate
23 jurors.

24 (Alternates enter the courtroom at 11:50 a.m.)

25 THE COURT: Thank you.

1 Hello. The good news is, you're finished
2 for the week and thank you. The bad news is, you
3 put time and, obviously, energy and paying
4 attention and you're not able to now go and
5 participate in the actual deliberations. And the
6 reason is because the law only allows 12 folks to
7 be back there and to deliberate. So, to that
8 extent, what I've got to do is, I've got to pull
9 you out and now discharge you.

10 And what I want to tell you is, number 1,
11 I said it to the panel earlier this week, thank
12 you. Thank you for honoring your summons. I hope
13 that this was somewhat educational in the sense
14 that not a lot of people do get to come and
15 actually sit and participate. I think you
16 understand we're dealing with very important
17 matters; important to the State, important to the
18 defense in this case.

19 So the good news is, you're done for
20 three years in circuit court. But, again, as I've
21 said multiple times, that doesn't include federal
22 court, magistrate's court, or city court. They
23 might be able to still get you. But as far as
24 being here in circuit court, you're good for three
25 years. If you want to talk with anybody about

1 this case, you can. If you don't, you don't have
2 to. If you tell somebody you don't want to talk
3 with them about it -- not that I think this is
4 going to happen, but they persist, you just call
5 the clerk's office, they will let me know, they
6 won't talk to you anymore.

7 So I thank you so much. If you need anything
8 for work, any works excuses, the clerk can provide you
9 that. And also I want to let you know, now there's
10 some lunch that's supposed to be coming in a few
11 minutes and some of that was going to include you. If
12 you'd rather go ahead and go, you can. If you want to
13 stick around, they'll bring you -- you won't be able
14 go back with the jury and eat, but they can get you
15 some of those sandwiches and whatnot for you. I also
16 want to let you know one other thing, and that is, if
17 you'd like to stay and you want to see what the jury
18 does, you're welcome to. It's just, they'll walk you
19 around. If you decide to stay, they would bring you
20 some of your lunch, but you would just be back in the
21 gallery. And whenever -- who knows how long the jury
22 is going to be or not be. I don't know. But if you
23 want to stay, you can. If not, you're free to go.

24 And I thank you so much for your service this
25 week.

1 JUROR: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 (Alternates excused at 11:53 a.m.)

4 THE COURT: Mr. Newman, is there anything
5 that you want to put on the record motions-wise?
6 Is there anything that you wanted to argue? I
7 know at one point you, sort of, renewed, at that
8 point, but didn't want to send the jury right back
9 out after you saying that you rest.

10 MR. NEWMAN: We did. I defer to the
11 objections and motions that I made prior.

12 THE COURT: Yes, sir. All right.

13 MR. NEWMAN: We renew all of those,
14 specifically on the directed verdict motion and
15 the suppression motions, Your Honor. I think we
16 adequately covered our grounds. We argue the same
17 grounds to the Court and the same grounds that are
18 consistent with our written motions filed with
19 this Court.

20 THE COURT: Solicitor?

21 MS. MAIN: Yes. The State rests on their
22 argument as well, Your Honor, unless you want to
23 hear further.

24 THE COURT: No, ma'am. I think that's
25 sufficient. And I, likewise, would say that I

1 think for the reasons that I've stated previously,
2 I would respectfully deny your motions,
3 Mr. Newman.

4 So we'll be at ease until -- yes, sir.

5 MR. NEWMAN: I had -- Solicitor, we had a
6 quick -- my client is from out of town and we got
7 a quick Schmerber motion that we're really not
8 contesting, but I can't consent to it.

9 THE COURT: All right. Just give me five
10 minutes. I want everybody to take a brief break.
11 We'll come back in here in five minutes and take
12 that. Okay?

13 MR. NEWMAN: That's fine. I just wanted
14 to make sure we didn't forget that.

15 THE COURT: All right. Let's just take a
16 few minutes. Let everybody stretch.

17 Thank you, Sharon.

18 (A break was taken 11:55 a.m. to 12:03 p.m.)

19 THE BAILIFF: All rise. Court is back in
20 session.

21 THE COURT: Be seated. We got three
22 questions. The first question -- or the question
23 that I'm reading first: Was it Delta-9 or
24 marijuana? Were they illegal at the time? That's
25 the first question. Okay?

1 I will tell you the second question: Is
2 he the owner of the car? Did that knowledge come
3 out during the trial?

4 And the final question: How long did it
5 take for the K-9 unit to arrive after the initial
6 stop?

7 So those are the three questions that
8 have been presented by the jury. I've got the
9 three questions. I'd like for you-all to come
10 forward. I'm going to mark these as a Court's
11 exhibit, and then I want you to come forward and
12 review these three questions and then let me hear
13 from you.

14 So let me ask you -- hand those back to
15 me, please. All right. As it relates to the
16 question -- we'll start with the marijuana
17 question. As it relates to the marijuana
18 question, Solicitor, what say you?

19 MS. MAIN: I believe this question was
20 answered by Renita Berry, so we could arguably
21 replay testimony if needed.

22 THE COURT: Mr. Newman?

23 MR. NEWMAN: You know, unfortunately,
24 this is probably going to apply to the other
25 questions as well. *You're just going to have to*

1 *rely on testimony and evidence you heard during*
2 *the trial. I can't add or subtract any facts from*
3 *it.*

4 THE COURT: What about the fact -- I
5 mean, basically they've heard -- they've been
6 provided all the evidence in this case.

7 MS. MAIN: I do think that's appropriate.
8 But I think if they wanted testimony replayed, I
9 think that is a plausible option.

10 MR. NEWMAN: I mean, if they come to that
11 on their own and they want to hear it -- I don't
12 like to ever invite jurors to come back and hear
13 the case they just heard again.

14 THE COURT: Yeah. I mean, how do we know
15 what evidence they want to hear? I mean, you
16 know, I can't -- if I'm playing the chemist, then
17 I'm almost taking it upon myself, *Okay, the answer*
18 *to that question potentially is in this witness's*
19 *testimony.*

20 MS. MAIN: Yes.

21 THE COURT: I don't think that's
22 appropriate for the Court to basically go and
23 direct the jury as to where to look for the
24 evidence.

25 MS. MAIN: I understand, but I do think

1 that it is possible to tell the jury that
2 testimony can be replayed for them. And, at which
3 point, if they feel it necessary to have something
4 replayed, they can define it as to what they would
5 need replayed. You know, do they know exactly
6 where that was? Obviously, I think, you know, we
7 know the answer to that. I don't think you can
8 write in the note, like, the exact answer to those
9 questions. I think they do have to consider
10 what's been presented before them. But there is
11 the option for them to get those questions
12 answered through the replaying of testimony, and
13 that's not something that is unusual.

14 THE COURT: Hold on one second.

15 All right. I think the response in each
16 one of these probably can be the same, I think.
17 First and foremost, I think the jury can be
18 instructed, *You have been provided all the*
19 *evidence in this case.* I mean, I think that's a
20 fact. I don't see where that -- as it relates to
21 at least that part of a response, do you have any
22 objection to that, Solicitor, to that statement?

23 MS. MAIN: Not to that statement, but I
24 want to hear the remainder.

25 THE COURT: I understand. But I want to

1 get you-all on the record as saying that you don't
2 an objection to that part of the statement,
3 because, clearly, I think that's an adequate way
4 to at least address that. You know, I can't go
5 around and say, hey, was it illegal, or legal at
6 the time? Was it Delta-9, Delta-8, marijuana? I
7 can't get into that. They've been presented the
8 evidence.

9 Now, I've also written, "Should you wish
10 to listen to any testimony presented, it can be
11 replayed." And, you know, Solicitor, what about
12 that?

13 MS. MAIN: I think that's adequate.

14 THE COURT: Mr. Newman, I think that's a
15 fair -- based upon what they've said, I think
16 that's a fair presentation of information to the
17 jury. We're not suggesting that they do listen.
18 We're not suggesting to what portions they listen,
19 whether they listen to anybody completely, or a
20 portion of it. That's up to them. But it is
21 possible that their answer could be -- somebody
22 may say, yeah, we think so. I don't know, but I
23 think that's fair. I'll let you put anything on
24 the record you want as it relates to the second
25 portion of the note.

1 MR. NEWMAN: I'm good.

2 THE COURT: All right. So what I've done
3 is, I've written that and signed my name. You-all
4 come look at that.

5 Sharon, you want to go ahead and mark
6 that?

7 THE COURT REPORTER: Yes, sir.

8 THE COURT: Here are the three of those.
9 Thank you.

10 MR. NEWMAN: That's fine.

11 THE COURT: Can you read that?

12 MS. MAIN: Yes.

13 THE COURT: All right. Any objection to
14 that being the response?

15 MS. MAIN: None from the State.

16 THE COURT: Okay. What I want to do is,
17 Madame Clerk, can you make a copy of that? And,
18 on the copy, I'm just going to use that and I'll
19 make that copy a Court's exhibit and then I'm just
20 going to send the original back to them.

21 Is that satisfactory to the State?

22 MS. MAIN: Yes, Your Honor.

23 THE COURT: Mr. Newman?

24 MR. NEWMAN: Yes, sir.

25 THE COURT: Make a copy of that for me

1 and we'll mark the copy and I'll send the original
2 back to them.

3 Thank you. I'll tell you what I'm going
4 to do. I'm going to send them back the copy. I'm
5 going to mark the original as a Court's exhibit.

6 Is that satisfactory to the State?

7 MS. MAIN: Yes, Your Honor.

8 THE COURT: Mr. Newman?

9 MR. NEWMAN: Yes, sir.

10 THE COURT: So, Mr. Bailiff, in response,
11 you can hand the foreperson this response right
12 there.

13 THE BAILIFF: Yes, Your Honor.

14 THE COURT: Thank you so much.

15 All right. We'll be at ease.

16 (COURT EXH. 9, Questions from Jury, was
17 marked for identification.)

18 (Off the record at 12:42 p.m.)

19 THE BAILIFF: All rise. Court is in back
20 in session.

21 THE COURT: I understand we got a
22 verdict. Do we know where Mr. Newman and his
23 client are?

24 THE DEPUTY: They are on their way.

25 (Off the record.)

1 THE COURT: Mr. Newman, I'm informed we
2 have a verdict.

3 Anything from the state before we bring
4 the jury in?

5 MS. MAIN: No, Your Honor.

6 Is there anything from the defense?

7 MR. NEWMAN: No, Your Honor.

8 THE COURT: Let's get the jury, please.

9 THE BAILIFF: Jury is entering the
10 courtroom, Your Honor.

11 THE COURT: Thank you.

12 (Jury enters the courtroom at 1:04 p.m.)

13 THE BAILIFF: Jury is seated, Your
14 Honor.

15 THE COURT: Mr. Foreman, I understand
16 you-all have reached a verdict.

17 FOREPERSON: Yes, Your Honor.

18 THE COURT: Hand that up to the bailiff,
19 please, and he will hand it to me.

20 Madame Clerk, will you publish the
21 verdict, please?

22 THE CLERK: The State of South Carolina,
23 County of Beaufort, State of South Carolina vs.
24 Latavious Terrell Williams, court of general
25 sessions, indictment 2020-GS-07-01205,

1 2020-GS-07-01206, and 2020-GS-07-01207, we, the
2 jury, in the above captioned case on the charge of
3 possession of 28 grams or less of marijuana
4 unanimously find Latavious Terell Williams guilty.

5 We, the jury, in the above-captioned case
6 on the charge of trafficking cocaine 28 grams or
7 more, but less than 100 grams unanimously find
8 Latavious Terell Williams guilty.

9 And we, the jury, in the above-captioned
10 case on the charge of trafficking methamphetamine
11 28 grams or more, but less than 100 grams
12 unanimously find Latavious Terell Williams
13 guilty.

14 THE COURT: All right. Any motions from
15 the State?

16 MS. MAIN: None from the State, Your
17 Honor.

18 THE COURT: Any motions from the defense?

19 MR. NEWMAN: No, sir.

20 THE COURT: All right. Ladies and
21 gentlemen, if you would, retire to your jury room
22 for one moment and I'll get you back out here as
23 soon as I can.

24 THE BAILIFF: Jury is clear and the door
25 is closed, Your Honor.

1 THE COURT: Thank you.

2 All right. Immediately prior to the jury
3 coming back out, I was handed the indictments.
4 Those indictments had been signed by the
5 foreperson where the foreperson would go and
6 signify or sign guilty or not guilty. They want
7 the foreperson to sign the indictment.

8 MS. MAIN: My understanding is that their
9 policy is that once a verdict has been reached,
10 this indictment did not go back while the jury was
11 deliberating. My understanding is that either
12 after jury had been released or while they were in
13 the hallway, the foreperson signed the indictment.

14 So what I want to know is, Mr. Newman,
15 you got any objection to that?

16 MR. NEWMAN: No, sir. Been doing that
17 for a long time.

18 THE COURT: Okay. All right, that's
19 fine. No problem at all.

20 Let's get the jury back out here.

21 THE COURT: It did not go back to the
22 jury room. The jury already reached a verdict,
23 but the foreperson signed it before he came back
24 into this courtroom. And I understand that's a
25 process that they have at the been using and it

1 sounds like you're aware of that. Everybody does
2 it a little differently.

3 THE BAILIFF: Jury is entering the
4 courtroom, Your Honor.

5 THE COURT: Thank you.

6 (Jury enters the courtroom at 1:11 p.m.)

7 THE BAILIFF: Jury is seated, Your
8 Honor.

9 THE COURT: All right. Mr. Foreperson,
10 ladies and gentlemen, I know it's been a sacrifice
11 for you to be here this week. I understand that,
12 but I hope you realize that we deal with important
13 matters up here; important to the State, important
14 to the defense. I hope you understand that this
15 is a service that you provide to your county and
16 your fellow citizens. Because, quite frankly, you
17 know, it's kind of cliché, but nobody makes you
18 live here. I mean, ultimately one way or another
19 it's your choice. Maybe some people feel like you
20 don't have a choice, but it's your choice to live
21 here, and this is a service that you're providing
22 to your county and to your fellow citizens.

23 I hope it's been a learning experience.
24 I hope you now know that when you hear about how
25 things take time or why only one case was tried or

1 why this or why that, I think you will probably
2 have some answers and be able to give an informed
3 decision as to why things run slow and
4 deliberative and often take time.

5 You're good for three years in circuit
6 court. Now, they can still get you in city court,
7 federal court, or magistrate's court, but you're
8 good for three years here. I want to thank you
9 for your service this week. I'm happy to inform
10 you that you're going to be discharged. You can
11 leave. You're done for the week.

12 What I also want to tell you is, I expect
13 that there are going to be some motions that I am
14 going to take up and then we would immediately
15 move into sentencing. Okay?

16 Now, what I want to tell you is this: If
17 you're ready to get out of here, I certainly
18 understand. But at the same time, if you would
19 like to stay and observe, I'm happy to have you do
20 that. And, if you wish to stay, the bailiff will
21 escort you as you leave this door, and anybody who
22 might want to stay, they'll bring you right back
23 in here and you can certainly sit in the gallery
24 as we move directly into some motions and then
25 move, potentially, into sentencing.

1 If you want to talk about this case
2 now -- what have I told you all week? Don't talk
3 about the case. Okay? If you want to talk about
4 the case, you can talk about the case. If you
5 don't want to talk about the case, then, in that
6 case, you don't have to. And if anyone bothers
7 you, which I don't think they will, but if they
8 did, you just let the clerk know, she notifies me,
9 and I promise you, they won't bother you again.

10 So, again, anything else before I
11 discharge the jury from the State?

12 MS. MAIN: None from the State.

13 THE COURT: Mr. Newman?

14 MR. NEWMAN: No, sir.

15 THE COURT: All right. I thank you very,
16 ladies and gentlemen. Thank you for your service.

17 THE BAILIFF: Jury is clear. The door is
18 closed, Your Honor.

19 THE COURT: Yes, sir.

20 All right. Mr. Newman, do you have any
21 motions, sir?

22 MR. NEWMAN: Your Honor, I have a number
23 of motions. At this time, what I would ask --
24 obviously, the defendant is in custody. I know we
25 have court tomorrow. I have a number of motions

1 that are substantive that I need to revisit on the
2 separate issues that I asked for on directed
3 verdict and renew on the search issue that I want
4 to make sure is clearly articulated on the record
5 and heard by the Court as a renewal.

6 I would also -- this would give me time
7 ask Mr. Williams -- I know to let him make some
8 calls, if he had any family that might want to
9 come to the sentencing, and put whatever
10 mitigating evidence we can before the Court.

11 I'm just a little bit tired. I'm trying
12 to get it all together.

13 THE COURT: I'm certainly willing
14 postpone the motions until tomorrow. Do you want
15 to do them tomorrow?

16 MR. NEWMAN: That's what I was asking.

17 THE COURT: Where am I? I know I'm here
18 tomorrow. Where am I -- Oh, I'm in chambers. Can
19 you do it tomorrow?

20 MR. NEWMAN: Yes.

21 THE COURT: Okay. I'm in chambers next
22 week, but chambers is a bad time. They want you
23 to have motions during chambers, but it's a bad
24 time to do it because it's very difficult to have
25 a court reporter. And so that, kind of, defeats

1 the purpose, in my opinion, of having it in
2 chambers.

3 MR. NEWMAN: Tomorrow is fine.

4 THE COURT: Tomorrow is fine as it
5 relates to the motions. But, Mr. Newman, as it
6 relates to sentencing, I'm going to move directly
7 into sentencing, sir.

8 MR. NEWMAN: Well, as I said, I'd like to
9 have a chance to get his family here.

10 I also, Your Honor, I've looked it up,
11 and part of our plea in sentencing is -- and I
12 have a specific reason for doing it -- you have
13 the discretion in this case to sentence -- I
14 believe it's to 7 to 25, 7 to 30.

15 MS. MAIN: 7 to 30.

16 MR. NEWMAN: 7 to 30 in this case on two
17 of the charges. On one of the charges, I think
18 the max on that is 30 days, the marijuana.

19 At any rate, I wanted to ask,
20 specifically, that he be sentenced to 7. Serving
21 no more than 9. This Court's sentence is under
22 10, which is one of the reasons I'm going to ask.
23 Part of the other reason for that is, is, like in
24 other cases, it's deferred. This case is three
25 years old. He's not on anybody's radar screen

1 actively working. I know he's got another case
2 that's out there that we'll have to deal with.
3 However, I would ask Your Honor to consider a
4 sentence of 7 years.

5 And part of the other motion I want to
6 make, if Your Honor does that, certainly it's
7 under 10 years. If he does that, the law says I
8 can ask this Court for an appeal bond, which I
9 want to get that together to ask for. And I don't
10 normally do that, but I do think that the issues
11 in this case are certainly tollable. And I'm not
12 questioning or challenging your rulings. I think
13 it's the type of case that the appellate court may
14 wish to review and either uphold or reverse. But
15 I think the issues in this case are that
16 important.

17 THE COURT: All right. Let me hear from
18 the State on sentencing. I'm ready to hear from
19 the State.

20 MS. MAIN: Would you like us to argue?
21 The sentencing sheets --

22 THE COURT: I'm moving forward with
23 sentencing today.

24 MS. MAIN: Okay.

25 THE COURT: And the motions, we'll just

1 have that -- all right. Mr. Newman, would you
2 like to do the motions tomorrow at, say, 10:30?

3 MR. NEWMAN: That would be great,
4 Judge.

5 THE COURT: I've got a 9:00 and 10:00.
6 Why don't we plan on trying to do you at 10:30. I
7 got a lot of things going on, but when you get
8 here, I'll stop and we'll entertain that.

9 Solicitor Main, can you be available at
10 10:30?

11 MS. MAIN: I will make myself
12 available.

13 THE COURT: All right. Thank you.

14 MS. MAIN: Yes, sir.

15 In response to sentencing, the State is
16 recommending 15 to 20 years. The basis for that
17 is the defendant's prior record. These are second
18 offenses. Previously, the defendant was sentenced
19 to 15 years suspended to 10 years.

20 THE COURT: Hold on. Hold On. You're
21 going too fast for me. Previously, he was
22 sentenced to what, ma'am?

23 MS. MAIN: He has a previous
24 conviction.

25 THE COURT: For?

1 MS. MAIN: Trafficking cocaine.

2 THE COURT: All right. And what sentence
3 was imposed there?

4 MS. MAIN: Fifteen years suspended to
5 10.

6 THE COURT: Okay, 15 suspended upon the
7 service of 10 years.

8 MS. MAIN: Yes, sir.

9 THE COURT: Let me ask you: The prior
10 trafficking in cocaine, is that a -- what is that?
11 Is that a serious --

12 MS. MAIN: Violent and serious.

13 THE COURT: That's considered a violent
14 and serious offense.

15 MS. MAIN: Yes, sir.

16 THE COURT: So that would be one strike?

17 MS. MAIN: Yes, sir.

18 THE COURT: Okay. Go ahead, ma'am.

19 MS. MAIN: And that -- oh, excuse me,
20 Your Honor. He was sentenced to possession with
21 intent to distribute crack, second offense, and
22 possession with intent to distribute cocaine,
23 second offense, and that was in the county of
24 Hampton in 2008, March 5, 2008.

25 As a result of that, we think it's

1 appropriate based on this charge and his record to
2 sentence him to 15 to 20 years.

3 THE COURT: How old is your client,
4 Mr. Newman?

5 MR. NEWMAN: How old are you?

6 MR. WILLIAMS: I'm 41, sir.

7 THE COURT: Okay.

8 MS. MAIN: Does Your Honor want his
9 entire record?

10 THE COURT: Well, I mean, what you got in
11 the past 10 years? I'm not interested in
12 something --

13 MS. MAIN: He was sentenced in 2008.

14 THE COURT: All right.

15 MS. MAIN: Your Honor, can we make the
16 previous offense sentencing sheets Court's
17 exhibits?

18 THE COURT: Yes, ma'am.

19 (COURT EXH. 10, Sentencing Sheets;
20 2008, was marked for identification.)

21 THE COURT: Mr. Newman, anything else you
22 want to tell me, go ahead.

23 MR. NEWMAN: No, sir.

24 Mr. Williams, would like to the address
25 the Court.

1 THE COURT: Okay. And, Mr. Williams,
2 hold on one second. Hold on one second.

3 So, Solicitor, this charges would be
4 considered, again, a violent and serious offense?

5 MS. MAIN: Yes, Your Honor.

6 THE COURT: So that would be two serious
7 offenses that this gentleman now has -- that
8 Mr. Williams now has on his record?

9 MS. MAIN: I believe that it happening at
10 the same time --

11 THE COURT: Oh, the prior, you told me,
12 was a possession with intent to distribute and not
13 a trafficking?

14 MS. MAIN: Yes, sir. I misspoke.

15 THE COURT: And so that is not a serious
16 offense. What I'm trying to do is, I'm trying to
17 figure out whether, as a result of this
18 conviction, I understand he's got two convictions
19 here as it relates to the substances, and, because
20 it arises out of the same matter, it only counts
21 as one strike.

22 What I'm trying to figure out is, will
23 Mr. Williams now have one strike that is one
24 serious offense or will he have two? That's what
25 I'm trying to figure out.

1 MS. MAIN: The Court's exhibits from the
2 previous convictions mark his previous charges as
3 serious offenses, but not violent.

4 THE COURT: So then he'll have two --

5 MS. MAIN: Two serious offenses.

6 THE COURT: -- serious offenses with this
7 conviction.

8 MS. MAIN: Yes, sir.

9 THE COURT: Would it be your
10 understanding that one more serious or a most
11 serious offense would mean that in the future that
12 the State could move for a life without parole
13 sentence?

14 MS. MAIN: That's my understanding.

15 THE COURT: If he was in trouble in the
16 future.

17 MS. MAIN: That's my understanding.

18 THE COURT: Okay. And it's also your
19 understanding that he would have to serve at least
20 85 percent of any time as it relates to this
21 before he would be eligible for parole?

22 MS. MAIN: Yes, sir. This cannot be a
23 suspended sentence or a probationary sentence.

24 THE COURT: Mr. Newman, I know you --
25 and, Mr. Williams, let me tell you, sir, I have --

1 one of the things I was going to do is, your
2 lawyer has indicated there's nothing else he
3 wanted to tell me. If there's anything you want
4 to tell me, I'm happy to hear from you. I have no
5 problem listening to you, but what I would say is
6 this, sir, there may be issues that your lawyer
7 wants to appeal or have appealed in this matter,
8 and so what happens is, you know, sometimes what
9 you might want to tell me could or could not have
10 an effect on your appeal.

11 Do you want to talk to Mr. Newman? Do
12 you want to talk with him?

13 I mean, I'm happy to hear from him, but
14 I'm also not going to hold anything against him if
15 he doesn't talk to me. I just want to make sure
16 that we're all good. I don't want him to damage
17 himself in any way by saying something.

18 (Counsel conferences with defendant.)

19 THE COURT: All right. So Mr. Williams,
20 do you still want to tell me something, sir, or
21 what do you want to do?

22 MR. NEWMAN: He just want to briefly
23 address the Court.

24 THE COURT: Sure. I got no problem with
25 that.

1 Yes, sir. I'm happy to hear from you.

2 MR. WILLIAMS: Your Honor, the courtroom,
3 the jury, the bailiffs, and all the staff, I come
4 to you humbly and ask you for leniency with the
5 sentencing. I have -- I didn't stay at home. I
6 stayed in the hospital with the mother of my
7 child. My first child is on the way, sir. I'm
8 asking you for mercy and leniency in sentencing
9 me, sir.

10 I would like to be -- apparently, I'm not
11 going to be able to be there for my child to come
12 and birth into this world, but I would like to be
13 there for my child. Not out of high school or so
14 far down the line she don't even know me. I would
15 like to be there, sir.

16 I'm begging on the mercy of the Court
17 with the sentence. Please, I would like to be
18 there.

19 THE COURT: All right.

20 MR. WILLIAMS: Thank you, Your Honor.

21 THE COURT: Thank you.

22 Mr. Newman.

23 MR. NEWMAN: Your Honor, on the second
24 offense, what they're saying is -- the State is
25 telling me that the predicate offense is more than

1 10 years old.

2 THE COURT: I'm not sure what the State's
3 telling you, sir. You can certainly look at that.
4 Again, I'm not --

5 MR. NEWMAN: It's more than 10 years old.
6 I'm going to have to make a motion on the
7 evidence, because it wouldn't be a second
8 offense.

9 MS. MAIN: It begins when he's
10 released.

11 THE COURT: Right. It would begin when
12 he's released. He was released much later than --
13 the charge was when, 2008?

14 MS. MAIN: Yes, sir. March.

15 THE COURT: He served 10 years.

16 MS. MAIN: Yes. He was sentenced to 15
17 suspended to the service of 10.

18 MR. NEWMAN: He had to serve five in
19 2008. That's 2013. That's right on the line.

20 THE COURT: All right. Do you have
21 sentencing sheets?

22 MS. MAIN: Sorry, Your Honor. I thought
23 we handed them up to you.

24 THE COURT: All right. We'll be at ease
25 for just one moment. Okay? Thank you-all.

1 (A break was taken from 1:28 p.m. to 1:37 p.m.)

2 THE BAILIFF: All rise. This court is
3 back in session.

4 THE COURT: You can be seated. Thank
5 you.

6 All right. You know, Mr. Williams, I
7 certainly understand what you told me about the
8 birth of a child, or I think you said soon to be
9 born.

10 MR. WILLIAMS: She's in Beaufort
11 Memorial, sir.

12 THE COURT: And not being able to be
13 there. I certainly -- I certainly understand how
14 you feel. I have three children. I was there at
15 the birth of all three of mine, and so I
16 understand. I understand that loss. And, you
17 know, when you said also that you wanted to be
18 there, I understand that also. And as the child
19 is growing and -- I don't know if you have other
20 children.

21 MR. WILLIAMS: I don't.

22 THE COURT: This will be your first?

23 MR. WILLIAMS: This is the first.

24 THE COURT: I certainly understand and
25 appreciate that.

1 I will tell you, the solicitor is
2 recommending, I think, 15 to 20 years in this
3 case. And what I will tell you is, I'm not going
4 to give you 15 to 20 years, sir. I'm going to
5 give you less than that, but you're going to have
6 to serve 85 percent of this time that I give you.

7 But more than that, sir, as I understand
8 it, you're going to have two strikes against you,
9 sir. And you understand, sir, if there's another
10 serious offense -- because you're still a young
11 man. You told me you're 41. You don't look like
12 you're 31, sir. Lucky for you. But you don't
13 look like you're 31. But my point being, sir,
14 you're a young man. And with this sentence I'm
15 going to give you, you're still going to be a
16 young man. And the concern of this Court is the
17 fact that this has been a repeated behavior. But,
18 sir, if there's one more serious offense, whether
19 it's a drug offense or some other serious, sir,
20 the State could very well move forward with a life
21 without parole sentence.

22 You heard your lawyer tell you that
23 there's mandatory minimums associated with this
24 charge. I cannot, by law, give you less than 7
25 years. You understand that.

1 But at the same time, the solicitor's
2 office has the ability in the future -- if you
3 were to get in trouble with one more serious
4 offense, a drug offense or some other offense,
5 sir, they can go and move for a life without
6 parole sentence. And if they do, I believe that
7 my hands are tied. If they move with that
8 sentence and there's a conviction, sir, me, as the
9 judge, or any other judge's hands are tied and
10 that sentence is the sentence that will be entered
11 by the Court. And, quite frankly, I think that
12 hanging over your head, if that doesn't give you
13 some encouragement to do what's right to do, I
14 don't know what will.

15 Okay. So let me just go ahead and I'm
16 going to tell you what I'm going to do.

17 All right. In 2020-GS-07-01205, sir,
18 that's the possession of marijuana, sir, I'm going
19 to sentence you to the state department of
20 corrections for a period of 30 days. I'm going to
21 run that concurrent with your other offenses, and,
22 also, I'm going to give you credit for your time
23 served.

24 All right. 2020-GS-07-01207, sir, that's
25 the trafficking in methamphetamine, sir, I'm going

1 to sentence you to the state department of
2 corrections for a period of 15 years provided upon
3 the service of 8 years, sir. The balance is
4 suspended with three years probation. I'm running
5 them concurrent and I'm giving you, sir, credit
6 for whatever time you may have served.

7 Again, sir, in 2020-GS-07-01206, sir,
8 that's the trafficking in cocaine charge, sir, I'm
9 going to sentence you to a term of 15 years.
10 That's provided upon the service of 8 years, sir.
11 The balance is going to be suspended with three
12 years probation. Again, running everything
13 concurrent and I'm giving credit for any time
14 served that you may have already served related
15 these charges.

16 All right. Is there anything else
17 further from the State concerning this matter?

18 MS. MAIN: No, Your Honor.

19 THE COURT: Anything further from the
20 defense?

21 MR. NEWMAN: Not right now. I understand
22 we'll go through the issues tomorrow.

23 THE COURT: Yes, sir. Thank you very
24 much.

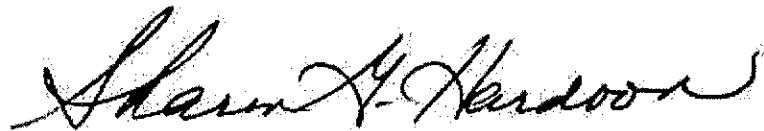
25 (Trial concluded.)

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, 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 of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

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

February 27, 2024

A handwritten signature in black ink, reading "Sharon G. Hardoon". The signature is written in a cursive, flowing style with a large initial 'S' and 'H'.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION

Page 1 of 1

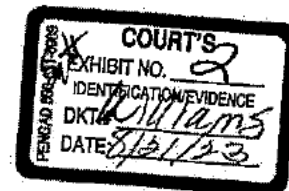
1. Program Code	2. Cross File	Related Files	3. File No. G7-19-0017	4. G-DEP Identifier XGC2D
5. By: William P Squires, TFO At: CHARLESTON, SC RESIDENT OFFICE	☐		6. File Title Williams, Latavious	
7. ☒ Closed ☐ Requested Action Completed ☒ Action Requested By: TFO William	☐		8. Date Prepared 10-07-2020	
9. Other Officers:				
10. Report Re: Case Closing				

DETAILS

On 06-11-2020, the BCSO Violent Crimes Task Force along with TFO William Squires conducted surveillance on Latavious WILLIAMS. Subsequently due to the surveillance conducted a traffic stop was conducted on WILLIAMS who was driving a gray NISSAN Rouge with SC License Plate number [REDACTED]. After the investigation into the traffic stop WILLIAMS was arrested on three South Carolina General Sessions Charges for PWITD Marijuana, Trafficking Meth, and Trafficking Cocaine. WILLIAMS is pending a judicial adjudications on these charges.

INDEXING

1. WILLIAM, Latavious - NADDIS , DOB: [REDACTED] 1981; [REDACTED] Bing St. Yemassee, South Carolina. REMARKS: On June 11th, 2020 WILLIAMS was locally arrested in Beaufort County, SC, on several drug related charges.



11. Distribution: Division	12. Signature (Agent) /s/ William P Squires, TFO	13. Date 10-07-2020
District	14. Approved (Name and Title) /s/ Timothy C Boyle for GS GCL	15. Date 10-07-2020
Other		

DEA Form - 6
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

WITNESSES

BCSO -

T. Calhoun

ARREST WARRANT NUMBER

2020A0710200284

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: JAN 12 2023

VERDICT

Foreperson of Petit Jury

Date:
INDICT

DOCKET NO. 2020GS0701205

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

January Term 2023

THE STATE

vs.

LATAVIOUS TERREL WILLIAMS

Indictment For

Schedule I, II, III, Flunitrazepam, or
Controlled Substance AnalogueSC Code: 44-53-370(b)(2), 44-53-
370(a)(1)

CDR Code: 0186

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 BEAUFORT)

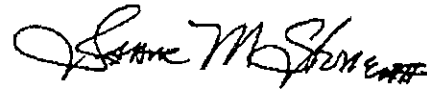
2020GS0701205

At a Court of General Sessions, convened on January 12, 2023 the Grand Jurors of Beaufort County present upon their oath:

Schedule I, II, III, Flunitrazepam, or Controlled Substance Analogue

That in Beaufort County, South Carolina, on or about June 11, 2020, the Defendant, LATAVIOUS TERREL WILLIAMS, did manufacture, distribute, dispense, deliver, or purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase or possess with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana, which was a controlled substance classified in Schedule I, II, III, flunitrazepam, or a controlled substance analogue, all in violation of Section 44-53-370(b)(2), 44-53-370(a)(1), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

BCSO - *T. CAULDER*

ARREST WARRANT NUMBER

2020A0710200285

ACTION OF GRAND JURY

*True Bill**[Signature]*
Foreperson of Grand Jury

Date: JAN 12 2023

VERDICT

Foreperson of Petit Jury

Date:
INDICT

DOCKET NO. 2020GS0701206

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

January Term 2023

THE STATE

vs.

LATAVIOUS TERREL WILLIAMS

Indictment For

Trafficking in Cocaine 2nd Offense

SC Code: 44-53-370(e)(2)(b)(2)

CDR Code: 0388

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)
)
COUNTY OF BEAUFORT)

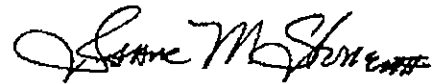
INDICTMENT
2020GS0701206

At a Court of General Sessions, convened on January 12, 2023 the Grand Jurors of Beaufort County present upon their oath:

Trafficking in Cocaine 2nd Offense

That in Beaufort County, South Carolina, on or about June 11, 2020, the Defendant, LATAVIOUS TERREL WILLIAMS, did knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State or provide financial assistance to bring into this State or aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this state or actually or constructively possess or attempt to become in actual or constructive possession of twenty-eight grams or more, but less than one hundred grams of cocaine or a mixture containing cocaine, as provided in 44-53-210(b)(4) and LATAVIOUS TERREL WILLIAMS had been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-370(e)(2)(b)(2), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

490

WITNESSES

BCSO - *T. CALHOUN*

ARREST WARRANT NUMBER

2020A0710200286

ACTION OF GRAND JURY

True E

[Signature]
Foreperson of Grand Jury

Date: *JAN 12 2023*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2020GS0701207

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

January Term 2023

THE STATE

vs.

LATAVIOUS TERREL WILLIAMS

Indictment For

**Trafficking Methamphetamine 2nd
Offense**

SC Code: 44-53-375(C)(2)(b)

CDR Code: 0389

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)
)
COUNTY OF BEAUFORT)

INDICTMENT
2020GS0701207

At a Court of General Sessions, convened on January 12, 2023, the Grand Jurors of Beaufort County present upon their oath:

Trafficking Methamphetamine 2nd Offense

That in Beaufort County, South Carolina, on or about June 11, 2020, the Defendant, LATAVIOUS TERREL WILLIAMS, did knowingly sell, manufacture, deliver, purchase, or otherwise bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession of more than twenty-eight grams but less than one hundred grams of methamphetamine or cocaine base as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1) or 44-53-210(d)(2) and LATAVIOUS TERREL WILLIAMS had been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of Article 3, Narcotics and Controlled Substances, or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs, all in violation of Section 44-53-375(C)(2)(b), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



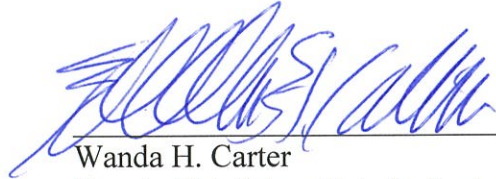
Solicitor

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."

RECEIVED
Jun 28 2024
SC Court of Appeals

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of June, 2024.

RECEIVED

Jun 28 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LATAVIOUS WILLIAMS,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 28th day of June, 2024.



Wanda H. Carter
Deputy Chief Appellate Defender