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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Abbeville County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DOUGLAS S. TURNER,

APPELLANT

APPELLATE CASE NO. 2023-000116

RECORD ON APPEAL

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State of South Carolina)	In Court of General Sessions
)	Eighth Judicial Circuit
County of Abbeville)	2022-GS-01-0184; 0185; 0683

STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Transcript of Record
	)	
DOUGLAS SHAWN'TA TURNER,	)	
	)	
Defendant.	)	
	)	
	)	

Abbeville, South Carolina
January 18-19, 2023

B E F O R E:

The Honorable R. Scott Spouse

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Mr. Yates Brown
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Ms. Jane Merrill, Esquire
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Recorded by: Court Monitor/ DCRP

Transcribed by: Lisa Carter, Court Reporter

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1 Wednesday, January 18, 2023

2 (WHEREAS, this matter was scheduled for a trial,
3 the plaintiff appeared along with their attorney of
4 record. The defendant appeared along with his. The
5 proceedings began at 9:36 a.m.)

6 MR. BLACK: The State's ready, Your Honor.

7 MS. MERRILL: Yes, Your Honor, we're ready. Your
8 Honor, there may be one issue, I don't know if you
9 want to do this before or after we, um, but I think
10 my client -- well, let me double check with him.

11 (Whereupon, the attorney speaks with her client)

12 MS. MERRILL: Thank you, Your Honor, for giving us
13 a moment. My client had told me that he wanted to ask
14 the court about getting a new attorney and that's
15 what I was clarifying with him that if he still
16 wanted to make that motion. I indicated to him that
17 it would be up to the court. But what he's indicated
18 to me is that, if he's going to trial which I've
19 explained to him the jury is here and it will be
20 selected today, but that he said if he's going to
21 trial he's wanted to hire a lawyer and I told him we
22 could ask the court about relieving me and allowing
23 him time to hire an attorney and it would be up to
24 the court.

25 THE COURT: Okay. Mr. Turner, anything you like to

1 tell me?

2 MR. TURNER: Yes, sir, um, I don't want to go to
3 trial. Actually, and the charges that are pending is
4 not the time they trying to give me, they try to give
5 me the max time. No! That's no, no. And plus it was
6 the officers fault and I did not have drugs on me
7 so....

8 THE COURT: Okay. Well, don't, don't tell me
9 anything about the facts.

10 MR. TURNER: Okay.

11 THE COURT: Okay.

12 MR. TURNER: That makes sense.

13 THE COURT: Now, this is the way that this works.

14 MR. TURNER: Okay.

15 THE COURT: You are on a trial docket. You are up
16 for trial. We have a jury here. So the question is
17 are you ready to go to trial?

18 MR. TURNER: No.

19 THE COURT: Okay. Well, I'm gonna believe your
20 attorney after the case has been brought up for trial
21 on the trial docket. Now, you have a constitutional
22 right to represent yourself at trial which is not a
23 very wise decision. But this is not grounds to get
24 your case continued. So let me let you go off the
25 record and talk to Ms. Merrill some more just for a

1 moment.

2 MR. TURNER: But I'm trying, um, I'm not trying to
3 get a trial, that's what I'm saying. But....

4 THE COURT: Well, you're on the trial docket so --
5 -

6 MR. TURNER: How ---

7 THE COURT: --- the case is resolved one or two
8 ways. It's either resolved with the plea or a trial.
9 If you have asserted your innocence to the charge
10 which you have a constitutional right to do and you
11 have a constitutional right to make the State prove
12 its case against you beyond a reasonable doubt which
13 no one will punish you for exercising that right. But
14 if you have a case that you say I didn't do this, I'm
15 not innocent, you're entitled to a jury trial and
16 that's what were getting ready to give you. So talk
17 to your attorney and make sure that that's what you
18 want to do.

19 MS. MERRILL: Your Honor, can I have just a minute
20 back here.

21 THE COURT: Yes, ma'am.

22 MS. MERRILL: Thank you.

23 THE COURT: Yes, ma'am.

24 (Whereupon, the court allows the lawyer to speak with
25 her client)

1 MS. MERRILL: Your Honor, Thank you -- thank you
2 for giving us time to talk. I think after talking to
3 our client one more, he does, he's gonna move forward
4 with the trial. I do want to make it clear, he said
5 something on the record about the State offering him
6 the maximum. The State has made him an offer and I'm
7 not going to get into all of the details pretrial but
8 that has been conveyed to him, is not the maximum.
9 It's been conveyed to him several times I just want
10 to make that clear on the record that the State has
11 made an offer that is less than the maximum and that
12 has been discussed at length with Mr. Turner.

13 THE COURT: Okay.

14 MR. BLACK: And judge since were talking about it,
15 I'll just go ahead and put it on the record. Mr.
16 Turner is accident probation. He's got ten years over
17 his head. And I've offered to wrap up the probation
18 in this case for six and a half year recommendation
19 so that's what the offer is.

20 THE COURT: Well, the present charge is
21 trafficking in methamphetamine, what are the, um, 10
22 grams but less than 28 grams?

23 MR. BLACK: That is correct.

24 THE COURT: So he has a minimum sentence of three
25 years and a maximum of ten years?

1 MR. BLACK: Correct. And we cannot stop him from
2 pleading guilty straight up.

3 THE COURT: And it's off the trial docket so it
4 would be a straight up plea?

5 MR. BLACK: Yes, sir.

6 THE COURT: And then the resisting arrest, which
7 subsection is that one?

8 MR. BLACK: I believe that's the one year.

9 THE COURT: It's under the one year, okay.

10 MR. BLACK: Yes, sir.

11 THE COURT: All right. So the maximum sentence
12 that is possible in these two cases is ten years on
13 the methamphetamine charge and one year of the
14 resisting arrest.

15 MS. MERRILL: That's correct, Your Honor. And
16 that's what I've advised my client.

17 THE COURT: And the State has offered six and a
18 half years and I assume a one year concurrent
19 sentence on the resisting?

20 MR. BLACK: Yes.

21 THE COURT: So -- and it's my understanding, Mr.
22 Turner, you are rejecting that offer, is that
23 correct?

24 MR. TURNER: Yes, sir.

25 THE COURT: Okay. Okay. All right. That's so noted

1 for the record. Anything before we bring our jury
2 back in?

3 MR. BLACK: Nothing from the State.

4 THE COURT: Okay. All right. Let's get our jury
5 in.

6 (Whereupon, the jury enter the courtroom at 9:52
7 a.m.)

8 THE COURT: Good morning, ladies and gentlemen,
9 after you went home yesterday the attorneys work very
10 hard and they were able to get the case resolved that
11 you were ceded to serve as the jury so we have moved
12 on to the next case. You will be returned to the jury
13 pool, may be selected, I don't know. But your case
14 that you were selected for was resolved yesterday. So
15 have a seat to my left on that side of the courtroom
16 and there were going to have the rest of the pool
17 brought back in and we'll call the next case.

18 Thank you. All right. Bring the remainder of the
19 pool in and seek them with these jurors.

20 (Whereupon, the jury panels enters the courtroom at
21 9:57 a.m.)

22 THE COURT: Good morning, ladies and gentlemen.

23 (Whereupon, the jury panel replies)

24 THE COURT: Good to see everyone this morning.
25 We're ready to proceed. Mdm. Clerk called the next

1 case.

2 THE CLERK: In the Court of General Sessions
3 indictment number 2022-GS-01-00683, The State versus
4 Douglas Shawn'ta Turner, indicted for trafficking in
5 methamphetamines. In the Court of General Sessions
6 indictment number 2022-GS-01-00185, the State vs.
7 Douglas Shawn'ta Turner, indicted for resisting
8 arrest.

9 **Voir Dire:**

10 THE COURT: Thank you. All right. Ladies and
11 gentlemen, as you have heard Mr. Turner is charged
12 with trafficking in methamphetamines and resisting
13 arrest. Mr. Turner has entered a plea of not guilty
14 to these charges. Therefore, the burden is on the
15 State to prove him guilty beyond a reasonable doubt.
16 The defendant has no burden of proof in this trial.
17 He is presumed innocent. The total burden it's on the
18 State. You are called -- if you're called to serve as
19 a juror your job will be to determine whether the
20 State can prove its case beyond a reasonable doubt.
21 Now, I know I ask you a whole bunch of questions
22 yesterday, I'm gonna ask you some of the same ones
23 today. Again, this is not to pry into your private
24 lives but it is to ensure that both the State and the
25 defendant receive a fair and impartial jury to hear

1 the facts of this case. So it's a different day, so
2 Mdm. Clerk she put them under oath again today?

3 THE CLERK: If you would stand and raise your
4 right hand please. You shall truthfully answer all
5 questions asked of you by the court or order thereof.
6 You shall speak the truth, the whole truth, and
7 nothing but the truth so help you God? If you accept
8 this oath please indicate by saying I will.
9 (Whereupon, the jury pool complies)

10 THE CLERK: You may be seated.

11 THE COURT: Okay. All right. The first order of
12 business, let me have the attorneys introduce
13 themselves and introduce the parties of the case and
14 anyone that may be seated at the table during the
15 trial of the case. Begin with the State.

16 MR. BLACK: Good morning, my name is Micah Black.
17 Again, the solicitor's office. I'll be handling this
18 case along with Yates Brown, Deputy solicitor, with
19 our office. Thank you, again, for being here.

20 THE COURT: Ms. Merrill?

21 MS. MERRILL: Thank you, Your Honor. My name is
22 Jane Merrill. With me at the table is Don Cologeli.
23 He is also an attorney. And then this is our client
24 Douglas Turner and Jimmy Powers is an investigator in
25 our office.

1 THE COURT: Okay. All right. Ladies and gentlemen
2 of the jury pool, is anyone related by blood or
3 marriage or a close personal friend of an attorney
4 involved in the case or a party to the case, if so,
5 please stand?

6 (Whereupon, no one is standing)

7 THE COURT: Okay. There are none. Has any member
8 of the jury pool ever been represented by one of
9 these attorneys, a law firm that they may have been a
10 part of or have you had one of these attorneys or a
11 law firm that they may have been a part of represent
12 someone against you in court, if so, please stand?

13 (Whereupon, no one is standing)

14 THE COURT: Okay. There are none. Now, ladies and
15 gentlemen, I'm going to read to you the list of
16 potential witnesses that have been provided to the
17 court, listen very carefully to these names: Brian
18 Singleton, Abbeville Police Department; Aaron Crowe,
19 Abbeville Police Department; Forest Crowe, Abbeville
20 Police Department; Miasha Blackwell from Greenwood
21 Sheriff's office formally Abbeville Police
22 Department; Ricky Dewayne Balchin, Abbeville Police
23 Department; Jamaya Jones; Kiefer Smith, Abbeville
24 Police Department; Maribeth McCormack, sled; Rachel
25 Noelle Johnson, sled; Christine Dadabo, sled; Hannah

1 Jefferson, sled. Is any member of the jury panel
2 related by blood or marriage or has a close personal
3 relationship with any of these potential witnesses,
4 if so, please stand?

5 THE COURT: Yes, ma'am. Stand up. What's your
6 number?

7 POTENTIAL JUROR #167: One sixty-seven.

8 THE COURT: One sixty-seven, Ms. Sutherland?

9 POTENTIAL JUROR #167: Yes.

10 THE COURT: Which one of these witnesses do you
11 know?

12 POTENTIAL JUROR #167: Kiefer.

13 THE COURT: Okay. And what's your nature of your
14 relationship?

15 POTENTIAL JUROR #167: Cousin's brother.

16 THE COURT: Okay. So you're related, you're
17 related to him by marriage?

18 POTENTIAL JUROR #167: Right.

19 THE COURT: Okay. All right. I'm gonna excuse you
20 on this case. Just keep your seat. But you'll be,
21 167, will be excused on this case. All right. Any
22 further? Yes, sir? Stand up. What's your number.

23 POTENTIAL JUROR #19: Nineteen.

24 THE COURT: Ms. Booth?

25 POTENTIAL JUROR #19: As I recollect I think Mr.

1 Paul represented me in a divorce case one time.

2 THE COURT: And how many years ago was that?

3 POTENTIAL JUROR #19: At least over ten.

4 THE COURT: Okay. And with that knowledge, do you
5 feel you could be fair and impartial if called to
6 serve?

7 POTENTIAL JUROR #19: I can.

8 THE COURT: All right. Thank you, sir. You may be
9 seated. Okay. Any further? All right. Ladies and
10 gentlemen, this case is alleged to have occurred on
11 January 2, 2022 in Abbeville County. As any member of
12 the jury pool have any prior knowledge from any
13 source about the facts of this case, if so, please
14 stand?

15 (Whereupon, no one is standing)

16 THE COURT: There are none. Does any member of the
17 jury panel know of any other reason why he or she
18 could not be fair and impartial if call to serve as a
19 juror in this case, if so, please stand?

20 (Whereupon, no one is standing)

21 THE COURT: Okay. There are none. Are there any
22 further submissions from the State?

23 MR. BLACK: Not from the State, Your Honor.

24 THE COURT: Any further submissions from the
25 defense?

1 MS. MERRILL: Your Honor, can I have just one
2 moment.

3 (Whereupon, the attorney takes a moment)

4 Selection of Jury:

5 MS. MERRILL: Nothing further, Your Honor. Thank
6 you.

7 THE COURT: Okay. All right. Seeing that there is
8 no further submissions, Madam Clerk, you may proceed.
9 Ladies and gentlemen, we're going through the same
10 procedure that you witness before. The computer
11 selects at random a list. In the old days it used to
12 be you had to draw the names out of a hat or a hopper
13 back when I date myself, when I started practicing
14 law, they had to do that. We actually had a computer
15 glitch yesterday that your clerk fixed. You're lucky
16 that you have a technically savvy clerk.
17 (Whereupon, the clerk takes a moment to disperse the
18 jurors list)

19 THE CLERK: When I call ---

20 THE COURT: All right. And clerk please proceed.

21 THE CLERK: When I call your name, if you would,
22 come down front and face the back door for me. Number
23 95, Pual Latham, Jr.

24 (Whereupon, a white male comes forward)

25 THE CLERK: What say you for the State?

1 MR. BLACK: Please present Mr. Latham.

2 THE CLERK: What say you for the defense?

3 MS. MERRILL: Please seat Mr. Latham.

4 THE CLERK: You may have a seat in the jury box.

5 Number 25, James S. Branyon.

6 (Whereupon, a white male comes forward)

7 THE CLERK: What say you for the State?

8 MR. BLACK: Please present Mr. Branyon.

9 THE CLERK: What say you for the defense?

10 MS. MERRILL: Please excuse, Mr. Branyon.

11 THE CLERK: You may return to your seat. Number

12 93, Pamela P. Land.

13 (Whereupon, a white female comes forward)

14 THE CLERK: What say you for the State?

15 MR. BLACK: Please present Ms. Land

16 THE CLERK: What say you for the defense?

17 MS. MERRILL: Please seat Ms. Land.

18 THE CLERK: You may have a seat in the jury box.

19 Number 137, John R. Parnell.

20 (Whereupon, a white male comes forward)

21 THE CLERK: What say you for the State?

22 MR. BLACK: Please present Mr. Parnell.

23 THE CLERK: What say you for the defense?

24 MS. MERRILL: Please seat Mr. Parnell.

25 THE CLERK: You may have a seat in the jury box.

1 Number 67, Alice Gray.

2 (Whereupon, a black female comes forward)

3 THE CLERK: What say you for the State?

4 MR. BLACK: Please present Ms. Gray.

5 THE CLERK: What say you for the defense?

6 MS. MERRILL: Please seat Ms. Gray.

7 THE CLERK: Please have a seat in the jury box.

8 Number 99, Rodrick Lee.

9 (Whereupon, a black male comes forward)

10 THE CLERK: What say you for the State?

11 MR. BLACK: Please present Mr. Lee.

12 THE CLERK: What say you for the defense?

13 MS. MERRILL: Please seat Mr. Lee.

14 THE CLERK: You have a seat in the jury box.

15 Number 37, Parker T. Cann.

16 (Whereupon, a white male comes forward)

17 THE CLERK: What say you for the State?

18 MR. BLACK: Please present Mr. Cann.

19 THE CLERK: What say you for the defense?

20 MS. MERRILL: Please seat Mr. Cann.

21 THE CLERK: You may have a seat in the jury box.

22 Number 133, Michael F. Norryce, Jr.

23 (Whereupon, a white male comes forward)

24 THE CLERK: What say you for the State?

25 MR. BLACK: Please present Mr. Norryce.

1 THE CLERK: What say you for the defense?

2 MS. MERRILL: Please excuse this witness.

3 THE CLERK: You may return to your seat. Number
4 47, Jenna S. Crouch.

5 (Whereupon, a white female comes forward)

6 THE CLERK: What say you for the State?

7 MR. BLACK: Please present Ms. Crouch.

8 THE CLERK: What say you for the defense?

9 MS. MERRILL: Please seat Ms. Crouch.

10 THE CLERK: You may have seat in the jury box.
11 Number 122, Rickey D. Miller.

12 (Whereupon, a white male comes forward)

13 THE CLERK: What say you for the defense?

14 MR. BLACK: Please present Mr. Miller.

15 THE CLERK: What say you for the defense?

16 MS. MERRILL: Please excuse Mr. Miller.

17 THE CLERK: You may return to your seat. Number
18 103, Kimberly N. Lewis Bolden.

19 (Whereupon, a black female comes forward)

20 THE CLERK: What say you for the State?

21 MR. BLACK: Please excuse Ms. Bolden.

22 THE CLERK: You may return to your seat. Number
23 108, Michael J. Makins.

24 (Whereupon, a black male comes forward)

25 THE CLERK: What say you for the State?

1 MR. BLACK: Please seat Mr. Makins.

2 THE CLERK: What say you for the defense?

3 MS. MERRILL: Please seat Ms. Makins.

4 THE CLERK: You may have a seat in the jury box.

5 Number 168, Samuel K. Sutherland.

6 (Whereupon, a white male comes forward)

7 THE CLERK: What say you for the State?

8 MR. BLACK: Please seat Mr. Sutherland.

9 THE CLERK: What say you for the defense?

10 MS. MERRILL: Please seat Mr. Sutherland.

11 THE CLERK: Have a seat in the jury box. Number 8,
12 Barbara A. Armstrong.

13 (Whereupon, a white female comes forward)

14 THE CLERK: What say you for the State?

15 MR. BLACK: Please present Ms. Armstrong.

16 THE CLERK: What say you for the defense?

17 MS. MERRILL: Please seat Ms. Armstrong.

18 THE CLERK: You may have a seat in the jury box.

19 One-zero- seven (107) Veronica D. Maher.

20 (Whereupon, a white female comes forward)

21 THE CLERK: What say you for the State?

22 MR. BLACK: Please present Ms. Maher.

23 THE CLERK: What say you for the defense?

24 MS. MERRILL: Please excuse Ms. Maher.

25 THE CLERK: You may return to your seat. Number

1 19, William C. Booth, Jr.

2 (Whereupon, a white male comes forward)

3 THE CLERK: What say you for the State?

4 MR. BLACK: Please excuse Mr. Booth.

5 THE CLERK: You can return to your seat. Number

6 90, Latrina Jones Gray.

7 (Whereupon, a black female comes forward)

8 THE CLERK: What say you for the State?

9 MR. BLACK: Please excuse Ms. Jones.

10 THE CLERK: You can return to your seat. Number

11 185, Bryce J. Wells.

12 (Whereupon, a white male comes forward)

13 THE CLERK: What say you for the State?

14 MR. BLACK: Please present Mr. Wells.

15 THE CLERK: What say you for the defense?

16 MS. MERRILL: Please seat Mr. Wells.

17 THE CLERK: You may be seated in the jury box.

18 Number 41, William S. Coursey?

19 (Whereupon, a white male comes forward)

20 THE CLERK: What say you for the State?

21 MR. BLACK: Please present Mr. Coursey.

22 THE CLERK: What say you for the defense?

23 MS. MERRILL: Please excuse this juror.

24 THE CLERK: You may return to your seat. Number

25 10, Jennifer D. Ashley.

1 (Whereupon, a white female comes forward)

2 THE CLERK: What say you for the State?

3 MR. BLACK: Please seat Ms. Ashley.

4 THE CLERK: What say you for the defense?

5 MS.. MERRILL: Please seat Ms. Ashley.

6 THE CLERK: You may have a seat in the jury box.

7 Number 24, Dusty W. Bradberry.

8 THE CLERK: What say you for the State?

9 MR. BLACK: Please present Mr. Bradberry.

10 THE CLERK: What say you for the defense?

11 MS. MERRILL: Please seat Mr. Bradberry.

12 THE CLERK: You may have a seat in the jury box.

13 THE COURT: All right. Are there any motions or
14 exception to the selection of the jury from the
15 State?

16 MR. BLACK: No exception, judge. Can we approach,
17 Your Honor.

18 THE COURT: Yes.

19 (Whereupon, a bench conference was held off the
20 record)

21 THE COURT: All right. Mdm. Clerk, call one more
22 juror just out of abundance of caution.

23 THE CLERK: Okay. Number 21, Martin D. Bowie.

24 (Whereupon, a white male comes forward)

25 THE CLERK: What say you for the State?

1 MR. BLACK: Please present this juror.

2 THE CLERK: What say you for the defense?

3 MS. MERRILL: Please seat Mr. Bowie.

4 THE CLERK: You may be seated.

5 THE COURT: All right. Now, that we have two
6 alternates, Redirect Examination by any motions or
7 exceptions to the selection of the jury from the
8 State?

9 MR. BLACK: No, sir, Your Honor.

10 THE COURT: Are there any motions or exceptions to
11 the selection of the jury from the defense?

12 MS. MERRILL: No, Your Honor.

13 THE COURT: All right. Mdm. Clerk, swear are jury.

14 THE CLERK: If you would stand and raise your
15 right hand. Do you solemnly swear that you were well
16 and truly try the issues before the court, a true
17 deliverance made, and a true verdict rendered
18 according to the evidence and the law presented so
19 help you God? If you accept this oath please indicate
20 by saying "I will"?

21 (Whereupon, the jury indicates my all saying I will)

22 THE CLERK: You may be seated.

23 THE COURT: All right. Ladies and gentlemen, in
24 the remainder of the pool that will conclude your
25 service for this week. I thank you for your

1 attendance. If you need a work excuse the clerk can
2 provide that for you. Should give you -- where do you
3 want them to go for that?

4 THE CLERK: If they would just walk outside the
5 door, I'll go down.

6 THE COURT: Okay. Okay. The clerk, the clerk will
7 handle that for you. Thank you and this will satisfy
8 your Circuit Court jury duty for the next three
9 years. You are dismissed.
10 (Whereupon, the jury panel exits the courtroom at
11 10:25 a.m.)

12 **Judge's Instructions:**

13 THE COURT: Ladies and gentlemen, before we start
14 let me explain our roles in this trial. I am the
15 judge of the law. You must apply the law as I give it
16 to you. You are the judges of the facts. As the judge
17 of the facts, you have the duty to evaluate the
18 evidence that is presented during the trial. Evidence
19 is the sworn testimony from the witness stand and any
20 exhibits that are entered into evidence. You and you
21 alone, determine the credibility of the witnesses or
22 how much weight to give their testimony. Each
23 attorney will have the opportunity to give an opening
24 statement to outline their positions and the evidence
25 he or she intends to present to support their

1 clients. The attorneys will also have the opportunity
2 to make closing arguments to you at the end of the
3 trial when the testimony has concluded. Keep in mind
4 that the statements of the attorneys are not
5 evidence, but merely tools that they use to help you
6 understand their respective positions.

7 The State has the burden of proof in this trial.
8 It must prove beyond a reasonable doubt that the
9 defendant is guilty of the offenses charged. If the
10 State fails to meet that burden, then you must find
11 the defendant not guilty.

12 On the other hand, if the State does prove its
13 case beyond a reasonable doubt, then you must
14 defendant the guilty. The defendant is presumed
15 innocent and has no burden of proof in this trial.

16 Now, I'm going to talk to you in greater length
17 about it at the conclusion. But a reasonable doubt is
18 defined as a doubt that would cause a reasonable
19 person to hesitate to act.

20 Now, a few more things, this is not an endurance
21 contest. We will take breaks as we go along. We're
22 getting ready to take our first break. But if you get
23 in distress and you need a break, you need to stretch
24 your legs or if there's some issue, let the bailiffs
25 know and we will do our best to accommodate you.

1 Now, when you're seated as a juror in a case,
2 there are three things that you are strictly
3 prohibited from doing. The first of those is
4 independent research. In this era of smartphones and
5 internet access it's easy for someone to try to
6 research either the law or the facts of the case.
7 You're strictly prohibited from doing that. Now --
8 and I'll go ahead and answer -- I get this question,
9 I do not allow the taking of notes during a trial by
10 the jury. I take the traditional view. I realize some
11 of my brethren take a different view, they take the
12 more modern approach where juries take notes. My
13 rationale for taking the traditional view is some
14 folks are good note takers and others are not. Your
15 deliberations at the end should not be a contest
16 between who takes the best note. Also sometimes
17 during the trial, the appearance or what we call the
18 demeanor of a witness may be important. So if your
19 head is buried in the notepad you might miss
20 something during the trial that's important. So
21 that's that's why I don't allow that the taking of
22 notes.

23 The second thing you are prohibited from doing is
24 talking to third-parties about the case. When we
25 break for lunch and you're walking to get you some to

1 eat or you're, you're outside the courthouse, if
2 someone comes up to you trying to talk about this
3 case, you let the bailiffs know, they'll, they'll let
4 me know and I will handle that. But you are strictly
5 prohibited from doing things.

6 The last thing is you may not deliberate amongst
7 yourselves until I tell you to do so and the end.
8 Deliberation means you as jurors are talking about
9 what's going on in the courtroom, talking about the
10 case. You can talk about anything you want to talk
11 about in the jury room or outside except this case. I
12 will tell you when you can discuss it. And, ladies
13 and gentlemen, the reason for these rules is that you
14 should base your decisions solely on the evidence
15 presented in the courtroom and not outside
16 influences. Also you shouldn't make your decision
17 prematurely. You shouldn't decide the case until all
18 of the evidence is in. So that's, that's the reason
19 for these rules.

20 Now, a few more things, there may be and I don't
21 know, it's common, maybe objections at some point in
22 the trial. One attorney may object to a question or a
23 piece of evidence, I have to make a ruling on that.
24 That should not be interpreted to mean that the court
25 favors one side or the other. My job is just to

1 ensure that both the State and the defendant receive
2 a fair trial in accordance with the law. And along
3 that same line there may be times that we send you
4 out of the courtroom so that we can take up a matter
5 of law outside of your presence. That's not to hide
6 things from you that's just to ensure that both sides
7 receive a fair trial. So we are going to take our
8 first break right now. And you have one order of
9 business and that is I want you to elect a
10 foreperson. This will be the presiding juror over
11 your deliberations at the end. This will also be the
12 juror that communicates with the court if there are
13 any issues that need to be made aware of. Any
14 communication between the jury and the court should
15 be by a written note signed by the foreperson. So,
16 Mr. Bailiff, would take our jury to the jury room for
17 our first break of the morning. When you've elected a
18 foreperson write that juror's number, number and
19 name on a slip of paper.
20 (Whereupon, the jurors exit the courtroom at 10:33
21 a.m.)

22 THE COURT: Okay. Is there anything for me to
23 decide for we go to recess?

24 MR. BLACK: Judge, I plan on playing the body cam
25 video. I think I mentioned this to Ms. Merrill and to

1 you back in chambers. But I think the plan is for,
2 basically, on the three body cameras that the State
3 plans to present is to put them into evidence, play
4 the first about four minutes of that with the audio
5 and then mute the rest of it. And, um, potentially,
6 skip around and let the officers explain kind of
7 what's going on. I wanted to put that on the record.
8 I don't think Ms. Merrill objected to that when we
9 spoke about that in chambers, but ---

10 THE COURT: Let me make sure I understand, are you
11 redacting it or you just for time sake, playing only
12 portions of it?

13 MR. BLACK: I am, I am, basically, playing after
14 four minutes, it's all into evidence. I'll skip
15 around, but that will be muted.

16 THE COURT: Right. Ms. Merrill, do you know the
17 points where he's planning on muting it? Have you
18 looked at it?

19 MS. MERRILL: I have, Your Honor. I guess, when
20 what he did, there's several different officers body
21 cams. So perhaps during the break he and I can talk
22 about ---

23 THE COURT: Well ---

24 MS. MERRILL: --- specifically which one so
25 there's no confusion.

1 THE COURT: All right. That's, that's what I would
2 suggest to. You, you clearly state what timestamps
3 when you're gonna mute it and you Ms. Merrill
4 collaborate on that, and we'll go from there.

5 MR. BLACK: Yes, sir.

6 THE COURT: Okay.

7 MR. BROWN: Judge, the only other thing just for
8 planning purposes, as you know this is a trafficking
9 case where it's gonna be analyze or it was analyzed
10 at sled. There are two officers, one officer that
11 collects the drugs from the location, Kiefer Smith,
12 who bought it back to the Abbeville Police
13 Department, put it into evidence. And then Dewayne
14 Balchin, whose the evidence custodian, who took it to
15 sled. I just wanted to make sure that the court does
16 follow with Hatcher and Brockmeyer, that whole line
17 of cases about, um, basically, filling that chain.
18 Once it gets to the sled, we have the internal chain
19 and we can submit that. And then the analyst will
20 also talk about who handled that once he got to sled.
21 But the chain would be intact with the witnesses on
22 the stand up until sled and then the analyst. Instead
23 of calling three additional people who looted from
24 Bin A shelf to, ah, the analysts, we just want to
25 make sure before calling them up from Columbia that,

1 that would not be necessary based on the cases of
2 Hatcher and Brockmeyer.

3 THE COURT: All right. Ms. Merrill?

4 MS. MERRILL: Your Honor, if I can beg the court's
5 indulgence.

6 THE COURT: Okay.

7 MS. MERRILL: Your Honor, could the court give me
8 just a moment either, either an hour during the break
9 and we can address this right when we get back on the
10 record, just to double check one issue ---

11 THE COURT: Okay.

12 MS. MERRILL: --- in those cases. I just want to
13 make sure I've, I've read them. But I'll make sure I
14 have a correct understanding of one particular
15 portion.

16 THE COURT: Okay. That's, that's fine. We can take
17 this up at the conclusion of the break. I would note
18 for the record that juror number 37, Parker Cann, has
19 been elected foreman. So let's make that a court's
20 exhibit please.

21 (Whereupon, the Selection of Foreperson has been
22 marked and entered into evidence as Court's Exhibit
23 No. 1)

24 THE COURT: All right. We'll take, we'll take a
25 break and then I'll hear from you.

1 (Whereupon, the court takes a short recess)

2 THE COURT: All right. Anything from the State?

3 MR. BLACK: Nothing from the State.

4 THE COURT: All right. Ms. Merrill?

5 MS. MERRILL: No, Your Honor. I was just gonna
6 address what we briefly discussed right outside the
7 courtroom regarding the chain of custody. I think to
8 protect my client's constitutional rights, I can't
9 consent to what the State has proposed. But I did
10 read or skim the State vs. Hatcher case and I think,
11 you know, if the court makes a ruling that they have
12 established a chain as far as practicable then....

13 THE COURT: And from our, from our chambers
14 conference as my understanding the State has the sled
15 witness coming at two o'clock, is that correct?

16 MR. BLACK: That's correct. The sled analyst is
17 coming at two, not, just her, not the other folks
18 that are in the chain that, basically, moved it from
19 shelf, point A to point B to finally get to the
20 analyst.

21 THE COURT: Okay. All right. Well, we can take
22 that up when the witness is here. If necessary the
23 State can proffer ---

24 MR. BROWN: Yes, sir. And ---

25 THE COURT: --- the testimony.

1 MR. BROWN: --- just for the record, we will move
2 the internal chain from sled just make it a court's
3 exhibit so everybody is on the same page with that.

4 THE COURT: Okay. Just make, make sure Ms. Merrill
5 has a copy of it.

6 MS. MERRILL: I do have a copy. I got a in
7 discovery, Your Honor. Thank you.

8 THE COURT: All right. And we'll, we'll take that
9 up when the witness, again -- if the State needs to
10 proffer that then we can take that issue up at that
11 time.

12 Okay. Let's get our jury.
13 (Whereupon, the jury enters the courtroom at 11:00
14 a.m.)

15 THE COURT: All right. Mr. Foreman, you'll always
16 sit right on the end there. And the two alternates,
17 y'all always sit in these chairs beside. The rest of
18 you are free to move about in the jury box.

19 Okay. We are ready to proceed. Ladies and
20 gentlemen of the jury, the first stage of the trial
21 will be opening statements by the attorneys. So is
22 the State ready to proceed?

23 MR. BLACK: Yes, Your Honor, May it please the
24 court?

25 Opening Statement- Mr. Black:

1 Good morning. On January the second of last year
2 about 6:30 in the evening, officers got a call to
3 ████████ Cambridge Street, Apartment 407 in reference to
4 some kind of domestic maybe, maybe a gun. When
5 officers got there, typically, like most officers
6 when they respond to a call they typically have no
7 idea what's going on. They get a call. They show,
8 they show up and they usually, they don't -- they
9 really don't know what's going on. Officers went
10 inside the apartment and they made contact with a
11 female, Ms. Jones and the defendant in this case, Mr.
12 Douglas Turner. Mr. Turner was on the couch. There
13 were several children in the apartment. A lot of
14 screaming..A lot of crying. The kids were upset. They
15 asked Mr. Turner to get off the couch, show them
16 their hands. He refused to comply. During that
17 conversation he says something about a gun. At that
18 point, officers draw their weapon because they have
19 to look out for themselves as well as the folks in
20 the apartment to make sure that everything is safe.\
21 Ultimately, they got him cuffed. Put him into
22 detention. Detained him and try to figure out what
23 the heck's going on, what are we doing here.

24 At this point after about twenty minutes, they,
25 basically, determine, all right, all we need is for

1 Mr. Turner to leave, will you go with us? He refuses
2 to go. And at that point, they arrest him.

3 As law enforcement officers, and you're gonna
4 hear from law enforcement officers, they're gonna
5 tell you what happened. You're gonna see some body
6 cam. You're gonna hear a little bit of the body cam.
7 You're gonna be able to watch some of the body cam.
8 So all this is gonna be recorded. All of this is
9 evidence. You guys are gonna get to see all this.

10 As officers attempt to put Mr. Turner in the
11 vehicle, as they pat him down, they find about 74
12 pills that end up weighing about 26 grams. And after
13 a sit down to sled, South Carolina Law Enforcement
14 Division, to be tested by drug analyst, it's
15 determined that it's methamphetamine. And Mr. Turner
16 is here today standing trial for trafficking in
17 methamphetamine.

18 Now, the judge is going to talk to you about what
19 the law is and what it all entails. And I don't want
20 to get bogged down with the details right now. But
21 basically, in South Carolina how it works is, if you
22 have less than a gram of meth that's considered
23 possession. If you have anywhere between one gram and
24 under 10 it's considered possession with intent to
25 distribute. And if you have anywhere between 10 and

1 28 grams, just on the weight, that is considered
2 trafficking in methamphetamine because it is such a
3 high amount of drugs. So Mr. Turner's here. He's
4 being tried for trafficking methamphetamines.

5 He's also being tried for resisting arrest and
6 that's pretty self explanatory. And quite frankly, if
7 you just watch the video it's, it is what it is. It's
8 not rocket science.

9 As the judge stated he's, you know, basically,
10 the keep, the gatekeeper of the law. He, basically,
11 cause balls and strikes here. But you guys, you guys
12 are the finder of the facts. You determine what
13 actually happened on that night at that particular
14 scene. And so that's what I want you to pay attention
15 to. I don't want you to get bogged down with what the
16 law is at this particular moment. But pay attention
17 to what happened; what the officers did; what they
18 find and where it was located; who's was it; and what
19 happened. That's what we're here for.

20 As the judge stated, we are the State. We have
21 the burden of prove the case beyond a reasonable
22 doubt. That's the standard of proof. If you go
23 anywhere to any court in the United States that's a
24 standard proof. Think of being firmly convinced of
25 something. We don't have to prove everything beyond

1 all doubt beyond, you know, beyond every single
2 shadow of a doubt. It's, basically, at the end of the
3 day, are you firmly convinced that this man committed
4 this crime. And that's what we're here for and that's
5 what you guys, ultimately, are deciding at the end of
6 this thing.

7 So we ask -- we're gonna try to wrap this thing
8 up today for you. We don't want to keep you the whole
9 week. We'll see what happens. But we appreciate you
10 guys being here. We appreciate you guys listening.
11 It's important for them. But it's also important for
12 us and for the community. So we appreciate you guys
13 being here.

14 THE COURT: Okay. Ms. Merrill?

15 MS. MERRILL: Thanks, Your Honor. May it please,
16 the Court?

17 **Opening Statement- Ms. Merrill:**

18 This is Mr. Turner. On this cold night in January
19 of last year there was a lot going on. I want you to
20 pay attention to these videos are shown. Do they
21 match what the officers are saying. When they say
22 find somebody, do you see that in the video? Because
23 on the scene there are numerous officers and they're
24 wearing body cams. So we get an opportunity to watch
25 those videos and I want you to pay attention. Is what

1 they say does it match what you see on the video?

2 This is a very important day for Mr. Turner. We
3 appreciate you paying attention. We want you to look
4 at all of the evidence and considerate. The solicitor
5 talks about, quite frankly, just look at the videos
6 and I would also encourage you to do that. When
7 they're played, pay attention. Do they match? Because
8 we do not think the State will prove any case beyond
9 a reasonable doubt because Mr. Turner is not guilty.

10 Thank you.

11 THE COURT: Thank you, ma'am. All right. State
12 call your first witness?

13 MR. BLACK: State calls Jamaya Jones.

14 THE CLERK: Do you swear or affirm the testimony
15 that you're about to give the court will be the
16 truth?

17 MS. JONES: I do.

18 JAMAYA JONES, first being
19 duly sworn, testified as follows:

20 **Direct Examination by Mr. Black:**

21 Q. Can you state your name for the record please,
22 ma'am

23 A. Jamaya Jones.

24 Q. And Ms. Jones, you live here in Abbeville?

25 A. I do.

J. Jones- Direct Examination by Mr. Black

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1 Q. You do?

2 A. Mmm, hmm.

3 Q. Where do you live?

4 A. I don't feel comfortable telling you where I -- I
5 live in Abbeville.

6 Q. Fair enough. Were you living at the Cambridge
7 Street Apartments back in January of last year?

8 A. I was.

9 Q. Okay. Um, were you there on January 2nd ---

10 A. I was .

11 Q. --- of last -- um, are you related to Mr. Turner?

12 A. I'm his wife.

13 Q. Okay. Do y'all have children together? Do you
14 have children together?

15 A. Three.

16 Q. Was Mr. Turner at your residence at that time?

17 A. Yes.

18 Q. Were y'all living together at the time?

19 A. Yes.

20 Q. You were?

21 A. Mmm, hmm.

22 Q. Did you call the cops on Mr. Turner?

23 A. I did.

24 Q. Why did you do that?

25 A. Because we were having an argument and I got kind

1 of scared so I just called.

2 Q. Okay. And did the, did the police show up?

3 A. They did.

4 Q. Abbeville City?

5 A. I guess.

6 Q. Do you know how many officers there was?

7 A. It was a lot.

8 Q. Okay. And, um, you said you called the police
9 because you were scared, why were you scared?

10 A. Because we were arguing.

11 Q. Did it turn violent?

12 A. No.

13 Q. Okay. Were the kids upset?

14 A. Not -- I don't remember.

15 Q. You don't remember?

16 A. Uh, uh.

17 Q. Um, did you eventually request for Mr. Turner to
18 leave and be put on trespass?

19 A. I did.

20 Q. You did?

21 A. Mmm, hmm. And I'mma show, I don't think it's
22 been marked -- I'mma show you what's been marked as
23 Plaintiff's Number 2, did you ever see a copy of
24 this?

25 A. No.

J. Jones- Direct Examination by Mr. Black

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1 Q. Okay. Is your name on that, ma'am?

2 A. Yeah.

3 Q. That is your address that you were living at, at
4 the time it's marked?

5 A. Yeah.

6 Q. It is.

7 MR. BLACK: Your Honor, the State move Plaintiff's
8 Number 2 into evidence?

9 MS. MERRILL: I'd say, Your Honor, I'd object.
10 There hasn't been a foundation that has been laid
11 because she indicated that she did not recognize that
12 document and had not seen it before.

13 MR. BLACK: I can put it in ---

14 THE COURT: All right. Sustained.

15 MR. BLACK: Thank you, Your Honor.

16 Q. Did Mr. Turner, did he ultimately refused to
17 leave?

18 A. I don't recall because I was detained and they
19 took me to the back when they came in at the time.

20 Q. Okay. They detained you?

21 A. Mmm, hmm.

22 Q. And they, they uncuffed you pretty quickly after
23 that, didn't they?

24 A. I'd say about ten minutes [indiscernible]....

25 Q. About ten minutes?

1 A. Yeah.

2 Q. Okay. But you had a conversation with the
3 officers after they took cuffs off, right?

4 A. I did.

5 Q. They did put the cuffs back on?

6 A. No.

7 Q. Did you try to talk to Mr. Turner as he was
8 cuffed?

9 A. I was in the back.

10 Q. You were in the back?

11 A. Yeah.

12 Q. You never did -- did you ever come back to the
13 front?

14 A. Yeah, I did.

15 Q. Okay.

16 A. And I talked to him.

17 Q. And how was Mr. Turner acting when you came back
18 into the front?

19 A. I don't recall.

20 Q. You don't remember?

21 A. No.

22 Q. Okay. Um, did law enforcement, eventually,
23 arrest Mr. Turner?

24 A. They did.

25 Q. And that's because he refused to leave?

J. Jones- Cross-Examination by Ms. Merrill

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1 A. He -- I don't, I don't get it because he was
2 never on trespassing. So I didn't never understand
3 why he was arrested.

4 Q. Did you -- you called law enforcement, correct?

5 A. Yes. But he wasn't on trespassing at the time he
6 was arrested so I didn't understand why he was
7 arrested.

8 Q. Did you ask law enforcement to take him out of
9 your house that evening?

10 A. Yeah, I did.

11 Q. Okay.

12 MR. BLACK: That's all the questions I have from
13 this witness. Thank you.

14 THE COURT: All right. Cross-examination?

15 Cross-Examination by Ms. Merrill:

16 Q. Is it fair to say, um, while law enforcement was
17 in your home that evening, you didn't hear everything
18 they were saying to Mr. Turner?

19 A. I didn't.

20 Q. Okay. Because you were actually in a separate
21 room, is that what you're saying?

22 A. Correct.

23 Q. And there was some period of time you were in the
24 same room, were you mostly in a separate room though

25 ---

F. Crowe- Direct Examination by Mr. Black

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1 A. I was.

2 Q. --- while they were there -- okay. You didn't see
3 Mr. Turner with drugs on his person at any time, did
4 you?

5 A. No, I did not.

6 Q. Okay.

7 MS. MERRILL: Thank you.

8 THE COURT: Anything further from this witness?

9 MR. BLACK: Not from the State, Your Honor.

10 THE COURT: All right. Thank you, ma'am. You can
11 step down.

12 MR. BLACK: The State calls Forest Crowe.

13 THE CLERK: Do you swear or affirm that the
14 testimony

15 you're about to give the court will be the truth?

16 MR. CROWE: I do.

17 FOREST CROWE, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Mr. Black:**

20 Q. Can you state your name for the record please?

21 A. Forest Crowe.

22 Q. And Officer Crowe, where do you work?

23 A. Abbeville City Police Department.

24 Q. How long have you worked there?

25 A. About eight years.

F. Crowe- Direct Examination by Mr. Black

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1 Q. Okay. And currently what is your role? What is
2 your title?

3 A. Sergeant over patrol.

4 Q. All right. Can you tell the jury, basically, what
5 your day to day duties involved as being the sergeant
6 over the patrol?

7 A. I supervise one or two patrolman and answer any
8 service calls and a little traffic here and there.

9 Q. Do you remember working on January 2, 2022?

10 A. I do.

11 Q. And what was your shift that day, if you
12 remember?

13 A. It was night shift that night.

14 Q. What time would you have started your shift?

15 A. About 6 p.m.

16 Q. Did you receive a call to go to an address in the
17 City of Abbeville ---

18 A. Yes, sir.

19 Q. --- about 6:30 or so?

20 A. Yes, sir.

21 Q. And what was that address?

22 A. [REDACTED] Cambridge Street, Apartment, I believe it
23 was, 408 or 7.

24 Q. 407, does that sound right?

25 A. Seven. Yes, sir.

1 Q. And that's an apartment complex here in the City
2 of Abbeville?

3 A. It is.

4 Q. What was the nature of the call?

5 A. The nature of the call came out as a DV with a
6 weapon involved, undisclosed of what that weapon is.

7 Q. And you're just getting this information from
8 dispatch, right?

9 A. Correct.

10 Q. And typically, you really, you have an idea, but
11 you really don't know what you're walking into when
12 you first respond to a call. Is that, is that fair?

13 A. It is.

14 Q. Okay. Who all was with you when you responded?

15 A. It was myself, um, Aaron Crowe and Kiefer Smith.
16 And Miasha Blackwell arrived on the scene
17 [inaudible]....

18 Q. She came a little bit later?

19 A. She came a little bit later, sir.

20 Q. So originally it was you, Aaron Crowe, who's your
21 brother.

22 A. Yes, sir.

23 Q. And Kiefer Smith?

24 A. Yes, sir.

25 Q. Would y'all have started about the same time,

F. Crowe- Direct Examination by Mr. Black

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1 about 6 o'clock on that shift?

2 A. About 6 o'clock, yes, sir. We left the same
3 location to head to that call.

4 Q. Okay. When you got to that particular scene, can
5 you tell the jury what you, what you walked into?

6 A. Yes, sir. So once we pulled into the, um, [REDACTED]
7 Cambridge, we pulled up right next to the 400, 400
8 building. Walked up to the, what would be the right
9 side coming from the roadway. We walked to that side
10 of the building, um, apartment complex, um, where the
11 door would have been, which was upstairs; as we
12 rounded the corner of the building, the door was a
13 jarred, and you could hear some, some commotion.
14 Nothing overly concerning. But you could hear
15 talking, kind of yelling, um, and then we continued
16 to proceed up the steps and we walked into, into the
17 apartment.

18 Q. Who did you see when you first walked into the
19 apartment?

20 A. As soon as we walked you could see through the
21 doorway, we seen Ms. Jones, um, stand against the,
22 what would be the living room wall and as we walked
23 into the apartment the defendant and three other kids
24 were on the couch, which would be to our left, as you
25 walk into the doorway as I'm facing the rear of the

1 courtroom.

2 Q. And you mentioned the defendant, who, who was the
3 defendant?

4 A. Um, um, Douglas Turner.

5 Q. Okay. And do you see him here in the courtroom
6 today?

7 A. I do.

8 Q. Can you identify him please?

9 A. Mr. Turner is wearing a black hoodie right next
10 to Ms. Merrill.

11 MR. BLACK: Please let the record reflect that
12 Mr. Crowe has identified the defendant as Mr. Turner
13 sitting between Mr. Colongeli and Ms. Merrill.

14 Q. Officer Crowe, what was your position, were you
15 the first one in the door? Second? Third?

16 A. I was third in the door.

17 Q. And who was first?

18 A. Aaron Crowe was first. Kiefer Smith was second.

19 Q. Okay. And you third. What was your - what
20 happened when you walked in?

21 A. So as soon as we walked in again, we could see
22 Ms. Jones clear. We had a clear visual of her. Didn't
23 see any weapons, any concern of any, anything we
24 needed to be concerned of. Mr. Turner again, was
25 laying on the couch with three other juveniles and he

F. Crowe- Direct Examination by Mr. Black

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1 was sweating very profusely, um, very frantic,
2 erratic behavior, um, just, in and out different
3 thoughts and words and statements which all of our
4 attention then went from Ms. Jones to him. We then
5 asked the kids to get away from, from the couch to
6 kind of isolate them to get them away from whatever
7 situation we had not yet determined what would've
8 been.

9 Q. Did they do that?

10 A. They did. Two of them got up and Mr., um, Mr.
11 Turner wouldn't let the third one, the oldest one get
12 up from his, would've been his, ah, left side.

13 Q. How did he do that?

14 A. So Mr. Turner had his hands kind of in the air
15 like this and he was laying on his back. The juvenile
16 was kind of right sliding under his left side and
17 every time that we would ask Mr. Turner to let the
18 juvenile get off, ah, he would attempt to get up and
19 Mr., Mr. Turner would move his arm down or kind of
20 elbow or use his arm to pinned him back into the
21 couch. He did that several times -- we asked several
22 times for that to happen. Eventually, um, there was
23 enough timeframe to get the juvenile away from that
24 situation and at that time Mr. Smith grabbed Mr.
25 Turner as well as I did and then proceeded from

1 there.

2 Q. Did Mr. Turner say something during this back and
3 forth on the couch that escalated the situation?

4 A. Yes. The, the statement that he stated which led
5 to the Aaron and Mr., Mr. Smith [inaudible].... told
6 to do your weapons was he said, he said I have a gun
7 at that point. Which we had known at that point from
8 statements from the caller that there was a weapon
9 involved. We did not know where that gun was at up to
10 that point. So from that with that statement his
11 behavior, it was, you know, for our safety and
12 anybody else's safety, we handled that situation from
13 there.

14 Q. And so other officers, they drew their gun, what
15 did you do?

16 A. Because of where I was, right at the threshold of
17 the doorway, um, to my, to where I would've been
18 looking kind of across from Mr. Turner and the
19 juvenile, um, it was unsafe from perspective for me
20 to draw and have - cross draw across Mr. Turner and
21 the juvenile. I didn't feel safe to do that to put
22 that juvenile in that risk at that moment. And I just
23 stayed where I was and pretty much made myself a
24 contact officer at that point that knew to put hands
25 on him and I'd been the first one there to do that.

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1 Q. Okay. Did your attention focus to the other
2 parties that were inside this apartment?

3 A. So once, once all that was happening and Ms.
4 Blackwell had showed up and so the kids had went to
5 the back of the, back bedroom apartment as well as
6 Ms. Jones. I think she might've went like into the
7 hallway, first long hallway of the living room and we
8 just, all of our attention is on Mr. Turner at that
9 point just based off of behavior and everything from
10 there.

11 Q. And at that point, did y'all move in and cuff
12 him?

13 A. We did.

14 Q. And you just basically just detained him?

15 A. He was put into investigative detention at that
16 point. And not long after that we put Ms. Jones
17 investigative detention as well until we could get a
18 little bit more clarification on the, of our
19 situation.

20 Q. And so nobody was under arrest at that point?

21 A. No, sir.

22 Q. And you never -- and you guys never found a gun
23 on Mr. Turner after you cuffed him or on the couch or
24 anywhere like that, correct?

25 A. No, sir. We did not.

1 Q. Okay. But he clearly said that there was a gun,
2 he had a gun, or somebody had a gun ---

3 A. Yes, sir.

4 Q. --- that you heard?

5 A. On [indiscernible]....

6 Q. Okay. And you mentioned body cam, are you
7 outfitted with a body cam?

8 A. We are.

9 Q. And typically, do you wear those?

10 A. Typically, we do.

11 Q. And did you have it in this particular incident?

12 A. It was, it was on all person and recording entire
13 incident Q. Okay. And you've had a chance to
14 review that body camera, correct?

15 A. Yes, sir.

16 Q. And you've looked at it this morning, is that
17 right?

18 A. Yes, sir, I did.

19 Q. And it's a fair and accurate representation of
20 the events that happened that night ---

21 A. It is.

22 Q. --- that evening?

23 A. It is.

24 MR. BLACK: Your Honor, at this point the State
25 would move to publish, or move into evidence I

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1 believe it would be Mark Plaintiff's 3 and we wish to
2 publish to the jury?

3 THE COURT: Any to State's Exhibit 3?

4 MR. BLACK: And I will put on, we had talked about
5 playing the first, roughly, ten minutes.

6 THE COURT: Okay.

7 MR. BLACK: And then muting it after that and see

8 ---

9 THE COURT: Hold on! Let me see if there's an
10 objection to the introduction.

11 MR. BLACK: Okay.

12 THE COURT: Is there any objection to State's
13 Exhibit Number 3?

14 MS. MERRILL: No, Your Honor.

15 THE COURT: All right. State's Exhibit Number 3
16 will be admitted without objection.

17 (Whereupon, the DVD has been marked and entered into
18 evidence as State's Exhibit No. 3)

19 THE COURT: Okay. You may publish the exhibit.

20 (Whereupon, the DVD is played for the jury)

21 Q. Officer Crowe, that was the first four minutes,
22 um, y'all eventually got him cuffed and detain at
23 that point, right?

24 A. Yes, sir.

25 Q. Okay. And at this point, what are y'all -- what's

1 the next step? What are y'all doing?

2 A. So at that point we had, um, got Mr. Turner
3 detained. We then detained Ms. Jones and then
4 separate parties, basically, at that point, which is
5 normal in these situations, to ask, at this point,
6 really to talk to Ms. Jones because pulling from Mr.
7 Turner's erratic behavior and all there's just no,
8 there's no way or get anything or any leeway with him
9 of what had taken place at that point. We started
10 talking to Ms. Jones, um, who stated that he ---

11 Q. Well, let me ask you this, did you, did you talk
12 to Ms. Jones or did your brother talk with her?

13 A. My brother did.

14 Q. Okay. So you didn't talk to her?

15 A. I was -- yes, sir. I was, I was pretty much with
16 Mr. Turner the entire time at this point of the, of
17 the call. .

18 Q. Okay. Based on the conversation with Ms. Jones,
19 did y'all eventually Mr. Turner on trespass?

20 A. Yes, sir.

21 Q. Okay. And he was given a trespass notice, is that
22 right?

23 A. Yes, sir. Apartment/home.

24 Q. I'm gonna show you what's been marked as State's
25 Number 2. Did you sign this?

F. Crowe- Direct Examination by Mr. Black

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1 A. Yes, sir. This would be my signature here. Served
2 him right there, police officer.

3 Q. So you filled out this trespass notice and you
4 would've delivered it to who?

5 A. To Mr. Turner on the scene.

6 Q. Okay. And that was based on your conversations
7 that you had with Ms. Jones.

8 A. Yes, sir.

9 MR. BLACK: Your Honor, the State would move
10 Exhibit 2 into evidence.

11 THE COURT: Any objection?

12 MS. MERRILL: I beg the court's indulgence. No
13 objection, Your Honor.

14 THE COURT: So State's Exhibit Number 2 would be
15 admitted without objection. Mr. Black, proceed.

16 (Whereupon, the Trespassing Notice has been marked
17 and entered into evidence as State's Exhibit No. 2)

18 Q. While you guys were talking to Ms. Jones and
19 dealing with the situation again, was Mr. Turner
20 under arrest at this point?

21 A. He was not. And that point he was placed in
22 investigative detention.

23 Q. What was he doing while he was investigative
24 detention?

25 A. The same sporadic behavior. Not making any sense.

1 Not making any complete statements. Any time we would
2 ask anything of him, um, whether any just common, you
3 know, you need EMS or anything like that, it was just
4 yes, no, yes, no. Nothing, nothing really to be made
5 sense of from his behavior.

6 Q. He he continued -- did he fight you guys when you
7 were trying to get him cuffed?

8 A. So after he was placed in cuffs there, actually,
9 the video stops right there. The entire time he was
10 continuing to, um, I guess, passive-aggressive,
11 aggressive-passive, kind of wiggling around and
12 trying to get away or trying to, to maneuver away
13 from us.

14 Q. And he did that the whole time while he was in
15 cuffs?

16 A. Correct.

17 Q. Did you guys eventually -- well was, was Mr.
18 Turner was he -- what did his outward demeanor look
19 like?

20 A. Again, he was just, he was sweating as if he just
21 ran a marathon, um, and then just very erratic, very
22 loud, you know, very boisterous than a reasonable
23 person would have been.

24 Q. Based on that, did you guys contact EMS?

25 A. We did. We collectively as a group, asked for EMS

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1 for Mr. Turner's behalf, um, initially.

2 Q. And would that be something that you guys
3 generally do if you're seeing this?

4 A. Yes, sir. Typically, it is.

5 Q. Okay. Did EMS show up?

6 A. They did.

7 Q. Did EMS, did they treat Mr. Turner on the scene?

8 A. They did not. Mr. Turner refused treatment.

9 Q. Okay. Eventually, did, ah, did you guys decide to
10 try to release Mr. Turner?

11 A. We did.

12 Q. And why is that?

13 A. Based on the fact that all Ms. Jones wanted at
14 that point was for Mr. Jones to or Mr. Turner to
15 leave the apartment. We advised Mr. Turner as well as
16 the sign "trespassing", hey, you are on trespass at
17 this point, um, you know, you're gonna have to leave
18 the apartment, Ms. Jones don't want you here. Are you
19 willing to do that after we help you up and get these
20 handcuffs off of you. We asked numerous times, more,
21 more than twice, and eventually after enough times of
22 asking him Mr. Turner then stated that he was not
23 gonna leave on his own will. And we then placed him
24 under arrest for trespassing after notice at that
25 point.

1 Q. And when y'all placed him under arrest, was he
2 still combative and fighting and whatnot?

3 A. Correct. He was.

4 Q. Did y'all try to take him -- you said this was an
5 upstairs apartment?

6 A. Upstairs apartment, yes, sir.

7 Q. Did y'all try to get him downstairs to a patrol
8 vehicle to take him to jail?

9 A. We did. At that point, EMS had just started to
10 leave. We knew that they had a little bit more
11 resources to assist us in getting Mr. Turner
12 downstairs without any incident to us or his health
13 from, from it raining as well as the video shows when
14 we first got on the scene. I'd said overall safety
15 for his sake and our sake it was, it was very high on
16 our list and we used a - it's a stair chair that they
17 use, we used many times of getting people out
18 medically on calls and stuff as well, that we used to
19 get Mr. Turner down from the upstairs apartment to
20 downstairs.

21 Q. Why did you have to use that particular chair?

22 A. Again, the main benefits on that point was
23 because of Mr. Turner's non-compliance at that point
24 and resisting officer's commands and the fact that he
25 was under arrest, um, Mr. Turner was still being very

F. Crowe- Direct Examination by Mr. Black

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1 sporadic, erratic and aggressively trying to, you
2 know, pull away from officers. It was for his best
3 interest and ours just use that chair for everybody
4 safety.

5 Q. So he wasn't walking out on his own two feet, he
6 refused to do that?

7 A. Yes, sir, he did.

8 Q. Did y'all eventually get him downstairs to a
9 patrol vehicle?

10 A. We did.

11 Q. Okay. And did y'all search him before he got into
12 a vehicle?

13 A. So the only thing they had done at that point was
14 the initial, initial frisk based off of the initial
15 statement in route to the call about the weapon. So
16 the initial frisk after he was on the ground here was
17 just a quick pat down for anything that we would've
18 felt as, as a handgun or a pistol which was not,
19 again, was not discovered then. So once we got to the
20 patrol car we had realized that we had yet to have
21 done the thorough search after placing him under
22 arrest at this point. We get to do the thorough
23 search for any other weapons or illegal contraband
24 and we then proceeded to do that search.

25 Q. Okay. And who, who all assisted in this search?

1 A. Again, it was Aaron Crowe, Kiefer Smith, myself,
2 Officer Blackwell.

3 Q. Okay. And I'm gonna skip around to this video.
4 I'm gonna continue to have it muted.

5 (Whereupon, the video is played for the jury)

6 Q. And this is minute 2:02:05 of the video, I know
7 you've had a chance to look at this video, officer.
8 Can you tell the jury as to kind so what's going on -
9 --

10 A. So at this point, Mr. Turner is - we've sat him
11 up again, at this point this is where we advised him
12 of the trespass notice and looking to take place if
13 he agrees upon to leave the apartment on his own. At
14 this point, Mr. Turner was asked several times. He
15 did not wish to comply with that and we then placed
16 under, placed into arrest from investigative
17 detention for trespass after notice.

18 Q. And describe what the residents look like to the
19 jury as we continue to watch this?

20 A. So right there were in the living room, common
21 area of the house just, just to the -- at that
22 looking from the door in, just to the left of the
23 living room. And we pulled him off of the couch and
24 there was other house items. We'd been around the
25 house about the area.

F. Crowe- Direct Examination by Mr. Black

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1 Q. And you see him squirming around right here, is
2 he still fighting you guys?

3 A. Yes, sir. At that point, that's when he was, um,
4 he was advised he was under arrest and we had tried
5 to get him on, speak to, to go out of the apartment
6 at this point. And, um, he continued to resist that,
7 and we had no choice but to get him back to the
8 ground for the time being.

9 Q. For the record that is about 1:23 of the video.
10 And who's that lady standing there in the back of
11 your body camera?

12 A. That would be Ms. Jones.

13 Q. She doesn't have any cuffs on, does she?

14 A. She did not.

15 Q. She wasn't under arrest for anything?

16 A. She was not.

17 Q. Were you guys trying to calm Mr. Turner down
18 here?

19 A. Yes, sir. From the initial, just from the initial
20 time as soon as we walked into the door, our
21 intentions involved was to get Mr. Turner to a more
22 reasonable state which was not accomplished at any
23 point.

24 Q. And y'all didn't draw any more guns after y'all
25 got him cuffed, did you?

1 A. No, sir. As soon as we got hands on and started
2 taking him to the ground from that initial point, all
3 guns were holstered, um, and he was placed in the
4 investigative detention.

5 Q. At this point, are y'all trying to figure out how
6 you're gonna get him downstairs?

7 A. At this point, we were trying to do the more
8 tactical way of doing this without hurting him or
9 ourselves during this process.

10 Q. I'mma skate down to just about a 1:39. It's like
11 y'all got him downstairs at this point, is that
12 right?

13 A. That's be correct.

14 Q. As we're watching this is Mr. Turner still
15 fighting you guys getting into the vehicle?

16 A. Yes, sir, he is.

17 Q. What are y'all doing right, right here?

18 A. So right here at that point, we had just placed
19 his feet to the floorboard of the porter cage and
20 trying to get the rest of his person inside the
21 vehicle. At this point, Mr. Turner just completely
22 locked, pretty much locked his entire body up, you
23 know, with all his might, muscles just become stiff
24 as a board. And then at that point we, um, we had
25 recognized that we had yet to have searched his

F. Crowe- Direct Examination by Mr. Black

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1 person actively at that point for any other knives or
2 any other illegal, illegal contraband or anything. So
3 we take him -- get him out of the car, take him back
4 to the ground which he's still resisting here and
5 start that search.

6 Q. So he wasn't compliant pretty much as whole
7 encounter?

8 A. Correct. And we, we had seen, Aaron Crowe - at
9 this point, naturally we were trying to get him into
10 the patrol car, had seen what appeared to be like a
11 clear baggie at that point which is what led us to
12 that revelation at that point, hey, we have got to
13 completely search his person.

14 Q. And this is minute 1:41:55 on your body camera,
15 you don't -- I don't think you can see it here but at
16 this point is this when y'all discover the drugs?

17 A. Correct.

18 Q. And who found the drugs? It wasn't you, was it?

19 A. It was, it was a combination of all of us. We all
20 like seen at that point -- once Aaron had seen it,
21 we had all started patting down through his bod. We
22 all kind of had went to that same spot visually and
23 seen it, um, I wasn't the one directly recovered it.
24 I believe it was either Aaron or Kiefer that had
25 directly recovered that item.

1 Q. But at that point, the drugs would've been taken,
2 secured and ultimately, place and evidence?

3 A. Correct.

4 Q. And as were watching this, did y'all, did y'all
5 take Mr. Turner to the hospital to get him checked
6 out?

7 A. We did.

8 Q. And he was ---

9 A. Basically, at this point, now that he is in our
10 full custody at this point, um, now, we had -- now,
11 he's, you know, we're responsible for his well-being.
12 Our concern was the unknown of what may have been,
13 may have or may not have been ---

14 Q. Going on with him medically?

15 A. --- in his system at that point. Regardless, we
16 felt that the next step would be to get him medically
17 evaluated to clear any of that ---

18 Q. And y'all took him to the hospital in Abbeville?

19 A. Abbeville, yes, sir.

20 Q. He was cleared, eventually?

21 A. Correct.

22 Q. And then he was taken to jail?

23 A. And taken to the jail, yes, sir.

24 Q. Okay. I'mma bounce around a little bit. It looks
25 like I finally had to put them on a stretcher.

F. Crowe- Cross-Examination by Ms. Merrill

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1 A. That's be correct. Because we were going to
2 hospital relatively to get him evaluated, with his
3 non-compliance with us we were not gonna get him in a
4 patrol car, [indiscernible]....full cage in our car..
5 So we just made a determination to use a backboard,
6 where you strap them to the backboarding, put them on
7 the stretcher and Aaron Crowe in the back of the
8 ambulance with EMS to the hospital and he was cleared
9 from there and then went to the jail.

10 Q. And you ended up going to the hospital too and
11 this is actually at the hospital. I'm looking at
12 1:00: ---

13 A. Correct. This is gonna be at the back of the ER
14 Room right now....

15 MR. BLACK: That's all the questions I have.
16 Please answer any questions Ms. Merrill may have for
17 you.

18 THE COURT: All right. Ms. Merrill, cross-
19 examination?

20 **Cross-Examination by Ms. Merrill:**

21 Q. When you got there Mr. Turner was in a pretty
22 agitated state, state, is that correct?

23 A. That's be correct.

24 Q. And, in fact, y'all were trying to get him to a
25 more reasonable state?

1 A. At that point, we were just trying to get
2 everything more, I guess you would say, ah, more
3 level just to see where everything was at that point.

4 Q. Okay. And then was he -- would you agree he was
5 not acting rationally?

6 A. I agree he was not acting rationally.

7 Q. Okay. And then -- I want to look at State's
8 Exhibit, I believe it was, 2, that this trespass
9 notice, you didn't write this on the scene, did you?
10 Did you fill that out afterwards?

11 A. That would have been -- I believe we would've
12 fill it afterwards at the, at the police department.

13 Q. Okay. Okay. So while you're on the scene, you
14 didn't give Mr. Turner a copy of Exhibit 2, that was
15 done after you left?

16 A. . Correct.

17 Q. Is that right?

18 A. Correct. Due to Mr. Turner's state.

19 Q. Okay. Okay. So you weren't filling out that
20 paperwork on the scene that was filled out later?

21 A. Yes. But he was verbally, verbally, verbally
22 given that trespass on the scene.

23 Q. Okay. And then the reason for his arrest, as I
24 understand it, was that he after he was told he
25 shouldn't be there, he was continuing to be there and

F. Crowe- Cross-Examination by Ms. Merrill

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1 therefore, he was trespassing, is that right?

2 A. Correct. He was placed on a trespass upon Ms.

3 Jones request from us. We had verbally, verbally

4 stated to Mr. Turner you are on a trespass from

5 Cambridge Apartments, 407. You're gonna have to leave

6 this apartment. You are not a tenant here or resident

7 here. And we gave Mr. Turner multiple, multiple times

8 to agree to that trespass that he, that he understood

9 that and that he was going to leave after he was told

10 to which he was not willing to.

11 Q. Okay. And it was your understanding he did not

12 live there or that he did live there?

13 A. He did not live there.

14 Q. He did not live there, okay. So it's your

15 understanding he was just a guest there, is that

16 right?

17 A. Correct.

18 Q. Okay.

19 A. He had came on -- yes, ma'am.

20 Q. And then oftentimes in a situation like this when

21 you're doing paperwork you're also doing, um, like an

22 arrest warrant afterwards, is that right?

23 A. Correct.

24 Q. And no arrest warrant was issued for Mr. Turner

25 trespassing after notice was there?

1 A. No.

2 Q. Okay. And he's not being tried today for
3 trespassing afternoon, is that right?

4 A.

5 Okay. I'm not sure. I'm not sure how to answer that
6 question.

7 Q. Okay. Did you -- let me just double check one
8 thing here. You didn't, at any time, do an arrest
9 affidavit for trespassing after notice in this case,
10 did you?

11 A. There -- so there was a warrant sought, yes, for
12 trespassing after notice. If that's what you're
13 asking after the fact.

14 Q. Okay. Who would've signed that ---

15 A. Judge Brown (ph).

16 Q. Okay. And then, um, but to ask Judge Brown (ph)
17 to sign that warrant, you would have had to, an
18 officer would have had to fill that out, is that
19 right?

20 A. Correct.

21 Q. Was that you or someone else?

22 A. It would have been -- I'm not sure if it was me
23 that filled out that form or not. I believe it was
24 Kiefer Smith is the one that filled out the affiant
25 and was the affiant to that point.

1 Q. Okay. Okay. But it's your understanding that
2 there was a warrant sought for trespass after notice,
3 is that right?

4 A. Yeah. There was.

5 Q. Okay. Now, going back to kind of the beginning of
6 the video, when the audio was on Mr. Turner pretty
7 clearly state's "I ain't got a gun", doesn't he?

8 A. No. He clearly states on video that he has a gun.

9 Q. Okay. Just for the record I'm playing State's
10 Exhibit 3 and I'm at the 3:25 mark. I'mma have to go
11 back forward just a little bit.

12 (Whereupon, the video is played for the jury)

13 Q. I'mma go back just a little bit.

14 (Whereupon, the video is played for the jury)

15 MR. BLACK: I'm trying to find this one
16 particular part and I'm sorry. I think I wrote down
17 the time. Give me just a second and let me see if I
18 can get there.

19 (Whereupon, the video is played for the jury)

20 Q. So you agree that right then Mr. Turner said, "I
21 ain't gotta a gun"?

22 A. That's be after-the-fact when he had stated the
23 first time he has a gun.

24 Q. Okay. So the 1:52, he's holding both of his hands
25 up and he says, "I ain't gottta gun", is that right?

1 A. Again, he says that after the first statement
2 where he says he has a gun which is why Aaron Crowe
3 had drawn his weapon from his, from his holster. And
4 then at this point, once the gun is out and he is
5 realizing the situation he states that I don't have a
6 gun.

7 MR. BLACK: I beg the court's indulgence.

8 Q. And during much of this time that he's, Mr.
9 Turner is on the sofa, he's got both hands up, is
10 that fair?

11 A. He does.

12 Q. Okay. And then once he was handcuffed he was
13 patted down, is that right?

14 A. He was frisked briefly for any possible weapons.
15 (Whereupon, the video is played for the jury)

16 Q. Okay. So is that you that ask for him to be tied
17 down or is that another officer?

18 A. That would be Aaron Crowe on the record right
19 there.

20 Q. Okay. Okay. And did you pat down Mr. Turner at
21 this time?

22 A. I have, I have control of his, um, one of his,
23 one of the arms and patted the a section of his body,
24 not his entire body.

25 Q. Okay. Who is the other officer that patted him

1 down?

2 A. On the other side there, on record, would be
3 Kiefer Smith and Miasha Blackwell also comes from
4 like the, I guess, his head area and helps assist as
5 well at that time.

6 Q. Okay. So were there three officers patting him
7 down?

8 A. Correct.

9 Q. Okay. And at that time, y'all did not find
10 anything on his person, is that right?

11 A. We did not feel anything that would consist of
12 any, any pistols or any firearms at that point.

13 Q. Okay. But did find -- you didn't find any drugs
14 either, did you?

15 A. That's not what the frisk was for. The frisk was
16 initially just for the initial safety, for our safety
17 and everybody else's ---

18 Q. Okay. Well, if -- if you frisk someone and you
19 find something even if you don't think it's a weapon,
20 if you think it's illegal contraband, do you normally
21 get that item at that time?

22 A. We do not. 'Cause we did not feel that item at
23 that time and we weren't searching for that item at
24 that time.

25 Q. Okay.

1 MR. BLACK: I beg the court's indulgence for just
2 a moment.

3 Q. You said you've been officer, I believe, for
4 about eight years, is that right?

5 A. That'd be right.

6 Q. Okay. Are there times when, if you need to you
7 can take someone into protective custody to protect
8 them from themselves or harming others, is that fair?

9 A. That would be fair?

10 Q. Okay. Is that an option that could have been done
11 here to take him into protective custody?

12 A. Not, not at that moment, no.

13 Q. Okay. But it seemed like he was in enough medical
14 distress that EMS was called, is that right?

15 A. Initially, yes. For us to see he needed medical
16 attention, correct.

17 Q. Okay. And then EMS remained on the scene because
18 Mr. Turner actually left in an ambulance, is that
19 right?

20 A. After he was placed under arrest and we had
21 determine at that point that he need further medical
22 attention. On the departments in, we had put him in
23 the back of the ambulance to transport him to the
24 hospital.

25 Q. Okay. And you did that because you had concerned

F. Crowe- Redirect Examination by Mr. Black

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1 about his health, is that right?

2 A. Yes. We did that for any liabilities or any
3 medical condition that may have came after the fact
4 he was placed under arrest, if that's what you're
5 asking.

6 Q. And, um, at the scene, is it correct, he was
7 informed he was arrested, being arrested for the
8 trespass after notice, is that right?

9 A. That's be correct.

10 MR. BLACK: I beg the court's indulgence for just
11 a moment.

12 Q. So when y'all were trying to get Mr. Turner into
13 the car, would you agree it was fairly chaotic?

14 A. I would agree with that.

15 Q. Okay. And then, um, which officer did you say
16 located drugs?

17 A. So as myself and Sargent Smith had each side of
18 Mr. Turner, and we were trying to get him into rear
19 of the county patrol car, at that point, Aaron Crow
20 had seen what appeared to be a clear baggie coming
21 from a piece of clothing that Mr. Turner had on at
22 that point.

23 Q. Okay. Did you see that?

24 A. I did not. [inaudible]....

25 Q. And at any point, did you take possession of

1 these drugs that were supposedly found on his person?

2 A. I did not -- I did not personally put hands on
3 that item once we did search him from there.

4 Q. Okay. Do you know who do take possession of
5 drugs at that time?

6 A. So Kiefer Smith had located the item on Mr.
7 Turner and then handed that to Aaron Crowe which he
8 had then secured them to his patrol car at that
9 point.

10 Q. Thank you.

11 MR. BLACK: I have no, have no further questions.

12 THE COURT: Any redirect?

13 MR. BLEDSOE: Just briefly.

14 **Redirect Examination by Mr. Black:**

15 Q. Officer Crowe, initially, when you get there, Mr.
16 Turner says that there's something about a gun,
17 correct?

18 A. Correct.

19 Q. And then he says that he doesn't have a gun after
20 Officer Crowe pulls his weapon out, correct?

21 A. Correct. So after we get there, um, we're trying
22 to get the kids off the couch Mr. Turner then says,
23 "he has a gun", which in turn is when Aaron Crowe had
24 drawn his duty weapon from his holster and at that
25 point, the video that Ms. Merrill had just run there,

1 would be the statement he said after the fact of the
2 first statement "there is a gun", but he did not have
3 a gun.

4 Q. Okay. Have you ever been in a situation on the
5 road where somebody says that they don't have a gun
6 and they actually do have a gun?

7 A. Yes.

8 Q. And what is you're training tell you to do?

9 A. The training there is force with force.
10 Basically, at that point if we, we knew there was a
11 weapon involved at some point and didn't know what
12 the weapon was, with the initial statement for Mr.
13 Turner that he has a gun. We're trained to then,
14 present our gun for that same reason that there may
15 be a gun - not to say that there is not one, but that
16 there is one there. Um, but then after the fact,
17 again, Mr. Turner state's the second time, I don't
18 have a gun. After we detain him; get him to the
19 ground; you want to frisk for a weapon and only
20 weapon, at that point, no weapon was found. We still
21 placed him in an investigative detention and then the
22 incident went from there.

23 Q. So your main concern was a gun once you got him
24 in cuffs, initially?

25 A. Correct.

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1 Q. And you didn't feel one?

2 A. We did not feel one.

3 Q. Okay. And then in terms of the drugs, you never
4 laid hands on the drugs once y'all, once other
5 officers retrieved them from Mr. Turner, did you?

6 A. Correct.

7 Q. And you never saw, you never saw them again after
8 ---

9 A. I saw, I saw them once we had recovered them from
10 his person. But I never had first-hand, first-hand
11 exchange of the come of the drugs from his person to
12 anybody else's.

13 Q. Okay. It was the other officers that you are
14 working with?

15 A. Yes, sir.

16 Q. Okay.

17 MR. BLACK: That's all the questions I have.

18 THE COURT: Anything further from this witness?

19 MR. BLACK: Not from the State.

20 MS. MERRILL: No, Your Honor. Thank you.

21 THE COURT: All right. Thank you, officer. You
22 can step down.

23 MR. BLACK: Officer, um, the State calls Officer
24 Aaron Crowe.

25 THE CLERK: Do you swear or affirm that the

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1 testimony you're about to give the court will be the
2 truth?

3 MS. CROWE: I do.

4 THE CLERK: You may have a seat.

5 AARON CROWE, first being
6 duly sworn, testified as follows:

7 Direct Examination by Mr. Black:

8 Q. Can you State your name for the record please?

9 A. Yes. Aaron William Crowe.

10 Q. And Officer Crowe, how long have you been working
11 with Abbeville City?

12 A. I've been working with the police department for
13 the past seven years and some change.

14 Q. Okay. And what is your current title?

15 A. I'm a lieutenant of uniform patrol here at the
16 police department.

17 Q. And what are your day-to-day duties?

18 A. Answering calls of service on top of some admin
19 things like payroll, looking over paperwork and
20 making sure reports are right, things like that.

21 Q. Were you working last year, January 2, I believe?

22 A. Yes, sir, I was.

23 Q. Do you know what your shift your was that day?

24 A. I actually had to finished my shift was having
25 dinner with the oncoming shift that was there. I

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1 don't know of is relevant, but I wasn't a lieutenant
2 at the time of that. I was a sargeant at the time.

3 Q. Okay. And in terms of you guys were having
4 dinner, what time would your shift had, would've
5 ended?

6 A. Six p.m.

7 Q. Okay. And do you know what time you guys got the
8 call?

9 A. I do not recall the time. No, sir.

10 Q. Would have been while you guys were at dinner?

11 A. Yes, sir.

12 Q. So between six and 6:30, does that sound fair?

13 A. Yes, sir.

14 Q. And based on the call, what was, what was the
15 main -- what was the reason for the call initially,
16 that you would have received?

17 A. It was a disturbance at an apartment, at ah, [REDACTED]
18 Cambridge here inside the city limits, um, where a
19 subject was acting erratically and the caller on the
20 scene wanted, wanted help with that subject, wanted
21 that subject out.

22 Q. Okay. And well, did you guys get information
23 that there may be a possibility of gun?

24 A. Yes, sir. It was our understanding that the, the
25 victim or the caller has, had possession of a firearm

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1 and armed herself with it in some fashion that told
2 police a lie.

3 Q. Okay. And so you guys responded to this call.
4 Typically, when you respond to cause you have an idea
5 of what's going on but you know fully what's going on
6 when you get there?

7 A. Not typically. There are, there are some times
8 where the information is extremely accurate. A lot of
9 times there's pieces missing where you have a general
10 idea but you're not exactly sure of the circumstances
11 that you ---

12 Q. And when you got to the scene -- who were the
13 officers that were with you when you got to the
14 scene?

15 A. It was Kiefer Smith, Forest Crowe and Miasha
16 Blackwell.

17 Q. And who was the first officer there inside the
18 residence?

19 A. I was.

20 Q. All right. And what did you -- what do you see
21 when you
22 first got there?

23 A. I walk up to the door and it was ajar. I look and
24 I see the female, the caller walking back towards the
25 back bedrooms of the residence. And I could hear

1 people talking on my left. The doorway kind of opens
2 up and there's a, there's a small little nook, I
3 guess, you could say, big enough for furniture, and I
4 could see legs. I could see people sitting on what
5 looked like a couch and I hear, hear people speaking.
6 I heard really one voice more than another. But I
7 heard people on the left and kind of stuck my head
8 around to see who I was talking to and entered from
9 there to kind of deal with the people who were there
10 on the couch right there from my left.

11 Q. And who -- who did you see on the couch?

12 A. Several juveniles that I, I can't recall their
13 names. But also I saw Mr. Turner sitting on the
14 couch.

15 Q. Is Mr. Turner, is he present here today?

16 A. Yes, sir.

17 Q. Can you identify him please?

18 A. Yes, sir. The gentleman in the black jacket and
19 the dreads.

20 MR. BLACK: Please let the record reflect that
21 Officer Crowe has identified the defendant.

22 Q. When you went in there and talked to the
23 defendant, initially, what was that conversation
24 initially like?

25 A. As I come to the door he started telling me

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1 nothing was going on that he wasn't doing anything.
2 He was a little bit more erratic than I dealt with in
3 the past. The reason I ---

4 Q. Well, let me ask, let me ask you this, in terms
5 of, in terms of his demeanor describe his outward
6 demeanor?

7 A. As far as appearance?

8 Q. Yeah. Like was he, was he, you know, was he calm?
9 Was he excited?

10 A. He, he was a little bit frantic. His speech would
11 gonna kind of go back and forth as far as what he'd
12 say or how he'd say it. Moving was a lit bit frantic
13 as if he was nervous or scared of, maybe, of what was
14 happening.

15 Q. Did -- was he, was like sweating or anything?

16 A. He was. He was, he was sweating rather heavily
17 for that evening.

18 Q. And this would have been January, 2nd, correct?

19 A. Yes, sir. it was also -- it was rather a cool
20 night. It was raining as well.

21 Q. So you remember it being cold and rainy?

22 A. I do. It was, it was rather cool.

23 Q. Did that, did that alarm you?

24 A. It was unusual. I do remember that the residence
25 wasn't excessively, it wasn't burning up. It wasn't

1 cold. But it was maybe an average temperature to what
2 someone might keep house. But it didn't -- it wasn't
3 normal for my incidents interacting with Mr. Turner
4 before.

5 Q. Okay. While you were talking to Mr. Turner, did
6 he, did he eventually say anything about having a
7 weapon?

8 A. I was standing there trying to, trying to
9 decipher anything I could from Mr. Turner. He, he
10 said something about a gun. There was a juvenile
11 sitting on the couch with him that he had kind of
12 pinned against the couch and he said something to the
13 effects of, you know, someone had a gun or a gun
14 being near him at the time.

15 Q. And what did you do based on that?

16 A. So based on the fact that we knew there was a
17 firearm involved somewhere inside the residence, and
18 not necessarily knowing where it was, I drew my
19 firearm at that time.

20 Q. Okay. And why did you do that?

21 A. I didn't know where that firearm was, who had it
22 or where it may be inside the residence.

23 Q. And that's based on training that you have
24 received going through the police academy and stuff
25 like that?

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1 A. Yes, sir. That's correct.

2 Q. Did y'all eventually get Mr. Turner off the couch
3 and put him in cuffs and detain him?

4 MS. MERRILL: Your Honor, I'm gonna object to the
5 leading on direct.

6 THE COURT: Rephrase your question.

7 Q. What did you do with Mr. Turner after you got him
8 off the couch?

9 A. The juveniles got off the couch. I immediately
10 holstered my weapon because Mr. Turner's hands were
11 empty at the time and we pick him up. We attempted to
12 detain him instead of handcuffs. We begin a small
13 scuffle and ended up on the ground. But he was
14 eventually handcuffed behind his back.

15 Q. Did you find any weapons?

16 A. On him at the time?

17 Q. Correct.

18 A. We did an initial pat down and he didn't have any
19 weapons at the time.

20 THE COURT: We need a break? All right. id a
21 (Whereupon, someone from the jury needed a break)

22 THE COURT: All right. We'll take a short break.
23 We're almost, we're almost ready to go to lunch. But
24 we'll -- ladies and gentlemen, if you want to go
25 stretch her legs, let's take about five minutes.

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1 Officer, don't....

2 (Whereupon, monitor turns off sound)

3 (Whereupon, the the court takes a short recess at
4 12:06 p.m.)

5 THE COURT: Okay. Are we ready?

6 MR. FOREMAN: Yes, sir.

7 THE COURT: All right. Let's get our jury back in.
8 (Whereupon, the jury enters the courtroom at 12:12
9 p.m.)

10 THE COURT: Are you okay?

11 MR. FOREMAN: Yes, sir.

12 THE COURT: All right. That's what I want you to
13 do. If any of you have any distress let me know and
14 we'll know what we need to do. Okay. We're back on
15 the record. Mr. Black?

16 MR. BLACK: Yes, sir.

17 Q. Officer Crowe, were you wearing a body camera?

18 A. Yes, sir.

19 Q. And did you have it on that evening?

20 A. Yes, sir.

21 Q. I'mma show you what's been marked as State's --
22 have you had a chance to review this?

23 A. I have, sir.

24 Q. Is it a fair and accurate representation of the
25 events that unfolded that, that evening?

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1 A. Yes, sir.

2 Q. Based upon your body camera?

3 A. Yes, sir.

4 MR. BLACK: Your Honor, the State moves 4 into
5 evidence and per the prior stipulations, wish to
6 publish to the jury?

7 THE COURT: All right. Any objection?

8 MS. MERRILL: No objection, Your Honor.

9 THE COURT: So State's Exhibit Number 4 would be
10 admitted without objections and Mr. Black you may
11 publish.

12 (Whereupon, the DVD has been marked and entered into
13 evidence as State's Exhibit No. 4)

14 MR. BLACK: Thank you, Your Honor. Similar to the
15 last video this will be played 'til about four minute
16 mark ---

17 THE COURT: Okay.

18 MR. BLACK: --- and then we'll mute it.

19 (Whereupon, the video is played for the jury)

20 Q. Officer Crowe, you were looking around the couch
21 after y'all got him cuffed, what were y'all, what
22 were y'all doing?

23 A. Just ensuring there were no weapons that may have
24 been underneath him or the juvenile when we got him
25 up.

1 Q. And it looks like you're in the back bedroom with
2 Ms. -- who is that?

3 A. That's the original calling.

4 Q. And it looks like this videos '4:34, she is cuffed
5 at this point, correct?

6 A. Yes, sir.

7 Q. And what are you doing here?

8 A. Taking the handcuffs off.

9 Q. Okay. And did you speak with her?

10 A. I did.

11 Q. Okay. And why was she initially, why was she
12 initially cuffed?

13 A. When we started to go around and around there was
14 only two adults on the scene, that young lady there
15 and Mr. Turner. To better control the adults there
16 with some kind of firearm somewhere inside the
17 residence, she was briefly detained in case
18 something, where we had to deal with Mr. Turner in
19 the manner that we did, we didn't want to lose
20 control of other individuals on scene and it'll lead
21 to injuries of anybody that was there.

22 Q. And this is pretty standard operating procedure
23 from you guys, correct?

24 A. Yes, sir.

25 Q. And she's calmly talking to you and informing

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1 you, kind of just the situation ---

2 MS. MERRILL: Your Honor, I'mma object, again, to
3 leading a witness on direct?

4 THE COURT: Don't lead the witness. Rephrase your
5 question.

6 Q. Is she upset?

7 A. No, sir.

8 Q. Is she yelling at you?

9 A. No, sir.

10 Q Is she cursing at you?

11 A. No, sir.

12 Q. Based on those conversations that occurred, what
13 do y'all

14 end up doing?

15 A. Doing with?

16 Q. Mr. Turner?

17 A. With Mr. Turner?

18 Q. Yes.

19 Q. We had a conversation about what had occurred.

20 More, more or less the conversation went that Mr.

21 Turner came there. What she said was intoxicated or

22 drunk. And started scaring the kids and causing some

23 kind of disturbance. She, ultimately, didn't want him

24 to be charged with anything, but wanting him to leave

25 and not come back to the residence.

1 Q. So at this point was Mr. Turner charge?

2 A. No.

3 Q. Did you eventually asked Mr. Turner -- were you
4 guys gonna release him and let him go and tell him to
5 leave the residence?

6 A. Yes.

7 Q. Okay. How, how did you take that?

8 A. We -- we told him he was gonna be released
9 shortly and that he was gonna leave and have to
10 leave. It was kind of difficult to get a yes or no
11 out of him. In speaking with him, we kept reaffirming
12 that you're gonna have to leave. She doesn't want you
13 here at the residence. The few times he would say he
14 wasn't going to leave. And I started asking him if he
15 was refusing -- I started trying to make sure that he
16 was aware that he was not one of their by the
17 property owner. And that he had to leave and he was
18 refusing to leave. Eventually, he said that --
19 eventually, when I asked him if he was going to leave
20 he said no.

21 Q. And during this time did you guys contact EMS to
22 evaluate Mr. Turner?

23 A. Yes, sir.

24 Q. Did he receive an evaluation by EMS on the scene?

25 A. He did not voluntarily seek EMS. No, sir.

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1 Q. I'mma skip around to about the 21:00 mark, ah,
2 22:00 mark, is it at this point, about at this point
3 of the video he's, Mr. Turner ultimately was placed
4 under arrest for trespass?

5 A. Yes, sir.

6 Q. Okay. Because he refused to leave?

7 A. Yes, sir.

8 Q. Did y'all eventually take him downstairs and try
9 to get him to jail?

10 A. We did. Yes, sir.

11 Q. Okay. And how did that go?

12 A. We told him he's under arrest and went to get him
13 up and he began to kind of fight with us a little bit
14 more. We -- I'd initially told EMS that they were
15 free to go 'cause he didn't want to be treated. But I
16 actually recalled them to the scene. They have
17 devices that makes it easier to carry people
18 downstairs. These apartments, this is a second story
19 -- this is the second floor of an apartment complex
20 with metal stairs and it was raining outside. I
21 didn't want to risk one of us getting hurt trying to
22 carry him down if he was gonna figh with us. I didn't
23 want to risk dropping Mr. Turner. So we brought, it's
24 essentially chair on wheels, that EMS had with them.
25 We secured him in that chair to get him down down

1 safely. Took him to the car and then we released him
2 from that chair and try to get him into a, into a
3 vehicle.

4 Q. And how did that go?

5 A. He -- once we released him and tried to let him
6 go to get him into the car, he posted his feet up
7 into the car wherever he could get them, straighten
8 his legs and to keep us from putting him into the
9 patrol car.

10 Q. And so was resisting getting into the patrol car?

11 A. Yes, sir.

12 Q. At that point, did you guys get him out of the
13 patrol car and conduct another search on him?

14 A. Yes, sir. Eventually, we did.

15 Q. Why did y'all do that?

16 A. I was on his right side, was trying to get him --
17 trying to get a good grip on him to maybe get a leg
18 or knee to bend so he could sit down and from
19 grabbing and pushing on him I put my hand somewhere
20 on his clothing and I felt, I felt a, ah, an object
21 that kind of squished and moved around, and it kind
22 of sounded, sounded like a plastic when I put my hand
23 on. And he was already under arrest so I felt like
24 he might have had something on him, possibly some
25 kind of narcotic or something like that. And ---

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1 Q. Where was there actually located?

2 A. I believe it was found in a in a shorts pocket
3 that was underneath the jeans or pants that he was
4 wearing.

5 Q. So he was wearing like a pair of shorts
6 underneath ---

7 A. Yes.

8 Q. --- a longer, a pair of long pants?

9 A. Yes, sir.

10 Q. And that's where you found it?

11 A. Yes, sir.

12 Q. And when you felt it, did you immediately know,
13 you know, what it was?

14 A. It was, it was apparent that it was some kind of,
15 it was substances to me through experience of dealing
16 with the substances for a number of years. You kind
17 of get used to feeling what tablets or pills may feel
18 like in a bag when you, when you hold it. And it felt
19 to move to kind of grind it like a set of pills would
20 normally would.

21 Q. And at that point, did -- did you pull it out of
22 his pockets or did somebody or another officer at the
23 scene pull that out of his pocket?

24 A. I did not.

25 Q. We got him out of the patrol; laid him back onto

A. Crowe- Direct Examination by Mr. Black

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1 the ground; and I believe it was Officer Smith,
2 started trying to find whatever it was in his pockets
3 and, eventually, uncovered a plastic bag full of what
4 it appeared to be tablets or pills.

5 Q. Okay. And did you see him pull it out of his
6 pockets?

7 A. Yes, sir.

8 Q. And as the video is playing, can you just
9 described to the jury kind of what you're seeing.
10 This is minute 38:27:28 for the record.

11 (Whereupon, the video is played for the jury)

12 A. Yeah. I'm taking shears from, I think an EMT or
13 somebody who has them to get his feet, his feet lose
14 right now so that we can start trying to get him into
15 this patrol car.

16 (Whereupon, the video is played for the jury)

17 A. We're kind of talking to try to come up with a
18 plan about how we're going to get him inside here.

19 Q. So he wasn't getting in the patrol car on his
20 own?

21 A. At this point right here, he was saying no, but
22 he wasn't actually trying to keep us from putting him
23 in here until about this point here.

24 Q. Well, what's he doing now?

25 A. Here in a second, he get's his feet, I don't know

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1 if it's against the seat or something in there and
2 he's locking out his legs and standing up out of the
3 patrol car, not, not trying to sit down and go into
4 the back. These cameras are worn at about chest level
5 and I'm at about this pockets right now.

6 (Whereupon, the video is played for the jury)

7 Q. At this point, he's not getting in the car, what
8 do y'all do at this point?

9 A. We're trying to push him, trying to bend him,
10 maybe see if we can get behind his need to, push on
11 the back of his knee to see if they will give away so
12 he'll actually sit to get into the vehicle.

13 Q. Was that successful?

14 A. It was not. I believe this is around the time
15 where I felt the substances in his pocket.

16 Q. I see -- is that your hand right there? What are
17 you doing here?

18 A. It was, initially. But then I help the other
19 officers get him to the ground and so many officers
20 down there that are already working, I didn't -- was
21 no other need for me to dog pile on Mr. Turner.

22 Q. At this point, you, had you already felt the,
23 what was in the pocket?

24 A. Yes, sir.

25 Q. And just, so everybody knows what's going on,

A. Crowe- Direct Examination by Mr. Black

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1 I've got my mouse right there, you can see the mouse,
2 who is this individual?

3 A. That is Forest Crowe.

4 Q. And that's your brother, right?

5 A. Yes, sir.

6 Q. And who is this individual right here?

7 A. That's Kiefer Smith.

8 Q. Okay. And what is Kiefer doing here?

9 A. Kiefer is attempting to get whatever was in his
10 pockets out of his pocket.

11 Q. All right. And I'm at 40:44. I'mma hit play and
12 stop it again.

13 (Whereupon, the video is played for the jury)

14 Q. I think I missed it. Is at 40:47.

15 (Whereupon, the video is played for the jury)

16 Q. All right. It stopped right here on body cam at
17 40:46, can you see the mouse?

18 A. Yes, sir.

19 Q. And what I've circled right here, can you tell
20 jury what was this?

21 A. Yes, sir. It was a bag -- it was a clear plastic
22 bag with tablets or pills and it.

23 Q. And I'm gonna show for identification purposes
24 only what has been marked as State's 5, do recognizes
25 items?

A. Crowe- Direct Examination by Mr. Black

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1 A. Yes, sir.

2 Q. And what are they?

3 A. Pills or tablets of some sort.

4 Q. And are they in some kind of bag?

5 A. Yes, they are.

6 Q. Was that baggie felt when you would go into
7 through his pocket?

8 A. Ah, yes, sir.

9 Q. Is this is the same bag that Kiefer Smith pulled
10 out of his pocket there on camera?

11 A. Yes, sir. That's correct.

12 Q. And can you describe what those, what it is?

13 A. I think to the best of my knowledge I don't
14 remember anything about field test or what they field
15 tests as, but they're, they're pill or tablets of
16 some sort, um, yeah, just loose, kind of grainy
17 tablets of some sort. Different colors marked with
18 variant things.

19 Q. And what would've happened to this once y'all
20 got, once y'all recovered it?

21 A. Yes, sir. So it would -- one of the tablets or
22 part of the substance would've been field-tested to
23 see initially if it was potentially some kind of
24 narcotic control substance.

25 Q. And a field test is what?

1 A. Um, they're, they're test kits, little packets
2 with usually different sorts of liquid in them that
3 when a substance is put in the little capsules are
4 broken and whatever that substance is interacts with
5 the substance we put inside of it and it usually
6 changes colors or something of the sort that
7 indicates that it's -- whatever we're testing it for
8 that it is or isn't that substance.

9 Q. Okay. And then once y'all, once y'all do that, do
10 y'all send it off eventually to get some confirmatory
11 testing by a chemist?

12 A. We do. The initial field test is to determine
13 whether we suspect it or have a feeling that it might
14 be a controlled substance, then it's sent to sled
15 where they, where some kind of chemists or analyst,
16 analyze these things to confirm that they are
17 something, some kind of narcotic or controlled
18 substance.

19 Q. Okay. And you -- but you don't remember doing a
20 field test on this one?

21 A. I don't. No, sir.

22 Q. Okay. And you never -- did you take possession
23 of these items or these drugs or was it Mr., Officer
24 Smith that had possession of them?

25 A. It was Officer Smith.

A. Crowe- Direct Examination by Mr. Black

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1 Q. Okay. And you can see him clearly pulling them,
2 pulling them out of the pocket?

3 A. Yes, sir.

4 (Whereupon, the video is played for the jury)

5 Q. It looks like they go into your hands at that
6 point, is that fair?

7 A. Yes, sir.

8 Q. What are you doing with them?

9 A. Right now I'm taking them to a vehicle and
10 attempting to move my vehicle to try to put him into
11 a different vehicle. I placed them there in the front
12 seat of my patrol car.

13 Q. Did you ---

14 A. We're trying to get him into a different patrol
15 car here in a second.

16 Q. Did you lock the vehicle?

17 A. Yes, sir. I have a phobia about having that
18 vehicle unlocked.

19 Q. So at this point there secured in the vehicle?

20 A. Yes, sir.

21 Q. Do you know who eventually takes it down to or
22 takes it - - well, let me ask you this, what happens
23 to it after you secure it on the scene?

24 A. So I believe what you handed me there a second
25 ago, what we refer to as a BEST Kit, it's basically a

1 kit that we package suspected narcotics or
2 controlled substance in 'til we're allowed and we
3 enter it into evidence. And then our evidence
4 technician or whoever handles our evidence, takes it
5 to sled in Columbia. They analyze it and it's sent
6 back.

7 Q. At this point, you guys are still dealing with
8 Mr. Turner, correct?

9 A. Yes, sir. Again, we're trying to talk our way
10 through about how to get them back in, get him into
11 one of these vehicles and making sure that there's
12 anything else on him, on his person that we may
13 missed, like any further contraband or weapons or
14 anything you wouldn't want to take into a detention
15 facility.

16 Q. And he was eventually transported to the hospital
17 and checked out?

18 A. That's correct.

19 Q. And then he was transported to the Abbeville
20 Detention Center and arrested?

21 A. Yes, sir. Once he was cleared from the hospital,
22 we left and went to the detention center where he
23 waited for a bond hearing and all those court
24 proceedings.

25 MR. BLACK: That's all I have. Please answer any

A. Crowe- Cross-Examination by Ms. Merrill

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1 questions Ms. Merrill might have for you.

2 THE COURT: All right. Cross-examination?

3 MS. MERRILL: Thank you, Your Honor.

4 Cross-Examination by Ms. Merrill:

5 Q. Now, as part of your training as an officer,
6 you're talking about patting, patting down the
7 suspect, is that right?

8 A. Yes, ma'am.

9 Q. Okay. And then, I believe, you said initially
10 you're patting down in this scenario for weapons, is
11 that right?

12 A. Um ---

13 Q. Back at -- let me be clear. When were were
14 looking at the video earlier when you're still in the
15 apartment, is that what you were patting down for?

16 A. Yes, ma'am.

17 Q. And were you one of the officers that patted Mr.
18 Turner down?

19 A. No, sir. Ah, No, ma'am, I'm sorry.

20 Q. Okay. So you weren't. Do you know who did pat
21 Mr. Turner down in that. in the apartment there?

22 A. I don't specifically know. No, ma'am. It was
23 either Officer Smith or Officer Crowe or Ms.
24 Blackwell who was on the scene.

25 Q. Okay. And if you're, if you're patting a suspect

1 down and you don't locate a weapon, but you locate
2 some other contraband, do you typically seize that
3 contraband at that time?

4 A. If we can -- if we can know -- if it is
5 immediately apparent to us that it is contraband or
6 narcotics or something like that, we would.

7 Q. And then you testified that you immediately
8 thought this -- you immediately felt this and
9 immediately thought it was contraband, is that right?

10 A. When we were out at the vehicle, yes, ma'am.

11 Q. Okay. So you immediately thought it was
12 contraband when he felt it, is that right?

13 A. Yes, ma'am.

14 Q. Okay. And you said this was, it on his right
15 side and you put your hand on clothing, is that
16 right?

17 A. Correct.

18 Q. It sounded like plastic, plastic, is that right?

19 A. Correct.

20 Q. And from the time you went into Mr. Turner's
21 apartment until the time you say you located this,
22 these drugs on his person, had he changed clothes?

23 A. No, ma'am.

24 Q. Okay. And were these in his sweatpants pocket or
25 the shorts pocket? I got a little bit confused there.

A. Crowe- Cross-Examination by Ms. Merrill

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1 A. It appeared to me his shorts pocket. There was a
2 pair of basketball shorts or some kind of athletic
3 shorts underneath his pants.

4 Q. And you say you, meaning you felt it, were you
5 feeling his sweatpants or the shorts underneath?

6 A. I wasn't feeling for anything. I was trying to
7 shove him, help shove him in the car and get him into
8 this vehicle. And when I was pushing on him I pushed
9 on whatever this, whatever it was, the bag of pills,
10 I pushed on it and I could fill it then.

11 Q. And you're pushing on it sweatpants, is that
12 right?

13 A. Yes, ma'am, on his person. Well, it it would be a
14 sweatpants, the outer, whatever he was wearing over
15 his shorts.

16 Q. Okay. So the pants he had on top of the shorts
17 is where you could feel through ---

18 A. Yes, ma'am.

19 Q. Okay. All right. Just clarifying that. And you
20 said when you can feel that you immediately knew it
21 was pill, is that right?

22 A. Yes, ma'am.

23 Q. Okay. And then when you take possession of any
24 sort of evidence, as you did in this case, you took
25 it to your patrol car, is that right?

1 A. Yes, ma'am.

2 Q. Okay. And then you say your car was locked, is
3 that right?

4 A. Yes, ma'am.

5 Q. At that point, are you part of the what they call
6 a chain of custody?

7 A. I would, I would agree so. Yes, ma'am.

8 Q. Okay. And you became part of that when you went,
9 um, it was Officer Smith hands these pills to you, is
10 that right?

11 A. Yes, ma'am.

12 Q. Okay. And if you're part of the chain of
13 custody, do you typically sign a form indicating that
14 you handled this evidence?

15 A. Yes, ma'am. We have forms that indicate who had
16 what and when.

17 Q. Okay. And to your knowledge, did you sign a form
18 like that in this case?

19 A. I don't recall.

20 Q. Okay. Since you handled the evidence, would you
21 expect that you would have signed a form ---

22 A. Yes, ma'am.

23 Q. --- saying you handled the evidence?

24 A. Yes, ma'am.

25 Q. Okay. Does anyone else have a key to your car?

A. Crowe- Cross-Examination by Ms. Merrill

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1 A. No, ma'am.

2 Q. Okay. So are you certain that the drugs were
3 secured -- when did you go back to your car and get
4 the drugs, do you recall? You put them in there and
5 you rocked it and then you leave them, is that right?

6 A. They were in -- yeah. Yes, ma'am.

7 Q. Okay. Do you know when you went back to get
8 them?

9 A. I rode in the ambulance with Mr. Turner on the
10 way to hospital. He was -- he was transported to the
11 hospital after we arrest him when he was treated
12 medically. But he was put into an ambulance that was
13 there on the scene. He didn't go into my vehicle.

14 Q. Okay. So when did you go back to your vehicle and
15 get the pills that you put in there?

16 A. Sometime after he was cleared to go back and get
17 my car to go to the police department and start
18 processing everything we had.

19 Q. Okay. How did you get back from the hospital to
20 your car?

21 A. I wrote with a fellow officer.

22 Q. Okay. And then at that point, you got in your
23 car, is that correct? Your police car?

24 A. I believe, yes, ma'am.

25 Q. Okay. And what did you do with the pills at that

1 point?

2 A. When they were still in my police car?

3 Q. Yes. After the hospital you're back at your
4 police car, is that right?

5 A. Okay. Yes, ma'am.

6 Q. At that point, what did you do with those?

7 A. We leave there. We go to the police department.
8 We take them inside and we begin to do the process,
9 field testing and packaging them. Getting ready to be
10 entered into an evidence locker and then sent to
11 sled.

12 Q. Okay. And you say we, who did you do that with?

13 A. After it was all said and done it was the
14 officers that were there, um, Kiefer Smith, Forest
15 Crowe and Miasha Blackwell.

16 Q. Okay. Were all four of you there when you got
17 back to your car after you left the hospital?

18 A. I do not recall.

19 Q. Which officer did you ride back with from the
20 hospital to get to your car?

21 A. I don't recall that either.

22 Q. Okay. Are you certain when you got back to your
23 car the pills were still there?

24 A. Yes, ma'am.

25 Q. Okay. And I just want to be clear, from there

A. Crowe- Cross-Examination by Ms. Merrill

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1 would you have taken them to the evidence locker?

2 A. I would take them to the police department. And I
3 believe, I believe Officer Smith or Officer -- I was
4 not the charging officer on this. I took them back to
5 the police department and whoever began processing
6 the paperwork or began processing that substance, I
7 don't recall who that was, but it wasn't me.

8 Q. Okay. I think you said earlier you did not do
9 any field testing, is that right?

10 A. I didn't. No, ma'am.

11 Q. In this case -- okay. All right. About how long
12 were those pills in your car?

13 A. I do not know. It was -- we were at the hospital
14 for a decent amount of time. I don't -- I do not
15 remember how long we were there or how long I was
16 away from the vehicle.

17 Q. Okay. And where was the vehicle parked when you
18 were away from it?

19 A. It was at the apartment complex.

20 Q. Okay. So you left your patrol car at the
21 apartment complex?

22 A. Yes, ma'am.

23 Q. Okay. And it was locked?

24 A. Yes, ma'am.

25 Q. You went to the hospital and then you went back

1 to your car?

2 A. Yes, ma'am.

3 Q. But you don't recall which officer gave you
4 arrived from the hospital back to the apartment
5 complex?

6 A. I do not.

7 Q. Okay. You said something about being the charging
8 officer, what exactly does that mean?

9 A. Whichever officer hands up the report and is
10 making the charges for Mr. Turner.

11 Q. So would that be the officer that would likely
12 sign the affidavit to support seeking an arrest
13 warrant?

14 A. Potentially. He would fill out the affidavit or
15 be on the affidavit. As long -- as well as whoever
16 the next morning would've signed it with the judge to
17 get it done. I believe this was the night shift that
18 was coming, coming on. Um, the affidavit would've
19 been done, ah, somebody's name, whoever the affiant
20 on the, on the affidavit would be there at some point
21 and that the person that would've presented it to the
22 judge the next morning.

23 Q. Okay.

24 A. Or maybe that's -- did I answer your question?

25 Q. You did. And that -- you were not the affiant, is

1 that right?

2 A. I don't believe I was. No, ma'am.

3 Q. Okay. And it's your understanding that Mr. Turner
4 was arrested for trespassing after notice, is that
5 right?

6 A. Yes, ma'am.

7 Q. Okay. Was there an arrest warrant for that
8 charge? Do you know?

9 A. There, there would've been a warrant drawn simply
10 for the fact that he was also charged with the
11 possession or whatever narcotics charge was for those
12 pills and resisting arrest.

13 Q. So why do you think there would have been a
14 warrant, you were not the person seeking the warrant,
15 is that right?

16 A. No, ma'am.

17 MS. MERRILL: If I could have just a moment, Your
18 Honor. Thank you.

19 A. Yes, ma'am.

20 THE COURT: Anything further from this witness?

21 MR. BLACK: Not from the State.

22 THE COURT: All right. Thank you, officer. You
23 can step down.

24 THE COURT: All right. Ladies and gentlemen, we're
25 gonna break for lunch. I want to give you enough
26 time to get something to eat so we're gonna struck

1 back at 2:15. So remember your instructions. Don't
2 talk to third parties. No independent research. And
3 don't deliberate amongst yourselves. I hope everyone
4 has a good lunch and will see you at 2:15.

5 (Whereupon, the jury exits the courtroom at 12:45
6 p.m.)

7 MR. BROWN: Judge, I believe, at this time the
8 bond has been served. It's run its course. Now, since
9 he's in trial that the bond is no longer in place.

10 THE COURT: That's -- the bond is extinguish once
11 the trial has started. Mr. Merrill, anything for the
12 record?

13 MS. MERRILL: No, Your Honor. I would just put on
14 the record that, you know, Mr. Turner has appeared.
15 He was here yesterday. He appeared on time this
16 morning and I'd asked the court to consider allowing
17 him to remain free during the trial.

18 THE COURT: Who is the bondsman?

19 MS. MERRILL: Okay. He told he paid his own bond,
20 Your Honor. I don't know -- I'd say the clerk ----

21 THE COURT: Yeah. Tell me about the bond.

22 THE CLERK: He did a ten percent cash bond. We
23 have \$500.

24 THE COURT: Okay. There is no bondsman. Well,
25 technically, once the case is called for trial the
26 bond is distinguished. So I'mma have Mr. Turner taken

1 into custody during the pendency of the trial.

2 MR. BROWN: Thank you, Your Honor.

3 THE COURT: We'll start back at 2:15 p.m.)

4 MR. BLACK: Yes, sir.

5 (Whereupon, the court takes a lunch at 12:48 p.m.)

6 (Whereupon, the court goes back on the record at 2:36
7 p.m.)

8 (Whereupon, the monitor starts recording during the
9 solicitor's statements on the record)

10 MR. BLACK: --- Officer Smith who's my next
11 witness. I think that y'all actually went to lunch at
12 the same establishment here in Abbeville. It is my
13 understanding that Officer Smith, he hasn't been in
14 here at all during the course of this trial, but he
15 actually apparently knows the foreperson of the jury
16 and there was some kind of brief interaction. I think
17 the officers that Officer Smith was with told him,
18 hey, that's the foreperson. We need to get out of
19 here. I think after that happened they decided to get
20 there food to go and try to head out. But then there
21 was another conversation, and again, I think you were
22 present. I don't really know the extent of it, but I
23 know that you saw it.

24 THE COURT: Yeah.

25 MR. BLACK: And I was informed about it So I
26 thought it was important to put it on the record.

K. Smith- Direct Examination by Ms. Merrill- proffer 110

1 THE COURT: I did see the juror leave the line.
2 He got up, he got up from -- and officers were at the
3 door. And I did see the juror speak to the officers
4 and at which point, I instructed all of them to part
5 ways. I had no indication that there was any improper
6 discussion. It was just a greeting from what I was
7 able to see. But if you'd like to question the
8 officer on the stand I'll, I'll certainly allow you
9 to do that. But I instructed all of that they
10 couldn't, couldn't be speaking to one another.

11 MR. BLACK: Yes, sir.

12 THE COURT: So however y'all want to handle that.
13 And Ms. Merrill, if you'd like to question the
14 officer, I'll give you that opportunity, certainly.

15 MS. MERRILL: Thank you, Your Honor. I think that
16 probably would be wise just to make sure our record
17 is complete. Particularly since as I understand it
18 from the solicitor there might have been to
19 conversations. So perhaps, Your Honor, saw just one.
20 But if I could at least as the officer just to kind
21 of get an idea.

22 THE COURT: Yes, ma'am. So Officer Smith come
23 around to the witness chair please.

24 THE CLERK: Do you swear or affirm that the
25 testimony about to give to the court will be the

K. Smith- Direct Examination by Ms. Merrill- proffer 111

1 truth?

2 MR. SMITH: Yes, ma'am.

3 THE CLERK: You can have a seat.

4 (Whereupon, court allows the public defender to ask
5 questions of the witness concerning lunch at an
6 establishment in Abbeville concerning the foreperson)

7 KIEFER SMITH, first being
8 duly sworn, testified as follows:

9 **Direct Examination by Ms. Merrill:**

10 Q. Where did y'all go to lunch today?

11 A. Two Brews here on the square in Abbeville.

12 Q. Okay. Do you know the foreperson of the jury?

13 A. I do.

14 Q. What is his name?

15 A. Parker Cann, I believe.

16 Q. How do you know him?

17 A. A family friend. I know his brother.

18 Q. Are you close with his brother?

19 A. Nah. I mean, I wouldn't say I was close to him. I
20 probably haven't spoken to him a couple of years. We
21 were good friends throughout high school.

22 Q. Okay. Have you ever been to the home, the
23 foreperson's home?

24 A. Yes, I have.

25 Q. Okay. Has before person ever been to your home?

1 A. No.

2 Q. Okay. What did you discussed when you saw each
3 other today at lunch at a restaurant?

4 A. Our only interaction we had at lunch today at the
5 restaurant was, hey, how are you doing? How have you
6 been? I'm good. How are you? That was basically it.
7 And we were separated after that.

8 Q. Okay. So you only spoke to each other one time?

9 A. Well, when I came into the door he was sitting at
10 his table right where you go up to order. I said,
11 hey, how are you doing? And I went on and ordered my
12 food. When I was waiting on my food to be ready, he
13 came up, hey, how you been? I said, I'm good. How
14 have you been? That was the extent of the
15 conversation.

16 Q. Okay. So y'all interacted, I guess, twice?

17 A. Yes.

18 Q. During -- and then was it after that, um, the
19 judge instructed y'all not to speak to each other?

20 A. Yes. It was at the point, that he'd approached me
21 the second time that the judge said, hey, gentlemen,
22 you know, you can't do that.

23 Q. Okay. All right. And then came -- who told you he
24 was the foreperson?

25 A. Another officer. That was one that had already

K. Smith- Cross-Examination by Mr. Black- proffer 113

1 testified, observed him and knew that he was the
2 foreperson.

3 Q. Okay.

4 MS. MERRILL: Give me just one minute, Your
5 Honor. Thank you.

6 THE COURT: Mr. Black, anything you'd like to ask
7 the officer?

8 MR. BLACK: Just briefly.

9 **Cross-Examination by Mr. Black:**

10 Q. Officer Smith, have you been in here at all this
11 morning during the course of this trial?

12 A. No, sir.

13 Q. Did you see the jury selection?

14 A. No, sir.

15 Q. Were the jurors wearing any -- was this
16 individual wearing any kind of button or stickers
17 indicating they were a juror?

18 A. No, sir. Not that I observed.

19 Q. Okay. And again, the conversation was hey, how's
20 it going? A. A. Right. It was no more than a simple
21 greeting, you know, hey, how you doing, kind of
22 thing.

23 Q. Okay. And in terms of you going to somebody's
24 house was that actually the juror or his brother? I
25 think you said that his brother ---

K. Smith- Cross-Examination by Mr. Black- proffer 114

1 A. Well, at the time we were in high school so it
2 would've been a common place. I mean, I went to their
3 family's house.

4 Q. Okay.

5 A. I guess, you could say.

6 Q. So you went to high school with these folks?

7 A. I was very good friends with his brother in high
8 school and they had a lake house. We commonly would
9 go out there. But, you know, obviously, that's been
10 fifteen years ago probably.

11 Q. Fifteen years ago?

12 A. Yes.

13 Q. Okay. And how old are you now?

14 A. About thirty-one.

15 Q. All right.

16 MR. BLACK: Thank you.

17 THE COURT: All right. Anything further?

18 MS. MERRILL: Your Honor, I think for purposes of
19 the record, um, what concerns me, I guess, it's not
20 so much this officers conversation with someone he's
21 known, but that the juror did not indicate in voir
22 dire that he knew and Officer Smith's name was read
23 aloud and he did not indicate, no one did. So that's
24 why I have concern.

25 THE COURT: All right.

1 MS. MERRILL: So I'd ask the court either consider
2 removing the foreperson and replacing with one of the
3 alternates or either granting a miss trial which I
4 know is an extreme remedy. So I'd ask the court
5 consider one of those two remedies in this situation.

6 THE COURT: Mr. Black, do you wish to be heard on
7 that?

8 MR. BLACK: Judge, I think that, I think granting
9 a miss trial will be a little bit extreme. I think we
10 honestly have two alternatives if the court wants to
11 go that way. But it seems like an incidental
12 conversation. This is a, this is a small town and as
13 Officer Smith has testified to this was something
14 that they were, they were friends, you know, he's
15 more friends with his brother, but this was way back
16 in the day that they'd go this lake house which is
17 really not all that uncommon growing up with small
18 town folks. And -- but I think we'll leave it at your
19 discretion, Your Honor.

20 THE COURT: Mr. Booth (ph) would you get the
21 foreman out here please.

22 MR. BLACK: And I think the question was, does
23 anybody have a close personal family relationship.
24 And I can see that's kind of a subjective question to
25 the person so....

26 (Whereupon, the foreman escorted into the courtroom)

1 THE COURT: Okay. All right. Mr. Foreman, we've
2 heard from Officer Smith and, and I'll put on the
3 record you, you ate across the street where we all
4 ate lunch and you had some incidental contact with
5 the officer. But did you know Officer Smith prior to
6 jury selection this morning?

7 MR. CANN: Yes, sir. We are acquaintances. I
8 really spoken to him over the years though.

9 THE COURT: Okay. Well, why, why didn't you
10 disclose that when I asked that question about the
11 witnesses ---

12 MR. CANN: I was under the, under the
13 understanding I thought it was mainly just for
14 relatives or, you know, close personal friends.

15 THE COURT: Okay. Okay. Well -- which I understand
16 how you could have, could have gotten that confused.
17 But to avoid the appearance of impropriety in the
18 case, Officer Smith informed the court that he was
19 close friends, I believe, with your brother ---

20 MR. CANN: Yes, sir.

21 THE COURT: --- in high school and had visited
22 your brother at y'all's house. So to avoid the
23 appearance of impropriety, I'm gonna excuse you from
24 this case and let one of the alternate sit.

25 MR. CANN: Yes, sir.

26 THE COURT: So this will conclude your jury

1 service. Thank you for your service and your free to
2 go.

3 MR. CANN: Okay. I'm very sorry for the mixup,
4 sir.

5 THE COURT: That's, that's fine. That's fine. We
6 have an alternates. We have two alternates so....
7 okay. So this would make Mr. Bradberry a primary
8 juror. So they can -- I'll have them go back and
9 elect another foreperson after we start back. Okay.
10 Officer Smith, you can step down. Anything further?

11 MR. BLACK: Nothing from the State, Your Honor.

12 MS. MERRILL: Nothing from the defense, Your
13 Honor.

14 THE COURT: All right. Let's get our jury.
15 (Whereupon, the jury enters the courtroom at 2:45
16 p.m.)

17 THE COURT: Okay. Ladies and gentlemen, thank you
18 for your patience. We've had some matter of law that
19 we had to take up outside of your presence. We are
20 ready to proceed. State call your next witness.

21 MR. BLACK: Officer Kiefer Smith.

22 THE CLERK: Do you swear or affirm the testimony
23 you're about to get the court will be the truth?

24 MR. SMITH: Yes, ma'am.

25 THE CLERK: You may be seated.

K. Smith- Direct Examination by Mr. Black

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1 KIEFER SMITH, first being
2 duly sworn, testified as follows:

3 **Direct Examination by Mr. Black:**

4 Q. Officer Smith, that your name please for the
5 record?

6 A. Kiefer Smith.

7 Q. And you were with Abbeville City Police
8 Department?

9 A. Yes, sir.

10 Q. How long have you been working with Abbeville
11 City?

12 A. I've been Abbeville City approximately five years
13 in total.

14 Q. Okay. Have you worked at any other departments or
15 just Abbeville?

16 A. Abbeville Sheriff's Office.

17 Q. Okay. Total in law enforcement, how long have you
18 been employed?

19 A. About seven and a half years.

20 Q. Okay. Were you working last January, January 2,
21 2022, you will shift that evening?

22 A. Yes, sir.

23 Q. Okay. And did you guys get called out to [REDACTED]
24 Cambridge Street, Apartment 407 about 6:30 that
25 evening?

K. Smith- Direct Examination by Mr. Black

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1 A. Yes, sir, we did.

2 Q. Okay. And what was the nature of that call?

3 A. I believe initially it was given to us as some
4 kind of domestic situation. I believe the call came
5 out possibly involving a firearm and a female wishing
6 for someone to be removed a residence.

7 Q. Okay. And how long -- where were you at when you
8 got the call, do you remember?

9 A. No, sir, to be honest with you I don't. But I
10 believe we just came in and maybe we were getting
11 ready to go eat. We were around the police department
12 somewhere.

13 Q. And if it was 6:30, what time would your shift
14 had, would've started?

15 A. I would start at six.

16 Q. Okay. That this was, basically, the first call
17 you got that day?

18 A. Yes.

19 Q. And you would've been working night shift, would
20 that have been 6 pm to 6 am?

21 A. Yes, sir.

22 Q. Did you respond to this, this residence?

23 A. Yes, sir, I did.

24 Q. And this is a -- what kind of residence is this?

25 A. It's a apartment complex. This would have been

1 the upstairs left-hand side apartment.

2 Q. And who I was with you when you responded?

3 A. I believe, Sargent Forest Crowe, Sargent Aaron
4 Crowe as well as patrolman Blackwell, I believe was
5 all of us.

6 Q. Okay. And when you got there what did you see?

7 A. When I entered the residence I observed a black
8 male, Mr. Turner, sitting on the couch with, I
9 believe, three juveniles. That may not be completely
10 correct. I believe it was three juveniles. And there
11 was another female in the residence that was upset
12 and wanted him removed. When we entered, due to the
13 nature of the call not knowing if there was a firearm
14 involved or not, we asked the female in the residence
15 to go to the back of the apartment. I think she was
16 placed into handcuffs just until we could figure out
17 the nature of the call.

18 Q. Is that something y'all typically do?

19 A. Yes, sir. Generally, if there's a domestic
20 situation or situation involving two parties and
21 we've been given prior information that there could
22 be weapons, firearms involved, things of that nature,
23 for officer safety, we would just send her to the
24 back of the residence without anyone with her simply
25 due to the fact that we don't know what's in the back

K. Smith- Direct Examination by Mr. Black

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1 of the residence or what could be going on back
2 there.

3 Q. All right. In terms of what was going on with,
4 you said Mr. Turner was on the couch, is that right?

5 A. Yes, sir.

6 Q. What was going on, on the couch?

7 A. Mr. Turner was sitting on the couch. There were
8 three juveniles there. I'm pretty sure we almost
9 immediately asked them to remove themselves from the
10 room, the juveniles involved. Began trying to speak
11 to Mr. Turner. His behavior was very erratic. He was
12 kind of all over the place. Couldn't really follow a
13 whole lot he was saying. He was angry, upset. Maybe
14 somewhere in between, um, he kept one juvenile on the
15 couch there with him

16 Q. How did he do that?

17 A. So the child was on his left side and I know he
18 had his arm around at one point. I don't know if he
19 had just told the child not to get. Like I said, his
20 behavior was so erratic sometime he had his arm
21 around, sometimes you wouldn't. It was really hard to
22 follow without seeing it.

23 Q. But, initially, he prevented the child from
24 getting ---

25 A. Correct.

1 Q. --- up?

2 A. Correct.

3 Q. Okay. Does -- was there any mention of a gun by
4 Mr. Turner at this point?

5 A. So at some point once we had removed everyone
6 from the living area except for Mr. Turner as the
7 single juvenile that was still there on the couch
8 with him, I remember very distinctly at one point Mr.
9 Turner said, and don't quote me on this, but I
10 believe he said "he's got a gun."

11 Q. Okay.

12 A. And I don't know that he was implying the
13 juvenile or himself, you know, I, like I say, his
14 behavior was very erratic. He was hard to follow.
15 Within the next couple of minutes of that he said
16 there was no gun, I do believe. This was kind of back
17 and forth throughout the interaction. And we never
18 were really able to necessarily determine whether we
19 believe there was a gun immediately on his person or
20 not.

21 Q. Okay. But once he said that there was a gun that,
22 basically, changes things for you guys, right?

23 A. Yes. Yes. Absolutely. At that point, he was
24 placed at gunpoint and we attempted to gain a little
25 more control of the situation. But as I stated due to

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1 whatever underline issues Mr. Turner had going on, he
2 still wasn't cooperative even at that point.

3 Q. Okay. And so at this particular point, that's
4 when you guys, as you guys pulled your guns out and
5 held it on him, did you eventually put him under, put
6 him into handcuffs?

7 A. Yes, sir. I actually holstered my weapon and
8 grab Mr. Turner and removed him from the couch. As I
9 removed him from the couch other officers, they then
10 taking him to the floor without injury, we were able
11 to get him into a set of handcuffs and he was
12 detained there on the floor as we try to figure out
13 more of what was going on with the situation.

14 Q. And did you pat him down for weapons at that
15 point?

16 A. Yes, sir. As best as possible. He was still very
17 uncontrollable, you know, moving around a lot. Not
18 really cooperating with anything we asked.

19 Q. Did he fight you when you were trying to put the
20 handcuffs on him?

21 A. I would say he resisted. There was -- I wouldn't
22 say he physically fought us. He never really swung at
23 us or anything like that. About the most he did was
24 maybe some kicking with his legs, that sort of thing.
25 He was mostly just resisting.

1 Q. Gotcha. And -- but you never found any firearms
2 on his, his person, correct?

3 A. No, sir.

4 Q. Did you search the couch and locate any firearms
5 on the couch or anything like that?

6 A. I believe we looked around on the couch. I
7 believe it was stated by the female that owns the
8 apartment that she had told dispatch that she had a
9 firearm in the back bedroom possibly.

10 Q. Okay.

11 A. But that information was never relayed to us.

12 Q. Okay. In terms of happened next over the course
13 of the next twenty minutes or so while you're trying
14 to figure out what's going on, what was Mr. Turner,
15 what was his outward behavior, in terms of what he
16 was outward appearance was?

17 A. Mr. Turner was sweating profusely. He was loud,
18 boisterous. Nothing he was saying really making
19 sense. Obviously, being in the state he was in, we
20 were beginning to become kind of concerned about his
21 health just because we were uncertain of exactly what
22 was going on with him. We weren't certain if this was
23 some kind of medical issues or if it was some
24 underlying thing that was causing all this. I mean,
25 we just weren't sure at this point. The female in the

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1 residence said, basically, that she wanted him
2 removed from the property ---

3 Q. Okay.

4 A. --- that was her, that was primary goal in
5 calling us there.

6 Q. So when y'all -- y'all contacted EMS to check him
7 out, is that right?

8 A. Correct.

9 Q. Did that ever happen?

10 A. EMS came. And they made an attempt to offer Mr.
11 Turner medical aid which I'm almost certain he
12 declined. And at that point, EMS prepare to leave.

13 Q. Did EMS stay and assist you guys in getting Mr.
14 Turner out of the residence?

15 A. They did. When EMS went to leave the apartment
16 complex, I actually got on the radio and called them
17 back. And due to how uncooperative Mr. Turner was we
18 got them to bring us up what they call a stair chair.
19 Which enables us to strap him to the chair to safely
20 move them from the upstairs to the ground level just
21 for officers safety, for Mr. Turner safety. That way
22 we didn't see any further injury, anything like that.
23 We felt that was the best option to move him to the
24 ground up.

25 Q. And Mr. Turner, is he present here in the

1 courtroom today?

2 A. He is.

3 Q. And can you identify him please?

4 A. He's sitting right here.

5 Q. And you're pointing to the gentleman with the
6 black hoodie?

7 A. Yes, sir.

8 Q. Okay. So when you were attempting to utilize EMS
9 to get Mr. Turner outside of the apartment complex,
10 was he under arrest at that point?

11 A. Yes, sir. Mr. Turner was under arrest at that
12 point.

13 Q. And what was ---

14 A. As stated the issue we had was being able to
15 remove him without causing him any injury or us any
16 injury, um, it was a whole another situation once we
17 got to the ground level. Mr. Turner never cooperated
18 with the duration of the incident.

19 Q. Okay. But he was under arrest for, basically,
20 refusing to leave the apartment complex?

21 A. Yes, sir.

22 Q. Did you guys ask him to leave the complex?

23 A. We did. We asked multiple times and, I mean, we
24 tried to give him as many opportunities as possible
25 within reason to leave without incident, but Mr.

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1 Turner wasn't having that.

2 Q. And after twenty minutes or so he never left,
3 right?

4 A. Yes, sir.

5 Q. All right. Once y'all got him downstairs and
6 tried to put him into -- did y'all try to put him
7 into a vehicle or anything like that to take him to
8 jail?

9 A. Yes, sir. So once we got Mr. Turner out to the
10 parking lot, we removed him from the stair chair. We
11 actually had the county sheriff's department
12 response. As they have four cages in their vehicles
13 versus our vehicles are full cage, um, generally, a
14 quarter or a half cage is a lot more effective for
15 someone who's irate or erratic, you know, throwing
16 themselves about, screaming, loud, boisterous. So we
17 had them respond so we could attempt to load him into
18 their vehicles for his own safety. With six officers
19 we were never able to get him loaded into either of
20 the counties vehicles. And at some point, I can't say
21 for sure but I believe it was Sargent Crowe or
22 myself, we finally determined that it just wasn't
23 physically going to happen and that whatever Mr.
24 Turner had going on was something that was going to
25 need medical attention. So we actually decided to

1 place him into the ambulance and had officers go with
2 him to transport him to the hospital.

3 Q. Before he got transported to the hospital, did
4 you guys search him again outside, outside of the
5 apartment complex on the on the ground floor in the
6 parking lot?

7 A. Yes, sir. So while he was resisting outside I
8 believe it was Sargent Crowe felt what he believed to
9 be a bag of something on Mr. Turner's person.

10 Q. Did he express that to the group of officers?

11 A. Yes. Yes. He said that out loud I do believe. And
12 we were -- we had made multiple attempts to pat Mr.
13 Turner and, search Mr. Turner, you know, check his
14 person, but with his behavior and body language it
15 was nearly impossible. Once Sargent Crowe had brought
16 this about, I was able to locate a bag on Mr. Turner
17 that contained I believe 74 pills that were in a
18 clear plastic bag. They were multicolored. And those
19 were taken from his person.

20 Q. Okay. And you would've remove those from him?

21 A. Yes, sir.

22 Q. Where were those located on Mr. Turner?

23 A. So I believe that what had happened was, he had
24 ripped a hole in his pocket while fighting us and
25 they were in his pants leg. They were somewhere

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1 around the inside of his thigh, initially. And I just
2 move them down with my hand on the outside until I
3 could remove him from his pants.

4 Q. And so they were still -- were they still in a
5 pocket or were they kind of loose leaf ---

6 A. To the best of remembrance they were not inside
7 the pocket. They were inside of his pants leg.

8 Q. Okay. All right. And let me ask you this, did
9 you have a body cam?

10 A. I did up until a certain point. Maybe thirty
11 minutes into the incident, roughly. My body camera
12 came off but I was wrestling with Mr. Turner.

13 Q. Okay. And so your body camera, where would it
14 have been position on your body?

15 A. It would have been on my chest.

16 Q. So you said it came off?

17 A. Yes, sir.

18 Q. Can you tell the jury what happened? How, how
19 that happened?

20 A. So our body cameras sit on a clip mounted to our
21 vest on the center of her chest. At some point while
22 I was trying to detain Mr. Turner, the clip that help
23 my body came on, was smashed and have and I lost my
24 camera on to the ground.

25 Q. And did you recover your camera on the scene?

1 A. I did not. Another officer on the scene actually
2 saw it fall off and she recovered it for me.

3 Q. And that was -- who is that?

4 A. Ms. Blackwell.

5 Q. Officer Blackwell?

6 A. Yes.

7 Q. Okay. And when did you realize that she had your
8 body camera?

9 A. Some time later. I believe we were at the
10 hospital with Mr. Turner or maybe when we left to go
11 to the hospital, I went to turn it off. Somewhere in
12 that timeframe was when I realized that I no longer
13 had it on my person.

14 Q. And have you had a chance to review your body
15 camera?

16 A. Yes, sir.

17 Q. And is it a fair and accurate representation of
18 what happened?

19 A. Yes, sir.

20 Q. And the body camera while you're searching him,
21 basically, falls to the floor and goes black, is that
22 -- you saw that on your video?

23 A. Yes, sir.

24 MR. BLACK: Your Honor, the State moves State's
25 Number 6, into evidence, but were not going to

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1 publish to the jury. It's basically accumulative of
2 the same stuff ---

3 THE COURT: Okay. Any objection?

4 MS. MERRILL: No objection, Your Honor.

5 THE COURT: State's Exhibit Number 6 will be
6 admitted without objection.

7 (Whereupon, the DVD has been marked and entered into
8 evidence as State's Exhibit No. 6)

9 MR. BLACK: And like the other, like the other
10 videos, if the jury wishes to watch that it will be
11 pulled in and marked and then muted. Then they can
12 watch the whole thing if they want to. It is what it
13 is.

14 Q. Officer Smith, I'mma show you -- have you seen
15 Officer Crowe's body camera? Have you had a chance
16 to look at that?

17 A. Briefly.

18 Q. For the record this is State's Number 4.

19 (Whereupon, the video is played for the jury)

20 Q. Officer Smith, this is as I stated this is
21 Officer Crowe's body camera. It as minute 40:20, is
22 this you Officer Smith?

23 A. Yes, sir.

24 Q. There's this mouse over your face, are you saying
25 that you?

1 A. Yes, sir.

2 Q. And that's at 4:25 or 40:25 on video. Can you
3 identify this individual I stopped at 40:35, who is
4 this?

5 A. I believe that's Ms. Blackwell.

6 Q. That's Officer Blackwell?

7 A. Yes.

8 Q. And I put my mouse over this lady right here, who
9 is this?

10 A. I believe that was Mr. Turner's girlfriend.

11 Q. Okay. Well, what are you -- I'm stopping at
12 40:40, what are you doing right now Officer Smith?

13 A. I believe at this point I'm trying to remove that
14 bag of contraband that we located on Mr. Turner's
15 person.

16 Q. Did you feel it while you are feeling around with
17 Mr. Turner?

18 A. Yes, sir.

19 Q. I've stopped it at 40:44, can tell what's going
20 on here? Let me roll it a little bit more if you
21 can't see.

22 A. Yes, sir. Right there I removed that from his
23 person.

24 Q. And that's 40 minute, 40:47?

25 A. Yes, sir.

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1 Q. What is that?

2 A. That is a clear plastic bag containing a
3 multitude of various colored pills. I believe they
4 were tested.

5 Q. Okay. And I'mma show you what's been marked as
6 State's Number 5 for identification purposes.

7 A. Yes, sir.

8 Q. You know what that is?

9 A. Yes, sir. That was what was on Mr. Turner's
10 person.

11 Q. And there are -- these are multicolored pills ---

12 A. Yes, sir.

13 Q. These are the same pills?

14 A. Yes, sir.

15 Q. And what did you do with particular pills once
16 you received them?

17 A. When I remove them from Mr. Turner's person, I
18 believe I handed them to Sargent Crowe, as we needed
19 to secure them. And due to the extra circumstances, I
20 was still attempting to help control Mr. Turner there
21 on the ground.

22 Q. And that was minute 41:02, is that you handing
23 the pills over to Sargent Crowe?

24 A. Yes, sir.

25 (Whereupon, the video is played for the jury)

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1 Q. And where did Sargent Crowe put those pills?

2 A. That would be the front passenger side of his
3 patrol vehicle.

4 Q. Officer Smith, did you lose anything else outside
5 of, other than your body camera?

6 A. I lost my keys.

7 Q. Your case your patrol vehicle?

8 A. Yes, sir.

9 Q. And so how did you lose your keys?

10 A. At some point during the altercation with Mr.
11 Turner I lost my keys.

12 Q. You lost your car keys?

13 A. Yes, sir.

14 Q. Were you driving a similar vehicle like that like
15 SUV type?

16 A. I was driving a car.

17 Q. A police car ---

18 A. Patrol car.

19 Q. --- marked?

20 A. Yes, sir.

21 Q. All right. And when you lost your key, what did,
22 what did you do?

23 A. So actually go a ride with someone else to the
24 hospital. We all went to the hospital with Mr. Turner
25 just to make sure there was no further issues while

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1 we were there getting him medical attention. We all
2 responded to the hospital. And we, basically, hung
3 out there until we made sure everything was okay with
4 him. If he was going to be needing any more medical
5 attention and he was transported to the jail.

6 Q. Okay. Once y'all wrapped up at the hospital, did,
7 did you go back to the scene and get your vehicle?
8 Did you find your keys?

9 A. Yes. Actually, during the time that we were at
10 the hospital, um, Sargent Forest Crowe allowed me to
11 use his patrol vehicle. I was going to go back and
12 attempt to locate my keys. But once I got into his
13 vehicle I realized my keys had actually torn a hole
14 through my pocket. They were in my boot. And at that
15 point I went back into the hospital until someone
16 gave me a ride to go get my patrol car.

17 Q. Okay. And so did you end up going -- once you
18 finished up at the hospital, who all went to go get
19 patrol cars?

20 A. I went to go get my patrol. I believe Sargent
21 Crowe was taken to get his patrol car as well as he
22 rode in the ambulance to the hospital to help with
23 Mr. Turner.

24 Q. Do you know who transported who back to the, to
25 the original scene?

1 A. That I couldn't tell you right off, sir.

2 Q. Okay. And once you guys got back to the, once
3 y'all got your vehicles, where did you go after that?

4 A. We went immediately to the police department.

5 Q. Okay. And once you got to the police department,
6 what happened?

7 A. The evidence that was taken off of Mr. Turner was
8 handed over to me by Sargent Crowe. I took it inside.
9 Inventoried it. Photographed it. Placed it into a
10 BEST bag and into evidence locker.

11 Q. Okay. And in terms of -- so you basically took
12 over the evidence once y'all got back to the police
13 department?

14 A. Yes, sir.

15 Q. Because you had the night? You had the rest of
16 the night to work?

17 A. Yes, sir.

18 Q. Was Sargent Crowe, Aaron Crowe, was his shift,
19 was his shift over with or was he working with you
20 guys or....

21 A. Sargent Crowe had been working all day. He was
22 actually getting off when this incident took place.
23 So once we return to the police department,
24 naturally, I took over the evidence and that side of
25 things so that he could go home.

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1 Q. Okay. I'm gonna show you what's been marked as
2 Exhibit's Numer 7 and 8, you recognize those?

3 A. Yes, sir.

4 Q. That's Exhibit Number 7. Here's Exhibit Number 8?

5 A. Yes, sir.

6 Q. And what are these?

7 A. That's the pills that were removed from Mr.
8 Turner's person.

9 Q. Did you take photographs of them?

10 A. I did.

11 Q. Did you count the pills out?

12 A. I did.

13 Q. Were they powder substance as well?

14 A. Yes, sir. But we don't really count that in a, in
15 a quantity. There was a fair amount of powdery
16 substance inside the bag as well.

17 Q. Okay. There's also a baggie that looks there
18 some different colors over here on the right hand
19 side is also photographed, what is that?

20 A. Can I see it again? Right here?

21 Q. Yes.

22 A. That's a test kit.

23 Q. What's a test kit?

24 A. A test kit, field test narcotics, in this case,
25 we test the most multicolored pills, they tested

1 positive for methamphetamine, ecstasy, essentially.

2 Q. It's a quick test?

3 A. Yes, sir. It's just a field test, you know, a
4 small test kit. You can drop a very small minoot
5 amount into the test kit and it will immediately give
6 you a result.

7 Q. Okay. And this, this result was what?

8 A. It was positive for methamphetamine, ecstasy.

9 Q. Okay. All right. So at that point you, basically,
10 have kind of a general of it and then you take
11 [inaudible]....of the evidence for further testing?

12 A. Correct.

13 Q. All right. And I'mma show you what's been marked
14 State's Number 9, you recognize the title?

15 A. Yes.

16 Q. What is that?

17 A. It's evidence log which I completed when I placed
18 those pills into an evidence locker.

19 Q. And explain to the jury how that works? When you
20 get evidence going into an evidence locker, how does
21 that work?

22 A. Right. So obviously, we'll bring the evidence
23 inside. Then I would photograph it. Field test
24 anything that needs to be field tested. Then it's
25 placed into, well, in this case, it was placed into a

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1 BEST pack which will be sent to sled to be tested in
2 a lab by professionals. Then at that point, once is
3 placed into that BEST pack it is sealed. Closed.
4 Nobody else has any access to it. Placed inside an
5 evidence locker and locked without a key that no one
6 has access to.

7 Q. Who's the evidence custodian for the Abbeville
8 Police Department?

9 A. I believe, Mr. Balchin

10 Q. Officer Balchin?

11 A. Yes.

12 Q. All right. And tell the jury as best you can what
13 a, refer to a BEST packet, what that is?

14 A. BEST pack is essentially, a manila envelope with
15 the clear plastic bag inside of it. It is -- it has
16 its own evidence log inside of it we account for
17 anything that we put into it. It has another sheet of
18 information there that ask you with these questions.
19 And any kind of narcotic, you can place into this
20 sled be tested to determine what exactly it is.

21 Q. And this is basic standard procedure for drug
22 cases?

23 A. Yes, sir.

24 MR. BLEDSOE: Your Honor, at this point, the
25 State moves 7 through 9 into evidence.

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1 THE COURT: Any objection?

2 MS. MERRILL: I just want to clarify. No
3 objection, Your Honor.

4 THE COURT: State's Exhibits 7, 8 and 9 are
5 admitted without objection.

6 (Whereupon, the Photo has been marked and entered
7 into evidence as State's Exhibit No. 7)

8 (Whereupon, the Photo has been marked and entered
9 into evidence as State's Exhibit No. 8)

10 (Whereupon, the Property Report has been marked and
11 entered into evidence as State's Exhibit No. 9)

12 Q. And you would've taken those photographs?

13 A. Yes, sir.

14 Q. Officer Smith, and once you put the item into
15 evidence

16 you don't have any more control over them? They're
17 off your hand. They're in ---

18 A. No, sir. Once I place them into the evidence
19 locker, I don't even physically have a key to that
20 locker. It has a handle you turn which locks it and
21 at that point it's out of my hands.

22 MR. BLACK: That's all the questions I have.
23 Please answer any questions Ms. Merrill has.

24 THE COURT: Ms. Merrill, cross-examination?

25 MS. MERRILL: Thank you, Your Honor.

K. Smith- Cross-Examination by Ms. Merrill

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1 **Cross-Examination by Ms. Merrill:**

2 Q. When you left the scene, who did you ride with to
3 go the hospital?

4 A. I'm unsure to be hundred percent honest.

5 Q. Okay. And did you stay at the hospital until Mr.
6 Turner was taken to the detention center?

7 A. Very close to that time. I know I was still at
8 the hospital. He had some sort of an issue with a
9 catheter and I was still at the hospital at that time
10 and they were trying to figure that whole situation
11 out so that they could move him to the detention
12 center.

13 Q. Okay. So you weren't the one who transported him
14 to the detention center?

15 A. No, ma'am.

16 Q. Okay. So after you left the hospital you went
17 back to the apartment complex, is that right?

18 A. And -- yes, ma'am. And retrieved my vehicle.

19 Q. Okay. And you don't recall who drove you to
20 apartment complex from the hospital?

21 A. I'm being honest with you, I am not sure who gave
22 me a ride back to the apartment complex.

23 Q. Okay. And then when you got -- a couple of times
24 you said Sergeant Crowe since there's ---

25 A. Yes, ma'am.

1 Q. --- two Crowe's were you talking about Aaron ---

2 A. Aaron ---

3 Q. --- or Forest Crowe?

4 A. Aaron Crowe.

5 Q. Okay. So I'm just looking real quick at my
6 notes. I'm sorry, give me just a second. Okay. So is
7 that who gave you the pills in the clear bag when you
8 got back from the hospital? Was that Aaron Crowe?

9 A. This was met at the police department and he gave
10 me the evidence that was placed in his vehicle, yes.

11 Q. Okay. So, I actually make sure I understand this,
12 you went from the hospital to the scene to retrieve
13 your vehicle and you got in your vehicle, is that
14 right?

15 A. Right.

16 Q. And then you drove in your vehicle to the police
17 department?

18 A. Right.

19 Q. Okay. And then it was at the police department,
20 at some point, that Aaron Crowe gave you this clear
21 bag with the pills, is that right?

22 A. Correct.

23 Q. Okay. Do you know what time that was?

24 A. I'm not sure. I'm not certain.

25 Q. Okay. Do you know what time you performed this

K. Smith- Cross-Examination by Ms. Merrill

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1 field test?

2 A. No, ma'am.

3 Q. Okay.

4 A. That would be regular practice for me to record
5 what time I perform the field test kit.

6 Q. Okay. So you indicated, I guess, you were driving
7 a police car, is that right?

8 A. Yes.

9 Q. Okay. And you mentioned you'd lost your keys,
10 does your police car have like a little what I call a
11 clicker that lets you unlock and lock the doors or do
12 you have to do it with the key?

13 A. It has a remote.

14 Q. It has a remote, okay. And if, if that car is
15 running, can you lock the doors while the car is
16 running if no one is in it?

17 A. Yes.

18 Q. So you can click it and lock it?

19 A. Yes.

20 Q. And it's still running but that car is locked?

21 A. Yes.

22 Q. Okay. Do you know if you left your car running
23 when ---

24 A. No. My car was not running.

25 Q. It was not running, okay. Okay. I'm want -- if I

1 could have you to look at the screen and it's just
2 for [inaudible].... this is State's Exhibit 4, just
3 for the record this is at 41:12, I'm just trying to
4 get this down for just a second.

5 (Whereupon, the video is played for the jury)

6 Q. Okay. And is that, we know this is Aaron Crowe's
7 body cam, is that Aaron Crowe's vehicle or your
8 vehicle where this plastic bag is being placed?

9 A. That's Aaron Crowe's vehicle.

10 Q. Okay.

11 (Whereupon, the video is being played for the jury)

12 Q. Would you agree with that it appears Aaron
13 Crowe's vehicle is running?

14 A. Yes.

15 Q. Okay.

16 A. Well, I mean, could you rewind it again ---

17 Q. Certainly.

18 A. --- and let me see if it's the same one?

19 (Whereupon, the video is played for the jury)

20 Q. After watching that again, does it appear that
21 Aaron Crowe's vehicle is running?

22 A. So I would say it does appear that it could be
23 running.

24 Q. Okay.

25 A. But, um, I'm also familiar with that vehicle

K. Smith- Cross-Examination by Ms. Merrill

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1 because I've had one for the last six months ---

2 Q. Okay.

3 A. --- and the settings inside the vehicle if you
4 unlock or lock the doors it lights up all exterior
5 lights just like the vehicle was running.

6 Q. Okay.

7 A. So it is possible that he just hit the unlock
8 button and that was the result. I'm, I'm unsure
9 about.

10 Q. Okay. So if you have -- if you unlock it using
11 the remote, does it make a noise? A beep?

12 A. No. It doesn't have to. All that can be set up
13 inside the vehicle.

14 Q. Okay.

15 A. So whatever your preference is you can set all
16 that equipment.

17 Q. Okay. Now, looking back at this one more time
18 would he, um

19 (Whereupon, the video is played for the jury)

20 Q. This is going -- as he's going towards the
21 vehicle, you see this other vehicle right here and it
22 has lights on?

23 A. Yes.

24 Q. Whose car is that?

25 A. I have no idea.

1 Q. Okay. Does it look like a police car?

2 A. It does appear to be a police car. Yes, ma'am.

3 Q. Okay. But you don't his vehicle that is?

4 A. I couldn't tell you.

5 Q. Okay.

6 (Whereupon, the video is played for the jury)

7 Q. All right. I hit the wrong button. I was trying
8 to pause it. Sorry, let me go back to there for a
9 just a second.

10 (Whereupon, the video is played for the jury)

11 Q. Can you tell me in this video if the car is
12 locked at this point after the bag, um, the pills are
13 placed in the car?

14 A. When he walks away from it?

15 Q. [indiscernible]....

16 A. No, ma'am. I can tell whether or not the vehicle
17 was locked when he walks away from it.

18 Q. Okay. Do you know if Aaron Crowe's vehicle
19 remained at this apartment complex the entire time
20 you were at the hospital?

21 A. As far as I'm aware, yes, ma'am. His vehicle
22 remained there.

23 Q. Okay. Again, for the record, this is State's
24 Exhibit 4 this is at 49:28.

25 (Whereupon, the video is played for the jury)

K. Smith- Cross-Examination by Ms. Merrill

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1 Q. Whose voices that says "I still got my camera on.
2 You can take my car"?

3 A. That is Aaron Crowe..

4 Q. Okay. Do you know

5 (Whereupon, the video is play for the jury)

6 Q. Sir, do you know whom is speaking?

7 A. That's me.

8 Q. Okay.

9 (Whereupon, the video is played for the jury)

10 Q. So whose keys are those in your left hand there?

11 A. I would assume those were Sargent Crowe's keys.

12 Q. Okay. And again, just for clarity of the record,
13 it's not Aaron Crowe, is that right?

14 A. Yes.

15 Q. So did you drive Aaron Crowe's car from the car
16 to the hospital?

17 A. That is a possibility. I'm gonna be honest with
18 you, I don't recall how I got to and from the
19 hospital.

20 Q. Okay. So there's a possibility you rode in or you
21 drove Aaron Crowe's ---

22 A. There is a possibility that I drove his patrol
23 vehicle from [REDACTED] Cambridge Street to the hospital.

24 Q. Okay. And -- but you can't say for certain
25 whether you did, is that right?

1 A. I can't say for hundred percent. I'mma be honest
2 with you, it was approximately a year ago, I don't
3 recall how I got to and from the hospital.

4 Q. Okay.

5 MS. MERRILL: If I could have just a minute, Your
6 Honor.

7 Q. Now, you indicated that you did this field test
8 and you also did this paperwork that the State has
9 entered as Exhibit 9. Do you still have that in front
10 of you or should I bring it to you?

11 A. Nah ---

12 MS. MERRILL: Your Honor, may I approach the
13 witness?

14 THE COURT: Yes, ma'am.

15 Q. All right. I'mma hand you State's Exhibit 9. Now,
16 if you'll looked down kind of in the middle of the
17 page to the far right block 23, where it says date
18 and time received, did you fill that part out?

19 A. Yes, ma'am.

20 Q. Okay. And then the date on there is 1/3/22, is
21 that correct? A. Yes, ma'am.

22 Q. Okay. And then it says the date and time, is
23 there a time written there?

24 A. No, ma'am.

25 Q. Okay. So do you have any idea what time you left

K. Smith- Redirect Examination by Mr. Black

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1 this evidence in the evidence locker?

2 A. No, ma'am.

3 Q. And is there any indication on this form that you
4 received

5 this evidence from or who you received this evidence
6 from, is that on this form?

7 A. I didn't -- no, ma'am. No, ma'am.

8 Q. Okay. Are you aware of there's a form that shows
9 how you got this evidence at the police department?

10 A. Yes. That would be what we're looking at,
11 correct?

12 Q. Okay. So there's not another one besides this,
13 is that right?

14 A. Not that I'm aware of.

15 Q. Okay. All right.

16 MS. MERRILL: Thank you. That's all the questions
17 I have.

18 THE COURT: Any redirect?

19 MR. BLACK: Briefly.

20 **Redirect Examination by Mr. Black:**

21 Q. Are you looking at the evidence form?

22 A. Yes, sir.

23 Q. Top left corner?

24 A. Yes, sir. It states the date and time.

25 Q. What's the date?

1 A. Um, 1/3/22.

2 Q. And is there a time?

3 A. The time says 00:50.

4 Q. And that would have been the time that you would
5 have put it into evidence?

6 A. Correct.

7 Q. Okay. And I think maybe there was a question a
8 while ago about what time you would have put it into
9 evidence or something of that nature, correct?

10 A. Yes. And that would have been that I initiated
11 this document. That would have been that was placed
12 into evidence.

13 Q. So it's clearly on the document?

14 A. Yes.

15 Q. So that would have been 00:50, what time is that?

16 A. That's 12:50 almost one in the morning.

17 Q. Okay. And so this would have been after you
18 would have cleared up from the scene. Cleared up from
19 the hospital. Gotten back to the police department.
20 Got the drugs out. Counted the drugs. Did your field
21 test. Fill out the paperwork. And then it's submitted
22 into evidence, is that correct?

23 A. Right.

24 Q. So that's a long process?

25 A. Yes, sir.

K. Smith- Redirect Examination by Mr. Black

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1 Q. And in terms of what we seen on the video, who
2 pulled the drugs out of Mr. Turner's pants?

3 A. I did.

4 Q. And what did you do with that?

5 A. I handed them off to Sargent Crowe due to the
6 circumstances as I didn't have a way to access my
7 vehicle nor did I want to leave where I was at
8 assisting with Mr. Turner at the time.

9 Q. And your testimony is that once you got back to
10 the police department, once y'all finished up, that's
11 when you got the drugs back From Sargent Crowe?

12 A. Correct.

13 Q. Aaron Crowe?

14 A. Correct.

15 Q. And then at that point you handled everything?

16 A. Yes, sir.

17 Q. And the drugs that you -- once you looked at the
18 drugs back at the police department, are those the
19 same drugs that you found on scene?

20 A. Yes, sir.

21 Q. Same baggie?

22 A. Yes, sir.

23 Q. Same color drugs?

24 A. Correct.

25 Q. Same round drugs that you pulled out of his

1 pocket?

2 A. Yes, sir.

3 MR. BLACK: Thank you.

4 THE COURT: Any, anything in response to the
5 redirect?

6 MS. MERRILL: Briefly, Your Honor.

7 **Re-cross Examination by Ms. Merrill:**

8 Q. You can't say where the drugs were from the time
9 you handed them to Aaron Crowe at the scene until you
10 got them back at Abbeville Police Department, can
11 you?

12 A. No.

13 MS. MERRILL: Thank you.

14 THE COURT: Thank you, officer. You may step
15 down.

16 MR. BLACK: The State call Dewayne Balchin.

17 THE CLERK: Do you swear or affirm that the
18 testimony you're about to give the court will be
19 the truth?

20 MR. BALCHIN: I do.

21 THE CLERK: You may be seated.

22 DEWAYNE BALCHIN, first being
23 duly sworn, testified as follows:

24 **Direct Examination by Mr. Black:**

25 Q. Can you state your name for the record please,

D. Balchin- Direct Examination by Mr. Black

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1 sir?

2 A. Ricky Dewayne Balchin, Jr.

3 Q. And your work with Abbeville Police Department?

4 A. I do.

5 Q. How long have you worked there?

6 A. About eight years.

7 Q. How many, I'm sorry?

8 A. Eight years at the Abbeville Police Department.

9 Q. And you've been there for eight years, what is
10 your -- you've got a lot of different roles, are you
11 currently the evidence custodian?

12 A. I am.

13 Q. When did you take over that?

14 A. January of 2022.

15 Q. And so that would have been day, basically, day
16 two of you being the evidence custodian when you
17 first received these drugs, is that, is that fair?

18 A. Yes, sir.

19 Q. Would you, would you have been working that
20 evening?

21 A. No.

22 Q. Can you tell the jury how, how evidence works for
23 Abbeville City? If, if an officer is to get some
24 evidence, do they necessarily hand it over directly
25 to you? Do they put it into evidence lockers for you

1 to deal with? Can you explain that process to the
2 jury how that, so they can understand that?

3 A. Yeah. So in our police department we have a
4 locker, evidence locker. That locker has one key to
5 it. I took over from the previous investigator who
6 had that key. Nobody else in that department has a
7 key. Each locker, um, it stays open. It has a twist
8 lock. They simply come in. They put their evidence in
9 the locker. They lock that locker. They have no way,
10 unless, they just pull it out or do some damage to
11 the locker, there's no way to get it out. I
12 physically have to use the key to open the evidence
13 and retrieve it out.

14 Q. So once evidence is put into evidence locker,
15 they can't, and locked, they can't get into it. The
16 only person that can get into it is you?

17 A. Yes, sir. That is correct.

18 Q. And so once that process happens, what do you do
19 with the evidence?

20 A. I then take and there is an evidence form inside
21 the evidence locker when they place the evidence in
22 there. They'll put what it is, um, who put it in
23 there. I document all that in the report when I pull
24 it out. And then I also initial, which I have the
25 exhibit that's just been there, I initially it like

D. Balchin- Direct Examination by Mr. Black

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1 where I take it out. So we have eight lockers and
2 then we have an evidence room. Obviously, we have to
3 store that evidence somewhere so I take the evidence
4 out of that locker and then put it behind another
5 locked door in an evidence room which is where it
6 stays until it needs examination where it maybe need
7 to go.

8 Q. Okay. And that form follows that piece of
9 evidence throughout the whole process?

10 A. Yes, sir, it does.

11 Q. Okay. And so when did -- when was this evidence
12 submitted into the evidence locker?

13 A. It was submitted, according to the document, on
14 January 3, 2022.

15 Q. And what time was that?

16 A. 00:50 which is midnight, fifty in the morning.

17 Q. And does it say who submitted that document?

18 A. It does. Kiefer Smith.

19 Q. Okay. And then the next person to take control
20 of that evidence is who?

21 A. That would be myself.

22 Q. And when did you take control of that evidence?

23 A. On January the 12, 2022 at 10:09 in the morning.

24 Q. And so that would have been 10:09 in the morning.

25 You would've signed that form, correct?

1 A. I did.

2 Q. Okay. And then did the evidence -- what did you
3 do with the evidence at that point?

4 A. I take the evidence -- a pre-log it into sled. I
5 let them know that, hey, I'm bringing the evidence
6 down. I make an appointment. Once I have that
7 appointment I get all of my evidence, take it out of
8 the evidence locker, and I transported directly to
9 sled.

10 Q. Okay. And when did you take it to sled?

11 A. on August 8, 2022.

12 Q. And then who took it sled?

13 A. I did, personally.

14 Q. Okay. And so -- and that's notated on your form,
15 correct?

16 A. Yes, sir, it is.

17 Q. And how long was that piece of evidence down at
18 sled?

19 A. Until October 24, 2022.

20 Q. It once it -- who got it back from sled?

21 A. I did.

22 Q. And what did you do with it once you got it back?

23 A. I picked that -- picked it up along with several
24 other items that had been completed for examination
25 and placed it back into evidence at the Abbeville

D. Balchin- Direct Examination by Mr. Black

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1 Police Department.

2 Q. And so that would be in evidence, is it -- can
3 you describe to the jury what it is like, a closet?
4 Like a room? Like how is that?

5 A. Yeah. it's a pretty big room. It's like a closet,
6 if you will. It's got different shelves on it and we
7 have the bids according to what case numbers and the
8 month and all that sort of stuff. And then that's
9 where it goes back to, whether or not it's been to
10 trial or we need to hold onto it.

11 Q. Okay. And that particular closet or room, is that
12 open to the public?

13 A. No, sir, it's not.

14 Q. Is it locked?

15 A. It is.

16 Q. Who got a key to that?

17 A. I do.

18 Q. Anybody else?

19 A. No, sir.

20 Q. So you're the only one that can go in and out of
21 it?

22 A. That is correct.

23 Q. Okay. And by the time this -- by the time this
24 evidence came to you and by the time it went to sled,
25 did anybody else come in contact with this piece of

1 evidence? Touch it? Tampered with it? Anything like
2 that?

3 A. Not while it was in our custody at the police
4 department.

5 Q. Okay. And I'mma show you what's been marked as
6 State's Number 5, when you got to it, how was, how
7 was the evidence package?

8 A. So when I get it, brown manila envelope, is
9 obviously an oblong envelope just like this. And on
10 the outside it has some, some sled markings or
11 whatever and you fill that out. The plastic package
12 that contains the pills there already inside this
13 plastic package and it is inside an envelope as such.
14 That package is already sealed. So I can look and
15 make sure that number one, it's sealed. They sign it.
16 And then there's another paper on the inside which is
17 an internal chain of custody for sled that kind of
18 goes along with what we have. I make sure the two are
19 correct, that way I don't receive it back from sled
20 without analysis. And
21 I mark the outside of the envelope. And then it goes
22 to sled.

23 Q. And it's been your custody at the police
24 department since you got it back and sled, when did
25 you say October?

D. Balchin- Cross-Examination by Ms. Merrill

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1 A. 24th, yes, sir.

2 Q. Okay. And it's been sitting over there since?

3 A. Yes, sir, it has.

4 MR. BLACK: That's all I have. Please answer any
5 questions Ms. Merrill has.

6 THE COURT: Ms. Merrill?

7 **Cross-Examination by Ms. Merrill:**

8 Q. Do you have Exhibit 9 in front of you?

9 MS. MERRILL: Your Honor, May I approach the
10 witness?

11 THE COURT: Yes, ma'am.

12 Q. I'mma hand you State's Exhibit 9, you indicated
13 this form
14 kind of follows this evidence. The last notation on
15 there I see shows where you took it to sled on August
16 8, 2022, is that right?

17 A. That is correct.

18 Q. And then how do you know you got it back on
19 October the 24th?

20 A. When I the sled evidence, evidence from sled they
21 give me a evidence release receipt and on the back
22 that evidence release receipt were I signed for this
23 piece of property it specifically has the BEST pack
24 with the case number 2022-0006.

25 Q. So there's a separate form and not this one

M. McMormack- Direct Examination by Mr. Black

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1 State's 9 that you, that has that date on, it Is that
2 right?

3 A. This form is created by sled when I pick it up.

4 Q. Okay. And so do you know notate anything on
5 Abbeville Police Department's form or you just add
6 that sled form to it?

7 A. This sled form kind of goes with that. I notate
8 in the report just a little line that says placed
9 back into evidence or brought back to sled, however,
10 the case may be.

11 Q. Okay.

12 MS. MERRILL: Thank you.

13 THE COURT: Anything further from this witness?

14 MR. BLACK: Not from the State.

15 THE COURT: Thank you, officer. You may step down.
16 Make sure the exhibit gets put back.

17 MR. BALCHIN: Yes, sir.

18 MR. BLACK: The State calls Maribeth McCormack.

19 THE CLERK: Do you swear or affirm that the
20 testimony you're about to give the court will be the
21 truth?

22 MS. McMORMACK: Yes.

23 THE CLERK: Thank you.

24 MARIBETH MCCORMACK, first being
25 duly sworn, testified as follows:

1 **Direct Examination by Mr. Black:**

2 Q. Can you state your name for the record please,
3 ma'am?

4 A. Maribeth McCormack.

5 Q. And Ms. McCormack, where do you work at?

6 A. I work at the South Carolina Law Enforcement
7 Division also known as sled.

8 Q. And wehat do you do at sled?

9 A. I'm a forensic chemist in the drug analysis
10 department.

11 Q. And how long have you been there?

12 A. In March it will be fifteen years.

13 Q. And tell the jury a little bit about your
14 education, if you will?

15 A. I have a Bachelor of Science Degree in Chemistry
16 and a Master of Teaching Chemistry and Physics both
17 from the University of South Carolina.

18 Q. And have you ever testified in court as an expert
19 witness?

20 A. Yes.

21 Q. How many times?

22 A. Approximately forty-four times.

23 MR. BLACK: Your Honor, at this point, the State
24 moves to qualify Mr. McCormack as an expert in drug
25 analysis and for forensic chemistry?

1 THE COURT: Any objection?

2 MS. MERRILL: No, Your Honor.

3 THE COURT: So the witness would be admitted as an
4 expert in drug analysis and forensic chemistry,
5 without objection. Mr. Black?

6 MR. BLACK: Thank you.

7 Q. Ms. McCormack, what, what is your job at sled?
8 What do you do exactly?

9 A. I test evidence for the presence of controlled
10 substances.

11 Q. Primarily drugs?

12 A. Yes.

13 Q. All right. And did you happen to come across --
14 did you test this particular item in this particular
15 case?

16 A. May I refer to my notes?

17 Q. Yeah, absolutely. And I'm gonna ---

18 MR. BLACK: May I approach the witness, Your
19 Honor?

20 THE COURT: Yes, sir.

21 Q. I'm gonna show you what's been marked as State's
22 Number 5, I'll give you to this as well. This item
23 has a particular lab number, is that correct?

24 A. Yes.

25 Q. What is the lab number? What does that, what does

1 that do?

2 What does that mean?

3 A. It is an electronically produced number that each
4 case gets
5 its own lab number.

6 Q. Okay. And any type of evidence, do y'all test
7 evidence from all over the state?

8 A. Yes.

9 Q. Okay. And so anytime evidence is brought in, each
10 piece of evidence is given a specific lab number, is
11 that correct?

12 A. Yes.

13 Q. So in this particular case there was a specific
14 lab number that was given?

15 A. Yes.

16 Q. And that's how this, this item was tracked, is
17 that, is that right?

18 A. Yes.

19 Q. Okay. Once it gets to sled, once the officer
20 bring it to Sled, do they bring it directly to you?

21 A. No. It is submitted in our evidence control
22 department and then I request to pick up evidence
23 from the evidence control technicians and then bring
24 it up to our department.

25 Q. So an evidence technician would be the folks that

1 actually initially receive it?

2 A. Yes.

3 Q. Okay. And do y'all, do y'all, at sled, create
4 like an internal chain that follows a particular
5 item?

6 A. Yes. We each have a barcode and so the chain is
7 electronically produced.

8 Q. Okay. And so anytime anybody uses a particular
9 piece of evidence or takes it, how does, how does
10 that work?

11 A. My badge, everybody has it scanned, so the
12 barcode is scanned, our badge is scanned, and then
13 that creates the chain.

14 Q. Okay. So you scan the item with your badge and
15 that follows it and identifies the folks that have
16 the, the item, is that fair?

17 A. Yeah. We have a little scanner and then we enter
18 our password as well.

19 Q. Okay. And again, y'all create an internal chain
20 that follows that package the whole way through?

21 A. Yes.

22 Q. I'mma show you what's been marked as State's
23 Number 1, for identification purposes, do you
24 recognize this document?

25 A. Yes.

M. McCormack- Direct Examination by Mr. Black

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1 Q. And what is that document?

2 A. This is the chain of custody for this particular
3 case.

4 Q. And that is the sled internal chain?

5 A. Yes.

6 Q. And when was it submitted to sled?

7 A. Did you say when?

8 Q. Yes, ma'am.

9 A. It was logged in on August 9, 2022.

10 Q. And who would've submitted that according to
11 y'all's chain?

12 A. The officers submitted it. That was Dewayne
13 Balchin, Jr.

14 Q. And who would've received it?

15 A. Noelle Johnson.

16 Q. And when did she receive it?

17 A. August 9, 2022.

18 Q. And then after that did other. other folks touch
19 that item?

20 A. The same girl from evidence. She moved -- let me
21 see. Yeah. She placed it on the intake storage shelf
22 and then I received it from Christine Dadabo on
23 September 7, 2022.

24 Q. So it went from Noelle to Christine and then to
25 you. You would have received it on September 7, 2022.

1 What would you have started doing, at that point,
2 with the evidence?

3 A. I would've placed it in our secured storage room.
4 I call it the vault, until my analysis.

5 Q. Did you begin the analysis on that date or did it
6 take a little bit of time for you to begin your
7 analysis?

8 A. Yes. I did begin my analysis that day.

9 Q. Okay. And how long did the analysis take? When
10 were you finished with it?

11 A. My report was completed on September 14th, so it
12 was a week.

13 Q. Okay. And then once you were done with it, did
14 you -- did another forensic tech take the that, the
15 items and return it to another shelf?

16 A. Yes. I returned it to login on September 15th.

17 Q. Okay. And who, who, who, assisted in that?

18 A. Hannah Jefferson.

19 Q. And then what did she do with it after that?

20 A. She placed it on the return shelf.

21 Q. And the return shelf means it goes back to the
22 agency that originally submitted it?

23 A. Yes.

24 Q. And, basically, waiting for pickup?

25 A. Yes.

M. McCormack- Direct Examination by Mr. Black

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1 Q. And who eventually turned that over back to
2 Abbeville Police Department?

3 A. Noelle Johnson.

4 Q. And who picked it up from Abbeville Police
5 Department?

6 A. Dewayne Balchin.

7 Q. Okay.

8 MR. BLACK: Your Honor, at this point, the State
9 moves Nnumber 1 into evidence, that internal chain?

10 THE COURT: All right. Any objection?

11 MS. MERRILL: No objection, Your Honor.

12 THE COURT: State's Exhibit Number 1 is admitted
13 without objection.

14 (Whereupon, the Chain of Custody Form has been marked
15 and entered into evidence as State's Exhibit No. 1)

16 Q. All right. Do you still have the drug, the drugs?

17 A. Yes.

18 Q. The BEST pack. Can you explain it -- can you have
19 the -- can you explain to the jury, how, how the
20 package, how the packaging, um, how the items are
21 packaged and how you receive the items?

22 A. Yes. The items were packaged in a Best kit which
23 is a tamper evident bag. So once I have received the
24 evidence, I look at it to make sure that was sealed.
25 It didn't appeared to be tampered with. And if it had

1 been I would have written on the bag not sealed and
2 it would have been on my report not sealed.

3 Q. And none of that was present here? It was -- it
4 didn't seem like it had been tampered with?

5 A. Correct.

6 Q. Okay. So once you receive the, the items, what
7 kind of testing do you do on this item?

8 A. I weigh the evidence. Perform a preliminary test
9 or chemical test and a confirmatory test which is gas
10 chromatography mass spectrometry.

11 Q. All right. And the weight of this particular
12 item, what did, you -- what did you -- what was the
13 weight?

14 MS. MERRILL: Your Honor, I'm gonna object to any
15 testimony about evidence that is not, or an exhibit
16 that is not currently in evidence.

17 THE COURT: Okay. Ms. Bailiff, let me get you to
18 take our jury to the jury room please.

19 (Whereupon, the jury exits the courtroom 3:49 p.m.)

20 THE COURT: Okay. Ms. Merrill, state your
21 objection?

22 MS. MERRILL: My objection to her testifying
23 about her report is, it's about an exhibit that is
24 not yet in evidence.

25 THE COURT: Okay. And do you have an objection to

1 the exhibit itself?

2 MS. MERRILL: I do, Your Honor.

3 THE COURT: All right. Mr. Black, why don't you
4 proffer the testimony that you seek to admit and go
5 ahead and deal with report. Any questions you'd like
6 the witness while we have the jury out and then I can
7 hear from Ms. Merrill.

8 MR. BLACK: Okay.

9 Direct Examination by Mr. Black- proffer:

10 Q. Did you -- Ms. McCormack, did you weigh these
11 particular pills?

12 A. Yes.

13 Q. What was the weight?

14 A. 26.79 plus or minus 0.01 grams.

15 Q. And the confidence level for that weight was
16 what, again?

17 A. Plus or minus 0.01 grams.

18 Q. All right. And how many pills were there?

19 A. Seventy-four.

20 Q. And do the pills look like?

21 A. They were round. They had a stamp, a CP on one
22 side and a star on the other and they were multi-
23 colored.

24 Q. And did you weigh the powder as well? Was there
25 -- is there powder in the bag too ---

1 A. Oh, yes. Yes.

2 Q. --- or just pills?

3 A. There's two in one item.

4 Q. I'm sorry, say that again? I didn't hear you.

5 A. Yes. The powder that was treated as one item.

6 Q. Okay. So the pills plus the powder weigh 26.79?

7 A. Yes.

8 Q. And you ended up testing -- did you test one
9 pill?

10 A. One tablet, yes.

11 Q. And what did it, what did it test?

12 A. Methamphetamine.

13 Q. Okay. And what you said, you ran two separate
14 tests, the first one is basically kind of a general
15 test, is that would you classified it as?

16 A. A preliminary chemical test.

17 Q. Okay. And how long does that test take?

18 A. A few seconds.

19 Q. And what did it pop up as?

20 A. It gave a color reaction of orange which is
21 indicative for
22 methamphetamine.

23 Q. Okay. And then you run another test with GCMS?

24 A. Yes.

25 Q. Gas chromatography mass spectrometry?

26 A. Mmm, hmm.

1 Q. How does -- how long does that test take?

2 A. Each sample takes approximately sixteen minutes
3 plus standards and blanks, I'll say about an hour
4 total.

5 Q. Okay. And so once you ran that confirmatory test
6 it also come back testing as methamphetamine?

7 A. Yes.

8 Q. Okay.

9 MR. BLACK: That's all the questions I have,
10 judge.

11 THE COURT: Do you have the exhibit marked?

12 MR. BLACK: I do. It's State Number 5. We're ready
13 to move into the evidence.

14 THE COURT: Okay. Do you have the report?

15 Do you have -- are you gonna put the report in?

16 MR. BLACK: I wasn't planning on it.

17 THE COURT: Okay.

18 MR. BLACK: But I can do it.

19 THE COURT: Okay.

20 MR. BLACK: Yeah, I'll be happy to mark it and put
21 it up. Sure.

22 THE COURT: Okay. 'Cause I think that was Ms.
23 Merrill's objection.

24 MS. MERRILL: Well, my objection is to Exhibit 5
25 as well as whatever number this sled report ---

26 THE COURT: Well, if you're not gonna ---

1 MR. BLACK: I'll put it in. Yeah, I can do that.

2 THE COURT: Well, I'm not suggesting -- I'm not
3 telling you how to try your case. I just thought that
4 Ms. Merrill's objection was on the report initially.
5 And if you don't, if you don't seek to put it in,
6 that's fine, but....

7 MS. MERRILL: And I was gonna ask, Your Honor, if
8 I could just asked, um ---

9 THE COURT: Okay. Well, hold on! Are you
10 finished with me a questioning?

11 MR. BLACK: Well, I'll move to put the report in.
12 I think that's part too.

13 THE COURT: Okay.

14 MR. BLACK: I don't know if the objection ---

15 THE COURT: Okay. All right. Let me give Ms.
16 Merrill an opportunity to question the witness on the
17 proffer.

18 MS. MERRILL: And just the record is clear. I do
19 object to Exhibit 5 and Exhibit 10 ---

20 THE COURT: Okay.

21 MS. MERRILL: --- being entered.

22 **Cross-Examination by Ms. Merrill- proffer:**

23 Q. If I'm looking at I believe it's Exhibit 1, is
24 that the sled internal chain?

25 MR. BLACK: Yes.

1 Q. And you have that in front of you?

2 A. Yes.

3 Q. Okay. So looking at that is your -- does sled
4 when they -- is this log in as first entry 8-9-2022
5 at 10:19, is that when it's received by sled?

6 A. That is when the technician logs it in. It goes
7 from the locker and logs it in.

8 Q. Get's it from a locker. Okay. Can I -- I want to
9 make sure I'm not missing a page, do you mind if ---

10 MS. MERRILL: Your Honor, May I approach the
11 witness?

12 THE COURT: Yes, ma'am.

13 Q. I just want to see this and make sure that I'm --
14 so that 8-9-2022 date at the top of that first date,
15 is when the technician takes it from the evidence
16 locker, is that right?

17 A. Yes.

18 Q. Does anything on this document show you when the
19 item was delivered to sled and again, I'm referring
20 to Exhibit 1?

21 A. I don't see that date. No, I can't answer that

22 Q. So if the -- so can you say where this item was
23 from the time or can you say if sled received this
24 item on August 8, or August 9, 2022?

25 A. The first date I see is when the evidence

1 technician logged it in and that was the 9th.

2 Q. Okay.

3 MS. MERRILL: Your Honor, if I can just proffer
4 just one other thing.

5 Q. So when you -- looking at your report which I
6 believe is marked as State's Exhibit 10, is it
7 accurate, am I reading this correctly that you just
8 tested one pill out of the 74?

9 A. Yes.

10 Q. Okay.

11 MS. MERRILL: Thank you. I was just clarifying
12 that. And, Your Honor, when the court is ready, I'm
13 prepared to make some arguments about why I object to
14 5 and 10 coming in. Sorry, I'm making sure I'm
15 getting the right exhibit numbers.

16 THE COURT: Okay. So you, you have no further
17 questions?

18 MS. MERRILL: (Shaking of the head no)

19 THE COURT: Anything further -- any further
20 questions for this witness, Mr. Black?

21 **Redirect Examination by Mr. Black-proffer:**

22 Q. So when an item is submitted by an officer to the
23 lockers, do they get scanned immediately or is it
24 kind of like evidence at the police departments that
25 can sit in a locker until they get, put with a

1 barcode and kind of interpreted that way?

2 A. So ---

3 Q. Does that's that question makes sense?

4 A. There is a pre-logged form and I believe that
5 date, but it was placed in the locker would be on
6 that form. That's just not a part of our internal
7 chain.

8 Q. Okay. And the internal chain, basically, starts
9 when the barcode hits the package?

10 A. Yes.

11 Q. Okay. In terms of how officers drop off packages,
12 how they're kind of dropped off at sled, do the
13 officers dropped them off into a locker? I think you
14 mentioned a locker, is that how that
15 works?

16 A. Yes. A locker.

17 Q. Okay. And so then at that point that's when your
18 tech's take over and start putting barcodes on them
19 and logging them that way, is that correct?

20 A. Yes.

21 Q. And so if somebody were to drop off a packages
22 and it say on 8-8 on at 4:30 pm, it may not get
23 logged until the next day, is that possible?

24 A. Can you repeat that please?

25 Q. So say if somebody drops off a package on August

1 8th and they drop it off at 4:30 in the afternoon, is
2 it possible that it's not logged and barcoded until
3 the next day?

4 A. Yes. That's very possible.

5 Q. Is that actually pretty common how that works at
6 sled?

7 A. Yes. It should be -- so paperwork, with the
8 person that dropped it off with a timestamp and that
9 information that, that's just not something that is
10 on our internal chain.

11 Q. Okay.

12 MR. BLACK: Thank you.

13 MS. MERRILL: If I could ask you one other
14 question?

15 THE COURT: Yes, ma'am.

16 **Re-cross Examination by Ms. Merrill- proffer:**

17 Q. Do you have anything with you today that
18 indicates when sled received these drugs?

19 A. No. My chain of custody just starts with the
20 evidence technician.

21 Q. Which in -- and that first day is 8-9, is that
22 right?

23 A. Yes.

24 Q. Okay.

25 MS. MERRILL: Thank you.

1 THE COURT: Okay. I'll hear any argument.

2 MS. MERRILL: Thank you, Your Honor. May it
3 please, the court? I object to the both exhibit,
4 Exhibits 5 and 10, 5 being the BEST pack and evidence
5 contained therein. And 10 being the report from sled
6 after the analysis was done. Your Honor, I understand
7 that based on State vs. Hatchet, I believe, I want to
8 make sure I'm giving the court the right case name.
9 That the court has said, you know, you don't have to
10 have an exact chain every single person testify. My
11 concern -- that's not necessary my concern in this
12 case. There is a period of time, we've got
13 conflicting testimony and we really don't know where
14 these drugs were from the time that on scene Kiefer
15 Smith testified that he handed them to Aaron Crowe.
16 Aaron Crowe testified he took them to his car. We see
17 that on the video, he takes it to his car. He says
18 the car is locked and remains at the apartment
19 complex until they go back after the hospital. Yet
20 about ten minutes later on that same body cam video,
21 he is, Aaron Crowe is offering his keys for someone
22 else to drive his car. And Kiefer Smith said that he
23 could not say where the drugs were from the time he
24 handed them to Aaron Crowe from the, um, until he got
25 them again at the Abbeville Police Department. And

1 the - trying to make sure I get my, um -- I guess,
2 the Form 9, excuse me, Exhibit 9, the form from
3 Abbeville just has Kiefer Smith's name on it. But
4 nowhere is there Aaron Crowe's name on it that he
5 received it and it remained in his locked car for
6 several hours or his car was moved from the apartment
7 complex to Abbeville Police Department after someone,
8 he was dropped off. Or if, in fact, Officer Smith
9 drove Aaron Crowe's car from the scene to the
10 hospital and then back to the apartment complex.
11 There's this period of time where there is no
12 consistent about where these drugs are. They're
13 handed off to Aaron Crowe, his testimony is one
14 thing. Officer Smith can't tell us who he rode to the
15 hospital with, if anyone. He did indicate he didn't
16 drive his own car because he couldn't find his keys.
17 And at one point in the video Aaron Crowe's body cam
18 video which is Exhibit 4, we see Officer Crowe
19 offering his keys to Officer Smith, offering to let
20 him drive his car, although, Smith cannot say if he
21 did that. So I think there's this time period where
22 there is no consistent testimony about where these
23 drugs are. Are they in a locked car in a parking lot
24 at the scene for several hours? Are they in the car
25 and travel to the hospital and then back to the scene

1 and then back to the Abbeville Police Department?
2 There's a big gap and I think that's much more in
3 line with the State v. Pulley case, P-u-l-l-e-y. That
4 is 423 SC 371. That's a case actually out of another
5 county in our circuit, Laurens County. And in that
6 one, Your Honor, it was a traffic stop. But there was
7 some inconsistent testimony about where the drugs
8 were. Basically, it showed that one officer sees the
9 cocaine. It was left on the hood of another officer's
10 car. That officer testified he did not take the drugs
11 from the scene. The first officer who had seized them
12 placed the drug in the department's evidence lockbox.
13 And the evidence custody admitted that he did not
14 receive the cocaine from that first officer,
15 personally, but that's what the form indicated. And
16 so in here, I think it was that we don't have that
17 confusion on that form as far as receiving it
18 personally or the evidence locker. But there is this
19 time period where no one can exactly say where these
20 drugs or it's inconsistent testimony about where
21 these drugs might have been from the time they were
22 seized until they end up back at the Abbeville Police
23 Department several hours later. And likely around
24 12:50 a.m. or a little bit before to give Officer
25 Smith time to test that or a little after midnight on

1 January 3, 2022 and it's not accounted for. And the
2 form from the Abbeville Police Department only has
3 one officer's name on it even though we see that
4 Aaron Crowe had possession of the drugs at some
5 point. And that is the form that I'm referring to as
6 Exhibit 9, Your Honor, I just want to make sure I
7 have the right exhibit number so the record is clear.

8 And then, Your Honor, also if I may approach and
9 see Exhibit 5, I wanted to add one more ---

10 THE COURT: Yes, ma'am.

11 MS. MERRILL: --- Your Honor, obviously, I'm not
12 going to open this because it is sealed, but I
13 noticed on, this is Exhibit 5, I noticed on here it's
14 dated 1-2-22 which is before, I guess, it would have
15 been possibly before midnight. It looks like an
16 Officer [inaudible].... signature. But that was --
17 the date when it was sealed on January 2nd but for
18 paperwork it wasn't placed, it wasn't placed into the
19 evidence locker until January 3, 2022 at 12:50 a.m.
20 So if it was sealed and I realize that could just be
21 a dating thing because right before midnight,
22 practically speaking I understand that. But if it was
23 sealed on 1-2-22, where was it between then and
24 taking it to the evidence locker fifteen minutes
25 later. So, Your Honor, I do not there is a chain of

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1 custody. Particularly, I believe there is a gap in
2 that chain of custody. And it's a break which I
3 believe goes to the credibility of the evidence. And
4 so, Your Honor, for that reason, I would move that
5 the court not enter or I object to Exhibit 5 and 10
6 being entered into evidence because I do not believe
7 the State has established a proper chain of custody
8 for that evidence.

9 THE COURT: Thank you, Ms. Merrill.

10 MS. MERRILL: Oh, Your Honor, I'm sorry, if I can
11 add one more thing. There may be one form, I feel
12 like I've seen it being candid with the court, that
13 sled did receive, that document on the 8th. But as of
14 right now it hasn't been entered into evidence and
15 the form from Abbeville Police Department indicates
16 they dropped the document off at sled, I mean,
17 dropped the evidence off at sled on August 8th and per
18 the sled records that have been proffered so far the
19 first time that's logged in is 8-9. So I think that's
20 also a break in the chain there, Your Honor, though.
21 But being completely candid with the court, I do feel
22 like in reviewing all things there is something
23 somewhere I just can't put my hands on.

24 THE COURT: Is that the pre-logged form that she
25 was talking about in her testimony?

1 MS. MERRILL: Yes. The pre-logged form indicating
2 -- a receipt indicating when sled received the items.

3 THE COURT: Okay.

4 MS. MERRILL: We don't have that and proffered
5 either, Your Honor.

6 THE COURT: Okay. Thank you, Ms. Merrill. Mr.
7 Black or Mr. Brown?

8 MR. BROWN: Yes, sir, judge. Based on the
9 testimony that's been presented here today, I think
10 the chain is fully intact. Going to the State v.
11 Hatcher just the language in that, "that the mere
12 fact that the evidence is sealed upon presentation of
13 tests and design itself establish efficient chain of
14 custody it still required to show how it's obtained
15 and how it's handled." Through the testimony today
16 and also on the body cam that's been presented as
17 evidence, you can clearly see Officer Smith take it
18 off of the defendant, hand it to Officer Crowe who
19 then locks it in his car. And also his testimony
20 saying he locked in his car. So it's secured in his
21 vehicle. You then hear Officer Crowe say he handed
22 that drug evidence to Smith back at the police
23 department, where Smith's testimony and documentation
24 on the chain, the internal chain at Abbeville says
25 that he test it, took pictures of it that night,

1 counted it, and then sealed it. Per Ms. Merrill's,
2 what she just said on the record a moment ago, sealed
3 it at close to midnight and then actually presented
4 or actually put in the Abbeville Police Department's
5 lockbox. So that chain from the time it's taken off
6 the defendant all the way put into the Abbeville
7 Police Departments's lockbox is established. There's
8 no conjecture there. I think Ms. Merrill alluded to
9 State v. Pulley. There's a big difference in State v.
10 Pulley to what we have here. In State v. Pulley there
11 was an express denial handling cocaine by an officer
12 followed by stipulation of a missing link by the
13 State. And then the subsequent reversal by the police
14 officer, they did, in fact, take the cocaine from
15 the scene, help with the State's failure to produce
16 testimony, it was who put the drugs on the hood of
17 the car. That is quite different than what we have
18 here. And in State v. Hatcher it goes on to say, "the
19 ultimate goal of the chain of custody requirements is
20 simply to ensure that items was reported to be and
21 that the drugs received and tested were, in fact,
22 those taken from the defendant without any
23 alteration, tampering with substitution." It's been
24 testified here that by Officer Smith that he took it.
25 They appear to be the same drugs as to what he

1 Officer Crowe. They weren't tampered with. He got
2 then back. Put them in the BEST kit. It was placed in
3 the BEST kit. It was sealed. Put inside the manila
4 envelope. And it's also been testified that, by Ms.
5 McCormack that it was still, the seal was intact and
6 had not been tampered with or the appearance of it
7 being tampered with when she actually does her test.

8 Further in Hatcher we've established all of the
9 chain witnesses who moved it from bid or shelf 1 to
10 shelf 2, to finally being tested. There's not any,
11 any gap in our chain as to who handled it. I think
12 it's been followed pretty well actually on video and
13 testimony that's been brought before the court.

14 So there's quite a difference between Pulley and
15 this case at hand and that we have fully established
16 the chain and that the drug evidence should be
17 allowed at this time.

18 THE COURT: Thank you, Mr. Brown. Well, I have
19 -- I've reviewed the appropriate case law. I reviewed
20 this State versus Hatcher 708 S.E. 2nd 750 and also
21 this issue came up against State versus Brockmeyer,
22 all of that centered around a confrontation clause
23 challenged to a chain of custody issue. And State
24 versus Hatcher governs this situation in that, "it
25 states explicitly the proof of chain of custody need

1 not negate all possibility of tampering so long as
2 the chain of possession is complete." And it goes
3 further, it says, "evidence is inadmissible only
4 where there is a missing link in the chain of
5 possession because of the identity of those who
6 handled the substance was not established, at least,"
7 and this is the key phrase, "as far as practicable."
8 Now, in this case and it makes it clear "it's not
9 necessary for every person handling the substance to
10 testify." In this case, I find that there's no
11 evidence of tampering, bad faith or ill motive, and
12 those are factors that are set forth in the State
13 versus Sweet case, 647 S.E. 2nd 205.

14 But another important point of law in Hatcher is
15 that "it depends on the unique circumstances of each
16 case." Now, in reviewing the facts that are in the
17 test, in evidence today that have been testified to
18 have that I have to consider on this objection, we
19 have testimony that there was a plastic baggie
20 containing 74 pills taken of the defendant. These --
21 this is the baggie that, admission is sought in
22 State's Exhibit 5. Now, we have video evidence of
23 when the baggie was actually taken off of the
24 defendant by Officer Smith. Now, in considering the
25 unique factual circumstances of this case, Officer

1 Smith testified exigent circumstances required him to
2 give this evidence to Officer Crowe. And I would note
3 that as shown on the video, we have video evidence of
4 this which has been admitted and published to the
5 jury, Officer Smith was engaged in a struggle with
6 the defendant at that time. That also the video
7 evidence shows that Officer Crowe walked over to his
8 police patrol vehicle and placed the evidence in the
9 front passenger seat. We also have established in
10 testimony that at the police department, Officer
11 Smith came back in possession of the, a baggie, it
12 being given to him by Officer Crowe. The same officer
13 that had put, placed in the car earlier. Officer
14 Crowe testified that his car was locked. Again, we
15 have video evidence. The car lights were on. But we
16 also have video evidence that he reached for the
17 handle. That, that was remote. Now, Officer Smith
18 could not testify what, at the point, the car was
19 locked. But Officer Crowe testified that it locked.
20 So again, that's testimony in the record. Officer
21 Smith is uncertain how he got to the hospital. There
22 is testimony that Officer Crowe had offered him his
23 vehicle. However, there's no evidence that that
24 actually occurred. Regardless, and this is a key
25 distinction between this case and the Pulley case,

1 the officer in question his identity is established
2 and the officer in question, Officer Smith is the one
3 who actually processed the evidence and did the field
4 test. So if anyone could have, assuming Ms. Merrill
5 your arguments is correct that there's this gap in
6 time in which someone else could have touched the
7 evidence, it would have been Officer Smith, the
8 officer that did the analysis.

9 So we go further, Officer Balchin testified about
10 the procedures. It placed in the evidence locker. He
11 testified that he personally delivered the BEST to
12 Columbia, to sled on August 8th. The testimony that
13 sled did not process the evidence till the next day,
14 however, there's a login procedure and a pre-log
15 form, we haven't seen the form. But there' testimony
16 to that effect and State's Exhibit Number 1
17 establishes the internal procedures.

18 So I'm going to find that based on testimony in
19 the record that the chain of custody has been
20 established sufficient to satisfy the requirements of
21 State versus Hatcher and South Carolina law and Ms.
22 Merrill your arguments go not toward the
23 admissibility of this evidence, but toward its weight
24 and those are certainly jury arguments that, that,
25 that you can make regarding the, that the evidence,

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1 itself. But I'm going to overrule your objection and
2 I will allow State's Exhibits 5 and 10 into evidence.
3 And I would, I also would note for the record, about
4 the time, Ms. Merrill you make an argument regarding
5 that it took place after midnight. There was
6 testimony in the record that Officer Smith took a
7 significant period of time to photograph, count the
8 pills and also conduct field test at the police
9 department accounting for some of the time lapse and
10 there was also a trip to the hospital and -- but that
11 -- there is, there is testimony in the record and
12 that's what the court must base the, the ruling on.
13 But again, those are, those are jury arguments and
14 they don't move toward admissibility.

15 So that'd be the ruling of court. Is there
16 anything else before we bring our jury back in?

17 MS. MERRILL: Your Honor, if I can just, for the
18 record, I understand the court's ruling, I'm not
19 arguing. But if I may add, a timestamp for Exhibit
20 4, it's 49:51 where Officer Aaron Crowe hands his, or
21 offers his keys to another officer and 41:20, roughly
22 there, when the, I believe, that was when the
23 evidence was handed to Aaron Crowe and taken, or that
24 was when he was taking it to his car, I believe, just
25 so I add that.

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1 THE COURT: Okay.

2 MS. MERRILL: And then if I clarify one argument
3 on a time, what I was saying, is it shows the bad was
4 sealed on January 2nd, and so presumably it was sealed
5 after the testing and everything was done. So it was
6 sealed on the 2nd then it was submitted to the
7 evidence locker on the 3rd at 12:50. So just
8 clarifying those times.

9 THE COURT: So noted. Thank you, Ms. Merrill.
10 All right. Let's get our jury.

11 (Whereupon, enters the courtroom at 4:17 p.m.)

12 THE COURT: All right. Mr. Black, proceed.

13 **Direct Examination by Mr. Black- conti:**

14 Q. Agent McCormack, I'm not exactly sure where we
15 left off, but just running through quickly, do you
16 have the BEST pack with you, the drug evidence? And
17 again, you tested the drugs -- how many tests did you
18 end up doing?

19 A. I did two test. A preliminary test and a
20 confirmatory test.

21 Q. Okay. And tell the jury how preliminary test
22 works and what you're looking for? What, what happens
23 on that?

24 A. In this case, it was a chemical test. I used a
25 reagent. A small amount of sample. And it may or may

1 not produce a color change. In this case it did. It
2 gave a color change of orange which is indicative of
3 methamphetamine.

4 Q. Okay. And then based on that, I guess, you'd
5 call it the preliminary test, you do another test on
6 the, on the sample?

7 A. Yes.

8 Q. And how does that test work?

9 A. It's gas chromatography mass spectrometry. It is
10 an instrument that will separate and identify
11 compounds in a sample.

12 Q. Okay. And how long is that test take?

13 A. The runtime for each sample is sixteen minutes.
14 So combined with the blanks that we run between
15 samples as well as the standards around an hour.

16 Q. And what is, for the jury, what is, what's a
17 blank? Is that like a control? Like a ---

18 A. A blank is, it contains a solid just to make sure
19 there's no carryover between samples. So the blank
20 should have no peaks or anything. It's just a quality
21 control measure we take. And the standard, um, every
22 control substance we get, it's run with a known
23 chemical standard.

24 Q. Okay. In terms of this case, how many, how many
25 pills did you test?

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1 A. One.

2 Q. Okay. And did you weigh the entire substance?

3 A. Yes.

4 Q. Okay. What was the weight of the substance that
5 you ended up having on this one?

6 A. The weight was 26.79 plus or minus 0.01 grams.

7 Q. So that's about 26.79 grams of methamphetamine?

8 A. Yes.

9 Q. Okay. And you said you said you tested one pill,
10 how were these pills -- what was the -- what did
11 these pills look like?

12 A. They were round, multi-colored, and each had a
13 logo on one side, it was CP and on the other side a
14 star.

15 Q. So they all had that same logo even though the
16 pill colors were a little bit different?

17 A. Yes.

18 Q. Let me ask you this, did it surprise you that
19 the, that the results came back methamphetamine?

20 A. No.

21 Q. Why not?

22 A. That is a correct trend that these type of
23 colorful tablets to contain methamphetamine.

24 Q. So a lot of times in the traditional sense, you
25 know, basically folks think of methamphetamine the

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1 think of the ice crystal methamphetamine and that's,
2 and y'all certainly get that, is that correct?

3 A. Yes.

4 Q. And you do the same kind of testing and same
5 procedures, is that right?

6 A. Yes.

7 Q. But you're saying this is a common trend to see
8 methamphetamine in a pill form?

9 A. Yes.

10 Q. Okay. And how often are you testing pills that
11 are coming by meth? Are you doing this every day?

12 A. Weekly. Yes.

13 Q. So this is a common practice throughout, I guess,
14 the State and nationally too? So you said you weren't
15 surprised by this?

16 A. No.

17 MR. BLACK: Your Honor, at this point the State
18 moves State's Number 10....

19 Q. I'm gonna show you State's Number 10, what you
20 just testify to, you issued a report on that,
21 correct?

22 A. Yes.

23 Q. And you're -- and that's the summary of your
24 report that you use testified to?

25 A. Yes.

M. McCormack- Cross-Examination by Ms. Merrill

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1 Q. And you generate that?

2 A. Yes.

3 MR. BLACK: Your Honor, the State moves Number 10,
4 Ms. McCormack's report, into evidence as well as
5 State's Number 5, which is the, the drugs in this
6 case?

7 THE COURT: That's admitted. Ms. Merrill's
8 objection is noted for the record.

9 (Whereupon, the Sled's Drug Analysis Kit (BEST KIT)
10 has been marked and entered into evidence as State's
11 Exhibit No. 5)

12 (Whereupon, the Sled's Report of the Drugs has been
13 marked and entered into evidence as State's Exhibit
14 No. 10)

15 Q. And you tested one pill in this, in this case?

16 A. Yes.

17 Q. And is that y'all's policy, standard practice?

18 A. Yes. It's our policy to separate colorful tablets
19 like this by logo and shape. In this case they were
20 all the same. So it was treated as one population.

21 Q. And if y'all would've -- if they were other pills
22 that had a different logo say, you know, a pill that
23 was in the shape of a dinosaur, would you have tested
24 that pill as well?

25 A. Yes.

1 Q. Okay. So anytime there's a different shape or
2 anything like that, that's a pill that you test?

3 A. Yes.

4 Q. Per y'all's policy?

5 A. Yes.

6 Q. But in this particular case, they were all the
7 same?

8 A. Yes.

9 Q. Okay.

10 MR. BLACK: Thank you. Please answer any
11 questions Ms. Merrill might have for you.

12 **Cross-Examination by Ms. Merrill:**

13 Q. I'm just looking at a picture of it, but there
14 were about four or five different color pills, is
15 that fair? Yeah, you've got them right in front of
16 you. I'm looking at the pictures.

17 A. Yeah. There were multi-colored.

18 Q. Okay. About -- but about four or five different
19 colors?

20 A. Yes.

21 Q. Okay. So even though they have the same logo and
22 they're all, but there are five different colors in
23 there, you still only tested one pill?

24 A. Yes.

25 Q. Okay. But the weight is of all the pills?

M. McCormack- Redirect Examination by Mr. Black

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1 A. Yes.

2 Q. So you weigh all the pills but only test one, is
3 that right?

4 A. Yes.

5 Q. The preliminary tests you do, is that similar to
6 the field tests that an officer may do?

7 A. I don't know what type of test they use.

8 Q. Okay. Is there ever a chance or is there ever
9 time a that the field test is indicative of one drug,
10 but the confirmation test shows something else?

11 A. Yes.

12 Q. Okay. In that case, do you rely on the second
13 test or the first test?

14 A. The confirmatory test.

15 Q. Okay. And just be clear, that'd be the second
16 test, right?

17 A. Yes.

18 Q. Okay. And then that's the test that you write a
19 report about, is that right?

20 A. Yes.

21 Q. Okay.

22 MS. MERRILL: Thank you.

23 **Redirect Examination by Mr. Black:**

24 Q. Just briefly there was a question about a test by
25 officers what it comes up as versus what's your,

1 what's your test come up as, on these particular
2 pills the field test that most law enforcement
3 officers are doing on these, do you know what is
4 coming up?

5 A. I'm sorry, I couldn't hear what you said.

6 Q. I'm sorry. I may not have been clear. Most
7 officers are doing a field test on pills that they
8 take off the streets, right?

9 A. Yes.

10 Q. What is that coming up as? What is that showing,
11 typically, on the officers field test based on your
12 training and experience?

13 A. Um....

14 Q. Is it coming back meth or coming back some other
15 different substance?

16 A. I don't know. We don't get the results of their
17 field test.

18 Q. Okay. Is it fair to say that a lot of the field
19 tests will be like ecstasy or something like that,
20 have you heard that?

21 A. Yes.

22 Q. You have heard that and that's pretty common?

23 A. That they use a test for, specifically, for
24 ecstasy.

25 Q. Then a field test will come back on pills that'll

1 come back as ecstasy even though it may be something
2 else?

3 A. Yes.

4 Q. Okay. But your test is, basically, a chemistry
5 test to dispel, you know, actually what it is, is
6 that right?

7 A. Yes.

8 Q. And you do two different types of tests and
9 chemistry and hard work and get it done, is that
10 right?

11 A. Yes.

12 Q. Okay.

13 MR. BLACK: Thank you.

14 THE COURT: Anything further from this witness?

15 MS. MERRILL: No, Your Honor.

16 THE COURT: Okay. Let's make sure we've got all
17 our exhibits. I've seen people have been walking
18 around with exhibit. Did you put ---

19 MR. BLACK: I've got 9 and I she had 10 and 5 if
20 I'm not mistaken.

21 THE COURT: Has five? What all do we have in
22 evidence?

23 MR. BLACK: Should be 1 through 10, Your Honor.

24 THE COURT: Okay. You agree that's the number Ms.
25 Merrill, 1 through 10?

1 MS. MERRILL: I do, Your Honor. I'm just trying to
2 get it order.

3 THE COURT: Okay. Okay. I don't want, I don't want
4 us to lose an exhibit.

5 (Whereupon, the lawyers are looking through the
6 exhibits)

7 MS. MERRILL: Your Honor, it looks like all of
8 them are here.

9 THE COURT: Okay. Okay. All right. Thank you,
10 ma'am. You are excused.

11 MR. BLACK: The State rest.

12 THE COURT: The State has rested. All right. Will
13 you take your jury to the jury room, please.
14 (Whereupon, the jury exits the courtroom at 4:28
15 p.m.)

16 THE COURT: All right. The State has rested, are
17 there any motions?

18 MS. MERRILL: There are, Your Honor. Can we take
19 a two minute break for my client to use the restroom?

20 THE COURT: Yes, ma'am.

21 MS. MERRILL: Thank you

22 THE COURT: Yes, ma'am.

23 (Whereupon, the court takes a short recess)

24 THE COURT: Okay. Let's go back on the record.
25 Are there any motions?

1 MS. MERRILL: Yes, Your Honor. I would renew all
2 previous objections made, understanding the court's
3 rulings, but just wanted to make sure I renew those
4 at this time.

5 THE COURT: Yes, ma'am.

6 MS. MERRILL: And then I also ---

7 THE COURT: So noted.

8 MS. MERRILL: --- would move for a direct verdict,
9 Your Honor. In this case based on the evidence that
10 has been presented, what the State has to show is
11 that Mr. Turner had possession of drugs and the
12 weight of them and though they have had the analysts
13 testify, they've also got to show the chain of
14 custody and based on the evidence presented looking
15 at State's Exhibit 9, -- I'm looking at State's
16 Exhibit ---

17 THE COURT: That's why I wanted y'all to count the
18 exhibits. Get her on the phone and make sure she
19 didn't walk off with our exhibit?

20 MS. MERRILL: Sorry, Your Honor, I thought 5 was
21 brought back. Your Honor, do you want me to wait for
22 him to come back or go ahead?

23 THE COURT: No. You can go ahead and make your ---

24 MS. MERRILL: Thank you, Your Honor.

25 THE COURT: --- make your argument.

1 MS. MERRILL: Okay.

2 THE COURT: We just got to get that exhibit back
3 and she walked off with it.

4 MS. MERRILL: Yes, sir. Certainly. So looking at
5 Exhibit 9, it indicates that on August 8, 2022, the
6 item or once Exhibit 5 was dropped off at sled but on
7 Exhibit 1, the first that sled logged it in is on 8-
8 9-22 and I'm looking for my so I can tell you the
9 time, Your Honor, I think it's -- I believe it was
10 10:19, Your Honor. I'm going from memory when we get
11 the exhibit or I can find my copy I'll confirm that.
12 But there is a break in the chain in that the
13 evidence from the State has presented shows that the
14 Abbeville Police Department, Officer Balchin, took
15 the contents of Exhibit 5 to sled on August 8th, but
16 sled did not log it. There is no record in writing in
17 evidence that shows they received it the 8th, instead
18 the first time they received or the first report that
19 is in evidence, shows that it was received again,
20 August 9th and I can clarify that time when we get
21 that back.

22 And so, Your Honor, I would -- proving the chain
23 of custody, they must show that it was not broken and
24 I would argue - I did find my copy, Your Honor, and
25 not the exhibit - but it's 10:19 a.m. on August 9th.

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1 So there's a day that's not accounted for. There's
2 nothing in evidence that shows sled received this on
3 the same day that Officer Balchin took it. So I'd
4 argue that is a break in the chain of custody and
5 because of that break, the State has not done
6 everything it needed to do to prove every element of
7 this offense and the court should direct a verdict in
8 favor of Mr. Turner.

9 THE COURT: Thank you, Ms. Merrill. Anything for
10 the record, Mr. Black?

11 MR. BLACK: Judge, I think you pretty much covered
12 it when she made her motion on the chain objecting to
13 item 5 and item 10 coming into evidence. The chain
14 has been established. There's, specifically there's
15 testimony about how when you take items down to sled
16 you're not necessarily handing it to a person, you're
17 putting them in lockers kind of like what law
18 enforcement does. They put them in lockers here and
19 then it gets a barcode and then it gets scanned and,
20 you know, that can happen sometime after the fact. So
21 at this point, you've got to view the light most
22 favorable to the State and the chain has been
23 sufficiently testified to that a, it's a, it's a
24 weight issue at this point not at an admissibility
25 issue. So we would ask that you denied the directed

1 verdict motion and allow us to continue.

2 THE COURT: Well, as you know counsel in ruling on
3 a motion for a directed verdict, the court is
4 concerned with the existence or non-existence of
5 evidence not it's weight. To grant a directed
6 verdict, I must find that after reviewing the
7 evidence of the light most favorable to the State,
8 that the State has not produced any direct or
9 circumstantial evidence reasonably tending to prove
10 the guilt of the accused.

11 Now, the objections were ruled on and the
12 directed verdict motion centers around the
13 admissibility of two exhibits and a change of
14 custody issue. The court has ruled that that evidence
15 is admissible. So again, Ms. Merrill, I find that
16 your arguments go toward the weight of that
17 evidence. But that evidence is in existence and those
18 are jury arguments. I would find that this is a jury
19 question and, therefore, I would deny your motion for
20 a directed verdict at this time. The State has put
21 evidence in the record to support the elements of the
22 charges and a reasonable jury could possibly convict
23 the defendant based on the evidence in the record.

24 So with that, Ms. Merrill, would you and your
25 client stand please? All right. Madam Clerk, would

1 you put Mr. Turner under oath?

2 THE CLERK: Raise your right hand please. Do you
3 swear or affirm that the testimony you're about to
4 give the court will the truth?

5 MR. TURNER: Yes, ma'am.

6 THE COURT: Okay. Mr. Turner, at this time -- you
7 can put your hand down. At this time, I'm going to
8 explain to you some of your rights. If you do not
9 understand anything that I say, please let me know
10 and I'll explain it in more detail. If you answer the
11 question I will assume you understood the question.
12 You understand?

13 MR. TURNER: Yes, sir.

14 THE COURT: We have reached the stage in the
15 trial where you may present your defense. You have
16 the right to claim the protections given to you by
17 the Fifth Amendment to the Constitution of the United
18 States. This amendment states in part, no person
19 shall be compelled in any criminal case to be a
20 witness against himself. That means you cannot be
21 required to testify in this case. On the other hand,
22 you have the right to testify in this case on your
23 own behalf should you choose to do so. However, no
24 one can make you testify. This is a personal right
25 and no one can waive this right except you. If you

1 decide to testify, you'll will be subject to the same
2 rules that govern other witnesses and you may be
3 examined and cross-examined on any relevant issue in
4 this case. In addition if you have any convictions
5 involving dishonesty or false statements or for
6 crimes punishable by imprisonment for more than one
7 year and this court determines that the probative
8 value of admitting this evidence outweighs its
9 prejudicial effect to you, the solicitor would be
10 able to introduce your record to attack your
11 credibility. If you decide to testify, this decision
12 on your part must be freely, voluntarily and
13 intelligently with the knowledge and protections
14 given to you by the Fifth Amendment and the
15 consequences of your decision to testify. If you
16 decide not to testify, I will instruct the jurors
17 that they cannot give the fact that you did not
18 testify any consideration whatsoever. And that there
19 has to be absolutely no prejudice to you because you
20 did not testify. It is left entirely up to you
21 whether to testify. You may talk to your attorneys,
22 your family, friends or anyone else, but the final
23 decision will be left entirely up to you. Do you
24 understand?

25 MR. TURNER: Yes, sir.

1 THE COURT: All right. Do you have any questions
2 you'd like to ask your attorneys about this?

3 MR. TURNER: No, sir.

4 THE COURT: All right. Go -- Ms. Merrill, go off
5 the record for a moment and discuss with your client
6 and then let the court know what the decision is.

7 MS. MERRILL: Yes, sir. If I can have just one
8 moment, Your Honor.

9 (Whereupon, the attorney speaks to her client)

10 MS. MERRILL: Your Honor, one thing that and I
11 don't know if the court is willing to do this at this
12 time, I've asked the solicitor what, from Mr.
13 Turner's record, he might use to try to impeach him.
14 But my understanding is he would likely try to
15 impeach him with a 2021 domestic violence in the
16 first degree conviction, is that correct, solicitor?

17 MR. BLACK: That's correct.

18 MS. MERRILL: Okay. So in asking that, I
19 understand whether that one comes in would be up to
20 the court's discretion.

21 THE COURT: Okay.

22 MS. MERRILL: And I don't know -- I'm not trying
23 to put you on the spot, judge. I just thought if my
24 client knew whether or not that was coming in. If
25 you're not, um, at this point comfortable ---

1 THE COURT: Well, why don't we do this, let me
2 look at the record because we, obviously, gonna have
3 to finish this tomorrow. And do you have a copy of
4 the record? Or is it just -- what was it -- it's a DV
5 First ---

6 MR. BLACK: Yes.

7 THE COURT: --- conviction in 2021?

8 MR. BLACK: Yes, sir.

9 THE COURT: And, and for what -- is there
10 anything the State would like to tell me for support
11 for your argument that that should come in as
12 impeachment evidence?

13 MR. BLACK: Judge, I think it could -- I think it
14 has merit as to why law enforcement got, showed up
15 out there and why they ended up doing what they did
16 and then it got us to the drugs. I think it kind of
17 helps maybe explain everything. But it carries, as
18 you know it carries over a year and so I think it's
19 subject to possible impeachment under Rule 609
20 (A)(1).

21 THE COURT: Okay. All right. Let me let me think
22 about it. Let me think about it.

23 MS. MERRILL: Thank you, Your Honor. We'll also
24 talk to him this afternoon and just kind of make him
25 aware of the different options and the possibility of

1 being impeached with that.

2 THE COURT: And you don't have any other
3 witnesses?

4 MS. MERRILL: I don't think so, Your Honor.

5 THE COURT: Okay. Okay. All right. Well, what
6 we'll do, we'll start back -- be here at 9:15 and ---

7 MR. BLACK: Judge, I do have a, I've never done
8 this before, but apparently this is becoming an
9 issue, is becoming an issue, but the State is
10 requesting the record for the State to be reopened
11 for us to call, recall call a witness. Investigator
12 Balchin. I know that the ruling has been made where
13 there is enough evidence for the State to go forward
14 and no linkage in the chain has been -- there's no
15 linkage in the chain for the drugs. But there is a
16 pre-logged form that was mentioned and we're gonna,
17 we're asking to have the record reopened and submit
18 this pre-logged form into evidence showing that
19 Officer Balchin took the drugs down on August 8th. It
20 was given up a barcode, a pre-log. it's got a
21 timestamp when it was entered into sled and then the
22 internal chain started the next day with the lockers,
23 the testimony it was talked about what the lockers. I
24 just think it's confusing to the jury and I think it
25 would be fair to allow the State to recall Officer

1 Balchin to get this pre-log form in there to kind of
2 explain how this whole process works for the
3 layperson that doesn't understand how evidence is
4 received, package, generated, stored. I think this
5 could be confusing. I think it could be unfair to the
6 State and how the defense is proceeding to try to use
7 this. So we would ask to, at this point, reopen the
8 record, have this clarified so that it's more easily
9 explainable for a lay jury that doesn't really have
10 any law enforcement experience and don't, they don't
11 understand how this process works.

12 THE COURT: Ms. Merrill, is this the same form you
13 referenced earlier?

14 MS. MERRILL: I did represent, Your Honor, and I
15 couldn't put my hands on it either. But even if I
16 could have, I don't know that I'm obligated to try
17 the State's case for them. And I would object to
18 reopening the record. They've had ample time to
19 prepare. I was trying to be candid with the court
20 because I knew I'd seen it. I couldn't put my hands
21 on either, but I thought I had seen it. But at the
22 same time, even after I called that to their
23 attention they could have brought it up then because
24 the sled analyst was still on the stand and they
25 could've used that opportunity.

1 THE COURT: I would, I would sustain that
2 objection. The State has rested. There's been test --
3 there's been sufficient testimony in the record to
4 establish chain of custody so the State is gonna have
5 to proceed with. with what they have in the record,
6 unless the defendant opens the door with some
7 testimony. And if they present a case then the State
8 may be able to present reply testimony. But at this
9 point, the record is closed.

10 MR. BLACK: Thank you, Your Honor.

11 THE COURT: All right. Ms. Merrill, your client
12 has a question?

13 (Whereupon, the attorneys speaks with your client)

14 MS. MERRILL: Your Honor, just if I can for the
15 record. What my client is asking about is what the
16 court has already ruled on. I have told him that,
17 that his conditions of his bond have been met by his
18 appearing today and there is no longer a bond in
19 place and that he wouldn't be detained at the
20 detention center. I've explained to him that the
21 court has ruled on that and it's not, it's not the
22 time to argue about that. But that was what he was
23 asking me about just for purposes of the record.

24 THE COURT: Yes, sir. Yes, sir. You need to direct
25 that to your attorney. I've ruled on that. Okay.

1 We'll start at 9:15 tomorrow.

2 MS. MERRILL: Thank you, Your Honor.

3 THE COURT: Yeah. Let's bring our -- I forgot
4 about our jury. That'd be something if we all leave
5 the courthouse and leave the jury in here.

6 (Whereupon, there is laughter the courtroom)

7 (Whereupon, the jury enters the courtroom at 4:50
8 p.m.)

9 THE COURT: Okay. Ladies and gentlemen, we are
10 going to conclude our case for today. Be back in your
11 jury room at 9:15 tomorrow morning. And when you get
12 back, your foreman was excused due to some
13 circumstances out of anyone's control. So you'll need
14 to elect a new foreperson when you get back into the
15 jury room. Just do the same procedure. Write that
16 person's name on a slip of paper.

17 Now, remember your prohibitions. No independent
18 research. You know your family is gonna want to know
19 all about it when you get home, just tell them you
20 can't talk about it. And don't talk amongst
21 yourselves or deliberate about the case. And we'll
22 see everybody tomorrow at 9:15. I hope you have a
23 good evening.

24 (Whereupon, the jury exits the courtroom at 4:52
25 p.m.)

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1 (Whereupon, court is adjourned for the day at 4:53
2 p.m.)

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1 Thursday, January 19, 2023

2 (WHEREAS, this matter was scheduled for a trial,
3 the plaintiff appeared along with their attorney of
4 record. The defendant appeared along with his. The
5 proceedings began at 9:42 a.m.)

6 THE COURT: We are back on the record. The State
7 has rested. Ms. Merrill, you conferred with your
8 client about whether or not he desires to testify?

9 MS. MERRILL: I have, Your Honor. We talked at
10 length yesterday after noon and he is not going to
11 testify.

12 THE COURT: Okay. Is that correct, Mr. Turner?

13 MR. TURNER: Yes, sir.

14 THE COURT: Okay. Well, what we'll do is and Ms.
15 Merrill, you're not going to present any other
16 witnesses?

17 MS. MERRILL: No, sir.

18 THE COURT: Okay. What we'll do, we'll go back on
19 the record with the jury. I'll let you rest formally
20 and then we'll go into closing arguments since the
21 defense is not putting up testimony, the state will
22 go first and the defense will get last argument.

23 MS. MERRILL: Just for procedure, Your Honor, can
24 I go ahead and renew any motions as if I've rested,
25 understanding the court's, but go ahead and do that

1 to preserve the record?

2 THE COURT: It's after you rest, go, go ahead and
3 -- you've already made your motions after the State
4 rested. I'll allow you to rest and you can renew your
5 motions and for -- to protect yourself on the record.

6 MS. MERRILL: Okay. I was -- I guess, I was
7 asking if I can possibly do it now so that we don't
8 have to, I don't have to do it in front of the jury,
9 is what I was thinking. Didn't you say you are going
10 to bring the jury out?

11 THE COURT: Well ---

12 MS. MERRILL: I'll just say I'll renew all my
13 motions or my objections and then that's all I'll
14 say.

15 THE COURT: I know what you're talking about.

16 MS. MERRILL: Yes, sir. Thank you.

17 THE COURT: And, um, just say that on the record.
18 Because right now we're still in the point where you
19 just made your motions and I've ruled on them.

20 MS. MERRILL: Right. Yes, sir.

21 THE COURT: Okay. Let's get our jury.

22 (Whereupon, the jury exits the courtroom at 9:44
23 a.m.)

24 THE COURT: Good morning, ladies and gentlemen,
25 did you elect a foreperson? And do we have a note?

1 What's your, what's your number?

2 MR. WELLS: One, eighty-five.

3 THE COURT: One, eighty-five. Your juror number
4 185, will be the foreman, okay.

5 All right. Ladies and gentlemen, yesterday before
6 we broke the State rested. So we're now on the next
7 stage of the trial. Ms. Merrill?

8 MS. MERRILL: Your Honor, the defense rest.

9 THE COURT: Okay. Ladies and gentlemen, the
10 defense has rested. That means the evidentiary stage
11 of the trial is concluded. The next stage of trial
12 will be closing arguments from the attorneys. And
13 prior to the closing arguments, Ms. Merrill, you
14 renew all your motions?

15 MS. MERRILL: I do, Your Honor.

16 THE COURT: All right.

17 MS. MERRILL: And objections. Thank you.

18 THE COURT: All right. So the order that we will
19 have closing arguments, the State will go first. Then
20 the defense will, will have the last argument. So Mr.
21 Black ---

22 MR. BLACK: Yes, sir.

23 THE COURT: --- or Mr. Brown, which ever one ---

24 MR. BLACK: May it please, the court?

25 THE COURT: Okay.

1 **Closing Arguments- Mr. Black:**

2 Good morning. Thank you guys, again, for being
3 here. As we mentioned in the outset as the judge
4 stated and as we talked about in our opening
5 statements this is a criminal case. And as here in
6 Abbeville, throughout the whole United States, the
7 State has the burden to prove its case beyond a
8 reasonable doubt. Something that you guys all heard
9 in your lifetime living here in the United States.
10 And so how does that look?

11 In this case, obviously, the defendant, Mr.
12 Turner, is charged, he's charged with two crimes.
13 He's charged with resisting arrest and trafficking in
14 methamphetamine, 10 to 28 grams. And so, again, we
15 have to prove that beyond a reasonable doubt.

16 In a moment the judge is going to read you guys
17 the law and I'm gonna go ahead and talk about the law
18 briefly because this is what we have to prove. And it
19 may be hard to see. but it says under Section 69-3-
20 20, that is basically the code section for opposing
21 the law enforcement officer. "It is unlawful for a
22 person knowingly and willfully to oppose or resist a
23 law enforcement officer in serving, executing or
24 attempting to serve or executing a legal writ or
25 process or to resist an arrest being made one whom

1 the person knows or reasonably should know is a law
2 enforcement officer whether under process or not."
3 That's the code, I literally copied and pasted it
4 from the statute. And so don't judge me how this
5 willfully, this willfully word is spelled. That is
6 how they -- that's how it's printed in the code. So
7 it says it's underlined and misspelled that's not me.
8 That's straight from the code. This is exactly the
9 law of our state when it comes to resisting arrest.
10 And it's pretty basic, folks. This isn't, this isn't
11 rocket science like I said in the outset. Basically,
12 if you resist arrest this is what it is. There's no -
13 - again, it's not rocket science.

14 Under Section 44-53-375, again, the defendant
15 here is charged with a drug offense. And in this case
16 is trafficking in methamphetamine. So it's under
17 Subsection C, as you can, as you can tell. Subsection
18 A talks about what is possession is. Subsection B
19 talks about what possession with intent to distribute
20 is. That's not before you. This is a case of
21 trafficking in methamphetamine.

22 So this says, "a person who knowingly sells,
23 manufacturers, delivers, purchases or brings into the
24 state or who provides financial assistance or
25 otherwise aids, abets, attempts, or conspires to

1 sell, manufacture, deliver, purchase, or bring into
2 this state or" and I'm going to highlight the section
3 right here, "who is knowingly in actual or
4 constructive possession", we'll keep on scrolling
5 down, "or who knowingly attempts to become an actual
6 or constructive possession of 10 grams or more of
7 methamphetamine or cocaine base as described in this
8 section is guilty of trafficking in methamphetamine."
9 So I'm gonna highlight the section again. Right here.
10 "Or who is knowingly an actual or constructive
11 possession."

12 So what does that mean? What is actual
13 possession? What is constructive possession? And
14 again, this, like I said it's not rocket science,
15 it's pretty self explanatory. But I've got in my
16 pocket my car keys. These are my car keys for my
17 vehicle outside. I am in actual possession of these
18 car keys. Currently they are in my hand.

19 Now, they're in my pocket. But I have actual
20 possession of these car keys. My son had basketball
21 practice last night and he left his basketball in my
22 vehicle. I don't actually have possession of the
23 basketball. But I have constructive possession of
24 basketball because it's in my car. I own the car.
25 It's in the parking lot. It's locked. But I had the

1 keys. I'm constructively possessing that basketball.
2 Even though it's technically not mine, sure I bought
3 it for him - my son's, but that is what constructive
4 possession is. That basketball not here, not on one
5 person. It's in my car. It's still mine. I'm
6 constructively possessing that basketball.

7 Here, in this particular case, this is actual
8 possession. And again, this is all about the weight.
9 Because the defendant in this case because you heard
10 testimony about this 26 grams testing positive for
11 methamphetamine actually possessing that amount of
12 drugs. According to our statute makes you guilty of
13 trafficking in methamphetamine. So that's what we
14 have to prove, folks. Those are the crimes. Those
15 are, those of the elements of the crimes. And again,
16 we have to prove this, like I stated, beyond a
17 reasonable doubt. And as the judge stated earlier and
18 as what I stated in my opening it's not beyond all,
19 all doubt. It's not beyond every possible doubt,
20 every conceivable doubt. It's not beyond a shadow of
21 a doubt. But it's a doubt that will leave you firmly
22 convinced of the defendant's guilt. If your firmly
23 convinced that's beyond a reasonable doubt. And the
24 judge is going to tell you, you know, if you have a
25 civil case it can be, you know, when you're, when

1 you're, when parties sue each other when there's a
2 fight, you know, the standard of proof is a
3 preponderance of the evidence and basically, that's
4 kind of tipping the scales.

5 This is beyond a reasonable doubt. It's a higher
6 standard of proof. It's more than what you see in
7 civil cases. But again, it's not every single doubt
8 that's out there. It's beyond a reasonable doubt. Are
9 you firmly convinced. It's the kind of doubt that
10 will leave, that would make a reasonable person
11 hesitate to act and that's, you're gonna hear that
12 too. That's in the, that in the jury instruction. But
13 what that doesn't mean, this hesitate to act, it
14 doesn't mean that you go back in the jury room, you
15 discuss the evidence. You talk about what you saw.
16 The testimony that you heard. What you saw on the
17 video. Pictures. And you look at your clock and say,
18 oh, man it's been thirty minutes or, oh, man, it's
19 been about an hour. We've hesitated to act. Let's get
20 out of here. Find him not guilty. That's not what
21 that means. It's after you've thoroughly discussed
22 the evidence. Listen to everybody's take on it. Use
23 your common sense. Use your life experience. Evaluate
24 the evidence. And at the end of the day if you're
25 firmly convinced, if your guts telling you he's

1 guilty, then he's guilty. If your gut is saying, oh,
2 he's not guilty, then you have to vote not guilty.
3 But I suspect that if you look at the evidence your
4 gut is gonna come back and tell you he guilty.

5 And why is your gut going to tell you that he's
6 guilty? It's gonna tell you that he's guilty because
7 of the evidence that was presented in this case.

8 The first witness you heard from yesterday was
9 Ms. Jones. Ms. Jones is in a relationship with the
10 defendant, Mr. Turner. Something was going on. And
11 she did what she had to do, quite frankly, because of
12 the children that were there. She called the police,
13 she said get him out of here. He's acting a fool. So
14 law enforcement showed up. And let me say this, law
15 enforcement, they get a bad rap nationally, but this
16 is Abbeville and, you know, most of these officers,
17 you see them around town. You see them in your
18 community. And you saw from the body camera footage
19 from these officers how respectful, how responsible,
20 how, um, just what a great job that they did, how
21 professional they were and how they responded to a
22 situation like this. They showed up, they up to this
23 scene. There may be a gun involved. Poked their head
24 around the door and saw that there was some issues.
25 You, obviously, saw that on the body cam. They were

1 trying to calm the situation down. There was no
2 raising of the voice. No nothing. They were trying to
3 talk the defendant down. He, obviously, was in
4 distress. You heard testimony about how this was
5 January 2nd, it was cold. The house was a normal
6 temperature. This guy is sweating profusely.
7 There's, obviously, something going on here. And
8 they're doing everything in their power to try to
9 calm the situation down. Not escalate the situation.
10 And then as soon as Mr. Turner says something about a
11 gun that changes because at the end of the day, law
12 enforcement, they have to look out for themselves.
13 But they also have to protect everybody else in that
14 situation. When he says something about gun, when
15 he's holding his child down not letting them get up,
16 and even though he says, oh, I don't have a gun, you
17 never know. You just never know. So they acted
18 professionally, responsibility and responsible
19 according to the training that they have received and
20 they pulled their gun out because they had to. And
21 they quickly, as you saw in the video, placed Mr.
22 Turner, the defendant, into cuffs to, basically,
23 quell that threat. Once they got him in cuffs, they
24 briefly patted him down just to make sure he didn't
25 have a gun. You saw an Officer Crowe's video that he

1 searched the couch, couch to make sure that there was
2 no gun that had, you know, wedged its way into the
3 couch, couch or anything like that so that everything
4 was taken care of. And at that point, they begin to
5 try to figure out what the heck's going on.

6 And you saw on the video that Ms. Jones was
7 cuffed and that's standard operating procedure too.
8 You heard testimony about that to make sure everybody
9 is restrained so that they're not harmed. They
10 immediately took her to the back bedroom. Took the
11 cuffs off of her. Tried to figure out what was going
12 on. And tried to make sure the situation was taken
13 care of.

14 For the next twenty minutes as Mr. Turner is
15 cuffed, they again, act professionally and
16 responsibly. They're trying to make sure that
17 whatever situation that he's got going on that he's
18 not in danger to himself as he's sweating profusely,
19 talking out of his mind. They called EMS. They didn't
20 roughhouse him or anything. They left him on the
21 ground even though he's still struggling, still
22 fighting, still doing everything in his power to
23 resist law enforcement to get out of the situation
24 that he's put himself in. But they act responsibly
25 and professionally.

1 They get EMS up there. The defendant refuses
2 treatment. At this point, according to the testimony,
3 Ms. Jones still tells law enforcement I want him out
4 of here because of how he's acting. When they asked
5 Mr. Turner, Mr. Turner you're gonna go with us? He
6 says, no. And again, that changes things as well. All
7 right, sir, we gonna take you to jail for
8 trespassing.

9 So at this point they begin to try and figure out
10 how we're gonna get this gentlemen downstairs because
11 we're in an apartment complex, on the second floor.
12 It's raining. It's wet. This guy has been fighting us
13 the entire time. Not only do we have to look out for
14 ourselves again, but we have to look out for the
15 defendant, Mr. Turner. Get him down safely. And
16 handle this professionally like we're trained to do.
17 And again, not raising their voice, not cursing Mr.
18 Turner out, not any of that.

19 They utilize a chair that EMS has for
20 transporting patients that are in higher, you know, a
21 different level. Get him down and try to put them in
22 a patrol car. At that point, you've heard testimony
23 from these three officers. Officer Smith, Officer
24 Aaron Crowe, and Officer Forest Crowe who are all
25 involved in this situation. You see portions of all

1 their body camera. And again, what is Mr. Turner
2 doing? He is still resisting arrest. He will not
3 comply. He will not get into the vehicle. He will not
4 listen to law enforcement. He will not do anything
5 that they are asking him to do. So as they are trying
6 to get him in the car, I think a combination of two
7 things happened, I think they realized well, we
8 hadn't really searched him like we should have
9 searched him. And, oh, goodness, Officer Crowe says
10 he feels something in his pocket. And it becomes
11 immediately apparent to him that is a bag of pills, a
12 bag of drugs that he, as he stated in his testimony,
13 you get used to doing this after about eight, nine
14 years. You recognize immediately what this is.

15 So at this point, Officer Crowe says, all right,
16 folks, let's pull him out because one, he's not
17 getting in this patrol car. We're gonna have to find
18 another means of transportation. And two, we gotta,
19 we gotta search him and make sure that he, again,
20 doesn't have any weapons on him, but I feel drugs and
21 we got to get that off of him as well.

22 And again, the testimony and what you saw on the
23 body camera is readily apparent. The officer are
24 patting him down. Officer Smith's body camera gets
25 knocked off. I didn't show you that video because,

1 again, all of this stuff is very cumulative but
2 you've heard testimony about it. And if you want to,
3 you're more than welcome to watch his body camera,
4 but it's all the same stuff. He's struggling. He's
5 fighting. But Officer Crowe, Officer Aaron Crowe's
6 body camera remains intact. And officer Aaron Crowe
7 captures on his body camera, it's about sitting right
8 here on his chest, Officer Smith down with Mr. Turner
9 pull a bag of drugs out of his pocket and immediately
10 hand it to Officer Aaron Crowe.

11 Now, it's easy to Monday morning quarterback the
12 situation and say, well, you know, Officer Smith
13 should have immediately gotten up and started a chain
14 of custody form and, you know, had these drugs all,
15 you know, have a chain of custody. Put them
16 somewhere, somewhere else. It's easy to Monday
17 morning quarterback and say that's what he should
18 have done. Maybe he should have done that, maybe not.
19 But what he did is, again, he was acting
20 professionally and responsible. And what he did in
21 his first order of business was handling the
22 defendant, Mr. Turner, assisting other officers
23 trying to get him in the car, trying to get him to
24 stop resisting arrest, trying to get into medical
25 treatment that he needed, desperately needed, and

1 that's obvious from the body camera.

2 So he immediately hands the drugs to Officer
3 Crowe which in my estimation is what he should've
4 done. Officer Crowe, it's all on camera, takes the
5 drugs, goes to his vehicle, pulls the door. It
6 doesn't open immediately, it catches, signifying that
7 the vehicle is locked. Hits it again, puts the drugs
8 in his car, and as his testimony states, he locked
9 the vehicle. Put it in the front seat. And again, you
10 see all of this on body camera. You've seen the video
11 several times. I thought about showing it again. I
12 don't think I'm going to show it again. But again,
13 you're more than welcome to watch this. You've seen
14 it several times. And that timestamp is minute 40:46
15 of Officer Aaron Crowe's body camera. Again, Officer
16 Crowe puts the drugs, locks it in his vehicle, and
17 then goes back to assist.

18 At this point, officers don't turn him over to
19 EMS. They don't let EMS and hock the folks at
20 Abbeville Area Medical Center just deal with him
21 because, quite frankly, he's acting foolishly. And
22 that would be dangerous for EMS. That would be
23 dangerous for folks at the hospital, for lay folks
24 that are in the hospital. What happens if this guy
25 gets out or gets away while they're trying to treat

1 him, so law enforcement shows up at the hospital
2 because again, that's their training. That's their
3 job. That's their duty. Not only to look out for Mr.
4 Turner, but for everybody at the hospital. So again,
5 they go to the hospital to make sure everybody is
6 okay and deal with the situation there.

7 Now, as you heard testimony, Officer Aaron Crowe
8 was coming off of his shift. He worked day shift. His
9 brother Forest Crowe and Officer Smith were coming on
10 night shift, they were starting about six o'clock. So
11 at this point, Officer Aaron Crowe is already well
12 past his shift. But again, he just doesn't know to
13 leave like maybe some of us will be trying to do. He
14 finishes his job because he is acting professionally
15 and responsibility and doing exactly what he is
16 supposed to be doing. He finishes up at the hospital
17 and by the time they finish up to the hospital, take
18 Mr. Turner jail after he gets done at the hospital
19 because they still have to do that out here to the
20 detention center where Prysmian Cable is, out there
21 on bypass. Then they have to go back to the police
22 department which is here in the city and begin
23 processing the evidence. And again, this takes time.
24 You don't snap your fingers and everything is
25 magically, all the paperwork is done. Pictures are

1 taken. We do a field test on the drugs. And the drugs
2 are in evidence. This all takes time. This isn't
3 something that happens overnight. It's a long
4 process, okay.

5 So again, at this point, the testimony is that
6 Officer Aaron Crowe gets back to his vehicle at the
7 village, at the apartment complex here in the city of
8 Abbeville. Drives over the police department. Gives
9 the drugs to Officer Kiefer Smith. At that point,
10 since Kiefer's working, since he was clearly and
11 actively involved in the situation, he's going to
12 take possession of the drugs and it makes sense
13 because he literally pulled the drugs out of his
14 pocket. It's on video. You handle this, this
15 evidence. Fill out the paperwork and place it into
16 the evidence locker. And that's what happened.

17 Now, the defense may make a big deal, oh, you
18 know, it was 12:50 when all -- it was past midnight
19 when, you know, these drugs finally made it into
20 evidence. Folks, this is common practice. This is,
21 again, you don't snap your fingers and it just
22 happens. There's a lot of -- there's a lot that goes
23 into all this.

24 So the drugs, after the pictures are taken, and
25 you'll see some pictures. You'll see -- there's a

1 couple of pictures that have been submitted evidence.
2 You'll have a look at these pictures, Exhibits 7 and
3 8. You'll have a, you have a look at this evidence
4 sheet right here. And you'll see that, all right,
5 they got the call on January 2, 2022. The drugs are
6 submitted at 00:50 right here on top corner, after
7 midnight once they do all the paperwork. Go to the
8 hospital. Go to the detention center. Submit them
9 into evidence. Officer Kiefer Smith at police
10 department submits them to the evidence locker.
11 You'll see that at that point, Officer Balchin, you
12 heard testimony from him who is now the evidence
13 custodian as January 1, 2022, he takes them out of
14 the evidence locker on 1-12-2022 at 10:09 in the
15 morning and he testified to that and it's here on the
16 sheet right here. So what happened was these drugs
17 are sitting in a locked evidence locker at the police
18 department for somebody to come, the evidence
19 custodian, to basically take them and put them in the
20 locked big closet kind of room they have over there
21 police department where it locked where also only one
22 person can access it, Officer Balchin. This is the
23 chain of custody.

24 I point out this timeframe, these evidence --
25 this -- these drugs going into evidence on January 3rd

1 at 12:50 p.m. and not coming out of this locked
2 little locker like evidence, like Officer Balchinn
3 told you about, nine days later to say again this is
4 normal practice, folks. I'm not sure what was going
5 on. I don't know if it was the weekend. I don't know
6 what day of the week this was. There may have been a
7 weekend Officer Balchin may have been doing a bunch
8 of different other things. Abbeville Police
9 Department is a very busy, ah, it's a small
10 department. A lot of these officers have a lot of
11 different responsibilities. And a lot of times the
12 officers aren't gonna immediately everyday check
13 these little evidence lockers because they don't get
14 full overnight. So nine days later that's when
15 Officer Balchin took it out of that little evidence
16 bin where, again, he only has the key and put it in
17 the main room. And then on August 8, 2022, that's
18 when Officer Balchin took it from the main room and
19 took it down to Columbia to sled for testing.

20 Now, after Officer Balchin testified you heard
21 from the sled analyst. You heard from Maribeth
22 McCormack. Ms. McCormack is the, she's a forensic --
23 she's a drug analysis down at sled. She does drug
24 analysis. She's a forensic chemist. She tested these
25 drugs and she's been doing this for fifteen years

1 down at sled. She talked about this internal chain
2 that follows these drugs throughout the whole
3 process. The internal chain picks up on 8-9-22 at
4 10:19 in the morning and it's taken from, by a tech
5 to different areas and then it finally gets to her
6 about a month later when she begins her testing.

7 Now, the defense questioned Ms. McCormack about,
8 well, this internal chain starts on August 9th but
9 Officer Balchin, his chain says that he took it down
10 to sled on August 8th. So, oh, my goodness, there's a
11 break in the chain and, folks, that's just not the
12 case here. Because Ms. McCormack testified that like
13 agencies, police departments, sheriff's departments
14 in and around the State that have little boxes that
15 officers drop the evidence into before it gets to an
16 evidence custodian, that sled also has the same
17 boxes. And when officers, typically, when officers go
18 down to sled and drop off drugs or other items,
19 they're taking a bunch of stuff. They're not just
20 going to sled everyday once they get a new case.
21 Things accumulate. They take, they take a whole bin
22 and they drop it off. Now, I don't know what time
23 Officer Balchin got there. But if you got there at
24 4:30 in the afternoon or four o'clock in the
25 afternoon, I can guarantee you by the time sled puts

1 their barcode on it and label it so that they can
2 start scanning their badges like the testimony that
3 you heard, they didn't do it on the 8th. They did it
4 at 10:19 in the morning the next day. So again, as
5 the testimony came out it's still sitting in a locked
6 envelope or a locked box down at sled.

7 And what else did Ms. McCormack say? And what did
8 the officers testify to? They testified that it goes
9 into a BEST pack that's sealed and tampered proof and
10 if there's any indication that the seal has been
11 broken or tampered with, they notate it in their
12 report. They tell law enforcement. They tell the
13 prosecutors and everybody knows about it. Well, guess
14 what? That's not here. Because in her report that you
15 have evidence, State's Exhibit Number 10, there's
16 nothing in her report that says, oh, this bag was
17 tempered with. It was sealed and intact just like
18 it's supposed to be.

19 So she gets it and she test it and what does it
20 come back as? It comes back as methamphetamine, 26.79
21 grams of methamphetamine, 74 bills and powder,
22 labeled has CP on one side, and a star on the other
23 side. And if you remember I asked her a question, I
24 said, now, Ms. McCormack, were you surprised that
25 this came back methamphetamine? And she said, No,

1 I'm not surprised at all. She said, in fact, we're
2 seeing this all the time, these pills that we get
3 that get taken by law enforcement and sent to us,
4 they're pretty much testing for methamphetamine. And,
5 quite frankly, that's her testimony. But if you've
6 been paying attention to the news, at all, you know
7 that this is an epidemic not only here in South
8 Carolina but all over US. Press pills coming back
9 another substance. Not, you know, the Fred Flintstone
10 vitamins that as a kid I used to take, right. Don't
11 put that in your mouth because you don't know what it
12 is. These are pressed pills that are coming back as
13 methamphetamine. And per her policy since they all
14 have the same markings, she test one pill and it
15 confirmed that it's methamphetamine.

16 Folks, I'm gonna wrap up because I don't want to
17 bore you but, as I stated in the beginning this case
18 is important to the defendant, Mr. Turner. But it's
19 also important to the State. It's important to us.
20 It's an, it's important to members of this community
21 that live here. And having some meth pills may not be
22 the crime of the century it's still important and it
23 still affects our everyday lives in this community.

24 We have to prove this case beyond a reasonable
25 doubt. We have to prove that he had in his possession

1 over 10 grams of methamphetamine. You heard testimony
2 that, from the officers, that the drugs that Officer
3 Smith pulled out are the same drugs that he tested at
4 the police department. The pictures that you have are
5 the same drugs that you have here in evidence. This
6 isn't rocket science. Use your common sense. Use your
7 life experience. Find Mr. Turner guilty trafficking
8 in methamphetamine and resisting arrest.

9 Thank you.

10 THE COURT: Ms. Merrill?

11 MS. MERRILL: Thank you, Your Honor.

12 Closing arguments- Ms. Merrill:

13 I appreciate your patience in my setting up.
14 Hopefully, the technology will and we'll see. So you
15 heard a lot about Douglas Turner and I do represent
16 Douglas Turner, who is charged. And his wife as
17 you're see, has been here to his support this entire
18 time. And I want y'all to really consider everything
19 that you've seen, you heard, and I hope you'll give
20 me just a minutes to listen today.

21 So there are two charges. Resisting arrest and
22 trafficking drugs, okay. I want to address those in
23 order. So resisting arrest, what was he arrested for?
24 We heard the officers talk on the stand about he was
25 arrested for trespassing after notice. But they also

1 said he didn't get that notice. They didn't even
2 write that notice until later. So they gave him a
3 verbal notice while he was there. But he's on trial
4 for trespassing without notice. We never saw a
5 warrant for that because he wasn't arrested for that.
6 So to resist arrest, you have to be, a legitimate
7 arrest. You have to have a legitimate arrest and
8 there wasn't one. What was the resisting arrest
9 from? It's trespassing after notice but he's not on
10 trial for that, wasn't charged, said after the fact.
11 They told him he could leave. He just needed to go.
12 He wasn't in handcuffs. Pretty early on, did he
13 really feel free to leave? He was scared. He was in a
14 medical issue. Obviously, they saw that. They called
15 EMS. This is a scary situation not only for Mr.
16 Turner, but for his family. And I don't disagree, I
17 think the officers handled themselves professionally
18 by calling EMS and doing what needed to be done for
19 Mr. Turner. So I don't think there is a resisting
20 arrest. There's no legitimate arrest.

21 Now, let's talk about trafficking. What acquires
22 possession of illegal drugs, a certain weight? And
23 then we're gonna about the chain of custody too.

24 So possession, is this is on Mr. Turner? So you
25 heard the officer testified that one person when they

1 first put him in handcuffs in the apartment, three
2 different people were beside him and they all patted
3 him down. One on one side and one on the other and
4 one was near his head. And when they do that, they
5 don't feel anything, okay. Forest Crowe said when
6 they get outside - now, they're outside the parking
7 lot, he said a combination of all of us found the
8 drugs. Meaning all of the out there. But he didn't
9 know where they were on Mr. Turner's person. Again,
10 that was in a public parking lot of a apartment
11 complex. Aaron Crowe says, as soon as he felt it he
12 immediately knew they were drugs when he felt this
13 plastic bag. And they were found in the shorts pocket
14 under his pants. So he had on shorts and then a pair
15 of pants on top. And this was supposedly in his
16 pants, excuse me, shorts pocket under his pants.
17 Officer Smith said, he must've ripped a hole in his
18 pocket and the bag was found in his pants leg near
19 his thigh. So we've got one officer who didn't know
20 exactly where they were found. One who says they were
21 found in a short pocket underneath his pants. And one
22 says they were found in the leg of his pants, they
23 were on top of the shorts. Where were they found?

24 You also heard before these videos were admitted
25 into evidence the officer says, yeah, we watch them.

1 So not only were they there and had the opportunity
2 to tell you what they saw then. They they watched
3 these videos again and they're still three different
4 answers to that question. Where were these drugs on
5 Mr. Turner's possession? Knowing that they got to
6 show these are illegal drugs and they tested one
7 sample out of 74. So my husband has worked in a
8 couple of different plants around town and he's
9 worked at a textile mill. And he was telling me of
10 these bobbins they have. They spun
11 [indiscernible].... of the bobbins they have, they
12 test one out of 24 for quality. So out of 74, they
13 had 74 bobbins, they would've tested 3. So if they
14 test them and the quality isn't good or bad bobbin
15 goes out and the company they sold it to doesn't like
16 it, they might lose some profits. The boss might be
17 mad. But nobody is going to prison for a really long
18 time. But here, the government, out of 74 pills still
19 only test one. Sled agent said there were five
20 different colors. I'd argue that they could've, at
21 least, test one of each color. Might have a little
22 bit more information, but even if they just did
23 textile mill standards, they would've tested 3 pills.
24 She said it only take sixteen minutes to test. So
25 thirty-two extra minutes. Profits versus someone's

1 life, someone's liberty. One pill out of 74. But
2 that's enough to show that they were all illegal
3 drugs. Thirty-two extra minutes just keep up with a
4 textile mill standard. That's all they had to do. But
5 that's their policy. So their policy only testing
6 one, no matter how many are in there. They could --
7 their policy means that this person could spend a
8 long time in prison because they've got to stick with
9 their policy just testing one, no matter how many are
10 in there. But when it comes ---

11 MR. BLACK: Judge? Judge? May I -- I'm sorry, may
12 I request a sidebar?

13 THE COURT: Yes, sir.

14 (Whereupon, a bench conference was held off the
15 record)

16 When it comes to weight, sled weighs all the
17 pills because it is easy to put all of them on a
18 scale. But they're still only gonna test one sample
19 to see if it's positive for illegal drugs, but you
20 can weigh them all. So you've got a high weight but
21 only testing one pill.

22 Let's talk about the chain of custody. So there's
23 two different types of evidence, [indiscernible]....
24 Basically, the evidence that we're talking about is
25 not readily identifiable or is it susceptible to

1 alteration such as drugs. So the government has to
2 establish a complete chain of custody as far as
3 practical, practical. That's what the law says. And
4 the evidence must not leave it to conjecture as to
5 who had it and what was done with it between the
6 taking and the analysis. In this language, these
7 last two bullet points that I've taken from our
8 State's case law, okay. That's what that came from.
9 It's a complete chain of evidence as far as practical
10 and it must not be left to conjecture or speculation
11 as to who had it and what was done with it between
12 the taking of it and it be analyzed. So we have
13 varying testimony about the chain of custody. Aaron
14 Crowe, and we do see this on video, put the baggie of
15 pills in his locked patrol car. Aaron Crowe testifies
16 he rode in the ambulance to the hospital and that the
17 patrol car was being parked in the parking lot until
18 he left the hospital. Officer Smith said he didn't
19 remember how he got to the hospital. But Aaron Crowe
20 gave him his keys to his patrol car and he arrived at
21 the hospital. So we're is the bag of pills for hours
22 until Smith field's test them at Abbeville Police
23 Department?

24 (Whereupon, the video is played for the jury)

25 Okay. So he says that, the baggie is in his car

1 until he returns from the hospital to this parking
2 lot, okay.

3 (Whereupon, the video is played for the jury)

4 Okay. Officer Smith says he doesn't remember how
5 he got to the hospital.

6 (Whereupon, the video is played for the jury)

7 And you can see right here as Officer Smith is
8 arriving, he's holding keys. I can't say with
9 absolute certainty they're Aaron Crowe's keys, but
10 you seen that clip before that gives them to him and
11 then here he is arriving at the hospital. So was this
12 bag of pills in the car in the parking lot from the
13 time Aaron Crowe put them in there until he leaves
14 the hospital and goes back to the apartment complex?
15 Or were they in the car that was traveling to the
16 hospital and then possibly back to the apartment
17 complex? Possibly the detention center? It's a little
18 unclear. Where are they? And who else is in the car,
19 if, if they're moving around in the car? So that's
20 what's important. Where was this baggie of pills
21 during these hours? And who had access to them?

22 So you'll see this chain of custody form. We see
23 Officer Smith's signature on it. And he says, I did
24 the field test at the Abbeville Police Department. I
25 have no reason to doubt that that he did do it and he

1 did sign this form. But Crowe, Aaron Crowe's
2 signature is on this form even though he testified
3 and we see him taking this evidence and putting it in
4 his car. And I certainly appreciate and understand
5 what the solicitor is saying that these officers,
6 when they're on the scene, they shouldn't stop in the
7 middle of something to fill out a form. If my family
8 member were in medical distress or doctors treating
9 them, something like that, I don't want the doctor to
10 stop and say, I've got to document my record right
11 quick, excuse me. I want them to tend to that family
12 member. And again, I think the officers in this
13 situation, they're not expected to stop and pull out
14 a piece of paper, but everybody's name who is in a
15 chain of custody should be on this form and it's not.

16 This is the chain of custody form for the sled
17 and I'mma blow it up a little bit here, and you'll
18 have these documents with you so you can look at them
19 more easily in the jury room. But you can see that
20 Officer Balchin took them to sled on August 8, 2022
21 and the first information we have in paperwork from
22 sled shows 8-9 at 10:19 a.m. Now, sled has all these
23 automated systems. We see the Abbeville form is
24 filled out by hand. There's nothing wrong with that.
25 That's just as legitimate. But we also heard the sled

1 analysts talking about how they have more barcodes
2 that are automatically created and things like that.
3 So surely there'll be something that would show when
4 sled received it and if it on August 8th and that's
5 not here. There is break in the chain. So where is
6 that evidence, then?

7 So you got to look at the time between the taking
8 and the analysis. The only way to get there is
9 through conjecture and speculation. You have to
10 speculate on some of these things. Speculate those
11 hours after there in Officer Crowe's car and then
12 they're field tested at Abbeville Police Department.
13 Speculate where they are from August 8th to August 9th
14 at 10:19 a.m. That's the only way you can get there
15 is through conjecture and speculation. And as I said
16 those are the words that are used in case law for our
17 State. I'm not making those up. They came directly
18 from a case.

19 So for trafficking they've got approved beyond a
20 reasonable doubt possession of illegal drugs. They
21 tested one out of 74. Weight, they put them all only
22 scale and then the chain of custody. There are
23 several break. You've gotta guess to figure it out.
24 So this is what the State has to do, they have to
25 proof that Mr. Turner is guilty beyond a reasonable

1 doubt and it's not just a guy reaction. We've all had
2 that gut reaction maybe when we meet a new person and
3 go, I don't know if I really like that person. And
4 then you get you know and you become great friends
5 with them. Maybe your gut reaction that first time
6 you met them, maybe you were having a bad day. Maybe
7 that person was having a bad day. Once you get to
8 know them, you really like them. This isn't a gut
9 reaction. It is looking at the evidence, you have to
10 speculate. You have to -- is there some conjecture
11 for that chain of custody. Do you think it's likely
12 he's guilty? That's not beyond a reasonable doubt.
13 That's what you got to consider. It has to beyond a
14 reasonable doubt. And the defendant's burden of
15 proof, there is none. Mr. Turner doesn't have to
16 prove anything. The burden is on the State, from the
17 government. They brought this action and they have to
18 prove their case beyond a reasonable doubt. And based
19 on all of the information looking at the evidence, I
20 agree with the solicitor, I want you to use your
21 common sense. Do you have to guess a little bit and
22 kind of figure out where things were in that chain of
23 custody? If you do, that chain of custody is not
24 complete. They have not proven their case beyond a
25 reasonable doubt. Do you have to speculate that 73

1 other pills might test positive methamphetamine? Is
2 there even a fair sample out of that 74? We're just
3 talking one.

4 Based on all of this, Douglas Turner is not
5 guilty and that's what I asked you find on the
6 verdict form.

7 Thank you.

8 **Judge's Charge:**

9 All right. Ladies and gentlemen, we've come to
10 the point in the trial where I instruct you on the
11 law. My instructions will be somewhat lengthy.
12 They'll be in three parts. First instructions on the
13 general rules that define and control the juries
14 duties. Secondly, instructions that state the rules
15 of law that you must apply, what the state must prove
16 to make its case. Lastly, some rules for your
17 deliberations.

18 The general rules begin with your duties as
19 jurors. It is your duty to find the facts from all of
20 the evidence in the case. To those facts you must
21 apply the law as I give it to. You shall not be
22 concerned with what the law should be but what it is.
23 And you must not be influenced by any personal likes
24 or dislikes, opinions, prejudices, or undue sympathy.
25 That means you must decide the case solely on the

1 evidence before you in accordance with the law.
2 That's the very thing you took an oath to do at the
3 beginning of the trial.

4 It is your responsibility and yours alone to
5 determine the facts of this case. I would, therefore,
6 charge you that if during the course of this trial or
7 during this charge, you have been given or left with
8 an impression or feeling that I have a personal
9 feeling about the facts of this case or that I favor
10 one side or the other, I would specifically instruct
11 you to disregard that impression. Under our
12 Constitution I'm not allowed to have an opinion as to
13 the facts of the case. You should not be influenced
14 by any objections or the court's ruling on them. You,
15 and you alone are the judges of the facts. You
16 determine the facts by evaluating and weighing the
17 evidence that you've heard during the trial.

18 What is evidence? Evidence is the sworn testimony
19 from the witness stand and any exhibits that have
20 been entered into evidence. The statements by the
21 attorneys are not evidence. What they have said in
22 opening statements, closing arguments, and other
23 times is intended to help you interpret the evidence,
24 but it is not evidence.

25 The indictments charged the defendant with

1 trafficking in methamphetamine of more than 10 grams
2 and resisting arrest. I remind you the fact that the
3 defendant was arrested, charged and indicted in this
4 case, it is not evidence in this case and cannot be
5 considered by you as evidence of guilt in this case.
6 Nor does it create any presumption or inference of
7 guilt. These documents are simply the formal written
8 instrument which contain the charges made against a
9 defendant. They are the formal documents by which
10 this case is brought to court.

11 The defendant has entered a plea of not guilty to
12 these indictments and that plea puts the burden on
13 the State to prove the defendant guilty. A person
14 charged with committing a criminal offense is never
15 required to prove himself innocent. I charge you that
16 it is an important rule of law that a defendant in a
17 criminal trial, no matter what the seriousness of the
18 charge may be, will always be presumed to be innocent
19 of the charge unless guilt has been proven by
20 evidence satisfying you of that guilt beyond a
21 reasonable doubt.

22 The presumption of innocence does not end when
23 you begin your deliberations, but it accompanies the
24 defendant throughout the trial until you reach a
25 verdict of guilt based on evidence satisfying you of

1 that guilt beyond a reasonable doubt. The presumption
2 of innocence is like a robe of righteousness placed
3 about the shoulders of the defendant until it has
4 been stripped from the defendant by evidence
5 satisfying you of his guilt beyond a reasonable
6 doubt. The presumption of innocence is not a mere
7 legal theory. It is not just a legal phrase. It is a
8 substantial right to which every defendant is
9 entitled unless you, the jury, are satisfied of the
10 defendant's guilt beyond a reasonable doubt.

11 What is a reasonable doubt in the law? A
12 reasonable doubt is the kind of doubt that would
13 cause a reasonable person to hesitate to act. Some of
14 you may have served as jurors in civil cases where
15 you were told that it is only necessary to prove that
16 a fact is more likely true than not true such as by
17 the greater weight or preponderance of the evidence.
18 In criminal cases, the
19 State's proof must be more powerful than that. It
20 must be beyond a reasonable doubt.

21 Proof beyond a reasonable doubt is proof that
22 leaves you firmly convinced of the defendant's guilt.
23 There are very few things in this world that we know
24 with absolute certainty and in criminal cases the law
25 does not require proof that overcomes every possible

1 doubt. If, based on your consideration of the
2 evidence, you are firmly convinced that the defendant
3 is guilty of the crimes charged, you must find the
4 defendant guilty. If on the other hand, you think
5 that there is a real possibility that the defendant
6 is not guilty, you must give the defendant the
7 benefit of the doubt and find him not guilty. A
8 reasonable doubt may arise from the evidence or from
9 a lack of evidence. The defendant is entitled to
10 every reasonable doubt that may arise in the case if
11 upon any issue of fact essential for a conviction and
12 a verdict of guilty of an offense, if you have any
13 reasonable doubt as to how that issue should be
14 resolved, it is your duty to resolve that doubt in
15 favor of the defendant. Suspicion however, strong is
16 not enough to sustain a conviction. The evidence
17 presented by the State must be substantial evidence
18 that tends to prove the guilt of the defendant beyond
19 a reasonable doubt.

20 There are two types of evidence which are
21 generally presented during a trial, direct evidence
22 and circumstantial evidence. Direct evidence directly
23 proves the existence of a fact and does not require
24 deduction. Circumstantial evidence is proof of a
25 chain of facts and circumstances indicating the

1 existence of a fact. Crimes may be proven by
2 circumstantial evidence. The law makes no distinction
3 between the weight or value to be given to either
4 direct or circumstantial evidence. However, to the
5 extent that the State relies on circumstantial
6 evidence all the circumstances must be consistent
7 with each other and when taken together point
8 conclusively to the guilt of the accused beyond a
9 reasonable doubt. If the circumstances merely portray
10 the defendant's behavior as suspicious then the proof
11 has failed.

12 The State has the burden of proving the defendant
13 guilty beyond a reasonable doubt. The burden rests
14 with the State regardless of whether the State relies
15 on direct evidence, circumstantial evidence, or some
16 combination of the two.

17 As the judges of the facts, you are the sole
18 judges of the credibility. That is the believability
19 of the witnesses who have testified in this case. In
20 determining their credibility, you may take into
21 account many things. Such as the appearance and
22 manner of the witness on the stand, sometimes
23 referred to as the demeanor of the witness. Was the
24 witness able to see, hear, or know the things about
25 which the witness testified? How well was the witness

1 able to recall and describe those things? Did the
2 witness have a cause or reason to be biased and
3 prejudiced in favor of the testimony he or she gave?
4 How reasonable was the witness's testimony considered
5 in light of all the evidence in the case? Was the
6 witness's testimony contradicted by what the witness
7 had said or done at another time or by the testimony
8 of other witnesses or by other evidence? These are
9 some of the factors that you may consider in deciding
10 whether to believe testimony. As jurors you have the
11 right to believe all of the testimony of a witness or
12 none of the testimony of witness. You have a right to
13 believe a portion of the testimony of a witness and
14 discard the rest. You might believe the testimony of
15 one witness over the many or the many over the one.
16 But most certainly you do not determine the matter of
17 credibility by simply counting up the number of
18 witnesses who may have testified on behalf of parties
19 in the case.

20 Ladies and Gentlemen, normally a witness cannot
21 give an opinion testimony. Normally a witness must
22 testify to what they either saw or heard or sensed by
23 smell or their senses. However, there's an exception
24 when someone is qualified as an expert because of
25 education or experience. They are permitted to give

1 opinion in certain areas if the court qualifies them
2 as an expert in that area. You heard from an expert
3 witness in this case. This does not mean that you are
4 required to accept the opinion of the expert. Like
5 any other witness, you may place whatever weight on
6 that person's testimony that you as the judges of the
7 facts deem appropriate.

8 In order to establish criminal liability,
9 criminal intent is required. For example, the mental
10 state required to be proven by the State for a
11 particular crime might be purpose, intent, knowledge,
12 recklessness, or criminal negligence. Criminal intent
13 must be proven by the State beyond a reasonable
14 doubt. Criminal intent is always a matter that must
15 be determined by the jury from the circumstances
16 surrounding the situation. There is no way to prove
17 intent to a mathematical certainty. There is no way
18 medical science can dissect a person's brain and
19 determine what that person had in mind. So the law
20 says that criminal intent may be inferred from the
21 circumstances shown to have existed. This is how you
22 make a determination of whether or not the element
23 requiring intent was present. It is not necessary to
24 establish intent by direct and positive evidence. But
25 intent may be established by inference in the same

1 way as any other fact by taking into consideration
2 the acts of the parties and all of the facts and
3 circumstances of the case. Criminal intent is a
4 mental state. A conscious wrongdoing. It is up to you
5 to determine what the defendant intended to do based
6 on the circumstances shown to have existed. Criminal
7 intent can arise from action or a failure to act. It
8 may arise from negligence, recklessness, or an
9 indifference to duty or to consequences that is
10 considered by the law to be the equivalent of
11 criminal intent.

12 I instruct you and emphasize that the fact that
13 the defendant did not testify is not a factor to be
14 considered by you in any way in your deliberation and
15 in your consideration on the questions of the guilt
16 or the innocence of the defendant. It must not be
17 considered by you in any manner whatsoever. A
18 defendant has the constitutional right to remain
19 silent. And the assertion of this right must not be
20 considered by you in your deliberations. I repeat
21 under your oath, you are to draw no conclusion
22 whatsoever from the fact that the defendant in this
23 case did not testify. The fact that this defendant
24 did not testify should not even being discussed in
25 the jury room. The burden of proof as I've stated to

1 you is on the State. The defendant is not required to
2 prove his innocence. The burden of proof remains on
3 the State to prove guilt beyond a reasonable doubt.

4 Now, ladies and gentlemen, the defendant is
5 charged with trafficking in methamphetamine in excess
6 of 10 grams. In order to find the defendant guilty of
7 this offense, the State must prove beyond a
8 reasonable doubt that the substance involved is, in
9 fact, methamphetamine; that they were in fact 10
10 grams or more of methamphetamine; and the defendant
11 had actual or constructive possession of the
12 methamphetamine. The legal principle of possession
13 requires the State to prove beyond a reasonable doubt
14 that the defendant had the right and power to control
15 the disposition or use of the controlled substance.

16 Possession may be actual or constructive. Actual
17 possession occurs when the controlled substance is
18 found in the actual physical custody and control of
19 the person charged..

20 Constructive possession occurs when a person has
21 dominion and control over the controlled substance or
22 has the right to exercise dominion or control over
23 the controlled substance. Proof of possession
24 requires more than the defendant's mere presence at
25 the place where the controlled substance is found.

1 The State must also prove beyond a reasonable
2 doubt that the defendant had knowledge that
3 controlled substance was in his possession and the
4 defendant had the intent to control the disposition
5 or use of the controlled substance. Actual knowledge
6 of the presence of the controlled substance is
7 evidence of the requisite intent to control the
8 disposition or use of the controlled substance and
9 actual knowledge may be equated or substituted for
10 the intent element. However, if you find from the
11 evidence or the lack of evidence that the defendant
12 was merely present at the scene where the
13 methamphetamine was found or merely associated with
14 persons who possess a methamphetamine and do not find
15 beyond a reasonable doubt that the defendant had
16 dominion or control or the right and exercise
17 dominion and control over the methamphetamine, the
18 defendant would be not guilty.

19 The defendant is also charged with resisting
20 arrest. The State must prove beyond a reasonable
21 doubt that the defendant resisted a lawful arrest
22 being made by the person that the defendant knew or
23 reasonably should have known was a law enforcement
24 officer. Resist means to oppose, strive against, or
25 obstruct. Obstruct means to impede, hinder, or

1 interfere with. Even peaceful non-violent indirect
2 obstruction of an arrest or the service or execution
3 of process is considered resisting arrest. If the
4 means used are sufficient to prevent the officer from
5 making an arrest, the defendant is guilty of
6 resisting arrest.

7 Ladies and gentlemen, we're almost to the point
8 where I send you to the jury room to begin your
9 deliberations. This has been a long instruction on
10 the law. But I want to leave you with some final
11 thoughts. You were chosen as jurors in this case
12 because both sides believed that you could be fair
13 and impartial in deciding this case. I instruct you
14 to make use of your life experiences, your good
15 common sense, and your sense of logic and reason in
16 evaluating the evidence in this case. You are not
17 partisans or advocates for either side. You have no
18 friends to reward nor any enemies to punish. You are
19 the judges of the facts. Your sole interest is to
20 determine whether the State has proven its case
21 against the defendant beyond a reasonable doubt. Be
22 courteous with one another. Listen to the views of
23 your fellow jurors. Take the amount of time necessary
24 for you to thoroughly evaluate the evidence in this
25 case.

1 Ladies and gentlemen, this case is important to
2 both sides as this is their day in court.

3 Mr. Foreman, I'm going to go over the jury
4 verdict form. It's a one page verdict form and it's
5 broken down into two parts. And it -- the first part
6 one, as to the charge of trafficking in
7 methamphetamine, it gives you two options. The first
8 one is not guilty. The second is guilty. When you've
9 reached a decision, you would check the appropriate
10 box on that. The second part is resisting arrest and
11 it list the indictment number and gives you the same
12 options, not guilty and guilty. These are distinct
13 charges, you would consider each one separately. Your
14 verdict on each charge must be unanimous. It must be
15 a unanimous verdict.

16 Now, when you have reached a unanimous verdict on
17 each charge, whatever that may be, you would sign it
18 as the foreman and date it at the bottom and let the
19 bailiff know you have reached a verdict. So I'm gonna
20 send you to the jury room right now. Do not begin
21 your deliberations until I send the verdict form back
22 with the exhibits. So Mr. Bailiff, would you take our
23 jury to the jury room.

24 (Whereupon, the jury exits the courtroom at 10:48
25 a.m.)

1 THE COURT: Just, just one minute. Just, just hold
2 the alternate. Just one minute. Are there any
3 exceptions to my charge from the State?

4 MR. BLACK: Not from the State.

5 THE COURT: Are there any exceptions to my charge
6 from the defense?

7 MS. MERRILL: No, Your Honor.

8 THE COURT: All right. Attorneys, come forward,
9 count all the exhibits, make sure they're there, and
10 then we'll send the exhibits and the verdict form
11 back and bring the alternate back in the courtroom.
12 (Whereupon, the attorneys take a moment to look over
13 the exhibits)

14 MR. BLACK: She has ten exhibits, Your Honor.

15 THE COURT: All right. Mr. Bailiff, would you take
16 the ten exhibits and the verdict form back to the
17 jury room, in form the foreman that the jury may
18 begin its deliberations. Bring the alternate back
19 into the courtroom please.

20 (Whereupon, the bailiff takes verdict form and
21 exhibits to the jury)

22 THE COURT: And I want to say that the court
23 appreciates the professional manner in which counsel
24 from both sides handled the trial of the case.

25 MS. MERRILL: Thank you, Your Honor. We

1 appreciate your patience as well.

2 MR. BLACK: Thank you.

3 THE COURT: Okay. Well, Mr. Alternate, that
4 concludes your duty. All your fellow jurors made it
5 to the end of the trial. If you wish to stay and see
6 how it turns out, you're welcome to stay. If you need
7 to leave you are certainly free to do so. But thank
8 you for your service. If you need a work excuse so
9 you can talk to your clerk here and you're free to
10 go.

11 Okay. We'll be in recess.

12 (Whereupon, the jury begins the deliberations at
13 10:50 a.m)

14 (Whereupon, the court goes back on the record at
15 11:12 a.m.)

16 THE COURT: I've been informed that jury has a
17 verdict. So we, could we get, could we get the
18 verdict, get the jury back in here?

19 (Whereupon, the jury enters the courtroom at 11:13
20 a.m.)

21 THE COURT: Okay. Mr. Foreman, has the jury
22 reached a verdict?

23 MR. FOREMAN: We have.

24 THE COURT: All right. Would you hand that to the
25 bailiff, please, sir, and all the exhibits, yes, sir.

1 Madam Clerk, would you publish the verdict
2 please.

3 **Verdict:**

4 THE CLERK: The State of South Carolina versus
5 Douglas Shawn'ta Turner, as to the charge for
6 trafficking in meth between 10 and 28 grams,
7 indictment number 2022-GS-01-0683, we the jury
8 unanimously find the defendant guilty of trafficking
9 in meth between 10 and 28 grams. As to the charge for
10 resisting arrest, indictment number 2022-GS-01-0185,
11 we the jury unanimously find the defendant guilty of
12 resisting arrest. Mr. Foreman, Ladies and gentlemen
13 of the jury, is this your verdict so say you all
14 please signify by raising your right hand.

15 (Whereupon, all of the jurors comply)

16 THE COURT: Okay. Anything else from the State
17 before I release the jury?

18 MR. BLACK: Not from the State, Your Honor.

19 THE COURT: Anything from the defense before I
20 release the jury?

21 MS. MERRILL: Beg the court's indulgence. Nothing,
22 Your Honor. Thank you.

23 THE COURT: Okay. Ladies and gentlemen of the jury,
24 thank you for your service. This will conclude your
25 jury service for the week. As I told you Tuesday jury

1 service is very important to our system. Our system
2 can't function without our citizens serving and the
3 the court appreciates your service. If you need a
4 work excuse or any letter from the clerk, you can see
5 her but you are now dismissed.

6 (Whereupon, the jury exits the courtroom at 11:15
7 a.m.)

8 THE COURT: Okay. We'll take a break for a minutes
9 so you can the sentencing sheets and allow each side
10 to gather up anything they'd like to present.

11 MR. BLACK: Thank you, Your Honor.

12 (Whereupon, the court takes a short recess)

13 THE COURT: All right. Ms. Merrill, are you ready?

14 MS. MERRILL: I am, Your Honor. If I could just
15 add one thing for the record, when the clerk asked --
16 I'm sorry, the mic was off. When the clerk asked the
17 jurors if this was their verdict, I didn't notice
18 every single one raise their hand and that's why I
19 didn't poll them. But I just wanted that on the
20 record that they all did raise their hands ---

21 THE COURT: Yes, ma'am.

22 MS. MERRILL: --- when the clerk asked that
23 question.

24 THE COURT: Noted, noted for the record.

25 MS. MERRILL: Thank you.

1 THE COURT: Okay. Ms. Merrill, would you and
2 your client come forward and Mr. Black come forward.

3 MR. BLACK: You want us to come forward, judge?

4 THE COURT: Yeah. Just stand here at the railing.
5 All right. Let me hear from the State first, prior
6 record, and anything that the State would like to
7 present for purposes of sentencing. Then I'mma hear
8 from Ms. Merrill and her client?

9 MR. BLACK: Your Honor, Your Honor. His record, he
10 has a 2002 driving without a license conviction. He
11 has a -- he's got a charge from 2003 where he, he was
12 convicted of possession of less than one gram of meth
13 or crack cocaine. And it also looks like he has
14 another, it says manufacture, possession of other
15 controlled substance I, II, or III which is usually
16 indicative of a PWID marijuana. He received a YOA
17 sentence not to exceed, or a YOA sentence of 1 to 5
18 years. At that point, it looks like he was revoked in
19 2005 on that drug charge. And so there was a
20 revocation done. In 2006, he's got to driving under
21 the influence and driving under suspension. In 2010,
22 he's got a criminal domestic violence first offense.
23 And then December of 2021, he has a domestic violence
24 in the first degree and a resisting arrest which he
25 pled in December of 2021. He received a 10 year

1 sentence, suspended to 60 days in the county jail,
2 and three years probation. And then, obviously, the
3 next month is January of 2022 is when these charges
4 occurred. And so he was convicted of trafficking
5 methamphetamine, first, 10 to 28 grams which carries
6 a range of 3 to 10 years. So this would actually be
7 his second strike. But in terms of the sentence,
8 judge, you know, you've seen the evidence. You saw
9 the videos. You saw kind of what went down. You saw
10 the officer pulled the drugs out of his hands. You've
11 heard all the testimony. We we trust your judgment to
12 sentence accordingly. But -- and I know you're not
13 here to hear the probation violation. That's not for
14 you at this time. But currently he, he does have 10
15 years over his head on that DV, first, charge. I
16 think that has to be a factor. In your sentencing
17 based on the nature of the call, I think that's got
18 to be concerning to the court. But otherwise, we
19 respect your judgment in sentencing, judge.

20 THE COURT: Okay. All right. Ms. Merrill?

21 MS. MERRILL: Your Honor, can I have one minute to
22 explain to him. I talked to him about a strike, but I
23 neglected to talk about the DV, first, even though --
24 Can I just explain that to him ---

25 THE COURT: Yes, ma'am.

1 MS. MERRILL: -- real quick just so it's ---

2 THE COURT: Yes, ma'am.

3 MS. MERRILL: Thank you for letting me do that. I
4 just want to make sure he understood that. I did
5 explain to him that this would be a strike and just
6 wanted him to understand the two strikes consider the
7 DV, first, from 2021.

8 Your Honor, as you know he is here with his wife,
9 Ms. Jones. She's in the back here. She may want to
10 address the court but she may not be able to but, um,
11 she is here. Mr. Turner does have five children.
12 Three of those children are minors. He does have
13 relationships with all of them and as part of their
14 life. He has coached little league in the past. And
15 as you can see, judge, from 2010 until 2021, there
16 was nothing on his record. So there was a time period
17 where he had gotten no trouble. And, obviously, I
18 understand the jury have spoken and I've explained to
19 him that, um, I think he wants to address the court,
20 but this is not the time to argue about the verdict
21 today. If he wants to appeal that's a different
22 process. But we've asked the court to give him some
23 mercy, um, and show him some mercy. And Ms. Jones, do
24 you want to speak or no? Okay. I think she does want
25 to speak, judge ---

1 THE COURT: Okay.

2 MS. MERRILL: --- when the court, if the court
3 would allow that. And -- but I just ask the court
4 consider mercy. Not penalize him for taking his right
5 to go to trial and consider coming in less than the
6 10 year. He does understand that there is at least a
7 minimum of 3 years.

8 THE COURT: Okay. Do you want to speak ---

9 MS. MERRILL: And I do beleve he wants to address
10 the court.

11 THE COURT: Mr. Turner -- I'd be happy to hear
12 from you, Mr. Turner.

13 MR. TURNER: With the plea it was just the 6
14 years. I didn't know I was going to trial like I did
15 not understand to pull the case like that. I just
16 ain't to be away from my children and my wife. This
17 is my life. I don't sell dope. I work. I just, I just
18 live for them. I protect them. I shield them. I
19 provide for them daily. That's what I do. Like all my
20 kids, my community. I'm the father of the community.
21 Like I'm, I go to church. I'm very spiritually. So it
22 wasn't like no drugs like it wasn't no trafficking
23 like I sell drugs. I mean, it just -- I'm like the
24 father of the hood, like the neighborhood. I stay in
25 like the projects, you can say the projects, so I'm

1 the father of the projects so I go wherever they go.
2 I'm talking about, if they mama call me, I come up
3 there and I help them. I discipline them. I don't
4 touch them or nothing. But I'm also responsible man,
5 like I got two, two little league I'm coaching. I got
6 my daughter's dance recital. That's what I do. That's
7 what I do every year, all year daily. It just -- they
8 just one little phone call with the, with the case, I
9 was protecting my family. I thought somebody was in
10 there and I wanted her gun, she got scared. And I
11 thought somebody was there. I said somebody, somebody
12 here like, I felt somebody, that's what all that was.
13 And when the police came I was very terrified. They
14 terrified me. It wasn't that I was resisting, I was
15 terrified. They terrified me like -- what I was
16 telling him, I said, he had, he had his gun out like
17 this, that's what I was trying to say. He wouldn't
18 let me finish it. And that's when he pulled it all
19 the way out. And I was just terrified out my, out my
20 skin. I ain't never been so scared and when I was, I
21 was looking at video it just traumatized me like
22 that's all it was. Like man, I'm a family man like I
23 don't deserve to be in jail like or in these cuffs.
24 Like that's what I live for. The time I got married I
25 change my life. In 2003 once I got -- I had a charge

1 being in possession, I changed everything. I got
2 married. I've been married for seven years. Like and
3 I don't go -- I don't got no friends. I don't even go
4 out to the club. I don't do none of that. I bet you I
5 -- I -- my whole life revolved around my kids and my
6 family. That's what I do every day. I'm talking about
7 I smother up under them. Like that's what my life is.
8 Like honestly. So that's all I want to say.

9 THE COURT: All right. Thank you, Mr. Turner.
10 Ma'am, do you have anything you'd like to tell me?

11 MS. JONES: I just want to let y'all know my
12 husband is not a bad person. Great person. Great
13 husband. My kids need their father. I need him.
14 Whatever you do could you please take it lightly on
15 him.

16 THE COURT: And ma'am, were you, were you the
17 victim of the domestic violence first conviction that
18 he had a month before this incident?

19 MS. JONES: Yeah, I was.

20 THE COURT: Okay. And you called the police in
21 this incident?

22 MS. JONES: I did.

23 THE COURT: Okay. Okay. All right. Thank you,
24 ma'am.

25 MS. JONES: Thank you.

1 THE COURT: How many days time served as he have,
2 Ms. Merrill?

3 MS. MERRILL: I'm sorry, Your Honor, I'm so
4 accustomed to checking out the plea that I just --
5 let me double check, I'm sorry. It was -- it would be
6 two days, Your Honor.

7 THE COURT: Okay.

8 MS. MERRILL: I thought that was correct. I just
9 wanted to double check.

10 **Sentencing:**

11 THE COURT: I heard the testimony and watched the
12 videos and I was very, very concerned with what I saw
13 on the video. Everyone is fortunate that, that
14 something really tragic was avoided with this 'cause
15 it could have easily turned into something that
16 nobody would have wanted to see. I'm particularly
17 concerned that three children were put in harm's way
18 by this incident. And again, this could have easily
19 ended in a much more tragic situation. But I've taken
20 into account the record and the overall situation so
21 this would be the sentence of the court; On 2022-GS-
22 01-683, the defendant will be confined in the
23 Department of Corrections for a term of 6 years and
24 pay a fine of \$25,000; and, then on 2022-GS-01-185,
25 he'd be confined in the Department of Corrections for

1 term of one year and those are concurrent sentences.

2 He gets credit for 2 days time. Good luck to you, Mr.

3 Turner.

4 MR. BLACK: Thank you, Your Honor.

5 MS. MERRILL: Thank you, Your Honor.

6 (Whereupon, court is adjourned for the day at 11:32

7 a.m.)

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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Eighth Circuit Court for Abbeville County, South Carolina, on the 18th and 19th day of January, 2023.

That said proceedings are transcribed to the best of my ability from the audio recording and supporting information.

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

Lisa S. Carter

Lisa S. Carter

Circuit Court Reporter

May 7, 2023

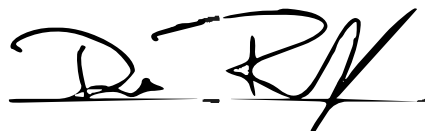
THE STATE OF SOUTH CAROLINA

I hereby waive presentment to the Grand Jury.

WITNESSES

COUNTY OF ABBEVILLE

Abbeville Police Department



WARRANT NUMBER

COURT OF GENERAL SESSIONS

November Term, 2022

Indictment # 2022GS01-0683

Defendant

DIRECT INDICTMENT

TRUE BILL

THE STATE

vs.

DOUGLAS SHAWN TA TURNER

Witness:



Foreman of the Grand Jury

Date: NOV. 7 2022

INDICTMENT FOR

TRAFFICKING METHAMPHETAMINE

SC Code: § 44-53-375(C)

VERDICT

Guilty

CDR: 0450



Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

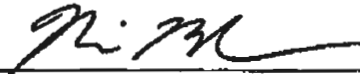
INDICTMENT FOR

TRAFFICKING METHAMPHETAMINE
§44-53-375(C)

At a Court of General Sessions, convened on the 7th day of November, 2022, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Douglas Shawn'ta Turner, did on or about January 2, 2022, in Abbeville County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did 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 or knowingly attempted to become in actual or constructive possession of ten grams or more of methamphetamine as defined and otherwise limited in Sections 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2), all in violation of 44-53-375(C), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Micah E. Black
Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ABBEVILLE

STATE -

VS.

INDICTMENT/CASE#: 2022GS01-0683

DOUGLAS SHAWN TA TURNER

A/W#: DIRECT INDICTMENT

AKA: DOUGLAS SHAWN TA TURNER

Date of Offense: 01/02/2022

Race: Black Sex: M Age: 39

S.C. Code §: 44-53-375(C)

DOB: SS#:

CDR Code #: 0450

Address: McCormick Highway

City, State, Zip: Greenwood, SC 29646

DL#* SID#

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Trafficking Methamphetamine 10g or more 1st Offense NLT 3 YEARS TO 10 YEARS & \$25,000In violation of § 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0450☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Micah E. Black 101119 Douglas Turner James H. Merrill 74269
 Micah E. Black, Assistant SC Bar # Defendant Attorney for Defendant SC Bar #
 Solicitor

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 6 days/months/years Time Served☐ Youthful Offender Act not to exceed ____ yearsand/or to pay a fine of \$25,000; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for ____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.2 days/months☐ TO include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. DOUGLAS SHAWN TA TURNERINDICTMENT/CASE#: 2022GS01-0683

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$ 25,000.00
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 26,895.00
§14-1-211 (A)(2)(DUI Surcharge).	\$100	\$ 100.00
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 1564.50
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☒ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ 40.00
TOTAL		\$ 53,154.50

Clerk of Court/Deputy Clerk:
Court Reporter:Shandai Baggs
Shukina Bagley, ClerkPresiding Judge:
Judge Code:
Sentence Date:2752
1-19-23

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

March Term, 2022

Indictment # 2022GS01-0185

THE STATE

vs.

DOUGLAS SHAWN TA TURNER

INDICTMENT FOR

RESISTING ARREST

SC Code: § 16-09-0320(A)

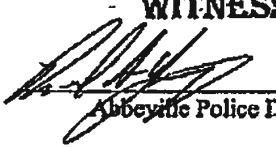
CDR: 0326

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

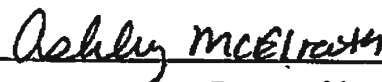
WITNESSES


Abbeyville Police Department

WARRANT NUMBER

2022A0120100003

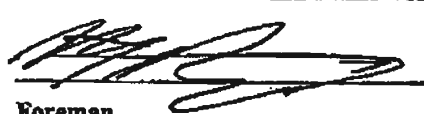
TRUE BILL


Foreman of the Grand Jury

Date: 3/25/22

VERDICT

Guilty

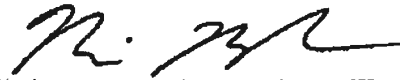

Foreman

THE STATE OF SOUTH CAROLINA**COUNTY OF ABBEVILLE****INDICTMENT FOR****RESISTING ARREST****§16-09-0320(A)**

At a Court of General Sessions, convened on the 25th day of March, 2022, the Grand Jurors of Abbeville County present upon their oath:

The defendant, Douglas Shawn'ta Turner, did in Abbeville County, on or about January 2, 2022, knowingly, willfully and unlawfully oppose Abbeville City Police Officer Kiefer Smith and Abbeville City Police Officer Forest Crowe while serving, executing, or attempting to serve or execute a legal writ or process or did resist an arrest being made by Officer Kiefer Smith and Officer Forest Crowe with the Abbeville Police Department whom he knew or reasonably should have known were law enforcement officers, all in violation of Section 16-9-320(A), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Micah E. Black
Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

STATE

VS.

DOUGLAS SHAWN'TA TURNER.AKA: DOUGLAS SHAWN'TA TURNERRace: Black Sex: M Age: 39DOB: [REDACTED] SS#: [REDACTED]Address: McCormick HighwayCity, State, Zip: Greenwood, SC 29646DL#* [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022GS01-0185A/W#: 2022A0120100003Date of Offense: 01/02/2022S.C. Code §: 16-09-0320(A)CDR Code #: 0326

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Resisting Arrest NMT 1 year &/or \$500-1,000In violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mican E. Black, Assistant
Solicitor101119
SC Bar #

Defendant

Attorney for Defendant

74269
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 1 days/months/Years Time Served☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.20 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. DOUGLAS SHAWN TA TURNER INDICTMENT/CASE#: 2022GS01-0185

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 3.15
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$

TOTAL \$ 128.15

Clerk of Court/Deputy Clerk:
Court Reporter:Shandal Boopo
Shikina Rapley, ClerkPresiding Judge:
Judge Code:
Sentence Date:#27521
1-19-23

CERTIFICATE OF COUNSEL FOR APPELLANT

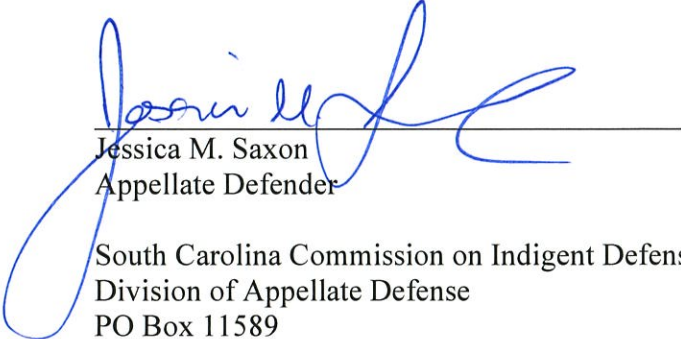
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Oct 05 2023

SC Court of Appeals



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of October, 2023.

RECEIVED

Oct 05 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Abbeville County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

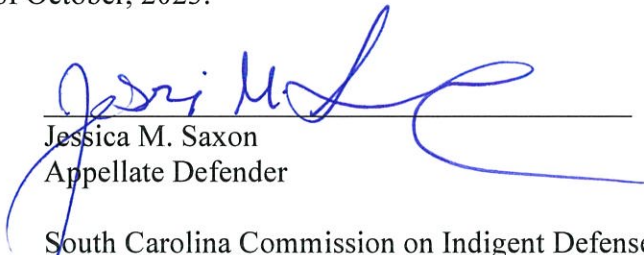
DOUGLAS S. TURNER,

APPELLANT

APPELLATE CASE NO. 2023-000116

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 Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Douglas S. Turner, #295185, at Kershaw Correctional Institution, 4848 Goldmine Highway, Kershaw, SC 29067, this 5th day of October, 2023.



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT