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**THE STATE OF SOUTH CAROLINA
In the SUPREME COURT**

Sep 12 2024

S.C. SUPREME COURT

**CERTIORARI-PCR
Appeal from Laurens County
Court of Common Pleas
Honorable R. Scott Sprouse, Circuit Court Judge**

**Appellate Case No. 2024-000807
Lower Case No. 2021-CP-30-00479**

Arthur L. Williams, #344402, ... Petitioner,

vs.

State of South Carolina, ... Respondent

APPENDIX

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STATE OF SOUTH CAROLINA)
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COUNTY OF LAURENS)

IN THE GENERAL SESSIONS COURT OF
THE EIGHTH JUDICIAL CIRCUIT
2021-CP-30-00479

ARTHUR L. WILLIAMS,)
)
)
Applicant,)
)
)
vs.)
)
)
STATE OF SOUTH CAROLINA,)
)
Respondent,)

TRANSCRIPT OF RECORD

December 1, 2022

Abbeville, South Carolina

B E F O R E:

HONORABLE R. SCOTT SPROUSE, JUDGE

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

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Attorney for the Applicant

Zachary W. Jones, Esquire
Attorney for the State

Lisa G. Amick
Official Court Reporter

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E X H I B I T S

(NO EXHIBITS INTRODUCED.)

THE COURT: Yes, sir.

MR. JONES: Thank you, Your Honor. This is the matter of Arthur L. Williams versus the State of South Carolina, case number 2021-CP-30-479. My name is Zachary Jones for the State, Mr. Williams is present along with his counsel, Mr. Rauch Wise. Mr. Williams was indicted in October 2015 by the Laurens County Grand Jury for distribution of crack cocaine, case number 2015-GS-30-1488, he was represented by Ivan Toney. And Deputy Solicitor C. Dale Scott, and Assistant Solicitor, Margaret G. Boykin of the Eight Circuit Solicitor's Office prosecuted the case. On May 24th, 2018, he proceeded to trial before the Honorable Donald B. Hocker and the jury, he was convicted by the jury for distribution of crack cocaine and Judge Hocker sentenced him to 25 years imprisonment. He filed a timely notice of appeal, and an appeal was perfected on his behalf by Victor Seeger of the South Carolina Commission of Indigent Defense. The South Carolina Court of Appeals affirmed his conviction on May 27th, 2020, and the remittitur from that decision was issued on June 19th, 2020. He filed the application for post-conviction relief on May 21st, 2021, and at this point, Your Honor, I'll turn it over to Mr. Rauch to begin his case.

THE COURT: Okay.

MR. WISE: I need to make one point of inquiry. On copies of the opinion and the appellant's brief, part of what

you handed up...

MR. JONES: Yes, sir.

MR. WISE: Only part of it? If not, I've got a copy too.

MR. JONES: Oh, I believe they are. Your Honor, do you have copies of the Court of Appeals opinion and the briefs of the parties on appeal?

THE COURT: Alright. I have the, I do, I have the Court of Appeals opinion, and the application and return, the remittitur, there's the brief of the appellate ---

MR. WISE: Okay. Good enough.

THE COURT: --- and a transcript.

MR. WISE: Alright. Then we would call Mr. Ivan Toney.

CLERK: Put your left hand on the Bible and raise your right. Do you swear or affirm that the testimony you're about to give the Court will be the truth?

MR. TONEY: I do.

CLERK: You may be seated.

DIRECT EXAMINATION

BY MR. WISE:

Q Alright. I see you don't have a copy of the transcript with you.

A I have it online, I have it right here.

Q Good enough. Please give us your full name.

A Ivan Toney.

Q And where do you practice law?

A Greenville.

Q And how long have you been practicing law there?

A A long time, since the 90's.

Q Since when?

A The 90's.

Q Okay. That's not long ---

A Well ---

Q --- relatively.

A --- maybe not.

Q How did you come to represent Mr. Arthur Williams in this case?

A I'm not sure who hired me, I think it was him ---

Q Okay.

A --- but I came to represent him.

Q Okay. And do you recall, was he out on bond or was he in jail?

A He was in jail.

Q Okay. So to visit him you had to go see him in jail?

A Yes.

Q Alright. One of the significant problems in this case was the undercover informant ---

A Yes.

Q --- do you remember that?

A I do, very well.

Q I was getting ready to say I don't know how you could forget that one, that testimony.

A He was missing half a head.

Q And what other problems did he have?

A Well, he was a crack head.

Q (Nonverbal response).

A And in the middle of the trial, I remember at lunch he had to go to the hospital, it seemed like he did. And I thought he was incompetent to testify, but he might have just been terrified by the trial and also by the fact that his undercover status was exposed, but I tend to think it's deeper than that. I think it just came out as he was, you know, a \$40.00 rack in town and it was just, he sold out all his friends and there he was up on the stand.

Q He had some rather bizarre testimony as I recall the transcript.

A I don't know, but, I can't remember that specifically, you might have to be more specific.

Q Let me ask you, specifically ---

A That was generally my, my take was that I, he was no good.

Q Do you remember the exchange you had with him in which there's a video, and he denied that was his hand in the video?

A Vaguely. I'd have to, I've got the transcript right here, if you want to tell me the page, I'll be as helpful as I can.

Q Alright. See if I can find that real quick. It's in your cross examination of Mr. Anderson.

A Yeah.

Q I thought I had it marked. I'll let Mr. Williams look for it while we go on. But anyway, tell us if you could what you recall about the video in this case. Was it a good video or --
-

A I kind of think it was.

Q Well, did it show, did it actually show a drug transaction?

A Yeah.

Q Alright. In what way?

A It shows Arthur Williams selling dope to the undercover.

Q Alright. Could you identify Arthur Williams in it?

A Yeah.

Q Alright. Did you have a conversation with Mr. Williams before this trial about the injuries that the confidential informant had received?

A That the what?

Q That the, excuse me. Did you have a conversation with Mr. Williams before this trial about the injuries that the confidential informant had received and when he was beat up earlier?

A I'd rather not go into that ---

Q Excuse me?

A I'd rather not go into that, it's harmful to Mr. Williams.

Q Okay. Alright. But did he tell you that this individual had a serious injury?

A Yeah.

Q Okay. So you were aware of that before trial?

A Yeah.

Q So you weren't surprised to see him in some state of ---

A No, I was shocked when I saw him because his appearance, the only person I've seen like it is a guy, if you look at Ripley's Believe It or Not, he's missing half a head.

Q Okay.

A They used to have people like that, circus freaks and what have you.

Q Alright. So ---

A His appearance was that bad.

Q Okay. And he was, I think, combative to say the least in your cross examination of him?

A No, he was not combative, he was upset.

Q Alright. And I believe at one time the Judge actually excused the jury during your cross examination and admonished him about answering questions?

A I thought he was doing as best as he could. I mean, I, I can't remember that, but it was a very stressful trial for this man, so stressful that I think he pretty much passed out in the

middle of his testimony or at lunchtime. That's how stressful it was.

Q Okay.

A He had to be taken to the hospital.

Q Alright. Give me one, alright, just give me one second, I'm looking for another document. Here we go. Let's look at some aspects of the transcript if you would, okay? Look at the transcripts on page 203 at lines 21 through 22.

A Yes.

Q Okay. And in there, I believe one of the officers is testifying?

A Yeah.

Q And which one is testifying there?

A I don't know, Matt, Matt Veal.

Q Matt Veal, alright. And what does he say about why Samuel Anderson is helping the police?

A Well, the police always take the position that these are just good citizens ---

Q Right.

A --- and that's just not true.

Q Right.

A This is a crack head, I mean, they'd sell their own children for a hit of dope.

Q Well, what does Matt Veal say in there?

A I look at it as he was trying to help the community.

Q Excuse me?

A On line 20 he says, I look at it as he's trying to help the community.

Q Alright. So he's attributing an altruistic motive to Mr. Anderson for doing this work?

A Yes. It's all somewhat irrelevant, I suppose, but ---

Q Alright. So my question is, did you then oppose an objection at that point to this irrelevant and vouching testimony?

A Well, it was on cross, so the way to handle it was to cross examine him and I said, so his motive is to help the community, and he said, I believe so. And he answered what I was getting at, he said, he's also helping himself, and eventually we think these drug dealers know who they are, that they won't sell to them anymore. And then on page 204, I said, so one way we can determine people's intent is by looking at the totality of their behavior which is how all courts everywhere in every country look at intent, they look at the totality of the behavior and the actions.

Q But he clearly said in there that in his opinion that Mr. Anderson was doing this to better the community?

A Well, he modified it, he changed it from helping the community and also, he said something which I thought was unusual, basically, the gentleman was putting a target on his

back to help himself get off drugs, which I really don't think anyone would do that. I mean, on occasion, they might, but you'd have to have a real death wish to do that, so...

Q Okay. Then let's look on page 207. No, back up, back up. Yeah, 207. Alright. And that's on redirect examination by the State? At line 16 through 20.

A Yep.

Q Alright. And there on redirect examination by the State, I believe Matt Veal, he stated that they were paying him more money because he was more reliable?

A That's what he stated.

Q Correct.

A Yep.

Q Alright. And was that not vouching for the undercover agent's credibility?

A Well, anytime you have a confidential informant, their reliability is maybe, I mean, a drug case depends on two factors, one is the actual physical evidence, the actual evidence of what actually occurred, objective evidence. And then there's a subjective part which would be the normal sort of credibility questions or reliability questions. So he wasn't directly vouching for his reliability, he was asked the rate he was paid and he did state accurately that he was paid a rate based on greater experience or more reliability. Whether that indirectly affects his reliability or his vouching, I

mean, I think the rate of pay is absolutely relevant. I mean when you've got a paid informant, the jury has a right to hear if they are getting paid money.

Q I understand, but Mr. Veal there says at the beginning of line 16, so that tells you that the reliability of Mr. Anderson in mine and in Sergeant Prather's mind and Captain Goggins that he was an established informant we were able to pay him more money because of his reliability. He in essence was testifying about the reliability of Mr. Anderson not only in his eyes, but it's some sort of hearsay as it relates to Sergeant Prather and Captain Goggins, was he not?

A Well, it's not hearsay because he didn't testify about what any of these people said. What he was saying was we all pay him an additional rate. So the fact that it impacts his reliability, it's not the same as vouching. For example, if I was to get up and bring a witness, let's say I was a cop, and I was to say oh, yeah, and by the way, he's a Baptist Sunday school teacher, I mean, you might say that's vouching for a witness, but it just is a fact that is independently something that might verify the veracity of the witness without directly vouching for it.

Q But he in essence said in there that Mr. Prather and Mr. Goggins both think he's reliable too, wasn't he?

A That was my answer to my last question, and the answer is no, it's not essentially vouching for him, it's commenting on

facts regarding his pay that happen to make him more reliable and certainly, these are facts that are admissible, I would assume, I mean, I just believe that.

Q Alright.

A Because all the men paid him the higher rate, all the officers.

Q Excuse me? All the what?

A They all paid him a higher rate, Mr. Anderson, Sergeant Prather, I'm sorry, Sergeant Prather, Captain Goggins, Matt Veal.

Q Alright. On page, I believe it's 62, well, it's 62, I believe, of the transcript. Alright. At lines 19 through 22 or actually 23.

A Alright. 62, 19 through 23?

Q Right.

A Okay.

Q This is part of the direct examination and I believe Mr. Scott was doing the direct examination, and he asked in that case Mr. Prather basically what the video shows.

A Okay.

Q Alright. And did you raise an objection to that as the fact that the video shows what it shows and that's for the jury to determine what he seen?

A No, because certainly any time they introduce a video ---

Q Excuse me?

A No, because certainly any time a policeman introduces a video, they would have to lay a foundation as to what the video depicts, and clearly that's what was happening here. I mean, I can't imagine them just playing the video and saying nothing, they have to lay a foundation.

Q And then turn to page 200, now granted, this was in your cross examination, and you raise the question of, up at line 2, you have video showing drugs going from Sammy to Arthur, a rock, correct. You remember that portion?

A Yeah.

Q Alright. Do you remember what you were talking about in the video there?

A Yeah. I was talking about something that didn't happen. The argument that Arthur wanted me to make.

Q Well, in the video, is it not depicted a rock being pushed across the table toward Arthur?

A No. Arthur's the one doing the sell, he insisted that I make that argument.

Q Alright.

A So I have to follow my client's instructions ---

Q Okay.

A --- that's just part of my duty.

Q You have to follow the client's instruction even if you don't think it's in his best interest?

A That's right because it's not a custodial relationship.

Q Alright. Now, let's look at page 49 at lines 10 through 12 or 10 through 22, excuse me. Alright. You got that?

A Yeah.

Q Okay. There was an attempt by the State to basically portray Arthur Williams as a drug dealer?

A I don't know if that was their intent, but when they said, okay, his name had somehow gotten on y'all's radar, the only way they could possibly bring that in is to show a third party must have made that statement somewhere ---

Q Correct.

A --- and since the third party was unnamed, possibly not important, I made an objection as to hearsay.

Q Right. And the Judge, I thought, made a strange ruling, he said, it goes more toward the officer's state of mind. Did you understand that ruling entirely?

A I don't know my thought about it at the time. He just made his ruling and once the Judge makes the ruling, you can't argue with the Judge ---

Q Right.

A --- unless you got permission from the Judge to argue.

Q Whether he gives a bad reason or a good reason, you're stuck with the reason.

A Well, you can ask, I believe you can ask the Judge, you can say something to the effect that Your Honor, you mind if I

argue with you about that or dispute you, maybe the Judge wouldn't mind, but I think we should generally respect what the Judge's decision is.

Q Okay. But that was clearly a statement, a hearsay statement, though?

A I think so.

Q Yep, alright. Let's turn to 209, and this was during the direct examination of Matt Veal by Ms. Boykin, at line 1 through 6.

A Alright.

Q You got it?

A Yep.

Q Alright. In there, there was a segment as to the opinion of Mr. Veal as to what was shown on the video, correct?

A I made the objection there.

Q Right.

A Because unlike some of your previous points where it was a little vaguer, it just sort of came in incidentally, I thought this was more pure opinion.

Q Right.

A So I made the objection.

Q You made the objection?

A Yep.

Q And it was a timely objection?

A Looks like it.

Q Alright. And what did the Judge rule on that?

A Well, the Judge when he looked at it, he said based on his experience, I think he can answer the question. So the Judge made the decision that based on his experience that he was able to give an opinion as to what happened.

Q Alright. He was basically able to, based on his experience, he was able to give an opinion that Arthur Williams was guilty, that's pretty much what that says, isn't it?

A Well, I don't know if you'd say guilty, but you could say based on his experience that there was a, that he had placed the original rock on the table for Sammy to take because that was what was said.

Q Okay. Alright. Then it would be correct to say that based upon his experience, Arthur Williams conducted a drug transaction?

A I mean, it's essentially getting there, yeah.

Q Right.

A I mean, he sold the drugs, yeah.

Q And that's why you objected to it?

A Yeah.

Q It was an improper opinion?

A Well ---

Q And I believe that was your basis, wasn't it?

A Actually, I made the objection, but, I'll just tell it to you this way, I would have made the objection if I thought it

was improper or not to protect me. So if there's any doubt or even if it's a legal basis or not, I'm going to make the objection if I think I've got to protect myself and my client.

Q Right. And officers aren't allowed to give opinions as to guilt?

A Well, it's a little more complicated than that. I've been looking at rules and Rule 702 and other rules, and it's not as cut and dry as what you're saying at all, I don't think. I think that's an issue for Mr. Jones and you to argue to the Court. Are you asking my legal opinion as to whether or not that's an adequate basis to throw out based on opinion testimony? It's quite a lot of twists and turns to that in law.

Q But this was an opinion given by someone who had not been qualified as an expert?

A Well, it wasn't necessarily expert opinion either, he was just testifying about what he saw happen, he's not initially giving a legal opinion, he's saying, what I see there, he's handing this to this. It's quite different from saying guilt or innocence, that's a big leap.

Q Basically, it's not a legal opinion, I agree, but it's an opinion as to the facts?

A Yep.

Q Correct?

A Yes, sir.

Q And that's what the basic objection was that you made, correct?

A Yeah.

Q Okay. Alright.

MR. WISE: Excuse me one minute.

Q After you and Mr. Williams had a discussion about the injuries to Mr. Anderson, did you request any medical history from the solicitor's office on Mr. Anderson?

A I can't recall.

Q Okay. Do you, you don't have your file with you, but do you ever recall getting any medical history from the ---

A Something, maybe, yeah, I think.

Q Alright. But you don't recall specifically?

A I knew what his injuries were.

Q You knew what?

A I knew what his injuries were.

Q Right.

A Yeah. I read it in the reports and stuff he had a head injury, so I read it somewhere.

Q Alright. And you didn't think it was advisable to have a pretrial conference as to his competency?

A Well, I would have thought that would be a question for the tryer of fact.

Q Well ---

A I mean, competency is up to the jury to decide.

Q Well, it's first up to the Judge, isn't it?

A Well, not necessarily, no.

Q Excuse me?

A I don't think so.

Q Okay. Thank you.

MR. WISE: That's all I have.

THE COURT: Mr. Jones.

CROSS EXAMINATION

BY MR. JONES:

Q Thank you, Mr. Toney. Just briefly, the video that was introduced, could you summarize the content of that video?

A It was as good a video as you'd ever want to see, and it showed Arthur Williams handing over dope to the other guy, I mean, it was a good video.

Q Did it show any money changing hands as well?

A Yeah, it showed money.

Q Now, the testimony of, I believe, Officer Prather, I don't know if I'm saying that correct, but I believe he was the officer who worked with Mr. Anderson on the drug buy?

A I can't remember, one of those guys, I'm pretty sure it was him, but I'm not sure.

Q Alright. And his testimony that went into how the confidential informant was searched beforehand ---

A Yeah.

Q --- and wired up with the recording equipment?

A They have to show it was a controlled buy, not just a buy, and that's what they showed.

Q And then after he was, he returned from the buy, that he was searched again?

A Yeah.

Q Okay. And the DVD or CD of the actual video, mister, I believe, mister, Officer Prather was able to identify that that was the CD that was made from the video recording ---

A Yeah.

Q --- that -- alright.

A Yeah, I'm pretty sure.

Q And could you see the face of Arthur Williams on the video?

A Yeah, oh, yeah, he was there.

Q Now, the confidential informant had suffered some injury before the, before testifying. Could you explain the nature of that injury?

A I think someone took a hammer and struck him on the back of the head and they removed a big slice of his head as a result of it.

Q And the, I believe you said you'd rather not go into how that happened. Could you nevertheless go into your understanding of how he got that injury?

A Yeah. Arthur or one of his friends did it to him, that's right, and they, one of his friends probably.

Q Alright. And the, now the testimony that Mr. Wise went into earlier about the informant, well, first of all, was a, would it be fair to say that a significant portion of your closing argument was, and your total theory of the case was based on the lack of credibility for this confidential informant?

A That's always your argument for these cases, yeah, that's right. But also, I attacked everything else by including what actually happened.

Q And the payment that Mr. Anderson received, do you recall bringing that up at closing argument as suggesting a motive for him to fabricate these, this testimony against Mr. Williams?

A Yeah.

Q Would you have been able to bring that up if there had been no evidence as to the payment that he received?

A Well, that would depend on whether or not, yeah, the other attorney was very aggressive, he would have objected. So the answer to that is I would not have been able to bring it up.

Q Now, you recall Mr. Anderson at a certain point during your cross examination he said things like that he couldn't see then he was able to identify how many fingers you were holding up?

A Things like that, yeah.

Q Things like that, yes, sir. And the, prior to your cross examination, were you aware that his testimony was going to be to that extent somewhat self-contradictory or confused?

A I thought his testimony was pretty good. You mean the confidential informant?

Q Yes.

A I thought his testimony was good.

Q And the ---

A It was as good as any other confidential informant. I mean, when, in these cases, they bring a crack head or a meth head, I mean, they're not going to be a Shakespearean actor or a public speaker, they're always going to be kind of sketchy, this one here was pretty good.

Q Nevertheless, you did make an objection after his testimony to his competency, and you moved for either a mistrial or for the video to be struck from evidence?

A That's right.

Q Would you have been able to, did you have any grounds, or did you believe you had any arguable grounds for making the motion to exclude the video ---

A No.

Q --- prior to your cross examination?

A I just made the objection anyways ---

Q Alright.

A --- just object to everything.

Q Now, the --

MR. JONES: Beg the Court's indulgence for one moment.

Q Do you believe that you had a good argument that the confidential informant because of his drug addiction, his, the inherent nature of deception involved in being a confidential informant and his behavior at the trial, do you believe you effectively argued to the jury that he was not credible?

A Look, I made effective arguments, but that's totally different from the first question. You started saying do I believe I had a good argument, no, because regardless of what the Defense lawyer does, in the end, juries are very smart groups of people, practical, common-sense people. A jury's going to look at the objective evidence, weigh it, and here you had this TV show of what actually happened. There was no question, it was a drug buy on TV, and everybody could see. So I could attack credibility until the cows came home and say, you're no good, he's no good, he's a bad guy and he's on dope, but you had it right on video, so you're essentially gaslighting the jury, you know, you're asking them to not believe their lying eyes and to make ideological assessments about the credibility of the witnesses when it's all on video. But, you know, I have to make these arguments.

Q Alright. I believe that's all the questions I have for you, Mr. Toney. Thank you.

THE COURT: Redirect?

MR. WISE: Yeah, just a few questions on redirect.

REDIRECT EXAMINATION

BY MR. WISE:

Q First of all, you pointed out that this was not a strip search of Mr. Anderson ---

A I don't remember saying that.

Q Excuse me?

A I don't remember saying that, but if you point out to me in the transcript ---

Q Oh, okay.

A --- I'll answer your questions to the best of my ability.

Q It will be on your cross examination of Mr. Prather.

MR. JONES: Maybe page 63?

MR. WISE: 63, yeah, but it's a specific portion of it.

A 63 did you say?

Q That's where it starts.

A I did ask him, so you say you did a pat down and not a strip search ---

Q Excuse me?

A --- that's page 63, line 19 and 20.

Q Alright.

A I think that answers your question if that's your question.

Q Right. And then you pointed out they do a more thorough search when someone goes to jail?

A That's right.

Q And the amount of drugs involved in this case wasn't very big ---

A No, it's not.

Q --- and it would be relatively easy for someone to conceal it on their body from a pat down search?

A I think there's always a possibility people are concealing because they have a motive to hide dope.

Q Right.

A Which is to work their way out of ---

Q Okay.

A --- possible charges or get more money or whatever.

Q Alright. Then let's move forward to page 109, line 10 and see if that refreshes your memory about something I asked you earlier?

A What's the question, 109, line 10?

Q Line 10 and 11.

A Which question you want me to answer?

Q Related about whether or not he denied that was his hand in the video?

A I'm telling you, sir, that was not my hand, what can I do, I'm not a genie. Is that the confidential informant?

Q Right, that's the confidential informant's cross

examination.

A That's what he says, yeah.

Q Right. And then ---

A I think I brought that up in the closing arguments and everything else, right?

Q And the top of 110?

A Yep. I thought his testimony was confusing in some ways.

Q So he even denied the hand in the video was his?

A Yeah, looking at it now and it's like, yeah, he totally, I don't know if he was backing up or if he was confused or what. Yeah, I think they should have, they might should have tossed it based on that.

Q Excuse me, what?

A They might should have shut down the case based on that.

Q Alright.

A If he's saying it's not him, but still, it's his own testimony, but there it is on video. That's the essential problem with the case.

Q This was a strange witness.

A If I had a video of you jumping up and down and you come into Court and say that's not me jumping up and down, but you're jumping up and down in that video and you've got your driver's license in your hand, a jury is entitled to infer regardless of what you say that that's you jumping up and down, in my opinion.

Q And look at page 199, your question at line 17, this is a Mr. Veal. Alright?

A Yep.

Q And you point out that you can't see whoever's in that video hand it to Sammy, though, can you, and Mr. Veal answers, it was laying on the table, you know, it got to the table somehow.

A Well, there was only two people there in the room. You'd have to look at the whole video ---

Q I understand.

A --- yeah.

Q But as far as the actual video itself, it apparently did not show Arthur Williams actually handing it to him?

A Well, that's what the line of questioning was.

Q And ---

A So apparently, it was like that, yeah.

MR. WISE: One more second.

Q Alright.

MR. WISE: That's all the questions I have. And Your Honor, in view of the testimony concerning the video, I would like to submit the video for the Court to review, too. I'll take the responsibility of going to Laurens and making you a copy and sending it to you.

THE COURT: Has Mr. Jones reviewed ---

MR. JONES: I think Your Honor should view the

video and make your own decision about its evidentiary weight and I only ask that I, of course, be copied on the ---

MR. WISE: I'll get you a copy.

THE COURT: Let's make a copy of the exhibit that was admitted at trial.

MR. JONES: Yes, Your Honor, which I believe was State's Exhibit 13?

MR. WISE: It's 13 or 14, I think it's 13.

THE COURT: Okay.

MR. WISE: State's Exhibit 13.

THE COURT: Okay.

MR. WISE: Alright.

THE COURT: Anything further from this witness?

MR. WISE: Nothing further from that witness.

THE COURT: Anything further from this witness?

MR. JONES: Nothing further from the State, Your Honor.

THE COURT: Okay. Thank you, Mr. Toney.

MR. TONEY: Yes, sir, Your Honor.

MR. WISE: I call Victor Seeger.

CLERK: Do you swear or affirm that the testimony you're about to give the Court will be the truth?

MR. SEEGER: Yes, ma'am.

CLERK: You may be seated.

MR. WISE: Could you give me one minute to get

my pages back in order?

THE COURT: Yes, sir.

MR. WISE: I've got them out of order somehow.

DIRECT EXAMINATION

BY MR. WISE:

Q Okay. Please give us your full name.

A Victor Seeger.

Q And where do you practice law?

A I work in Columbia.

Q Alright. And you were a appellate defender when you were representing Mr. Williams on appeal?

A Yes, sir.

Q Alright. And you since left that position?

A Yes, sir.

Q Okay. Let's go back and look at the transcript of this case. On page 209, have you got the transcript?

A I don't have a copy of it. Since I don't work at appellate defense anymore, I don't have access to the copy.

MR. JONES: I've got one right here, Mr. Wise.

MR. WISE: Okay.

A Thank you, sir.

Q Page 209, there was some testimony to which an objection was made.

A The objection is speculation.

Q And if you look at line, well, let me get to 209 first. Okay. 209, line, well, at the top of the page, alright?

A (Nonverbal response).

Q The question was asked and a somewhat leading question, but it was still asked, so in your opinion it was Arthur Lee Williams that put the drugs on the table, and he answered, in my opinion Arthur Lee Williams placed the original rock on the table, okay?

A (Nonverbal response).

Q And then there was an objection, correct?

A Yes.

Q Do you perceive that as being an opinion by the officer as to what happened in that case and not testifying from facts?

A I think he's testifying as to what he saw in the video, I mean, he used the word opinion, but I can say like right now it might be, your tie is red, and I'm testifying to what I can perceive and so he's allowed to testify to that, or at least that's what I thought, if I'm wrong on that then ---

Q Alright. So your perception was it's permissible for this officer to testify as to what he saw on the video ---

A Yeah.

Q --- as opposed to letting the jury draw their own conclusions?

A Yeah. He's allowed to testify to his perceptions, yeah.

Q Okay. And that was the reason that issue was not briefed?

A Well, the reason the issue the issue wasn't briefed is because the video itself and the confidential informant were the crux of the case, I think everything else, the jury's going to watch the video, they're going to see what it shows and they're going to come to their own conclusion, I think, regardless of what this officer says ---

Q Right.

A --- so I think the crux of the case was the confidential informant and the video and trying to keep the video from the jury. If the video gets to the jury, the case is a tough one.

Q Well, I agree with that ---

A Yeah. That was the objective on appeal, I think.

Q That was the main issue?

A Yes, sir.

Q Alright. And you, well, we'll get to that in a minute. And so your reason for not briefing that opinion testimony by the officer was the fact that the video was the bigger issue?

A Well, that's one of them, but I also don't think there was an error ---

Q Okay.

A --- as I said, I think you're allowed to testify to your perceptions. He did use the word, opinion, though, so you could say that much, but as far as what he's testifying to, it's not as if he's testifying to an expert opinion ---

Q Okay.

A --- he's testifying to what he thinks he saw.

Q Alright. And let's go to page 49.

A Yes, sir.

Q Alright. There was a statement there that the question was asked, okay, his name had somehow got on y'all's radar, and he answers, it did, and there was an objection as to hearsay --
-

A Yes, sir.

Q --- and that issue was not briefed on appeal?

A No, sir.

Q And what was the reason for that?

A Well, so the hearsay issue is I don't think it's offered for the truth of the matter asserted.

Q You what?

A As far as the objection for hearsay, I don't think it was offered for the truth of the matter asserted.

Q You don't think it was offered for the truth of the matter that ---

A Yeah. Well, let me take that back. I should say it's not evidence in that statement that he, that Arthur was on his radar due to someone else's statement, so it wouldn't be offering someone else's statement for the truth of the matter asserted. You might have been able to argue a different objection, but not hearsay.

Q And another objection would have been?

A Potentially you could say reputational objection, but again, on top of that, the solicitor was, I think, intentionally vague in their question saying somehow that he had gotten on your radar to not get into the reputational things, because there could be any number, maybe they tried to do another, a drug buy in the past and it went awry and they couldn't use that evidence and that's how he was on the radar, I think.

Q As a practical matter, whether or not Arthur Williams was on their radar is really not relevant to this trial, is it?

A That's also true. Yes.

Q (Nonverbal response).

A It could have affected the relevance, yes, but hearsay, you can't tell in someone else's statement that he's referring to.

Q Certainly more prejudicial than probative?

A Yeah. Since it's not relevant, I mean, if it's not relevant then it's not probative.

Q Now, you did brief the issue involving the admissibility of the video tape?

A Yes.

Q That was the only issue, I believe, that was briefed?

A Yes.

Q And it was briefed rather extensively?

A Yes.

Q And I believe you basically took the approach that while there was no objection to the admissibility of the video tape at the time it was presented, it should be deemed to be preserved because of what came out after it was

A Yes.

Q --- after it was admitted, correct?

A Yes, sir.

Q And would you agree that there's a lot that did come out after it was admitted?

A Yes, sir.

Q But the Supreme Court rejected that?

A The Court of Appeals, I believe.

Q Court of Appeals, yeah ---

A Yes, sir.

Q --- excuse me. Alright. Did you do a petition for search or consider doing a petition for search of the South Carolina Supreme Court on ---

A I considered it, but I think they, I thought they would rule the same way, and that would ultimately delay this hearing and part of raising something that I think is the most important issue, but it's also, there, maybe there was a preservation problem is to get him a better PCR hearing and get that PCR hearing moved along. Because if I petition it for

search and it waits another year, we'd be here a year from now rather than now.

Q Right. I understand that logic. Alright. But in defense of Mr. Toney, if evidence comes out after something's admitted, how is he to have preserved that issue?

A It's difficult, there might be ways you could pretrial, foresee some of these things happening and moving for motions for in camera testimony beforehand to determine the admissibility or the authentication of the video.

Q Alright. And with knowledge that Mr. Anderson had a severe head injury, a pretrial issue on competence would ---

A That you ---

Q --- have prevented ---

A Sorry, I apologize for talking over you.

Q I apologize for talking over you. With a pretrial knowledge of a severe head injury, would that raise an issue as to when to ask for a competency hearing?

A It certainly could put someone on notice that one might be necessary before the trial. I think you could also say, you know, extensive drug use also affects one's mind, so the fact that there's a history of that might also lead one to do something before the trial to determine competency of the witness.

Q Okay. Do you recall the testimony of Mr. Anderson

in this case?

A Not that accurately, it's been several years now. I don't remember, can you point me to what you...

Q I was going to ask you for your general opinion of it.

A Peculiar. I have seen a decent amount of these drug cases, and this one did stand out as being kind of irregular. But I believe the prior witness testified to the, you know, the hospital issues in the middle of the trial, I hadn't seen that before either. So it was, it did stand out.

Q Okay. It did stand out as some of the more bizarre testimony?

A Yes.

Q Okay. Alright. Thank you, that's all I have.

THE COURT: Mr. Jones?

CROSS EXAMINATION

BY MR. JONES:

Q Thank you, Mr. Seegar. You testified, I believe, that the crux of this case was the video?

A Yes. And the video and the drugs, I mean, with the video and the testing of the drugs, it's pretty tough with a drug case.

Q The statement by the policeman about Mr. Williams allegedly being on their radar, the, you said something in there about the question appearing to be tailored to avoid reputational ---

A That and hearsay. I think it was tailored vaguely enough saying that he somehow got on your radar was tailored to avoid both, I think, or at least that was his attempt to avoid both.

Q And Mr. Toney's objection was based on hearsay?

A Yes.

Q And you when reviewing it did not believe that it was hearsay?

A Yeah. I didn't see whose statement they were referring to or any statement at all.

Q Alright. Now, you mentioned something about mister, about Mr. Anderson's issues possibly being apparent pretrial, is that based on your own knowledge of the case or your knowledge of what the circumstances would have been known to Mr. Toney?

A Well, I didn't, I mean, since I wasn't there to see the case, I didn't see anything about, you know, his head or anything like that. I think given the, I mean, it's kind of hard to say, given what I know now about what might have been known to trial counsel pretrial, there might be, there might have been some sort of ---

Q So you're ---

A --- notice that he would have done something.

Q When saying might over and over again, do ---

A I mean ---

Q --- you have any firm grounds that ---

A It's a judgement call, I mean, competency is a low bar, so it's a judgement call, I can't say, well, you know, definitely one way or the other.

Q Alright. But do you believe you knew circumstances that Mr. Toney would have known better than Mr. Toney knew them?

A No, I can't say that, it certainly wasn't an issue at the time.

Q Okay. I think that's the only questions I have. Thank you.

MR. WISE: Just one question on redirect.

REDIRECT EXAMINATION

BY MR. WISE.

Q The Court of Appeals in this case, what did they ultimately rule?

A They said the error was unpreserved.

Q The error was not preserved?

A Yes.

Q And I believe the Court or Appeals actually looked at the video tape?

A I believe it was part of the record on appeal, yes.

Q Alright. And the Court of Appeals and the Supreme Court in other cases have also on occasion ruled not preserved, but even if it were, we affirm the conviction.

A Yes.

Q But they didn't do that in this case?

A Can I see the opinion again, I can't remember exactly, I believe you're correct, but I don't want to say for sure without reading it, but ---

Q Well, I thought I had my copy here, here it is, here it is, I got it.

A Okay. Yes, sir, correct, they don't say, and nonetheless it's affirmed, it's affirmed, yeah.

Q And it's affirmed because it was not preserved?

A Yes. That's the sole justification given by the Court of Appeals.

Q Alright. Thank you.

THE COURT: Anything further from this witness?

MR. JONES: No further questions, Your Honor.

THE COURT: Thank you, Mr. Seeger.

MR. WISE: Give me one minute. Your Honor, as Mr. Williams has not alleged that Mr. Toney didn't meet with him sufficient number of times or didn't bring in witnesses that he told him to bring in and the issues are legal, there's nothing that Mr. Williams can add to this case.

THE COURT: Alright. Is that correct, Mr. Williams?

MR. WISE: Is that correct?

MR. WILLIAMS: Yes, sir.

THE COURT: Okay.

MR. JONES: The State, I'm construing that as

Mr. Williams resting?

MR. WISE: Yes, applicant rests.

MR. JONES: And the State also rests, Your Honor.

THE COURT: Okay. Alright. Well, let me hear brief summation and then I'll wait on the video.

MR. WISE: I will, I should be able to get that video for you Friday afternoon, and it may not get in the mail Friday, but I can, Monday at the latest, okay?

THE COURT: Alright. Any argument from either side? I'll let the State go first and Defense will get last say.

MR. JONES: Alright. Thank you, Your Honor. Your Honor, the State's position is that the crux of this case was in fact the video and that several of the objections mentioned by Mr. Wise as to, for instance the police testifying that Mr. Williams had been on their radar which it was a brief sort of throw away line that they meant, that they mentioned, that did not say anything about him having a reputation as a drug dealer. That had nothing, the State submits that that had nothing, the State submits that that had no appreciable effect on the outcome of this case. Similarly, for the other objection about mister, one of the officers, I believe Officer Veal's testimony about his opinion as to what the video showed. Of course, if the jury saw the video, then the opinion of the officer is extremely non, is not likely to sway, change the jury's mind when they've seen it with their own eyes. Now,

however, I do submit that neither of those represented any deficiency in either Mr. Toney for, he did object to both of those instances, or from Mr. Seeger, in his opinion deemed that his time was best spent focusing on, and the limited attention of the Court should best be directed to the main issue which was suppression of the video. In addition, the, I mean, I, Mr. Wise is welcome to make his argument as to how, on what basis the statement constituted hearsay and the, as to Mr. Williams being on their radar. And as to the final statement about why that was improper opinion evidence as opposed to just lay opinion evidence that, or the impression, the perception based on his own, on the officer's own experience of watching the video. But I submit that neither of those grounds would have changed the outcome of the case in the slightest whether they were raised on different grounds by Mr. Toney or raised on appeal. As for the main issue, the video, it's worth remembering that not only was the confidential informant used as a way to authenticate that video, but his participation in the controlled buy and his subsequent, the proceeding and subsequent searching of him and everything else that went into the law enforcement side of the controlled buy renders that video authenticable and admissible on that ground. And in other words, I mean, authentication is such a low bar, the only thing that really matters is there has to be some evidence, some indication that the evidence is what it purports to be.

And there's no indication that this video is anything other than a video of Mr. Williams selling drugs, which is what he was ultimately convicted of. So on that basis, Your Honor, the State submits that Mr. Williams has not met his burden of showing that the outcome of his trial would have been different but for any of the alleged deficiencies of trial counsel. The State further submits that trial counsel was not deficient in the first place because Mr. Toney and Mr. Seeger both did the best they could with a really tough case. And with that, the State turns it over to Mr. Wise.

THE COURT: Okay. Applicant's summation, Mr. Wise.

MR. WISE: Just briefly, Your Honor. To say that someone is on drug enforcement's radar is tantamount to saying -- not mine.

THE COURT: Let's make sure our phones are silent.

OFFICER: Sorry about that.

MR. WISE: Is tantamount to saying that people have told drug enforcement that Mr. Williams is selling drugs. I think it's a clearly hearsay statement in that context. I don't know how a jury would interpret it any other way, to be frank with you. Had the objection been hearsay and character, it would have covered everything. But it was hearsay, and it clearly was inadmissible. You know, you can't have people testifying through hearsay that Mr. Williams has told law enforcement that he's a drug dealer, so I think that covers

that. As to the video, I'll trust the Judge's, Your Honor's good judgement on looking at the video to determine whether or not this is a slam dunk case with the video. I don't think that's what Your Honor's going to see, but that's the judgement call that Your Court has to make. I would also point out that telling a jury that we paid this guy \$50.00 instead of 20 or 30, I forgot which it was, because he's more reliable is and clearly is vouching that's been prohibited well before this case was tried. If you go back to the Cromer case and a host of other cases where there's, they talk about improper vouching as to the truthfulness of a witness, that's been prohibited since we've had rules of evidence to be frank with you, it goes back that far. An officer is not allowed to get on the stand and say I believe the reliable informant, he can't do that, that is in tantamount to what he did. An officer is not allowed to get on the stand and say the informant is a good and honorable man, when he said the informant is doing this to help the community, that is in essence what he's doing on that. And so I think those were errors that, gross errors, not just little errors, but gross errors that certainly gave the jury a view of how they should view the video that was improper and impermissible. And I think after the Court reviews the video that you'll agree that it's not a slam dunk and credibility was a big issue, and vouching for the credibility of the informant was error.

THE COURT: Counsel, I want to look at the transcript, and materials presented, and I'll wait on that video. I'll take this under advisement, and I'll have my law clerk email you a decision.

MR. WISE: Thank you.

THE COURT: Thank you very much.

MR. JONES: Thank you, Your Honor.

(Whereupon the hearing ended at 2:44 pm.)

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LAURENS COUNTY
Court General Sessions

The Honorable Donald B. Hocker, Circuit Court Judge

Indictment No.: 2015GS301488 (Warrant No.: 2015A3010101066)

The State

Respondent,

vs.

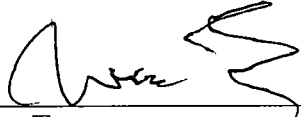
Arthur Lee Williams, III.

Appellant.

RECEIVED
MAY 29 2018
SC Court of Appeals

NOTICE OF APPEAL

Arthur Lee Williams appeals his conviction and sentence in this case on the above indictment from the date of May 25, 2018. The sentencing sheet is attached hereto and incorporated by reference herein.


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Friday, May 25, 2018
Other Counsel of Record:
South Carolina Attorney General
Laurens County Solicitor

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
MAY 30 2019
SC Court of Appeals

Appeal from Laurens County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ARTHUR LEE WILLIAMS, III

APPELLANT

APPELLATE CASE NO 2018-000982

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
State's Exhibit 13 (drug buy videotape)

State of South Carolina) In the Court of General Sessions
County of Laurens) Eighth Judicial Circuit
2015-GS-30-1488

State of South Carolina,)
Plaintiff,)
vs.) Transcript of Record
Arthur Lee Williams,)
Defendant.)
_____)

May 24-25, 2018
Laurens, South Carolina

B e f o r e:

The Honorable Donald B. Hocker, Judge; and a jury

A p p e a r a n c e s:

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Margaret G. Boykin, Assistant Solicitor
Attorneys for the Plaintiff

Ivan J. Toney, Esquire
Attorney for the Defendant

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

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S-14	BEST Kit	44	220

1 TRIAL DAY 1 - 05/24/18

2 (Whereupon, the proceedings were commenced at 11:00 a.m.)

3 (Whereupon, State's Exhibits 1 and 2 were premarked
4 for identification.)

5 THE COURT: Well, it -- it's -- it's good to see
6 everybody. We finished our -- our first trial.
7 Actually, we wrapped it up early this morning. And so
8 we'll be calling the next case for trial.

9 You have already been qualified generally, if you
10 remember that kind of first set of questions. So we
11 don't have to redo that. So what we will do -- and --
12 and you -- they've already been checked in, right?

13 CLERK OF COURT: Yes, sir.

14 THE COURT: Okay. So what we're going to do is go
15 through the qualification process that is unique to this
16 case that we'll be calling for trial.

17 Solicitor, do you have the indictments -- or
18 indictment?

19 MS. BOYKIN: I do, Your Honor.

20 THE COURT: Thank you.

21 MS. BOYKIN: And a witness list as well.

22 THE COURT: Okay. Very good. Thank you.

23 (Off the record briefly.)

24 (Whereupon, the jury panel was duly sworn at 11:01
25 a.m.)

1 THE COURT: All right, ladies and gentlemen. The --
2 the case that is being called for trial is the *State of*
3 *South Carolina v. Arthur Lee Williams, III.*

4 Mr. Williams, would you please stand and just
5 briefly face the jury panel.

6 THE DEFENDANT: (Complied.)

7 THE COURT: Okay. Thank you very much. You can
8 have a seat.

9 THE DEFENDANT: (Complied.)

10 THE COURT: And I'm going to publish the indictment.
11 If you'll remember on Monday, I explained about what
12 purpose the -- a -- an indictment serves. And again, it
13 does not have anything to do with any guilt of the part
14 of Mr. Williams. They're just allegations. And as I
15 told you on Monday, the state has the burden of proving
16 the allegations beyond a reasonable doubt standard. The
17 indictment just puts Mr. Williams on notice of the
18 charge. And it gets the case into court, where we are
19 today. And it serves no further purpose.

20 But I'm going to publish the indictment for you so
21 you will have a little understanding as to the charge
22 that he is being tried on. The indictment is for
23 distribution of crack cocaine.

24 And the indictment reads as follows: "That Arthur
25 Lee Williams, III, did, on or about July 10th of 2015, in

1 Laurens County willfully, unlawfully, and knowingly did
2 distribute, dispense, deliver, and/or did otherwise aid,
3 abet, attempt, or conspire to distribute, dispense, or
4 deliver cocaine base, known as crack cocaine, in
5 violation of Section 44-53-375, Code of Laws for South
6 Carolina."

7 THE BAILIFF: Your Honor, we have one juror who came
8 in late right here.

9 THE COURT: Okay. All right. Okay.

10 Were you here when I read the indictment?

11 POTENTIAL JUROR: I caught the -- the last part of
12 it, Your Honor.

13 THE COURT: Okay. I will read the indictment again:
14 "That Arthur Lee Williams, III, did, on or about July
15 10th, 2015, in Laurens County, did willfully, unlawfully,
16 and knowingly distribute, dispense, deliver, and/or did
17 otherwise aid, abet, attempt, or conspire to distribute,
18 dispense, or deliver cocaine base, known as crack
19 cocaine, in violation of Section 44-53-375, Code of Laws
20 for South Carolina."

21 Any member of the jury panel related by blood or
22 marriage, either now or formerly, to the defendant,
23 Arthur Lee Williams, III? If so, please stand.

24 (Whereupon, no potential juror stood.)

25 THE COURT: And if you'll remember on Monday, I gave

1 THE COURT: Okay. Thank you.

2 All right. Lawyers prepared to make their opening?

3 MS. BOYKIN: Yes, Your Honor.

4 THE COURT: Okay. All right. Solicitor, you may
5 proceed.

6 MS. BOYKIN: Thank you, Your Honor. May it please
7 the Court?

8 OPENING STATEMENT BY MS. BOYKIN

9 MS. BOYKIN: Ladies and gentlemen, we are here today
10 on a very straightforward case, okay? What we're here --
11 is distribution of crack cocaine. The allegations are
12 that this defendant, Arthur Lee Williams, distributed
13 crack cocaine, on July 10th, 2015. It's very
14 straightforward.

15 It's straightforward, but it's also important. It's
16 important because it involves poison. Now, I call it
17 poison because drugs, crack cocaine in general, can ruin
18 lives. It can make people become addicts. It can break
19 up families. It can, you know, have dire effects in the
20 community.

21 And one of law enforcement's jobs, one of their main
22 jobs, is to kind of figure out how to combat this
23 epidemic, this poison. And something that they do, one
24 of their best tools they have, is -- it's called
25 undercover drug buy. It's a controlled buy, where they

1 use a confidential informant to go into the area to go
2 buy the drugs for them to catch those dealers, to catch
3 those big fish, the peddlers that are out there, putting
4 this poison, these drugs, on the streets, out in your
5 community.

6 And that's why we're here. Arthur Williams is a
7 crack dealer. And that's why we're here.

8 MR. TONEY: Objection. May we approach?

9 THE COURT: Sure.

10 (Whereupon, a bench conference was held off the
11 record in the presence of the jury, but out of the
12 hearing of the jury.)

13 THE COURT: Ladies and gentlemen, just keep in mind
14 that opening statements are not evidence in this case.
15 It's just what each lawyer believes the case is about and
16 what they believe the evidence will show as it is
17 presented to you.

18 You may proceed, solicitor.

19 MS. BOYKIN: Thank you, Your Honor.

20 OPENING STATEMENT BY MS. BOYKIN CONTINUED

21 MS. BOYKIN: And as I was saying, we're here because
22 Arthur Lee Williams distributed crack cocaine. He dealt
23 crack cocaine on July 10th, 2015, to a confidential
24 informant.

25 You'll hear more about this throughout the trial,

1 what a confidential informant is. But I kind of want o
2 briefly kind of go over what a confidential informant is.
3 It's a C.I. I'm sure that y'all have heard the word C.I.
4 used.

5 Law enforcement uses these C.I.s that are people
6 that can get in this circle, kind of infiltrate the
7 circle without any suspicion. So the people they use are
8 people that are either addicts, were -- were addicts,
9 someone that has pending charges, or probably prior
10 convictions for drug offenses.

11 And they do that because they themselves can't go in
12 there. The people wouldn't sell to them. So they use
13 these people. They wire them. And they control the buy,
14 because these people can get in there.

15 Now, and that's what we have here. Our C.I. in our
16 case is Sammy Anderson. And you'll see him today. He's
17 going to testify. And you'll hear that he -- he was a
18 crack addict. He has convictions on his record for
19 drugs. He has, you know, prior offenses.

20 Now, there are two ways that someone's a C.I.:
21 Either you are paid to -- to do the job; or you're
22 working off charges, meaning they have pending charges
23 that law enforcement says, "Okay. Well, we'll help you
24 out with these if you do, you know, these jobs for us."

25 Now, Sammy didn't have any pending charges. He

1 doesn't anymore. He doesn't have any. So he was a paid
2 informant. He was paid to do this job.

3 You know, I wish that I could put a witness on this
4 stand right here that was our C.I. that was, you know,
5 someone that was a teacher or a priest or one of you guys
6 or, you know, one of these law enforcement officers here.
7 I wish I could do that for you. But the fact is we -- we
8 can't do that because the fact of life is to make these
9 cases, we have to use people that have prior convictions,
10 that had prior addiction problems, because they are the
11 ones people like Arthur Williams would sell to.

12 Now, the good news is it's called a controlled buy
13 for a reason. Okay? We don't just send these people out
14 there willy-nilly out in the community to go buy these
15 drugs and not monitor them. It's called a controlled buy
16 because law enforcement takes numerous steps to ensure
17 the validity and the integrity of these buys.

18 And you're going to hear more about this through the
19 officers' testimony this -- today and tomorrow in trial.
20 But I'm going to briefly kind of touch on what they do.

21 So their first step is they meet with the C.I.; kind
22 of tell them, you know, what the purpose, the target of
23 the operation, will be. At that point they -- they pat
24 them down. You know, they check them; make sure there's
25 no contraband on them. They want no more drugs -- they

1 don't want any drugs on this C.I.

2 What they also do is they take all their money.

3 They don't want any money on the C.I. when they go in
4 there for the buy. The reason being is they give the
5 C.I. money. The money that's used in this undercover buy
6 is provided by law enforcement. That way we know that
7 the money that's being used is not from the C.I. but from
8 law enforcement themselves.

9 They then put some wires on them. They put audio
10 and video on them so that way they will have video proof
11 of what happened. They go send the C.I. -- C.I. off to
12 where the target is. But law enforcement is able to hear
13 exactly what's going on while that C.I. is out there in
14 the field. They can hear it all real live time.

15 They also park very close by in case anything
16 arises, any emergencies, any dangerous situations. They
17 are right there.

18 Once the C.I. completes the buy, he immediately
19 comes back. He's not allowed to go anywhere else with
20 these drugs on him. He immediately comes back and meets
21 with law enforcement.

22 At that moment the C.I. will turn over the drugs;
23 they will secure them. And then the C.I. is again patted
24 down. He's searched. He -- they want to make sure that
25 he's not hiding drugs. They want to make sure that all

1 the money that they gave that C.I. for this buy is no
2 longer there; they gave the money to the C.I.

3 They -- officers then secure the evidence; take it
4 to the evidence locker. And then, the final step is they
5 review the video footage. They want to make sure that --
6 what the buy was, what it was supposed to be, actually
7 was what it was. And they do that.

8 And once they review it and determine that that is
9 what actually happened, they get arrest warrants. That's
10 the -- that's the process. It's very thorough. They
11 follow this procedure.

12 And I suspect you'll hear that in this case: that
13 all of these steps were followed. And you will hear in
14 this case that based on everything, they got an arrest
15 warrant for Arthur Lee Williams for distribution of crack
16 cocaine.

17 Now, I told you that this is a straightforward case.
18 And it is. And it's more straightforward than most
19 cases.

20 A lot of cases that we have in this Court, the
21 evidence we have is circumstantial. We have facts
22 tending to prove one thing or another, taken together,
23 would equal the crime.

24 Here, we have not only direct eyewitness testimony
25 -- you'll hear from the C.I. You'll hear from his own

1 mouth what he saw and observed that day. You will hear
2 direct witness testimony from the officers: what they
3 heard, what they observed that day.

4 And then, on top of that, you're lucky enough
5 because you get to watch the video. You get to see the
6 actual video of the crime taking place. You will see the
7 events unfold of July 10th, 2015, unfold right before
8 your eyes.

9 You will get to see this man sell crack cocaine to a
10 confidential informant. You'll have all those tools.
11 And, ladies and gentlemen, we have to prove this case
12 beyond a reasonable doubt. And I submit to you, we will
13 with all of that evidence.

14 Now, beyond a reasonable doubt means that you have
15 to be firmly convinced that the defendant is guilty.
16 What that means is you have to be firmly convinced that
17 Arthur Williams distributed crack cocaine. Now,
18 distribution of crack cocaine, it's a simple charge, two
19 elements: (1) Did Arthur Williams distribute, meaning
20 deliver/transfer, a substance from himself to another
21 person? That simply means, ladies and gentlemen, hand to
22 hand. Did he take something and give it to someone else?
23 Just giving something to someone else, whether it's for
24 money or not, the law doesn't require that it has to be
25 payment.

1 Now, the -- you will see that there was money
2 provided in this case, though. You will also need the
3 second element: is that it is, in fact, crack cocaine.
4 And we're going to have a witness testify that analyzed
5 the substance and found that it was indeed crack cocaine.
6 So we have both of those elements met right there.

7 Now, ladies and gentlemen, I'm going to sit down in
8 just a second. But before I do, I want to thank y'all
9 for your jury service. And this is one of the most
10 important jobs you can have in this country, is to be on
11 a jury. So I want to thank you for that. I also want to
12 ask that you pay attention, that you listen closely, look
13 at the evidence for what it really is.

14 The most important thing, and above all, use your
15 common sense. Because that's what it really boils down
16 to, to be a jury, is to use your common sense, you know,
17 what experience you have, your lifetime experience, what
18 you really, truly believe with your common sense, the
19 logic of what really happened, what really didn't happen
20 -- you know, what your common sense would be.

21 And at the end of this trial, we're going to ask
22 that you use that and you look at the evidence for what
23 it is, that straightforward evidence. And we're going to
24 ask you to find the defendant guilty.

25 THE COURT: Thank you, Solicitor.

1 Mr. Toney, you ready, sir?

2 MR. TONEY: Yes, sir, I am.

3 OPENING STATEMENT BY MR. TONEY

4 MR. TONEY: Ladies and gentlemen, my name is Ivan
5 Toney. I'm proud to represent Arthur Williams, who's
6 stated -- who's sitting here. If you will follow the
7 judge's preliminary instructions, there will be no
8 problem in this case, because His Honor gave some great
9 instructions. He asked you to pay close attention. He
10 talked about reasonable doubt and how we don't have --
11 we, the defense -- we have come into court.

12 We're asking you to follow the law, to follow the
13 constitution, and to make the state prove their case.
14 And if the state cannot prove their case, the judge is
15 going to instruct you that you're to return a verdict of
16 not guilty. We believe, if you follow the evidence, if
17 you pay attention closely, that you will absolutely
18 return a verdict of not guilty.

19 Now, in this case, in a sense, this case is almost
20 about -- I -- I -- I feel like it's about the power of
21 suggestion, almost like a hypnotist hands someone a piece
22 of paper and makes you believe that it's -- it's a -- a
23 train ticket or a movie program, when there's nothing on
24 the paper. The state in this case is going to -- is --
25 is trying to make everything sound very simply and very

1 straightforward and that -- and they say in -- in a -- it
2 -- it -- they keep repeating themselves: This is
3 straightforward, etc., etc.

4 But you're going to get a chance to watch a video of
5 what happened. And you won't have to speculate after you
6 see this video. Because you're going to know what
7 happened. You're going to be able to watch this video.

8 And what you're going to see is a video of someone
9 who they have indicated is -- is not a good person,
10 someone who's not a teacher, not a minister, but someone
11 they have hinted or intimated has a criminal record and
12 prior drug charges and someone who is shysty. You're
13 going to see that person. You're going to see that
14 person hand something to Mr. Williams. And that is the
15 essence of this case.

16 This case is going to show some sort of transaction,
17 but in the other -- the opposite of what they're
18 alleging. If you will watch that video very carefully
19 and look at it and use your own eyes and your own mind.
20 And if you will sift through this, I believe you're going
21 to find that my client is not guilty.

22 Because this is not as simple as -- as what they're
23 saying. You have to pay attention to this very -- I
24 believe, very shaky confidential informant. Because he
25 is very quick, and he is very slick.

1 But what you see is not what they are saying
2 happened. So pay attention, please, and consider
3 carefully, and then we'll go through all the evidence.
4 And I believe, at the end of this case, you'll find my
5 client is not guilty. Thank you.

6 THE COURT: Okay. Thank you, Mr. Toney.

7 Let me see the lawyers for just a second, please.

8 (Whereupon, a bench conference was held off the
9 record in the presence of the jury, but out of the
10 hearing of the jury.)

11 THE COURT: All right. Madam Forelady and ladies
12 and gentlemen of the jury, I think this would be a good
13 time to break for lunch. And I want you back at 1:45.

14 Your juror buttons -- if you decide you want to go
15 to a local restaurant for lunch, if you don't mind, keep
16 that button on -- button on. Because if there's some --
17 some of the participants in this case or even -- even
18 myself, whatever, may be at the same place and the case
19 is being discussed and you're -- we don't recognize you
20 as being on the jury. We don't want you to overhear any
21 discussions.

22 So if you have that badge on, then -- then everybody
23 will know that you are on the jury. So if you don't
24 mind, do that for me. I would appreciate it.

25 Again, no discussion among yourselves about this

1 case or anybody that you come into contact with. Have a
2 good lunch, and we'll see you back at 1:45. Thank you.

3 All right. You need to -- this -- this way.
4 Because Mr. Bolt is going to instruct you on where to
5 park when you come back after lunch break. And he'll
6 explain all that to you, okay?

7 (Whereupon, the jury exited the courtroom at 12:06
8 p.m.)

9 THE COURT: All right. I will start back at 1:30.
10 This case will start back at 1:45. Everybody have a good
11 lunch.

12 MR. TONEY: Thank you, sir.

13 (Off the record from 12:07 p.m. until 1:57 p.m.)

14 (Whereupon, State's Exhibit 14 was premarked for
15 identification while off the record.)

16 THE COURT: All right. We ready to bring the jury
17 out, Solicitor?

18 MS. BOYKIN: Yes, Your Honor.

19 THE COURT: Mr. Toney?

20 MR. TONEY: (Nodded head up and down.)

21 THE COURT: Okay.

22 MR. TONEY: Yes, sir.

23 THE COURT: All right. Mr. Bolt?

24 (Off the record briefly.)

25 (Whereupon, the jury entered the courtroom at 1:59

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER

45

1 p.m.)

2 THE BAILIFF: All jurors present, Your Honor.

3 THE COURT: All right. Thank you, Mr. Bolt.

4 Solicitor?

5 MR. SCOTT: Yes, sir. The state calls Shane
6 Prather.

7 (Whereupon, the witness came forward.)

8 SHANE PRATHER, having been first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SCOTT:

12 Q Okay. Officer Prather, you're with the City of
13 Clinton?

14 A Yes, sir.

15 Q Okay. And what are your primary duties over in
16 Clinton?

17 A Working narcotics.

18 Q Okay. The drug cases is what you mostly do?

19 A Yes.

20 Q Okay. In this particular case, it's outside the
21 City of Clinton, is it not?

22 A It is.

23 Q Okay. What was the address of the controlled buy?

24 A [REDACTED]

25 Q That's in Laurens County, though?

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 46

1 A It is.

2 Q Okay. And when was this controlled buy conducted?

3 A It was July the 10th, 2015.

4 Q Okay. What -- what -- let's talk about it a little
5 bit in the open. What is a controlled buy? And what do
6 you do to control it?

7 A On a controlled buy, what we normally do is -- is we
8 we'll get an informant who's willing to do some
9 controlled buys or work for us to help us get into the
10 neighborhoods or dealing with people who deal drugs. We
11 sign those informants up. And we have a package; it's
12 basically rules and guidelines that they have to follow
13 while cooperating.

14 Once they fill out the paperwork and sign the
15 paperwork, we -- once we meet with an informant, they are
16 searched, patted down. It's -- it's not a strip-search
17 kind of thing. It's just to make sure they have no extra
18 money, no contraband, you know, no illegal narcotics or
19 anything on their person prior to going and doing a buy.

20 Then they're wired with a type of audio and video
21 equipment for evidentiary purposes and for us to listen
22 to so that we can tell what's going on during that buy.

23 Q Okay. All right. So explain -- before you send
24 them in there, you say you pat them down to make sure
25 they don't have any contraband on them; is that ---

1 A That's correct.

2 Q And why is that important?

3 A To make sure that if -- if -- if anything comes up,
4 trialwise or any other reasons, to say that they were
5 searched; they didn't have any other narcotics on them,
6 other than what they purchase and they come back to us
7 with.

8 Q Okay. And then you put a camera on them?

9 A That's correct.

10 Q And you put a mic on them?

11 A That's correct.

12 Q And what's the purpose of you being able to listen
13 to him in realtime as the transaction occurs?

14 A To be able to know exactly what's taking place, as
15 far as what's being said, whose -- I guess you would say
16 whose role is what, and -- and to make sure that our
17 informants are safe.

18 Q Okay. So there's a safety component to it?

19 A That's correct.

20 Q For the C.I.'s safety, right?

21 A Yes.

22 Q And we'll be saying C.I. C.I. is what?

23 A It's -- it's confidential informant.

24 Q Confidential informant?

25 A (Nodded head up and down.)

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 48

1 Q Speaking of C.I.s -- and we talked a little bit
2 about that in opening. How do you determine who's going
3 to work as a C.I.? Let me ask you this: Would Judge
4 Hocker make a good C.I.?

5 A It -- he would not.

6 Q All right. What if I came to you and said, "Shane,
7 I want to be a C.I. for you"? Could I -- could I work as
8 a C.I. for you?

9 A Probably not.

10 Q Okay. Are you -- are you looking for people that
11 wouldn't raise suspicion in that particular community?

12 A Most informants are people that have dealt with
13 individuals before. So if -- if -- if I'm -- got a
14 neighborhood that is dealing with meth, I can't send Mr.
15 Scott here to go buy meth, because it -- he -- he looks
16 out of place.

17 So we pick people that fits in the neighborhood and
18 people that they -- they're comfortable with dealing with
19 and send those -- those to those neighborhoods.

20 Q Okay. So you -- you're looking for C.I.s who know
21 the dealer?

22 A Right.

23 Q Because what happens if a stranger walks up to a
24 dealer's house and says, "I want to buy some crack"?

25 A Most dealers are going tell you to leave; they don't

1 -- they don't sell dope.

2 Q Okay. And that would raise suspicion is what you're

3 ---

4 A Yes.

5 Q --- talking about?

6 Okay. Well, who is your C.I. in this -- well, let
7 me ask you this: Who was the intended target whenever
8 you guys went to [REDACTED]?

9 A Arthur Lee Williams.

10 Q Okay. His name had somehow gotten on y'all's radar?

11 A It did.

12 Q Okay. And ---

13 MR. TONEY: Objection: hearsay.

14 MR. SCOTT: Judge, I ---

15 THE COURT: I don't think it is offered for the
16 truth of the matter asserted. I think it's -- more goes
17 towards this officer's state of mind in -- in setting up
18 this controlled buy. So I'll overrule the objection.
19 You may -- you may proceed.

20 Q So Arthur Lee Williams' name had come on -- on your
21 radar?

22 A Yes, sir.

23 Q And did you have a C.I. that you knew of who was
24 familiar with Arthur Lee Williams?

25 A I did.

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 50

1 Q Okay. And is that why you were involved with this
2 case?

3 A It is. I had actually used the informant in this --
4 in this case on -- on other cases in the city. And on
5 this particular day, we met with the informant. He said
6 that he had spoke with Arthur Lee earlier and Arthur Lee
7 told him to come to his dad's house, which is [REDACTED]

8 [REDACTED].

9 Q Okay. So who is the C.I.?

10 A Sammy Anderson.

11 Q Okay. And so did you do the -- what you described,
12 the protocol, with the C.I.? Did -- did you perform all
13 those precautions with Sammy before sending him there?

14 A We -- we did. He was searched prior to being wired.
15 Once the search was complete, I then wired him with audio
16 and video equipment. He was then taken by myself and
17 Sgt. Veal of the Laurens County Sheriff's Office to the
18 area of Ponderosa, where he was dropped out to walk to
19 the residence of [REDACTED].

20 And then we sat and waited on the deal to take place
21 and then waited on the informant to leave. And then we
22 picked him back up.

23 Q Okay. And then, did you personally search I'm?

24 A I did.

25 Q And you wired him up?

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 51

1 A I did.

2 Q Is this Matt Veal you're talking about?

3 A Yes, sir.

4 Q Okay. So he's with the sheriff's department because
5 this was in the county outside of Clinton City, correct?

6 A That's right.

7 Q Okay. Tell me what -- what was the date?

8 A It was July the 10th, 2015.

9 Q Okay. Tell me: What was the time that you wired
10 the C.I. up?

11 A We would've wired him up -- let me see if I can find
12 it on the paper. The equipment was placed on the
13 informant at 10:45 a.m.

14 Q All right. And then, what time did y'all drop him
15 off?

16 A He was dropped off at 11:18.

17 Q Okay. How -- how long did it -- did it take him to
18 get there to ---

19 A It ---

20 Q --- the house?

21 A --- it -- it was only a -- a minute -- roughly a
22 minute. It was -- and if I remember correctly, it -- his
23 house was, like, the third house on the right on
24 Ponderosa, so it was a short walk. Because he was
25 actually dropped off at the top of Ponderosa, which is

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 52

1 Ponderosa -- the intersection of Ponderosa and Highway
2 76.

3 Q Okay. By the way, this time line we're going over
4 is documented. Do you guys document all this?

5 A Yes, we do.

6 Q Okay. And so you drop him off at 11:18. What does
7 -- what do your document show when he got there?

8 A Documented time he made contact with Arthur Lee
9 Williams was 11:19.

10 Q Okay. And then, the buy occurred at what time?

11 A 11:21 a.m.

12 Q Okay. When did he return to you guys?

13 A We picked Mr. Anderson back up, which is our
14 informant, back up at 11:25 a.m.

15 Q Okay. So dropping him off and him returning was a
16 matter of seven minutes?

17 A That's correct.

18 Q That's a pretty quick, efficient, controlled buy,
19 isn't ---

20 A Yes.

21 Q --- it?

22 MR. TONEY: Objection: the commentary.

23 THE COURT: Okay. Sustained.

24 MR. SCOTT: Okay.

25 Q Is that an efficient and fast controlled buy for you

1 guys?

2 A It is.

3 Q Okay. Let me show you State's No. 12; ask if you
4 recognize that.

5 A I do.

6 Q What is it?

7 A This is a overhead view of a map of Ponderosa Lane.

8 Q Okay. And do you recognize some of the locations
9 you just talked about in your testimony?

10 A I do. I see Ponderosa Lane; what's marked as ■
11 ■, the location where we sat and listened to
12 the buy take place; and the location where we dropped our
13 informant off, Mr. Anderson off, to go make the -- the
14 buy.

15 Q Okay. Let me show defense real quick.

16 MR. TONEY: No objection.

17 MR. SCOTT: Okay. Your Honor, the state offers
18 State's No. 12 for admission into evidence.

19 THE COURT: Without objection, No. 12 into evidence
20 for the state.

21 (Whereupon, State's Exhibit 12 was entered into
22 evidence.)

23 Q Let's see. Probably be best way to do it, if we can
24 get Shane to step down -- you want to come down here and
25 point ---

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 54

1 A Sure.

2 Q --- out a few things?

3 THE COURT: Officer Prather, just make sure you --
4 you talk loud enough since you're away from the
5 microphone when you're down there.

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay?

8 (Whereupon, the witness exited the witness stand.)

9 MR. TONEY: You feel like pushing it back a little
10 bit? Is that okay?

11 MR. SCOTT: Yeah.

12 Q Stand over here, Shane.

13 A Okay.

14 Q And just face the court reporter.

15 A (Complied.)

16 Q Okay. That main highway there, what is that main
17 highway there ---

18 A This ---

19 Q --- cutting through ---

20 A --- this is ---

21 Q --- the middle.

22 A --- Highway 76.

23 Q Okay.

24 A This is coming from Clinton going to Laurens.

25 Q Okay. So left to right would be going towards

1 Clinton?

2 A If you're going this way, correct. You're going ---

3 Q Okay.

4 A --- to Clinton.

5 Q All right. The house, [REDACTED], where this
6 controlled buy took place is where?

7 A Right here where the little ---

8 Q Okay.

9 A --- icon is.

10 Q All right. Show the jury where it was that you
11 dropped Sammy, the C.I. off.

12 A Mr. Anderson would've been -- would've been dropped
13 off right in this area.

14 Q Okay. And now, did you guys -- you and Matt Veal
15 park there or ---

16 A We ---

17 Q --- what'd y'all do?

18 A We did not. We actually came to here. It's Ned's
19 Barber Shop, which is located right on the corner of
20 Ponderosa. We came here and parked over behind some
21 brush that we could hide behind. We are in a car that is
22 known to the public.

23 So we parked over here to kind of hide ourself and
24 blend in with other vehicles that were at the barber shop
25 so ---

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 56

1 Q Ned's ---

2 A --- we could, ---

3 Q --- Barber Shop is what ---

4 A Ned ---

5 Q --- that's called?

6 A It's Ned's Barber Shop, sir.

7 Q Okay. All right. And then -- okay. So it takes
8 him one minute to walk from 76 down the road to ■

9 ■.

10 A That's correct.

11 Q Where'd you guys pick him up? When -- whenever he
12 was done, where did he go?

13 A Once he completed the deal, for his safety and --
14 and to make sure nothing happened to him trying to cross
15 Highway 76, we pull out, pull into Farmers Furniture,
16 turn around, come back out, and pick him up as he's
17 coming back out onto 76 from Ponderosa.

18 Q Okay. Well ---

19 A So basically, essentially the same locations we
20 dropped him off at.

21 Q You just sort of pull over on the shoulder of 76
22 there?

23 A We -- we just kind of stop in the -- the No. 2 lane
24 to where we're close to the -- the side of the road where
25 he can just step in and we can go.

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 57

1 Q Okay. You can get back on the stand, then.

2 (Whereupon, the witness entered the witness stand.)

3 MR. TONEY: Is that the same picture?

4 MR. SCOTT: No. It's a little bit closer up.

5 MR. TONEY: No objection.

6 Q Let me just show you this. This is State's 11.

7 What is that?

8 A That's [REDACTED] the -- [REDACTED], which is the
9 residence of the transaction.

10 Q Okay. Just -- is that just a closer -- closer-up
11 view of ---

12 A Yes.

13 Q --- that particular location?

14 A (Nodded head up and down.)

15 MR. SCOTT: The state offers No. 11 for admission.

16 THE COURT: And what's the defense say, Mr. Toney,
17 concerning Exhibit 11?

18 MR. TONEY: I have no objection, sir.

19 THE COURT: All right. Without -- without
20 objection, 11 into evidence for the state.

21 (Whereupon, State's Exhibit 11 was entered into
22 evidence.)

23 Q He gets back in the car with you guys. Where are
24 you seated in the car?

25 A I'm in the front-passenger seat.

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 58

1 Q Where is Sgt. Veal?

2 A He's driving the vehicle.

3 Q Where does Sammy get in the car?

4 A He gets in on the back-passenger seat behind me.

5 Q All right. When he gets in the car -- let me back.

6 I -- I -- I missed this whole thing. How much money did
7 you give him whenever he was going in?

8 A Yeah. He was given \$100, which was documented
9 funds, through -- from the sheriff's department.

10 Q Okay. And in what denominations were they?

11 A I'm -- I want to say it was five \$20 bills.

12 Q Okay. When he got back in the car, what, if
13 anything, did he turn over to you?

14 A Once he got back into the car, I got an evidence bag
15 that was in Sgt. Veal's vehicle. I then opened the bag
16 up and turned around to get him to drop the crack that
17 was just purchased from Arthur Lee Williams into the
18 evidence bag. Once it was in the evidence bag, I handed
19 it to Sgt. Veal.

20 Q Okay. The C.I. gets in the car, puts the crack in a
21 bag that you're holding. You take the bag, give it to
22 Sgt. Veal?

23 A That's correct.

24 Q Okay.

25 A And then, at that point is when I cut the camera

1 off.

2 Q Okay. Well, let me ask you this: So -- well, I'll
3 cover that in a minute. State's No. 14, what is this?
4 Do you recognize it?

5 A That is the evidence bag and the crack cocaine that
6 was purchased on July the 10th, 2015.

7 Q Okay. You see the bag in there that you held open
8 for Sammy to put the crack in?

9 A I do.

10 Q Okay. Are your initials anywhere on that?

11 A They are not.

12 Q Okay. But you would've handed that ---

13 A I would've handed that to Sgt. Veal.

14 Q Okay. And that's State's 14.

15 After he gives you the crack, what -- what do you
16 guys do next?

17 A We then go back to Clinton to a -- a location that
18 we had set prior to going to make the deal. And it's
19 kind of a secluded location to where we can meet people
20 and people's not riding by, seeing who we're meeting, so
21 it can't get out that, "Hey, so-and-so's working for the
22 police." At that point he is searched again to make sure
23 he does not have any of our money and make sure he didn't
24 put any of the drugs at this -- at this buy, it was crack
25 -- so make sure he didn't put any crack in his pocket for

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 60

1 his own use; and also, to take all of our equipment back
2 off.

3 Q Okay. You search him that time?

4 A I did.

5 Q And did you find any crack on him?

6 A I did not.

7 Q Where was that \$100?

8 A It was left with the defendant, Arthur Lee Williams.

9 Q Okay. He didn't have it on him, though?

10 A He did not.

11 Q And then after you took the camera off and
12 everything, were you able to, at some point, review the
13 footage that he captured, the ---

14 A I did. Usually, what we do is once we complete a
15 buy, before the informant is allowed to leave, we'll go
16 back, plug the camera in, and watch the video to make
17 sure we do have good evidence and to make sure that our
18 informants are being truthful.

19 Q Okay. So he watched it with you ---

20 A He -- he ---

21 Q --- Sammy?

22 A --- we -- we don't allow those to watch the videos
23 with us. Usually, one officer will sit with them while
24 the other officer pulls it up on a laptop and watches the
25 video to make sure that everything is accurate.

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 61

1 Q You were talking about some of the, I guess, rules
2 you go over with the C.I.s before they go in there or
3 precautions. What -- what -- what kind of rules do you
4 give them?

5 A It -- it's pretty much they can't -- you can't take
6 any kind of narcotics. So if we're giving you \$100, you
7 have to bring us back \$100 -- the \$100 worth of narcotics
8 that you are purchasing. You can't smoke any while
9 you're making a controlled buy. And you can't keep our
10 money.

11 Q Okay. Okay. Well, do you -- do you advise them at
12 all, like, not to make stops off anywhere?

13 A We -- we do. And -- and I should've mentioned that.
14 But typically, what we try to do is -- is make the deal
15 as -- as fast as possible. Is -- and what we tell them
16 is -- is, "You go -- take the money. You go buy the
17 drugs. You bring it straight to us."

18 That way it eliminates them stopping, talking to
19 other people, and issues coming up with, "Hey, they
20 didn't buy it from the defendant; they bought it from
21 this person."

22 So as long as they go straight to them and straight
23 back to us, there's no conflicts.

24 Q You're trying to cut down on variables that may
25 arise?

DIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 62

1 A That -- that's correct.

2 Q State's number ---

3 MR. TONEY: Objection to the commentary.

4 THE COURT: Okay.

5 MR. SCOTT: Okay.

6 THE COURT: Sustained. Try to -- try to avoid
7 commentary and keep it to a question please, Solicitor

8 ---

9 Q What is ---

10 THE COURT: --- Scott.

11 MR. SCOTT: Yes, sir, Your Honor.

12 Q State's No. 13, do you recognize that?

13 A I do. This is a copy of a buy video from July the
14 10th.

15 Q Okay. How do you recognize that?

16 A My initials.

17 Q Okay. And you reviewed it?

18 A I did.

19 Q And what does it show?

20 A It shows the informant making contact with Arthur
21 Lee Williams and purchasing \$100 worth of crack cocaine.

22 Q Okay. Were you familiar with Arthur Lee Williams.
23 before this?

24 A Yes.

25 Q Okay. And would you recognize him if you saw him?

1 A I would.

2 Q Okay. Do you see Arthur Lee Williams here today?

3 A I do. He's sitting at the defense table.

4 Q Okay.

5 MR. SCOTT: Beg the Court's indulgence.

6 (Whereupon, Ms. Boykin, Mr. Scott, and Mr. Bentley
7 conferred.)

8 Q Okay. You said you had used that particular C.I.
9 before?

10 A Yes.

11 Q Do you know how many times you'd used him in the
12 past?

13 A Right off top of my said, I'm going to say it was in
14 the 20s, around 20 times.

15 Q Okay. Answer any questions Mr. Toney has.

16 A Okay.

17 CROSS-EXAMINATION

18 BY MR. TONEY:

19 Q So you say you did a pat-down but not a strip-
20 search?

21 A That's correct.

22 Q For example, when people enter the jail, they are
23 strip-searched, correct?

24 A That's correct.

25 Q And even then, drugs find their way into the jail,

1 correct?

2 A That's correct.

3 Q All jails, not picking on Laurens County, but every
4 jail in this country has a drug problem, to a certain
5 extent, correct?

6 A That's correct.

7 Q And these are -- I mean, you used him 20 times, this
8 guy, correct?

9 A That's correct.

10 Q And one of his rules is he can't smoke during the
11 buy?

12 A That's correct.

13 Q So the implication is he can smoke after the buy?

14 A No. I mean, he's -- he's a grown man. I can't tell
15 him what to do. But we -- we encourage them not to use
16 drugs while cooperating.

17 Q How many -- he -- Sammy Anderson has -- I mean,
18 there's been many, many references in the opening
19 statement and -- and here today about his prior drug
20 history, correct?

21 A Yes.

22 Q He has a history of drugs going back at least 20
23 years, correct?

24 A That's correct.

25 Q And he is a known drug addict?

1 A That's correct.

2 Q And everybody knows him ---

3 A Yes.

4 Q --- right?

5 A Yes.

6 Q I mean, in the drug world.

7 A Yes..

8 Q And he's done 20 transactions for you, correct?

9 A That's correct.

10 Q Which is probably a lot for a C.I., I would think

11 ---

12 A It's ---

13 Q --- or a ---

14 A --- it ---

15 Q --- fair amount.

16 A It's a fair amount.

17 Q And how much does he get for these drug
18 transactions?

19 A He -- he actually started out -- when he first
20 started working for me, he was making \$20 a buy. And at
21 this deal, he was making \$50.

22 Q And -- and to be honest, what does he probably use
23 that \$50 for?

24 A I have ---

25 MR. SCOTT: I don't ---

CROSS-EXAMINATION BY MR. TONEY - SHANE PRATHER 66

1 A --- no clue.

2 MR. SCOTT: --- I don't think -- Your Honor, I don't
3 -- that's ---

4 THE COURT: I -- I couldn't ---

5 MR. SCOTT: --- speculation.

6 THE COURT: --- hear it. What -- repeat the
7 question, Mr. Toney.

8 Q What does he probably use the \$50 for?

9 THE COURT: Okay.

10 MR. SCOTT: That's ---

11 THE COURT: And you're objecting?

12 MR. SCOTT: It's speculation. How -- how does he
13 know what the C.I. is probably using his money for.

14 THE COURT: If -- if he -- if -- if Officer Prather
15 knows, he can answer. If he doesn't know, he can answer
16 too.

17 A I don't know.

18 THE COURT: You can't speculate.

19 MR. TONEY: Okay.

20 Q He hasn't had any convictions -- Sammy Anderson
21 hasn't had any drug convictions for a while, has he?

22 A It's been some time.

23 Q Okay. But he is well-known among law enforcement
24 for using drugs all the time, correct?

25 A I -- I mean, he's known for using. Yes.

1 Q Okay. But even possession is serious, isn't it?

2 A It -- it is.

3 Q And every time he -- he possesses drugs, that's a
4 felony, correct?

5 A I'm not sure if it's a felony or not.

6 Q Well, if -- if it's second-offense possession, even
7 crack cocaine or cocaine would be a felony, correct?

8 A Yes.

9 Q So drug -- drug addicts -- addiction is unbelievably
10 powerful, isn't it?

11 A It is.

12 Q I -- I mean, people who are addicts, they -- they --
13 how long you been head -- or -- or how long you been
14 working with narcotics?

15 A Since 2014.

16 Q Okay. And how long before then were you dealing
17 with -- or were you a regular street officer or street
18 cop?

19 A I was.

20 Q So you -- you dealt with drug issues, like, every
21 day, correct?

22 A That is correct.

23 Q And how long have you been a police officer?

24 A Since 2004.

25 Q Okay. So a -- a good while, not -- not 20 years,

CROSS-EXAMINATION BY MR. TONEY - SHANE PRATHER 68

1 but 13 years, correct?

2 A That's correct.

3 Q And you've dealt with maybe not thousands of
4 addicts, but addicts on thousands of occasions, because a

5 ---

6 A That's ---

7 Q --- lot of the people you -- you deal with are the
8 same people, correct?

9 A That's correct.

10 Q And -- and when they're in the -- the depths of
11 full-throated addiction, they -- they don't do much else
12 but seek drugs; is that correct?

13 A Most.

14 Q I mean, that's ---

15 A Most do.

16 Q It takes -- it's like a fire. It -- it just
17 consumes everything and takes over their lives, correct?

18 A For most of them, yes.

19 Q For -- but you don't see many -- I mean, we hear
20 stories about functioning alcoholics, for instance. But
21 you don't hear many stories about functioning ---

22 A I ---

23 Q --- cocaine users, do we?

24 A I -- I know several of them.

25 Q Okay. But a lot of times, perhaps the majority,

1 maybe not all, they -- they -- they chase drugs ---

2 A Some do. Yes.

3 Q --- 24/7, correct?

4 A Some do. Yes.

5 Q Most of them use every day?

6 A Most, yeah.

7 Q Okay. And every time they use, they're committing a
8 crime?

9 A That's correct.

10 Q Now, this gentleman, Sammy Anderson, has been
11 working for you for how long?

12 A He -- he would've been working for me for maybe four
13 or five months ---

14 Q Okay.

15 A --- in 2015.

16 Q But he's been a known player in the drug world, at
17 -- at least as a drug user off and on, perhaps the whole
18 time, for 20 years?

19 A That's correct.

20 Q And it's fair to say that in that time, may very
21 well -- I -- you've heard the statistic the FBI puts out
22 that the average drug user commits 4500 felonies a year?

23 A That's -- yeah.

24 Q That's well-known, right?

25 A Uh-huh.

CROSS-EXAMINATION BY MR. TONEY - SHANE PRATHER 70

1 Q Something ---

2 A It is.

3 Q --- like that?

4 So it's fair to say that Sammy Anderson is a full-
5 time criminal, correct? Apart from when he's working for
6 you?

7 A Depends on how you look at it.

8 Q Okay. In order to have an -- a drug addiction and
9 -- and make it work, you have to -- to hide drugs, don't
10 you? Drug -- let's put it this ---

11 A Can ---

12 Q --- way ---

13 A --- can -- can you ask the question again? I -- I'm
14 -- I'm ---

15 Q Yes.

16 A --- not sure ---

17 Q Let me ---

18 A --- what you're ---

19 Q --- rephrase it.

20 A --- asking.

21 Q Like, someone who smokes cigarettes, they might put
22 the cigarettes in the console of their car or put it in
23 their purse or something like that, correct?

24 A Uh-huh. That's correct.

25 Q But people who have drug addictions -- let's say

1 it's to crack cocaine -- and that they use a pipe,
2 correct? A little pipe or a tube?

3 A Yes.

4 Q They don't walk down the street usually smoking that
5 pipe, do they?

6 A No.

7 Q They have to hide it, correct?

8 A Typically, we find it in their pocket.

9 Q Okay. But they also have inventive places they hide
10 their drugs?

11 A With -- with any crime, I mean, they come up with
12 different ways of hiding stuff. Yes.

13 Q Yeah. I -- I -- I don't know what your experience
14 is. But a lot of cases, they have different places they
15 hide. Sometimes smoke shops sell coffee cans with false
16 bottoms, or they have bolts with fake insides, or they
17 have different products -- consumer products -- cereal --
18 different things that have false bottoms in them. They
19 have many, many ways of hiding things, correct?

20 A That's correct.

21 Q Sometimes they put them in -- their drugs in Crown
22 Royal bags?

23 A That's correct.

24 Q And they put them in little cases or makeup cases or
25 cigarette cases or tins, all kinds of different things,

CROSS-EXAMINATION BY MR. TONEY - SHANE PRATHER

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1 correct?

2 A That's correct.

3 Q Matter of fact, these are indicators that drug --

4 you know, when you see little tins and little things

5 lying around, these are in cars when you stop a car.

6 That's an indication there may be some drug activity, not

7 -- not a -- a complete indication, but ---

8 A Yeah. I ---

9 Q --- one of ---

10 A --- I wouldn't ---

11 Q --- many?

12 A --- I wouldn't base it off just seeing tins ---

13 Q Yeah.

14 A --- or ---

15 Q One of several factors?

16 A (No audible response.)

17 Q So to be a drug addict, it's fair to say that you

18 have to learn how to hide your drugs, to a certain

19 extent?

20 A To a -- I guess, to a certain degree, yeah.

21 Q And -- and you can't -- you can't run around and

22 tell people if you're a drug addict? You can't just go

23 around and say, you know, "I use drugs." You can't tell

24 that to people, can you?

25 A No.

1 Q People don't want to hear it.

2 A No.

3 Q And they'll stay away from you when they hear it?

4 A That's correct.

5 Q Okay. Most of them try to hide their criminal
6 activities, correct?

7 A That's correct.

8 Q Crime is not something that's done usually in the
9 public square. It's -- it's done a lot of times at
10 night, in out-of-the-way places, in hotel rooms, in
11 places where there's not a lot of surveillance. People
12 keep their stuff on the down-low, correct?

13 A That's correct.

14 Q After 20 years of doing -- of engaging in criminal
15 and drug behavior, drug addicts and drug users, they
16 become very adept at hiding things and being dishonest,
17 don't they?

18 MR. SCOTT: Your Honor, the objection is just that
19 we've covered this ground a couple times, that drug
20 addicts hide drugs from time to time.

21 THE COURT: All right.

22 MR. SCOTT: That question's been asked and answered.

23 THE COURT: Right.

24 MR. TONEY: Well, I'm ---

25 THE COURT: It has. But I think the -- the question

CROSS-EXAMINATION BY MR. TONEY - SHANE PRATHER 74

1 was more two-part, I think, and as far as the question
2 included dishonesty. So you can -- you can ---

3 MR. TONEY: Yes.

4 THE COURT: --- explore that with Officer Prather.
5 It'd be fine.

6 Q You -- you wouldn't trust a drug addict to -- a
7 known drug user to, say, babysit your children or -- or
8 paint your house or do anything sort of straightforward,
9 would you?

10 A No.

11 Q And -- and you wouldn't trust Sammy Anderson to do
12 anything other than very limited things for you and --
13 and -- and watch at that, correct?

14 A That's correct.

15 Q Because you -- you don't really trust Sammy
16 Anderson, do you?

17 A It -- it -- it's not that I don't trust Sammy
18 Anderson. We -- he -- we have safeguards to make sure
19 that he is being trustworthy. That's one reason why we
20 wear cameras.

21 Q Okay. But one of the reasons you have cameras and
22 safeguards is because you don't trust him, right?

23 A That's correct.

24 Q Just like people put locks on doors, not because
25 everybody's the thief, but because some people are

1 thieves?

2 A That's correct.

3 Q All right. And for a confidential informant to be
4 effective in their work, they have to be able to convince
5 people that they're not confidential informants, don't
6 they? That they are, in fact, serious drug buyers?

7 A That's correct.

8 Q And -- and since the drug world is -- has these
9 people in it, the drug dealers have to be on the alert
10 for this kind of behavior, correct?

11 A Yeah.

12 Q And they're constantly looking for -- and -- and --
13 and I apologize for using this term. But the term they
14 use is "rats" or "snitches," correct?

15 A That's correct.

16 Q And for a confidential informant to be successful,
17 they have to be able to -- almost like a salesman, to put
18 themselves over and complete the transaction while
19 dealing with people who are very suspicious and street-
20 smart themselves, right?

21 A That's correct.

22 Q So we're dealing with people who are -- when we deal
23 with confidential informants, they are street-savvy,
24 street-smart people, right?

25 A That's correct.

CROSS-EXAMINATION BY MR. TONEY - SHANE PRATHER

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1 Q Now, in this case, you've got the video there,
2 correct?

3 A Yes.

4 Q And that video shows Sammy Anderson handing
5 something Arthur Lee Williams on it?

6 A He handed Arthur Lee Williams \$100.

7 Q It shows him handing him something else, correct?

8 A Don't recall that.

9 Q You don't recall it?

10 A Unh-unh.

11 Q Isn't it possible that Sammy Anderson took something
12 in there, something that you were not aware of?

13 A I mean, it's possible. But after reviewing the
14 video, he didn't.

15 Q Shammy -- Sammy Anderson is -- is dishonest, isn't
16 he?

17 A At some point, probably.

18 MR. TONEY: If I could have a moment?

19 THE COURT: Sure. Take your time.

20 MR. TONEY: Yes, sir. Thank you so much.

21 (Whereupon, Mr. Toney and the defendant conferred.)

22 MR. TONEY: That's all the questions that I have for

23 ---

24 THE COURT: Okay.

25 MR. TONEY: --- this gentleman.

REDIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 77

1 THE COURT: Solicitor, any redirect?

2 MR. SCOTT: One -- Your Honor, beg the Court's
3 indulgence.

4 THE COURT: Sure. Take your time as well.

5 (Whereupon, Mr. Scott and Ms. Boykin conferred.)

6 REDIRECT EXAMINATION

7 BY MR. SCOTT:

8 Q You agree with what that lawyer said about addiction
9 being terrible ---

10 MR. TONEY: Excuse me.

11 Q --- don't you?

12 MR. TONEY: Beg your pardon. Objection. That
13 lawyer?

14 MR. SCOTT: Oh. Ivan Toney.

15 Q Do you agree with what he said about addiction being
16 terrible?

17 A I do.

18 Q Where do addicts get their drugs from?

19 A Drug dealers.

20 Q Okay. Who fuels addictions?

21 A Drug dealers.

22 Q Who pumps dope out in the streets for addicts to get
23 their hands on?

24 A Drug dealers.

25 Q Who gives them this poison that feeds this habit,

REDIRECT EXAMINATION BY MR. SCOTT - SHANE PRATHER 78

1 this never-ending habit?

2 A The dealers.

3 Q Okay. That's the source of the drugs?

4 A Yes.

5 Q All right. In your experience are dealers more
6 likely to sell to addicts or nonaddicts?

7 A Addicts.

8 Q Okay. And again, do -- do -- do you just send
9 anybody in to buy dope from a known drug dealer?

10 A No. It has to be somebody that they're familiar
11 with, or they're not going to trust them.

12 Q Okay. And -- and Sammy's a well-known guy, is he
13 not?

14 A He is.

15 Q And -- and the lawyer was talking -- Ivan Toney was
16 talking about that he -- he's been a C.I. for a while
17 now, right?

18 A That's correct.

19 Q But yet people still sell him dope, do they not?

20 A Yes.

21 Q Okay. We don't know the explanation, but he still
22 manages to get in their and buy dope from drug ---

23 A He does.

24 Q --- dealers?

25 MR. SCOTT: Okay. That's all the questions I have.

..DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 79

1 THE COURT: Any recross?

2 MR. TONEY: No, sir.

3 THE COURT: Okay. You can step down, sir.

4 THE WITNESS: Thank you.

5 (Whereupon, the witness exited the witness stand.)

6 MR. SCOTT: Step up real quick, Your Honor?

7 THE COURT: Sure.

8 MR. SCOTT: If we may approach?

9 (Whereupon, a bench conference was held off the
10 record in the presence of the jury, but out of the
11 hearing of the jury.)

12 (Off the record briefly.)

13 THE COURT: Ladies and gentlemen, we're waiting on
14 the next witness. So that's why we got just a little bit
15 of downtime. Just relax and be patient with us, please.

16 MR. SCOTT: Okay. The state calls Sammy Anderson.

17 THE COURT: Okay. Come right over here, Mr.
18 Anderson.

19 (Whereupon, the witness came forward.)

20 SAMUEL ANDERSON, having been first duly sworn,
21 testified as follows:

22 (Off the record briefly.)

23 DIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q Okay. What is your name? Tell me your full name.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 80

1 A Samuel Anderson.

2 Q Okay. Sammy, let's just -- we talked about it
3 today. You've had an accident recently, have you not?

4 A Yes, sir.

5 Q Okay. And when did that happen?

6 A This happened back in July.

7 Q Okay. Well ---

8 THE COURT: All right. Mr. Anderson, you're going
9 to need to speak up. Sit closer ---

10 A This happened ---

11 THE COURT: --- to the microphone ---

12 A --- back in July.

13 THE COURT: Okay.

14 Q July of last year?

15 A Yes, sir.

16 Q Okay. And -- and -- and the result of an attack?

17 A Yes, sir.

18 Q Okay. What -- where do you live? Do you live in,
19 Laurens?

20 A No. I live in Clinton, South Carolina.

21 Q Okay.

22 (Whereupon, the witness and the bailiff conferred.)

23 Q Do you know ---

24 (Off the record briefly.)

25 Q Do you know Shane Prather?

DIRECT EXAMINATION BY MR.. SCOTT - SAMUEL ANDERSON 81

- 1 A Yes, sir.
- 2 Q All right. And Tyrone Goggins back there, you know
- 3 him?
- 4 A Yes, sir.
- 5 Q Okay. Have you worked with those guys before?
- 6 A No.
- 7 Q No?
- 8 A Unh-unh.
- 9 Q You haven't worked with them?
- 10 A No. Yeah, I mean.
- 11 Q Okay. You understand what I'm asking?
- 12 A Yeah. I understand what you're saying.
- 13 Q Okay. Have you worked with them on multiple
- 14 occasions?
- 15 A Yes, sir.
- 16 Q Okay. And -- and then, what do you typically
- 17 receive when you work for them?
- 18 A Money.
- 19 Q Okay. Tell me: Have -- have you had an issue in
- 20 your past, as far as drug-related crimes?
- 21 A I mean, I used to -- I used to use drugs, but I
- 22 don't do that.
- 23 Q Okay.
- 24 A I'm being honest about that.
- 25 Q Do you -- what -- what did you use?

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 82

- 1 A Crack cocaine.
- 2 Q Crack?
- 3 A Yeah.
- 4 Q And did you have an addiction to it?
- 5 A Yeah, I did.
- 6 Q Okay. And how would you normally get your crack?
- 7 I'm not asking from who. But how would you get it?
- 8 A I would come up with money, you know.
- 9 Q And then, just -- you would have people who would
- 10 deal it and you would go get it from them?
- 11 A Yes, sir.
- 12 Q Okay. Do you know Arthur Lee Williams?
- 13 A Yeah, I know him.
- 14 Q All right. How long have you known him?
- 15 A Oh, man. Years.
- 16 Q Okay. How -- how many years?
- 17 A I -- at least over 20 years.
- 18 Q Okay. Are you related to him or ---
- 19 A No, sir.
- 20 Q --- anything?
- 21 Okay. What is the connection?
- 22 A He used to hang out with my nephew.
- 23 Q Okay. Do you see him here today?
- 24 A Yeah, I see him.
- 25 Q Where is he?

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 83

1 A Right there.

2 Q Okay. Black guy or white guy?

3 A Black guy.

4 THE COURT: All right. Let the record reflect, he
5 has identified the defendant.

6 Q Okay. You remember Shane Prather and them coming to
7 you to see if you could buy some dope from him?

8 A Yeah.

9 Q All right. You remember the time you went, July
10 10th, 2015?

11 A Yes, sir.

12 Q [REDACTED] in Laurens?

13 A Yes, sir.

14 Q All right. Beforehand, did you meet with -- you
15 know who this is right here?

16 A (No audible response.)

17 Q Can you see him?

18 A Yeah.

19 Q You remember meeting with Matt Veal and Shane
20 Prather ---

21 A Yes, sir.

22 Q --- that day?

23 And what did they do before they sent you in to buy
24 the crack?

25 A Well, I mean, we talked on the way up. And they --

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 84

1 you know, they got me up there. And I told them to let
2 me out and go -- I think I told them to go to Winnie's or
3 whatever. I -- I didn't want to take nobody to the dude
4 house. What -- he believed me or something.

5 Q Wait. Now, what did you call him? What'd you call
6 him?

7 A Winnie?

8 Q Winnie?

9 A Yeah. That's ---

10 Q Okay. That's your nickname for him?

11 A Yes, sir.

12 Q Do a lot of people call him that?

13 A Yes, sir.

14 Q Okay.

15 MR. TONEY: Objection to hearsay.

16 THE COURT: Okay.

17 MR. SCOTT: I -- it's ---

18 THE COURT: I -- I -- I'll overrule.

19 A Uh-huh.

20 Q Okay. Winnie is what you call him?

21 A Yes, sir.

22 Q All right. Well, let -- let -- what I'm trying to
23 do is let's go back when you met with the officers
24 beforehand.

25 A Yes, sir.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 85

1 Q Okay. How did you set up the situation where you
2 were going to buy the dope from Winnie?

3 A The situation with him, I mean, I had made a phone
4 call earlier that day and talked with him and told him I
5 was going to be coming to him, you know what I'm saying,
6 that I was going to be coming through to get a yard. And
7 if you're coming through ---

8 Q Hold on. Hold on. Get a yard? What does that
9 mean?

10 A A hundred dollars.

11 Q A hundred dollars' worth of what?

12 A Crack.

13 Q Okay. That's what a yard is?

14 A Yes, sir.

15 Q Okay. You asked him for a -- a yard. And then ---

16 A Yes, sir.

17 Q --- what happened?

18 A Yes, sir.

19 Q Go ahead.

20 A And, of course, you know, anybody going take \$100.

21 So we put it together. And when -- when we got on

22 Ponderosa Lane, I got out. Because I didn't want to take

23 nobody and didn't want nobody to know where I was going

24 where that was my -- that was the way I was playing it

25 anyway. So I went to -- I went to Ponderosa.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 86

1 And he was, like, "Man, who you riding with?"

2 And I was, like, "Man, like, blighjay (phonetic)

3 buys it, you know what I'm saying? I got \$100." They --

4 it didn't make a difference with anybody, pretty much.

5 Q Okay. He wanted -- all right. So first of all, you

6 were saying you didn't want anybody to know where you

7 were going.

8 A No. I didn't want nobody to know.

9 Q Why not?

10 A Huh?

11 Q Why not?

12 A Come on. How -- I ain't just going to pull -- I

13 ain't got no car.

14 Q Okay.

15 A He know I ain't got no car.

16 Q Okay. Who -- who knows you don't have a car?

17 A Winnie.

18 Q Okay. So you -- what are -- you're saying you

19 didn't want him to see where ---

20 A Yeah.

21 Q --- you're coming from?

22 A Yes, sir.

23 Q And then, you say he asked how you got there?

24 A Yeah.

25 Q What did you say?

DIRECT EXAMINATION BY MR. SCOTT.- SAMUEL ANDERSON 87

1 A I shuck and jive with him for a minute. But, you
2 know, he -- he -- he fell for it.

3 Q Okay. And -- and then you asked for what?

4 A A hundred dollars -- a hundred.

5 Q All right. Did he give it to you?

6 A Oh, yeah.

7 Q Did you give him the money?

8 A Yeah.

9 Q Okay. When you showed up there, did you have crack
10 -- did you already have some crack on you ---

11 A Unh-unh.

12 Q --- when you got ---

13 A No.

14 Q --- there?

15 A Unh-unh.

16 Q Okay.

17 A I know better than that.

18 Q Okay. How many times have you done undercover buys?

19 A I can't even count for real, man.

20 Q A lot of them?

21 A Yeah.

22 Q Okay. Is that a rule that they tell you: You can't
23 have crack on you when you ---

24 A Yeah.

25 Q --- go in ---

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 88

1 A I mean, it common sense.

2 Q It is.

3 A That common sense.

4 Q All right. So let me ask you this: Did -- did you
5 have anything on you to record this event?

6 A Yeah.

7 Q What'd you have?

8 A They had something like a -- it ain't actually a
9 beeper. But it's something like a -- you could hook it
10 on you like a little camera thing.

11 Q Uh-huh.

12 A Yes, sir.

13 Q You -- have you ever seen the video that you
14 recorded from that day?

15 A Unh-unh.

16 Q You hadn't seen a video of that buy?

17 A No, sir.

18 Q What is this? Let me show you something.

19 A It's a CD.

20 Q This is State's No. 13. Do you recognize this CD?

21 A Not really.

22 Q Let me ask you: This right here, can you see what
23 that is?

24 A That's my initials.

25 Q Okay. You ---

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 89

1 A Okay.

2 Q --- you remember initialing that?

3 A Yeah. Yeah. I mean, you know ---

4 Q What's on this video?

5 A Him -- I mean, excuse me. The -- the buy that took
6 place between me and Winnie.

7 Q Okay. When I was asking you earlier, the -- this is
8 the recording of that transaction?

9 A Yes, sir, it is.

10 Q Okay. You watched it today, didn't you?

11 A Yeah. I seen it.

12 Q Okay. And does it record what happened ---

13 A Yeah. Oh, yeah.

14 Q --- on that day?

15 A Oh, yeah.

16 Q Okay. And -- and what you just explained to us is
17 on this video?

18 A Yes, sir.

19 Q Okay. Is it a fair and accurate depiction of what
20 you saw and ---

21 A Yes, sir.

22 Q --- did that day?

23 So you -- you said he gave you a yard. You gave him
24 \$100?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 90

1 Q This is State's No. 14. What's that?

2 A It's a -- that's the dope.

3 Q That's the dope?

4 A Yes, sir.

5 MR. SCOTT: Your Honor, the state at this point --
6 he's ID'ed it -- identified it, vouched for its accuracy.

7 The state would publish State's No. 13 ---

8 THE COURT: Okay.

9 MR. SCOTT: --- or offer it for admission into
10 evidence and then publish it.

11 THE COURT: Okay. Mr. Toney?

12 MR. TONEY: No objection.

13 THE COURT: All right. Without objection, No. 13
14 into evidence for the state.

15 (Whereupon, State's Exhibit 13 was entered into
16 evidence.)

17 THE COURT: And before you get set up, Mr. Bentley,
18 could you come up here and maybe get my little screen
19 working? Because it's ---

20 MR. BENTLEY: Yes, sir.

21 THE COURT: --- not working. If you don't mind.
22 Ladies and gentlemen, I have a small TV monitor
23 here.

24 THE BAILIFF: Your Honor, I think we may have a
25 juror that needs a break -- needs a restroom break.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 91

1 THE COURT: You need -- need a break?

2 JUROR: Uh-huh.

3 THE COURT: Okay. All right. Before we play the
4 video -- and that'll give Mr. Bentley an opportunity to
5 get me set up -- go back to the jury room for a short
6 break. And I remind you, no discussion among yourselves
7 about this case. We'll get you back out shortly.

8 (Whereupon, the jury exited the courtroom at 2:45
9 p.m.)

10 MR. TONEY: Your Honor, may I use the restroom?

11 THE COURT: Sure.

12 MR. TONEY: Thank you.

13 (Off the record briefly.)

14 THE COURT: All right. We'll be in recess for about
15 ten minutes.

16 (Off the record from 2:45 p.m. until 2:57 p.m.)

17 THE COURT: Okay. Mr. Bolt, if you'll bring the
18 jury out, please..

19 (Off the record briefly.)

20 (Whereupon, the jury entered the courtroom at 2:58
21 p.m.)

22 THE BAILIFF: All jurors present, Your Honor.

23 THE COURT: All right. Thank you, Mr. Bolt.

24 Solicitor, you ready to proceed?

25 MR. SCOTT: Yes, sir, Your Honor.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 92

1 DIRECT EXAMINATION BY MR. SCOTT CONTINUED

2 Q Can you see over here, Sammy?

3 A Uh-huh.

4 Q Okay. All right. The state's going to publish
5 State's No. 13 at this point.

6 (Whereupon, a portion of video was published in open
7 court.)

8 Q Who you calling on the phone right there?

9 A Arthur.

10 Q Okay. All right.

11 (Whereupon, a portion of video was published in open
12 court.)

13 Q All right. Sammy, is that how you remembered it?

14 A Yes, sir.

15 (Whereupon, a portion of video was published in open
16 court.)

17 Q Who is that?

18 A Arthur.

19 Q Say what?

20 A Arthur.

21 Q This guy?

22 A Yes, sir.

23 Q Right there?

24 A Yes, sir.

25 (Whereupon, a portion of video was published in open

1 court.)

2 Q Any doubt in your mind who you were dealing with
3 that day was Arthur Lee Williams?

4 A No, sir.

5 Q Okay. And you gave him how much money?

6 A A hundred dollars.

7 Q And he gave you what?

8 A It was about four -- about five -- about five rock,
9 I think.

10 Q Rocks?

11 A Yeah.

12 Q Okay. Do dealers ever try to give you a little bit
13 extra?

14 A Oh, yeah.

15 MR. TONEY: Objection.

16 A Yeah.

17 THE COURT: The nature ---

18 MR. TONEY: May I approach?

19 THE COURT: --- of your objection?

20 MR. TONEY: Pardon? Relevance.

21 THE COURT: Okay.

22 MR. TONEY: Talking about other people.

23 THE COURT: Okay.

24 MR. TONEY: Other -- other situations.

25 THE COURT: Okay.

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 94

1 MR. SCOTT: I said do dealers ever try to give you a
2 little extra./

3 THE COURT: Okay. Well ---

4 MR. TONEY: It's not relevant to this case.

5 THE COURT: Well, it may be related to this
6 situation. And then may -- and then I'll allow you to
7 expand on it. Overruled at this time.

8 MR. TONEY: Yes, sir.

9 Q Do you recall, on this particular occasion, if
10 Arthur tried to give you a little bit extra?

11 A Yes, sir.

12 Q And did he try to give you a little bit ---

13 A Yes, sir.

14 Q Okay. It -- it -- there's something in there. He's
15 asking you for a nickel. What is the relevance of that?

16 A You can weigh a scale with that.

17 Q Okay. That's how they test it to see if the scale
18 is accurate?

19 A Yes, sir.

20 Q Okay. Did you bring a scale, or did Arthur bring
21 ---

22 A Oh, no.

23 Q --- a scale?

24 A He already had it.

25 Q Okay. And then, he's leaned over and he's wrapping

DIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 95

1 that thing up. What's he doing there?

2 A He -- he's giving -- he getting what I came to get.

3 Q And what was that?

4 A A hundred.

5 Q Of what?

6 A Crack cocaine.

7 (Whereupon, a portion of video was published in open
8 court.)

9 Q So what is he doing right there?

10 A He getting it ready for me.

11 Q He's getting it ready for you?

12 A (No audible response.)

13 Q Okay. And State's No. 14, that's what he gave you?

14 A Uh-huh.

15 Q Okay. And then, at the very end, we saw Shane
16 Prather in front of the car.

17 MR. TONEY: Objection ---

18 Q You didn't ---

19 MR. TONEY: --- to the commentary.

20 MR. SCOTT: Okay. I mean -- got you.

21 Q Who is that at the very end?

22 A Shane.

23 Q Okay. And then, what do you give him?

24 A The drugs.

25 Q All right. I think that's all we have. All right.

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 96

1 Answer any questions ---

2 THE COURT: Okay.

3 Q --- Mr. Toney has for you.

4 THE COURT: All right.

5 A Okay.

6 THE COURT: Cross-examination?

7 CROSS-EXAMINATION

8 BY MR. TONEY:

9 Q Your voice, Mr. Anderson, sounds very different.
10 Does it not sound very different on there than it does
11 today?

12 A Sir?

13 Q You said there was a -- you had an accident or an
14 attack in ---

15 A Yeah.

16 Q --- June?

17 A July.

18 Q July of which year?

19 A This year.

20 Q This year?

21 A (No audible response.)

22 Q You mean last year?

23 A Yeah.

24 Q 2017?

25 A Yeah.

1 Q And you are well-known in the town as someone who
2 works for the police?

3 A Yeah.

4 Q And perhaps you've made a few enemies?

5 A Well, yeah.

6 Q Okay. How -- how did you -- your -- your lawyer
7 brought up these -- this attack. What happened in this
8 attack? Who attacked you?

9 A I don't know.

10 Q You don't know?

11 A No, I don't.

12 Q Please -- please forgive me for asking these
13 questions. I don't mean to embarrass or humiliate you.
14 Did you -- do you have a noticeable indentation on your
15 forehead?

16 A Yes, sir.

17 Q And on the side of your head?

18 A Yes, sir.

19 Q Did you have that -- and -- and I beg your pardon.
20 Did you have that -- these marks on your head before this
21 attack?

22 A No, sir.

23 Q This is a result of the attack?

24 A (No audible response!)

25 Q Is that a "yes"?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 98

- 1 A Yes.
- 2 Q And -- and in what -- what part of your body were
- 3 you attacked on?
- 4 A Basically, well, I know my head and eye. Them two,
- 5 I know.
- 6 Q Who attacked you?
- 7 A I have -- I have no idea.
- 8 Q Okay. And -- and were you attacked on your head?
- 9 A Yeah.
- 10 Q With what?
- 11 A I was beat with a hammer.
- 12 Q A hammer?
- 13 A (No audible response.)
- 14 Q And -- and were you in the hospital?
- 15 A Yeah.
- 16 Q How long were you in the hospital for?
- 17 A I have the slightest idea. I don't know.
- 18 Q Was it a month?
- 19 A I can't tell you because I don't know.
- 20 Q Was it more than three months?
- 21 A I can't tell you because I don't know.
- 22 Q You have no idea how long you ---
- 23 A I have ---
- 24 Q --- were in the ---
- 25 A --- no ---

1 Q --- hospital?

2 A --- idea, none whatsoever.

3 Q Okay. So you -- you can't remember if you were one
4 month in the hospital ---

5 MR. SCOTT: Judge ---

6 Q --- or ---

7 MR. SCOTT: --- he's asked ---

8 Q --- one day ---

9 MR. SCOTT: --- him that question ---

10 THE COURT: It's been ---

11 THE WITNESS: Come on ---

12 MR. SCOTT: --- five ---

13 THE COURT: Right.

14 THE WITNESS: --- man.

15 MR. SCOTT: --- times.

16 THE COURT: It -- it's been asked and answered.

17 MR. TONEY: Yes, sir. I'll move along.

18 Q If you don't know or have any idea how long you were
19 in the hospital for within the last 12 months, how could
20 this jury rely on your memory about something two or
21 three years ago?

22 A I don't know. But I'm telling you, I don't know.

23 Q Were you in a coma?

24 A No. I don't think so.

25 Q You don't think so?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 100

1 A (No audible response.)

2 Q Did you suffer -- is it not a fact that your voice
3 sounds very different now than it did on that video?

4 A You know how long that was?

5 Q Did this attack or -- or incident have any effect on
6 your memory, your ability to remember things?

7 A No.

8 Q Well, who -- who came and visited you when you were
9 in the hospital?

10 A I do not know. How many times you want me to say
11 this?

12 Q Did any member of your family come and visit you?

13 MR. SCOTT: Judge, this ---

14 A Come on, man.

15 MR. SCOTT: --- he's asking ---

16 A Come on, man.

17 MR. SCOTT: --- the same question.

18 THE COURT: Yeah..

19 MR. SCOTT: He ---

20 MR. TONEY: Well, it's ---

21 MR. SCOTT: --- doesn't remember ---

22 THE COURT: He -- he --

23 MR. TONEY: --- slightly ---

24 THE COURT: --- doesn't ---

25 MR. SCOTT: --- his time ---

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 101

1 MR. TONEY: --- different ---

2 MR. TONEY: --- in the hospital.

3 THE COURT: --- he doesn't remember. Move on to
4 something else, please. ---

5 MR. TONEY: Okay.

6 THE COURT: --- Mr. Toney.

7 Q Now, you're a confidential informant for the police?

8 A Yeah. Yeah.

9 Q And about how many times have you worked for the
10 police?

11 A I don't know. I can't remember that either.

12 Q Have you gone around telling people that you're a --
13 a -- a ---

14 A Oh, man.

15 Q --- confidential ---

16 A Come on.

17 Q --- informant?

18 A Get off my back, man.

19 THE COURT: Okay. All right. Madam Forelady and
20 ladies and gentlemen of the jury, I need to send you to
21 the jury room for just a moment; get you back in. Again,
22 no discussion ---

23 THE WITNESS: Oh.

24 THE COURT: --- about this case.

25 (Whereupon, the jury exited the courtroom at 3:17

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 102

1 p.m.)

2 THE COURT: Now, Mr. Anderson ---

3 THE WITNESS: Yes, sir..

4 THE COURT: --- I know that maybe some of the
5 questions, you don't like. But you're here to testify,
6 to testify truthfully, and you must answer the questions.

7 THE WITNESS: But he asking me the same ---

8 THE COURT: I -- I ---

9 THE WITNESS: --- thing ---

10 THE COURT: --- I -- I ---

11 THE WITNESS: --- I don't know.

12 THE COURT: I -- Mr. Anderson ---

13 THE WITNESS: I'm listening to you.

14 THE COURT: Okay. You need to answer the questions.

15 And if -- if there's something improper, then I -- I'm
16 sure that Solicitor Scott will object and I'll make a
17 ruling on it. Otherwise, Mr. Toney asks you a question;
18 you have to answer it. That's just -- that's just the
19 way things work, okay? Do you need to take a little
20 break before we continue?

21 THE WITNESS: Yeah.

22 THE COURT: Okay. All right. We'll take a ten-
23 minute break. And you -- you need to use the restroom or
24 anything?

25 THE WITNESS: No. I just want to go outside and

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 103

1 breathe.

2 THE COURT: Okay.

3 THE WITNESS: I can't ---

4 THE COURT: All right.

5 (Off the record briefly.)

6 THE COURT: All right. We'll take a short little
7 break.

8 (Off the record from 3:18 p.m. until 3:32 p.m.)

9 THE COURT: Okay. Let's -- let's bring the jury
10 out. You're still in your cross-examination.

11 MR. TONEY: Yes, sir. Yes, Your Honor.

12 (Off the record briefly.)

13 (Whereupon, the jury entered the courtroom at 3:33
14 p.m.)

15 THE BAILIFF: All jurors present.

16 THE COURT: All right. Thank you, Mr. Bolt.

17 Mr. Toney, you may proceed.

18 CROSS-EXAMINATION BY MR. TONEY CONTINUED

19 Q Mr. Anderson, where do you live? What is your
20 address?

21 A [REDACTED], Clinton, South Carolina.

22 Q How do you -- how do you live? Who pays for that
23 place?

24 A I live with my mom.

25 Q Okay. When's the last job you -- you held?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 104

1 A School-bus driver.

2 Q When was that?

3 A I can't remember that.

4 Q You don't when?

5 A No.

6 Q Was it in the last ten years?

7 A No. It was longer than that.

8 Q Okay. So how have you managed to live for the last
9 at least ten years ---

10 A My mom.

11 Q --- without employment?

12 A My mom.

13 Q Your mom?

14 A (No audible response.)

15 Q Now, you have a record, which has lots of drug buys
16 on it' ---

17 A Yeah.

18 Q --- correct?

19 And -- and the solicitor's office -- you -- you may
20 not know this, but they have referred to it on several
21 occasions before you took the witness stand. You had an
22 arrest for distribution of controlled substance in '99,
23 correct?

24 A Yeah.

25 Q And you had another possession charge in 2003,

1 correct?

2 A Yeah, sir.

3 Q And you've had numerous public-drunks and
4 disorderlies, correct?

5 A I don't know about the public-drunk.

6 Q And you -- the police have testified you've been --
7 you've got a record going back 20 years, correct?

8 A Yeah, I guess so.

9 Q When was the first time you used crack cocaine?

10 A Woo. Sir, I'm not being disrespectful towards you
11 nor the judge. But I can't remember that.

12 Q How old are you now?

13 A I'm 48 years old.

14 Q Would you say it was when you were -- before --
15 earlier than the age of 20?

16 A No.

17 Q Twenty-five?

18 A No.

19 Q Thirty?

20 A Probably.

21 Q And how many years did you use crack cocaine for?

22 A I don't know, sir.

23 Q Okay. When was the last time you used crack
24 cocaine?

25 A I don't know.

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 106

- 1 Q Isn't it a fact that you've used crack cocaine
2 today?
- 3 A Huh?
- 4 Q Is that a "yes" or a "no"?
- 5 A Yeah. I mean, yeah, I have used it.
- 6 Q Today.
- 7 A But I haven't used it today.
- 8 Q Have you gone to any drug treatment or drug
9 rehabilitation?
- 10 A Yeah. Years ago.
- 11 Q When was that?
- 12 A I can't remember. I can't date that for you.
- 13 Q Did you use after leaving rehab?
- 14 A Yes.
- 15 Q So you relapsed?
- 16 A Yes.
- 17 Q And have you been back since then to rehab?
- 18 A No. Unh-unh.
- 19 Q So you've never gone for treatment and you've
20 relapsed, correct?
- 21 A Yes, sir.
- 22 Q Now, I -- I heard you on the -- the -- the -- the --
23 the video. And I've heard your testimony. And you've --
24 you told the -- the solicitors and this Court that you
25 played him, correct?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 107

1 A Played him?

2 Q You were talking about playing someone.

3 A Well, I mean ---

4 Q Perhaps it ---

5 A --- I don't know what I might've said.

6 Q Okay. You don't remember what you said in the last
7 hour?

8 A No, I don't.

9 Q Okay. Have you ever played anyone or deceived
10 anyone?

11 A Sure.

12 Q Really, to be in the drug world, you have to deceive
13 people all the time, correct?

14 A No, not necessarily.

15 Q But it is part of the game, right?

16 A Yeah.

17 Q I mean, if you're going to be in the game, you've
18 got to hustle?

19 A Yeah.

20 MR. TONEY: Where's that video? It could be pulled
21 up?

22 MR. BENTLEY: Everybody can see it.

23 MR. TONEY: Sure. And then, I can operate it. It's
24 a touch screen, right?

25 MR. BENTLEY: Uh-huh.

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 108

1 (Whereupon, a portion of video was published in open
2 court.)

3 Q Now, there's something on the table right there,
4 correct?

5 A Yes, sir.

6 Q What's that?

7 A Dope.

8 Q Okay. Now, this dope was on your side of the table,
9 correct?

10 A Yeah..

11 Q Was that your dope?

12 A No.

13 (Whereupon, a portion of video was published in open
14 court.)

15 Q Okay. And you handed him that dope, didn't you?

16 A No, man.

17 (Whereupon, a portion of video was published in open
18 court.)

19 Q Okay. That's your hand, right?

20 (Whereupon, a portion of video was published in open
21 court.)

22 Q Did it come a point in this when you actually handed
23 him that dope, correct?

24 A No, man.

25 Q You handed it to him to, what, to put in that bag?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 109

1 A He was already putting it in the bag.

2 Q Well, what was it doing on your side of the table?

3 A It ain't ever been on my side of the table.

4 Q That was your side of the table.

5 A No, man. I'm not going do this with you.

6 MR. TONEY: Your Honor, please instruct him to
7 answer the question.

8 THE COURT: Just do your best and answer the
9 question.

10 THE WITNESS: Sir, I -- I'm telling him, sir, that
11 was not my hand. What can I do? I'm not a genie.

12 Q Let me just go back, so I'm not confusing to you.

13 A Oh, you ---

14 Q I'm ---

15 A --- ain't confusing.

16 Q --- I'm not trying to belabor the point. The drugs
17 were on your side of the table, right?

18 A I said no.

19 Q You didn't say yes just a minute ago?

20 A I said no.

21 (Whereupon, a portion of video was published in open
22 court.)

23 Q Okay. This dope was on your side of the table,
24 correct?

25 A I said no.

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 110

- 1 Q And this is your hand here ---
- 2 A I said ---
- 3 Q --- correct?
- 4 A --- no.
- 5 Q That's not your hand?
- 6 A I said no.
- 7 Q Okay. So whoever's connected to that hand, then, is
- 8 not you ---
- 9 A I said ---
- 10 Q --- right?
- 11 A I said no.
- 12 Q Okay. You -- how much have they paid you to be a
- 13 confidential informant?
- 14 A I can't tell you that.
- 15 Q You don't do this as charity ---
- 16 A I said ---
- 17 Q --- work?
- 18 A --- I -- who?
- 19 Q What?
- 20 A For what?
- 21 Q You don't do this as charity work for the -- the
- 22 city or the county, do you?
- 23 A No.
- 24 Q So how much have they paid you?
- 25 A I -- I cannot tell you that, sir.

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 111

- 1 Q How many times have you used crack cocaine?
- 2 A Woo. I can't -- I can't number that down for you.
- 3 Q Is it more than 10,000?
- 4 A No, man.
- 5 Q Have you used any other drugs?
- 6 A No.
- 7 Q Have you ever smoked marijuana?
- 8 A No.
- 9 Q What about alcohol? Do you abuse alcohol?
- 10 A I don't drink, man. I never have.
- 11 Q Never have?
- 12 A That's what I just said.
- 13 Q You've been convicted of public intoxication on ---
- 14 A Yeah. When I ---
- 15 Q --- several occasions, correct?
- 16 A If you say so. I can't see out but one eye. Thank
- 17 you, sir.
- 18 Q In 2003 you were charged and convicted for public-
- 19 drunk -- 12/17/2003. Do you remember that?
- 20 A No, I do not.
- 21 Q Do you remember public-disorderly-conduct charge
- 22 from a little bit before that?
- 23 A No, I do not.
- 24 Q Have you ever drunk alcohol to excess?
- 25 A No, sir.

CROSS-EXAMINATION BY MR. TONEY. - SAMUEL ANDERSON 112

1 Q On the date of this incident, did you smoke crack
2 cocaine on that date?

3 A I can't tell you that, because I don't know.

4 Q Why don't you know?

5 A Because I said I don't know.

6 Q Can you remember? Is that the problem?

7 A Man, leave me alone, man.

8 Q Can you remember if you used crack ---

9 A Can you remember?

10 THE COURT: Just answer the question. Don't ---

11 THE WITNESS: I said ---

12 THE COURT: --- ask it.

13 THE WITNESS: --- no, Your Honor.

14 THE COURT: Okay.

15 THE WITNESS: He won't take nothing and just leave
16 me alone.

17 MR. TONEY: Your Honor, respectfully, he won't
18 answer the question.

19 MR. SCOTT: He -- he said ---

20 THE COURT: He -- he -- he ---

21 MR. SCOTT: --- no.

22 THE COURT: --- he answered it.

23 THE WITNESS: God, man.

24 THE COURT: Move on, please.

25 Q Do you remember about how much the city or state has

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 113

1 paid you to be a confidential ---

2 A Oh, for ---

3 Q --- informant?

4 A --- the 50th time ---

5 MR. SCOTT: He's answered ---

6 A --- I'm telling ---

7 MR. SCOTT: --- that too ---

8 A --- you I ---

9 MR. SCOTT: --- Your Honor.

10 A --- do not know.

11 MR. SCOTT: This is going to go on all day. He's
12 answered that question ---

13 THE WITNESS: Yeah.

14 THE COURT: All right.

15 MR. SCOTT: --- too. He's running ---

16 THE WITNESS: Over ---

17 MR. SCOTT: --- out of ---

18 THE COURT: Okay.

19 THE WITNESS: --- and over.

20 MR. SCOTT: --- questions.

21 THE COURT: Okay. That -- Mr. Anderson, just hold
22 on. Okay. He -- that's been asked and answered. Move
23 on, please.

24 Q Have you been caught by the police or sheriff's
25 office or any other law enforcement with drugs in the

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 114

1 last five years?

2 A I -- no, sir.

3 Q Did you meet with anyone about your testimony ---

4 A No.

5 Q Please let me finish.

6 A Oh. All right.

7 Q --- in preparation for today's hearing?

8 A I already know whatever -- whatever I'm saying.

9 Q Did you meet or talk to anyone ---

10 A What'd I just say, man?

11 THE COURT: Mr. Anderson, answer the question, sir.

12 THE WITNESS: I'm answering it, sir. He won't leave
13 it alone.

14 Q Do you believe that your work for the sheriff's
15 office or the police gives you a certain amount of
16 immunity to commit further drug crimes?

17 A If you say so.

18 Q So you believe it does?

19 A If you say so. You think you know everything, so
20 whatever you say, dude.

21 Q Your purpose here today is to convince the folks on
22 the jury Arthur Lee Williams sold you some drugs,
23 correct?

24 A It's on the tape, man.

25 Q Is that a "yes"?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 115

1 A It's on the tape.

2 Q Is that a "yes"?

3 A It's on the tape.

4 THE COURT: Give a "yes" or "no" answer and ---

5 A Yes.

6 THE COURT: --- then you can ---

7 A Yes.

8 THE COURT: --- explain ---

9 A Yes.

10 THE COURT: --- it.

11 A Yes.

12 THE COURT: Mr. Anderson, please don't yell.

13 Q The attack that happened to you ---

14 A Why do you keep on going there?

15 Q --- do you blame Mr. Williams for that attack?

16 A No. I hope not.

17 Q When you use drugs ---

18 A Unh-unh.

19 Q --- or when you carry drugs, where do you carry
20 drugs?

21 A In your pocket.

22 Q In my pocket?

23 A That's what I just said.

24 Q Okay. Have you ever hid drugs in any other places?

25 A What?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 116

- 1 Q It that a "yes" or a "no"?
- 2 A What did you just say?
- 3 Q Have you ever hid drugs in any other places?
- 4 A Why would I do that?
- 5 THE COURT: Just answer "yes" or "no" and then you
- 6 ---
- 7 A No, sir.
- 8 THE COURT: --- explain it.
- 9 A No.
- 10 Q Have you been told or are you aware -- let's put it
- 11 this way. You are aware of your medical condition,
- 12 correct?
- 13 A Yes, I am.
- 14 Q Are you aware or do you believe that you are
- 15 mentally impaired as a result of the head trauma you
- 16 experienced in the last 12 ---
- 17 A Oh, I'm ---
- 18 Q --- months?
- 19 A --- not crazy. Ain't nothing wrong with my head.
- 20 Q I didn't ask you if you were crazy.
- 21 A I -- you ---
- 22 Q I'm asking ---
- 23 A --- well, I just ---
- 24 Q --- if you are ---
- 25 A --- answered the question ---

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 117

1 Q --- mentally impaired -- let -- let me ---

2 A No, I ---

3 Q --- rephrase ---

4 A --- am not.

5 Q --- it -- in any ---

6 A No, I ---

7 Q --- other way?

8 THE COURT: Wait a minute. Don't talk over each
9 other. Let -- let the question be finished before you
10 answer, Mr. Anderson..

11 Q Are you mentally impaired in any way as a result of
12 the head injury in the last 12 months?

13 A No, sir.

14 Q Do -- are you currently under a doctor's care?

15 A No.

16 Q Have they told you to go to follow-up medical
17 appointments?

18 A No.

19 Q Nobody told you that?

20 A I'm done with the medical thing, sir.

21 (Whereupon, Mr. Toney and the defendant conferred.)

22 Q You've said that's not your arm in that video or not
23 your hand.

24 A I said no.

25 Q So whose hand is it?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 118

1 A I don't know. Maybe it's yours.

2 Q I'm going to hand you something and let ---

3 A I -- I just told you I can't see. I just told you
4 that.

5 Q Can you see out of one eye?

6 A I can't see out of neither one of them. I can hear,
7 though. I can hear you coming toward me.

8 Q So you can't see what's on that TV?

9 A Oh, I already did that, sir.

10 Q But you can't see today, correct?

11 A You -- you about ---

12 MR. TONEY: Your Honor, this is a critical question.

13 THE COURT: Respond to the question, Mr. Anderson.

14 Repeat ---

15 THE WITNESS: I told him I could see it, Your Honor.

16 THE COURT: Okay.

17 Q So you can see that TV?

18 A That's what I just said.

19 Q You can see what's on that TV?

20 A Yeah.

21 Q Now, a few minutes ago -- two minutes ago, you said
22 you couldn't see. Why did you say that?

23 A Because I can't see paperwork, man. Here you come
24 again.

25 Q Can you read?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 119

1 A No. If I can't see, I cannot read.

2 Q Have you ever known how to read the ---

3 A Yeah.

4 Q --- English language?

5 A Yeah.

6 Q What do you mean when you say you can't -- you can
7 see paper but you can't -- you can't see to read?

8 A Where -- sir, I can't see the paperwork to read. I
9 can't read the paperwork.

10 Q Okay.

11 A If you put something on a TV screen, yeah, I can see
12 it.

13 (Whereupon, Mr. Toney and the defendant conferred.)

14 Q You told the solicitor earlier that you could see
15 the initials on this CD.

16 A Yeah. Because I put them on there.

17 Q But you cannot see them now, correct?

18 A I didn't say I couldn't see them.

19 Q Mr. Anderson, this is an important case.

20 A I know ---

21 Q Can you ---

22 A --- it is.

23 Q --- read the initials on this CD right now?

24 A I know my initials are on there.

25 Q But you can't see it, can you?

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 120

1 A No. I know -- I know he told me to put on there,
2 and I put it on there.

3 Q Okay. But you cannot see ---

4 A Oh, God. How many times you want me to say it?

5 Q And you can't see ---

6 A No. Bring that paper back ---

7 Q --- pictures --

8 A --- up here.

9 Q You can't tell what's on these pictures today, can
10 you?

11 A No.

12 Q So let's be very honest and very clear, Mr.
13 Anderson. Everything you testified to about these
14 pictures, your initials, was all a lie, because you can't
15 ---

16 A A lie?

17 Q --- see?

18 A I ain't saying every time I was telling no lie.

19 Q But you told the jury that you can identify them,
20 and you cannot because you cannot see them?

21 MR. SCOTT: The objection ---

22 A You holding ---

23 MR. SCOTT: --- is that ---

24 A --- me up ---

25 MR. SCOTT: --- he's never ---

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 121

1 A ---, from ---

2 MR. SCOTT: --- been shown any pictures.

3 THE COURT: Right.

4 MR. SCOTT: So we've never asked him to identify any
5 pictures.

6 THE COURT: I sustain the objection.

7 MR. TONEY: Yes, sir.

8 Q Can you see fuzzy shapes or what -- is it a problem
9 with the ability to see things clearly? Is your vision
10 blurred? You only have one eye, correct?

11 A Yes, sir.

12 Q And the remaining eye, does it see things fuzzily?

13 A No, it does not.

14 Q What does it see?

15 A Don't see anything, sir.

16 Q How many fingers am I holding up?

17 A Three.

18 Q Okay. So you can see?

19 A Oh, God.

20 Q How many am I holding up now?

21 A Five.

22 Q So obviously, you can see?

23 A So obviously, I can't see.

24 Q You can't?

25 A That's what I just said.

CROSS-EXAMINATION BY MR. TONEY - SAMUEL ANDERSON 122

1 Q Mr. Anderson ---
2 A Oh, man.
3 Q --- if I can't get a straight answer to you out of
4 whether or not you can even see ---
5 MR. SCOTT: Judge ---
6 Q --- how can anybody rely on what you're ---
7 THE COURT: Okay.
8 Q --- saying?
9 MR. SCOTT: He's done the finger stunt.
10 THE COURT: Right.
11 MR. SCOTT: He identified his fingers.
12 MR. TONEY: I -- I would ---
13 MR. SCOTT: He can see.
14 MR. TONEY: I would -- I would ask him to rephrase
15 that question about stunt.
16 THE COURT: Well ---
17 MR. TONEY: That is not a stunt.
18 THE COURT: Okay.
19 MR. SCOTT: He held his fingers up twice.
20 THE COURT: Okay.
21 MR. SCOTT: He identified ---
22 THE COURT: Wait a minute.
23 MR. SCOTT: --- the fingers.
24 THE COURT: Guys, don't argue. Don't argue.
25 THE WITNESS: Told you ---

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 123

1 THE COURT: I think he's already answered ---

2 THE WITNESS: I told you.

3 THE COURT: --- all your questions about seeing. So

4 ---

5 MR. TONEY: Yes, sir.

6 THE COURT: --- so try to move on to something else,

7 if you would ---

8 MR. TONEY: Yes, Your ---

9 THE COURT: --- please ---

10 MR. TONEY: --- Honor.

11 THE COURT: --- Mr. Toney.

12 (Whereupon, Mr. Toney and the defendant conferred.)

13 Q Isn't it a fact, if that's not your hand on that
14 video, then you're not the C.I. in this case?

15 A Hell, I told you I -- you know I am.

16 MR. TONEY: That's all the questions I have for this
17 -- this ---

18 THE COURT: Redirect ---

19 MR. TONEY: --- gentleman.

20 THE COURT: --- Solicitor?

21 MR. SCOTT: Yes, sir. Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q It -- Sammy, is it fun talking about that attack
25 that you suffered in July?

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 124.

1 A No. No, man.

2 MR. TONEY: Objection to relevance.

3 THE WITNESS: God.

4 MR. SCOTT: That was ---

5 MR. TONEY: Question ---

6 MR. SCOTT: --- covered ---

7 MR. TONEY: --- about fun.

8 MR. SCOTT: That was covered ---

9 THE COURT: I'll ---

10 MR. SCOTT: ---, greatly ---

11 THE COURT: --- I'll ---

12 MR. SCOTT: --- in cross.

13 THE COURT: --- overrule.

14 THE WITNESS: Unh-unh.

15 THE COURT: There's a lot of questions been asked

16 about the attack.

17 MR. SCOTT: Yes.

18 THE COURT: I'll overrule.

19 Q Was that enjoyable when he asked you a bunch of

20 times about the attack?

21 A No.

22 Q Did -- did you like when he kept commenting on your

23 injuries?

24 A No.

25 Q Okay. Is that what upset you?

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 125

1 A Yeah. Because I'm not in court for that.

2 Q I ---

3 A Okay. Okay.

4 Q Thank you.

5 A Okay. I'm done with it.

6 Q You're not in court for the injuries, are you?

7 A No, sir.

8 Q No. We're here to talk about this day, are ---

9 A Yes, sir.

10 Q --- we not?

11 Okay. He was asking you about -- a lot of questions
12 about dope being on your side of the table or Arthur
13 Lee's side of the table. That ain't your table, is it?

14 A No.

15 Q When you showed up there ---

16 MR. TONEY: Objection to leading.

17 Q What did you do when you showed up there? Did you
18 throw dope on the table?

19 A No.

20 Q Okay. Did you have dope hidden on you?

21 A No, sir.

22 Q Okay. Did you sell Arthur Lee Williams dope?

23 A No, man.

24 Q Okay. I'm just trying to cover everything ---

25 A Thank you.

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 126

1 Q --- that went ---

2 A Thank you.

3 Q He keeps asking you if that's your hand up. Let me
4 back up, okay? Who filmed this video, this video that
5 we're watching?

6 A That's me.

7 Q Okay. You went in that house on Ponderosa Lane that
8 day?

9 A Yes, sir.

10 Q And you bought dope from who?

11 A Yes, sir.

12 Q You bought dope from who?

13 A Arthur Lee.

14 Q All right.

15 (Whereupon, a portion of video was published in open
16 court.)

17 Q And -- and again, who is that?

18 A Arthur Lee.

19 Q Did he have more dope there than what he sold you in
20 State's ---

21 A I don't ---

22 Q --- 14?

23 A --- think so.

24 Q You don't think? He gave ---

25 A Unh-unh.

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 127

1 Q --- you all the dope he had?

2 A Yeah. Because I -- I didn't ever bought that for me
3 for \$100.

4 Q For what, now?

5 A Personally, I wouldn't have bought that for me, mine
6 for \$100. I'd have never gave him \$100 for that.

7 Q Okay. So what you mean, typically, you don't buy
8 that much dope at once?

9 A I mean, come -- yeah. I spent \$100. But that, come
10 on, man.

11 Q What'd you think? You -- you got shorthanded or ---

12 A Yeah.

13 Q Or that's no enough?

14 A No. Ain't no way in the world.

15 Q Well -- all right. My question is: Did he have
16 more dope than what he sold you?

17 A No, sir.

18 Q What's State's No. 10? You see that?

19 A Yeah. I know who that is.

20 Q Is that from this video?

21 A Yes, sir.

22 Q What's in his hand?

23 A I really can't see that.

24 Q Okay.

25 (Whereupon, a portion of video was published in open

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 128

1 court.)

2 Q Do you know what he meant? He said, "I'm the
3 mastermind of this right here." What -- what did he mean
4 by that?

5 A Oh. Because I mean, you know what I'm saying? When
6 other people couldn't come up with it, he could.

7 Q He always had dope?

8 A Yeah.

9 Q So he's the mastermind?

10 A That's what he's saying.

11 (Whereupon, a portion of video was published in open
12 court.)

13 Q All right. That -- that -- the money -- Sammy, can
14 you see that far where the -- the money is being flipped
15 in front ---

16 A Yes, sir.

17 Q --- of the camera?

18 Who's handling that money?

19 A He is.

20 Q Okay.

21 A Mine and his.

22 Q Do what, now?

23 A Mine and -- and Arthur's.

24 Q That's -- okay. Well -- well, I'm asking -- watch
25 this.

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 129

1 (Whereupon, a portion of video was published in open
2 court.)

3 Q These hands right here ---

4 A That's what I kept telling the other -- the other
5 guy. I have the slightest idea.

6 Q All right. Do you ever see your hands in this
7 video?

8 MR. TONEY: Your Honor, asked and answered.

9 THE WITNESS: There he go.

10 MR. SCOTT: Can he step down?

11 MR. TONEY: He's just badgering ---

12 THE COURT: Well, wait ---

13 MR. TONEY: --- him about ---

14 THE COURT: --- wait ---

15 MR. TONEY: --- the same point until he gets him to
16 agree.

17 THE COURT: I'll -- I'll -- I'll allow you to ask it
18 one more time ---

19 MR. SCOTT: All right.

20 THE COURT: --- okay?

21 Q What I'm ---

22 THE COURT: And that's it.

23 Q --- going to do, do you think it would help if you
24 stood down here closer to the TV and watched it?

25 A Unh-unh.

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 130

1 Q You don't think it'd be helpful to be closer ---

2 A Unh-unh.

3 Q --- to it?

4 Who is operating this camera?

5 MR. TONEY: Asked and answered. Objection.

6 Q So -- okay. Was there anybody else in the trailer,
7 besides you and Arthur Lee?

8 A Unh-unh.

9 Q Okay. So if we see hands, they're either Arthur
10 Lee's or yours?

11 A Yeah. That's what he say.

12 Q No. No, no.

13 A That's -- yeah. Okay. Yeah.

14 Q Okay. Because it can't be what anybody else ---

15 MR. TONEY: Objection. I ---

16 THE COURT: Okay.

17 THE WITNESS: Oh, God.

18 THE COURT: Okay.

19 THE WITNESS: Here we go.

20 MR. TONEY: Your Honor ---

21 THE COURT: All right.

22 MR. TONEY: --- I ---

23 THE COURT: The nature of your objection?

24 MR. TONEY: He instructed -- the solicitor

25 instructed the -- the witness how to answer. He said ---

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 131

1 THE COURT: Okay.

2 MR. TONEY: --- "No, no, no."

3 THE COURT: All right.

4 MR. TONEY: He commentated ---

5 THE COURT: Rephrase ---

6 MR. TONEY: --- again ---

7 THE COURT: Rephrase the question.

8 Q You can answer how you want, then.

9 A Okay.

10 Q Was there anybody else in the trailer, besides you
11 or Arthur Lee?

12 A No, sir.

13 Q Okay. So if we see hands in the video, they're
14 either Arthur Lee's or yours?

15 A Yes, sir.

16 MR. TONEY: Objection to leading ---

17 THE COURT: Right.

18 MR. TONEY: --- on redirect.

19 MR. SCOTT: Okay. Nothing further.

20 THE WITNESS: Uh-huh.

21 THE COURT: Okay. All right. Do you -- you got any
22 recross ---

23 MR. TONEY: None.

24 THE COURT: --- Mr. Toney?

25 MR. TONEY: No, sir.

REDIRECT EXAMINATION BY MR. SCOTT - SAMUEL ANDERSON 132

1 THE COURT: No?

2 MR. TONEY: No, Your Honor.

3 THE COURT: Okay. All right. Mr. Anderson, you can
4 step down.

5 THE WITNESS: Okay. Can I go that way?

6 THE BAILIFF: Yeah. Yeah.

7 THE COURT: Yeah. They can -- they can ---

8 THE BAILIFF: We're going ---

9 THE COURT: --- assist you ---

10 THE BAILIFF: --- help you.

11 THE COURT: --- out of the courtroom.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: Okay.

14 (Off the record briefly.)

15 THE COURT: Solicitor, who do you plan to call next
16 and how long do you anticipate the -- your next witness
17 taking, in light of the fact that we're going to break
18 earlier today.

19 MS. BOYKIN: Judge, our next witness, David Craig,
20 is the evidence custodian. I don't expect ---

21 THE COURT: Okay.

22 MS. BOYKIN: --- him to take long.

23 THE COURT: Okay. All right. Let's -- let's do
24 Officer Craig, then. Okay.

25 (Whereupon, the witness came forward.)

1 TRIAL DAY 2 - 05/25/18

2 (Whereupon, the proceedings were reconvened at 9:31 a.m.)

3 THE COURT: All right.

4 MR. TONEY: I -- I have some motions to make ---

5 THE COURT: Okay.

6 MR. TONEY: --- whenever the Court is ready.

7 THE COURT: All right. Be glad to hear from you.

8 MR. TONEY: Your Honor, I have two motions. But
9 they're -- they're so similar, I think they should be
10 heard -- they're just so intertwined, they should be
11 heard as one motion.

12 I move to remove the video from evidence. And I
13 move for a mistrial.

14 THE COURT: Okay.

15 MR. TONEY: And the basis for this is Sammy
16 Anderson's testimony. The video was authenticated by Mr.
17 Anderson. And I -- I agreed to its admission. It seemed
18 reasonable at the time. He got up and testified and he
19 said, you know, this is the video, etc., etc. And -- and
20 -- and that seemed like a proper foundation.

21 The problem is -- is I had no idea and -- and no way
22 of knowing -- and it wasn't disclosed to me -- that Mr.
23 Anderson is really not competent to testify. Now, we
24 don't have any competency experts here or anything like
25 that. But I had no way of knowing that he is obviously

1 not competent.

2 I'm aware, very much so, that the Court has vast
3 experience dealing with competency issues, prior
4 experience as -- as a probate judge. The fact is -- is
5 that Mr. Anderson, at one time or another in this
6 testimony, testified on maybe four or five occasions, it
7 was not his hand in the video, so he was not in the
8 video; that he can't see, so obviously he couldn't -- he
9 didn't even see the video or see his own initials; that
10 he couldn't read English; that his memory is basically
11 nonexistent. He couldn't remember if he spent a day in
12 -- in the hospital or three months. That he couldn't see
13 the TV; he couldn't see anything. He didn't know -- he
14 didn't know the answer to any questions.

15 And then, on -- on, you know, redirect, I think they
16 tried to clean that up. And -- but I thought it was
17 coached. I mean, there was constant commentary. And on
18 one occasion he tried to testify and the solicitor
19 actually said, "No, no, no, no." And -- and I thought he
20 was coaching him.

21 And in this case, the testimony of this witness is
22 so awful, is so unbelievably lacking in any competence or
23 honesty or any indicia at all of reliability. There's
24 not a shred of reliability in that testimony.

25 Now, I suppose the Court could say, Well, he did

1 testify to this and to this. Anything he said was
2 testified -- it was contradictory a moment later. He was
3 just -- just basically -- whatever you asked him, he
4 would say yes. It was almost a surreal experience.

5 The man, I -- I would believe, was malingering. If
6 it wasn't -- and I would say he was lying if it wasn't
7 for the fact that he came in missing a quarter of his
8 skull with his face mangled and missing an eye. And he
9 -- apparently, he was assaulted by hammers.

10 It was really pitiful. And -- and honestly, it was
11 -- it -- it -- it -- it -- it really hurts the heart to
12 listen to him. I think it's -- it's tragic, and it's
13 terrible. He is a known drug addict; has been for 20
14 years. He wouldn't pass any sort of competency test in
15 probate court, in this Court, in any other court.

16 He is not capable of managing his affairs. He is
17 not capable of driving a car. He is not capable of
18 answering basic questions. There's no indication that he
19 knows the difference between right and wrong or the truth
20 or that he can even testify competently. If he walked
21 outside and said it's sunny or it's cloudy, you would
22 have no way of knowing if that's true.

23 And -- and I -- I believe that you have to look at
24 it, Your Honor, respectfully -- look at it, which I know
25 the Court always does this -- just look at it in good

1 conscience. I believe that you cannot base anything on
2 this witness. It's -- it is the worst testimony I've
3 ever seen. It's just the worst. It's the worst.

4 It's unbelievably bad. His words were meaningless.
5 Anything he said had literally no meaning. I can find
6 any statement that he made in there in favor of the
7 solicitor's office, favor of the state, and I can find a
8 contradictory statement where he denied it.

9 If he said it was his video, he also said, "I can't
10 see." If he said, "Is that your signature?" "Yes."
11 Upon question, "Well, I can't read. I can't see."

12 If you asked him, "Can you remember what happened?"
13 "Well, yeah, I was there." And then, he can't remember
14 anything that happened in the last year.

15 It's just the worst testimony. It's got no ---

16 THE COURT: All right.

17 MR. TONEY: --- indications ---

18 (Off the record briefly.)

19 MR. TONEY: --- whatsoever of reliability.

20 Additionally, this is so prejudicial -- this -- this
21 tree cannot be uncut. He -- he has spoiled this trial,
22 in my opinion. He -- he is like -- this trial is like a
23 -- respectfully, is like a -- a cucumber that has been
24 pickled and cannot be unpickled at this point.

25 They have seen the video. They have heard this

1 bizarre, surreal, totally incredible testimony, which
2 I've never seen someone testify this badly -- never,
3 never. There's nobody ever gotten up like this, who says
4 one thing in one minute and then, the next minute, denies
5 not only the facts -- because let's be clear. He not
6 only denied the facts of what he previously testified to,
7 he denied that he can even see what was going on. He had
8 no idea. And nobody has any way of knowing if he was
9 being truthful or lying or was simply not competent.

10 I believe that he has fatally infected this trial to
11 such a degree with testimony that it should not go to the
12 jury. This jury is liable to believe him, in which case
13 their verdict would not be anything you could rely on; or
14 not believe him, in which case the state would be
15 prejudiced. And -- and either way, I -- I don't think
16 anyone's getting a fair trial.

17 The -- the -- the issue at this point is an issue of
18 fundamental fairness, not only to the state, but to the
19 -- the defense. Since I don't represent the state, I --
20 I don't have any position on that. But to my client, who
21 is at risk of going to jail for 30 years at 85 percent
22 time, basically, his life would be shot if he went to
23 prison. And for him to go to jail on testimony like
24 that, which is the linchpin, critical testimony in this
25 case -- everything else is almost secondary -- would be

1 unfair -- so unfair, so prejudicial, that -- that it
2 would almost -- it -- it would really -- it -- I believe
3 it would be an injustice.

4 And -- and I just -- I'm not so sure -- at the --
5 the very least, the Court should remove the video from
6 evidence based on lack of proper authentication. Fact is
7 he was asked if these were his initials. He said yes,
8 and later he said he couldn't read; couldn't see it. He
9 was asked if that was his video, and later he said he
10 couldn't see it. Basically, he couldn't see it. And he
11 was very insistent.

12 There's no reason why -- you know, I -- I understand
13 the judge may take the -- the Court could take the
14 position, Well, let's let the jury sort it out. But the
15 fact is -- you know, and see if he's lying or -- or -- or
16 -- or -- or telling the truth. There's no reason to
17 believe that perhaps in his own mind, he's not telling
18 the truth every time he says something. In his mind it's
19 correct.

20 He's just -- it was pitiful. He -- he -- he just is
21 missing -- he's got a side -- a hole in the size of his
22 skull -- looks like the size of half of a grapefruit. He
23 cannot see. He looks like he's been half-killed. He
24 could barely take the witness stand. He's just not
25 competent to testify.

1 If this was in any competency court, where his
2 competency was at issue, I believe, in -- in the bottom
3 of my heart, the Court would say -- I -- I just think
4 without question, he's not competent to, say, manage his
5 affairs or any other competency test. So I -- I -- I
6 would ask that you either remove the video from the
7 evidence and instruct the jury not to consider it but --
8 and -- and I -- I make that motion.

9 But I also say I -- I'm not sure -- and I don't
10 believe -- that they can unsee that video. I think he --
11 he has fatally tainted and infected the trial. And, you
12 know, I -- I just didn't know that he was that
13 incompetent. I had no idea.

14 If they had told me that he had serious competency
15 issues, which I think they should have done under *Brady*,
16 I would have made some kind of motion to have him
17 examined. I would have done that. But I had no way of
18 knowing that he had -- I heard -- I mean, they told me
19 there was an attack.

20 And I just want to say this about the solicitor's
21 office. They have been wonderful to deal with. They are
22 absolutely golden. They are great to deal with. They
23 return my calls. They're civil. They're -- they're
24 wonderful.

25 I couldn't ask for better folks to deal with. I

1 feel like I'm being treated like a prince. I think they
2 are treating me wonderfully.

3 But in this one area, they themselves may not have
4 realized how lacking in competence he was. They may
5 have. I don't know.

6 Maybe once -- it seems to me, just the way they
7 acted, it seems like they got in the middle of the
8 testimony and -- and he started testifying, that they
9 were literally gritting their teeth and just trying to --
10 basically saying to themselves, Well, let's just try to
11 get through this, you know, somehow without him totally
12 undoing everything and hopefully they won't know -- the
13 jury won't notice. That's what my -- my impression was.
14 They were basically trying to shut down their own witness
15 and control him.

16 The Court actually -- I made objections on the
17 comments to this witness on several occasions. The Court
18 ruled in my favor. There was a real pattern of it. They
19 were constantly sort of leading him, testifying for him,
20 and at this point, speaking -- not just making a motion,
21 but speaking from the heart, I do not believe that he is
22 getting a fair trial.

23 And -- and I don't think that has anything to do
24 with this Court. I don't think this Court has been
25 unfair to me. I just had no way of knowing that he was

1 really not able to authenticate this.

2 I -- I'm the one that basically said, Sure, that's
3 -- you know, we -- we agree to its admission. And then,
4 you get him on cross-examination and you realize, Oh, my
5 goodness, you know, this -- he's not capable of -- of --
6 of testifying. I had no idea that he -- he had no idea
7 what was going on. I just didn't know.

8 He got up there, really, looking like John [sic]
9 Merrick, the "Elephant Man," with his distorted skull and
10 his facial disfigurements. And -- and to me -- I have to
11 say this. I do not prejudge anyone. So the fact that he
12 looked the way he did means nothing to me. You could
13 come in here and you could be the worst-looking person
14 and -- and, to me, I will treat -- I -- in my mind, every
15 man is entitled -- or every woman -- to be judged based
16 on their own words and not on their appearance.

17 So I didn't know, when I saw his appearance.
18 Because I would never think that way. It would never
19 enter my mind to say, Well, you know, they look kind of
20 funny. So I -- I think I have an issue with him.

21 Because those thoughts have never entered my head,
22 not since I was 2 years old. But once I realized, under
23 cross-examination, how bad this witness was and how --
24 and I -- I believe -- I believe in my heart that nobody
25 in this -- none of the Court nor the solicitor's office

1 could honestly say, I -- I think this man is reliable.

2 I don't think there was -- it's not a question of
3 did he say some unreliable things. He literally
4 contradicted every single statement. There wasn't a
5 single reliable thing that he said.

6 And -- and, you know, we -- we -- we are in a -- a
7 court where we keep a transcript. And we operate by
8 words. Everything we do has to be able to be seen in a
9 transcript.

10 You know, I understand the jury -- you -- you -- the
11 Court may take the position, Well, I'm going to let the
12 jury sort it out. But the -- the thing is I'm entitled
13 to rely on this man's words, Sammy Anderson's words. And
14 his words said I can't see that; I can't remember
15 anything; I don't know. You know, and he basically
16 agreed with whoever came up here.

17 If -- if I'd have asked him if Santa Claus was
18 outside, he might very well have said, "Yes, indeed he is
19 outside right now." Or he might've just yelled at me.
20 He was not emotionally stable enough to testify.

21 He was clearly just totally, completely, and utterly
22 incompetent.

23 THE COURT: Okay. All right. Solicitor Scott,
24 you're standing, so I guess you will respond?

25 MR. SCOTT: He got a little long. I needed to

1 stretch out after sitting down for so long.

2 But I -- I looked over 601(a) South Carolina Rules
3 of Evidence. I did not see anything regarding "a hole in
4 the size of the skull a size of a grapefruit -- a
5 grapefruit, looks as if he's half-killed, or looking like
6 the Elephant Man." I didn't see anything like that in
7 regards to being factors to consider in competency.

8 What I did see that 601(a) had to say: Every person
9 is competent unless the trial Court determines otherwise.
10 And it's in the sound discretion of the Court. Mental
11 illness is not enough to rebut the presumption, if that's
12 what he's disclosing.

13 But I think the Court see it for what it is. He
14 used the terms "awful, surreal, the worst, pitiful." I
15 would use those same adjectives to describe defense
16 counsel's cross-examination of that witness. It was
17 pitiful.

18 What the Court saw was badgering and bullying of a
19 witness, pointing out initially the deformities that the
20 witness suffered. It has absolutely nothing to do with
21 the case, nothing to do with a distribution case. But
22 that was the first thing he pointed out.

23 And you're going to hear -- I'm going to -- I'm
24 going to talk about it. Sammy is very self-conscious, as
25 anyone would be, of his appearance. And so for this

1 defense attorney to come out of the gate and talk about
2 that, I think that set the tone for the cross-
3 examination. I would ask to juxtapose my direct
4 examination with the cross-examination.

5 He was able to very lucidly and clearly walk us
6 through what happened on that day, talk about how he left
7 the car, was careful not to let anybody see him get out
8 of the car. He remembered conversations specifically
9 with the defendant. The defendant was asking him how he
10 got there. And he -- he had to deceive him to some
11 degree by saying he had caught a ride. Very clear-
12 minded, step by step, how that distribution happened.

13 But as I stated, right out of the gate, the defense
14 attorney starts talking about his head. And then, you
15 saw the questions that were asked multiple, multiple,
16 multiple times: five times at least he asked about his
17 hospital stay; a -- a -- multiple times, "How many times
18 have you used crack"; and his addiction issues. And the
19 same questions were asked over and over, to the point it
20 frustrated him so much that -- that he basically shut
21 down.

22 It -- it -- it's not how I would've liked to have
23 seen a witness react. But I understand it. I understand
24 how he reacted that way.

25 But as far as competency issues, I think there is no

1 reason to -- to rule that he is incompetent. And I
2 think, just a quick look at 601(a) Rules of Evidence and
3 the supporting cases, the Court has to determine that the
4 witness is incapable of expressing himself concerning the
5 matter as to be understood by the judge and jury, either
6 directly or through an interpreter. I think he very
7 clearly stated through direct what happened that day.

8 And (2) has to make a finding he's incapable of
9 understanding the duty to tell the truth. He took an
10 oath. He swore to tell the truth. And I -- I believe he
11 was truthful, Your Honor.

12 I -- I think he was competent. And I think the
13 defense attorney got what he set out to do by bullying
14 and badgering the witness. And that was just to create a
15 hostile witness. And that's all he was. He was hostile,
16 but he was competent.

17 THE COURT: Okay. Anything in brief response, Mr.
18 Toney?

19 MR. TONEY: Nothing.

20 THE COURT: Okay. Well, I think we would all agree
21 that the testimony from Sammy Anderson yesterday was
22 somewhat outside the norm for -- for witnesses and the
23 type of witnesses that we deal with in -- in -- in
24 trials. And I think some of his responses were somewhat
25 unusual.

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1 I think he was pretty clear, however, that he could
2 see the -- the TV monitor. I don't think he -- he ever
3 said he could not see the monitor. Admittedly, he said
4 he could not see the documents. It was a little unclear
5 about his initials, whether he could see the initials or
6 he just remembered putting the initials on there. But he
7 was very clear that he could see the -- the TV monitor.

8 Now, how does that match up with his testimony that
9 he can't -- couldn't see any of the documents? That goes
10 to the weight of his testimony, and I don't think it goes
11 to necessarily competency.

12 The -- the video -- I think it was testified to by
13 Officer Prather, if I'm not mistaken, that -- and the
14 video was -- was -- was -- was taken as soon as -- or
15 close to the time that Sammy Anderson got back into the
16 officer's car. And they took possession of this video.
17 So I -- I -- I don't see that there's an authenticity
18 issue with the -- with the video.

19 And I don't see where -- again, admittedly, the --
20 the testimony was -- was very unusual at times. I don't
21 think it rises to the level of justifying a -- a mistrial
22 in -- in the case.

23 Again, the fact that he testified and -- and acted
24 in a way and -- and displayed a manner very unusual and
25 not what we're accustomed to seeing, that in and of

1 itself would not rise to the level of me questioning his
2 competency to the extent of granting a mistrial.

3 So, Mr. Toney, I certainly appreciate your remarks
4 and the basis for your motion. But it is -- both motions
5 are denied.

6 Okay. Anything else before we bring the jury out?

7 MR. TONEY: Nothing further, Your Honor.

8 THE COURT: Okay. The state? Anything ---

9 MR. SCOTT: No.

10 MS. BOYKIN: No ---

11 THE COURT: --- further?

12 MR. SCOTT: Nothing from ---

13 MS. BOYKIN: --- Your Honor.

14 MR. SCOTT: --- the state.

15 THE COURT: Okay. Okay. All right. Mr. Bolt, if
16 you will bring the jury out, please.

17 (Off the record briefly.)

18 (Whereupon, the jury entered the courtroom at 9:59
19 a.m.)

20 THE BAILIFF: All jurors present, Your Honor.

21 THE COURT: All right. Thank you, Mr. Bolt.

22 Good morning, ladies and gentlemen.

23 JURORS: Good morning.

24 THE COURT: All right. The state ready to call its
25 next -- next witness?

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1 memory. I wasn't sure what that meant. What did you
2 mean by that?

3 A I think I may have said he was particular about his
4 dress, his appearance, not his memory.

5 Q Okay. Maybe I misheard.

6 MR. TONEY: That's all the questions I have for this
7 witness.

8 THE COURT: Any redirect, Solicitor?

9 MR. SCOTT: No, Your Honor.

10 THE COURT: Okay. You can step down, sir.

11 (Whereupon, the witness exited the witness stand.)

12 THE BAILIFF: Watch your step.

13 THE WITNESS: Thank you, sir.

14 THE COURT: Solicitor, call your next witness.

15 MS. BOYKIN: Your Honor, the state would call Matt
16 Veal.

17 THE COURT: Okay.

18 (Whereupon, the witness came forward.)

19 MATT VEAL, having been first duly sworn,
20 testified as follows:

21 THE COURT: You may proceed.

22 DIRECT EXAMINATION

23 BY MS. BOYKIN:

24 Q Officer Veal, where do you work?

25 A I work for the Laurens County Sheriff's Office.

1 Q And how long have you worked there?

2 A Twelve years this August.

3 Q What are your duties at the sheriff's office?

4 A Currently, I am the sergeant -- the supervisor over
5 the narcotics division within the sheriff's office.

6 Q Do you work narcotics your whole time at the
7 sheriff's office, pretty much?

8 A I've been a narcotics officer ten years.

9 Q Ten years?

10 A Yes, ma'am.

11 Q Have you -- how many buys do you think you've
12 participated in?

13 A Not as many as Capt. Goggins. But I'd probably say
14 close to 500/600 buys.

15 Q And I -- we've been through this before. But can
16 you, I guess, explain your process -- the sheriff's
17 office process of the controlled buy?

18 A What we do is when we make -- when a confidential
19 informant makes contact with us, they -- they advise us
20 that they can purchase illegal drugs from a certain
21 individual. Once we make -- they make contact with us,
22 we meet with them. We talk with them, try to get as many
23 details as we can about the incident of what will happen,
24 where it will happen, how it will happen, how much money
25 they need.

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1 Once we establish all that, the C.I. either makes a
2 phone call or just goes to the residence or wherever that
3 predetermined location was at. We set them up. We wire
4 them. We search them. We provide them with documented
5 funds.

6 We provide them with -- with every -- if -- if they
7 travel in their vehicle, we search their vehicle. In
8 this case, Sammy got into my vehicle. He was searched.
9 We turn on the video; we put a header it and let them
10 know what date -- sometimes equipment -- the dates on the
11 equipment may get a little bit off. But -- so that's why
12 we -- we verbally say it, as you hear in the video, me
13 telling the date, the time, the officers present, the
14 informant, where we're going, the address.

15 We monitor the buy as it happens. Once the buy is
16 completed, we -- in this case, we picked up Mr. Anderson.
17 We -- we -- we took the drugs, turned the video off. He
18 is searched again. And we go back to -- we went back to
19 the determined location that we -- we left from.

20 Q Okay. So we -- I mean, we've heard a lot about
21 Clinton Police Department using Sammy as a C.I. Have you
22 used Sammy as a C.I. before?

23 A I have. Not as many times as they have, but I've --
24 as far as sheriff's office cases go, we've used Sammy on
25 -- on several different occasions. But I've also been

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1 present when the City of Clinton -- myself and Sgt.
2 Prather, we work together on a daily basis.

3 Laurens County has -- I have, including myself,
4 three investigators in our narcotics division. He's by
5 hisself. Captain Goggins has other responsibilities. So
6 if Shane needs help, you know, we provide assistance to
7 the -- to the city as well to help with these -- these
8 buys.

9 Q So on July 10th, 2015, did you do a C.I. undercover
10 drug buy involving the defendant?

11 A We did. I was contacted by Sgt. Prather; advised
12 that we had an informant that could -- Mr. Anderson could
13 buy from an Arthur Lee Williams. I believe it was
14 determined -- we didn't know if it was going to happen in
15 the city limits of Clinton or just in -- in the county.

16 As the investigation or the conversation proceeded,
17 we -- it was determined that Mr. Williams had told the
18 informant to come to his house at [REDACTED] --
19 or Ponderosa Lane in Laurens ---

20 Q Okay. And ---

21 A --- which is over by the Farmers Furniture.

22 Q And that's why it's a county case, as opposed to a
23 city case?

24 A Yes. Yes, ma'am.

25 Q Okay. And [REDACTED], that's his father's

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1 address?

2 A That's what we were advised. Yes. And after the
3 investigation, it was determined that Mr. Williams'
4 father owned the residence.

5 Q All right. And I want to show you State's Exhibit
6 11. This right here, we went over this a little bit
7 yesterday. This is what highway?

8 A That's Highway 76, just outside the city limits of
9 Laurens, going back towards Clinton.

10 Q Okay. And what road is this right here?

11 A That's Ponderosa Lane.

12 Q Okay. Now, this right here says [REDACTED].
13 Is that correct?

14 A That is not. Google is not as accurate as -- as the
15 Laurens GIS. But [REDACTED] is just a little bit further down on
16 the right. I believe it's the third residence on the
17 right.

18 Q Okay. If you wouldn't mind if -- stepping down and
19 just kind of showing where it is, the ---

20 A Yes, ma'am.

21 Q Can you see it on this picture?

22 A Yes, ma'am.

23 Q Okay.

24 (Whereupon, the witness exited the witness stand.)

25 A I believe it's this residence here.

1 Q Okay. So that -- that is [REDACTED]?

2 A Yes, ma'am.

3 Q Okay.

4 (Whereupon, the witness entered the witness stand.)

5 Q So on that date that's where Sammy was sent to?

6 A Yes, ma'am.

7 Q Okay. Now, I know we've heard that Shane Prather
8 searched Sammy that day. But were you present for that?

9 A I was there. I was the one driving the vehicle.

10 Q Okay. And to your knowledge, did Sammy have any
11 narcotics or anything ---

12 A No, ma'am ---

13 Q --- on him?

14 A --- he did not.

15 Q Okay. The defense attorney mentioned containers
16 that have false bottoms or different things like that.
17 Have you seen that in your work?

18 A Yes, ma'am. I see it all the time.

19 Q Did Sammy have anything like that on him?

20 A He did not.

21 Q Okay.

22 A Sammy had done enough of these buys to know what he
23 could bring and couldn't bring. He didn't have anything
24 on him.

25 Q Okay! Now, the money, did -- you only give him

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1 money -- that's the only money in his pocket, is the
2 money you provided him to use ---

3 A That's correct. If ---

4 Q --- is that right?

5 A --- he has any extra money or money that -- that he
6 owns, we take it from him or we leave it at the police
7 department or wherever the location is. It's secured.
8 So that way, we know the money that we gave him is the
9 money that purchased the illegal narcotics.

10 Q Okay. And I want to show you part of this video in
11 State's Exhibit 13.

12 A Excuse me.

13 (Whereupon, a portion of video was published in open
14 court.)

15 Q Whose voice is that?

16 A That's mine.

17 Q That's yours? Okay.

18 A Yes.

19 Q And who is this right here? You can't see his face,
20 but ---

21 A That's Sgt. Prather, Shane Prather.

22 Q Okay. And who is the person that the video is
23 attached to?

24 A That's Sammy Anderson.

25 Q Okay. And that is the C.I. that y'all used that

1 day?

2 A Yes, ma'am.

3 Q Okay. Officer Goggins just testified to this. Did
4 y'all -- did you give Sammy a story, kind of, in this
5 case of what to do when he gets there?

6 A It's predetermined, as far as the -- it's a case-by-
7 case basis. Some of the stories that we tell them is
8 that, "Hey, you're going to buy these narcotics for
9 someone else." Or like Capt. Goggins said, if -- he may
10 not -- if he get money at the 1st of the month and you
11 send him on the 15th or 16th or at the end of the month,
12 it kind of looks odd that he has \$100 that he can buy
13 some crack cocaine from at the end of the month or in the
14 middle of the month.

15 Q Okay. And you've watched this video before, haven't
16 you?

17 A Yes, ma'am.

18 Q Okay. I'm going to go to -- I just want to play
19 this part.

20 (Whereupon, a portion of video was published in open
21 court.)

22 Q All right. So what did we just hear Arthur Williams
23 ask Sammy?

24 A He asked Sammy for a nickel. And then when Sammy
25 didn't have a nickel, he asked for a dollar bill or let

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1 me see the 20 that he was -- you know, he had purchased
2 the narcotics with.

3 Q All right. And what's the significance of that?

4 A A nickel weighs 5 grams. A dollar bill or a \$20
5 bill weighs 1 gram. That's how they balance their scales
6 out. And it determines that if it's zeroed, if it -- if
7 their scales are accurate.

8 Q All right. Why do they use a scale?

9 A They use a scale to weigh out the drugs. So that
10 way, they're only giving them what they paid for.

11 Q Okay. Sammy -- that day, did he have a scale on
12 him?

13 A No, ma'am, he did not.

14 Q Okay. And again, in this video, who is this person?

15 A That's Arthur Lee Williams, the defendant.

16 Q And do you see him today in court?

17 A Yes, ma'am, I do.

18 Q All right. Could you point him out for me?

19 A He's sitting beside the attorney there ---

20 Q Okay.

21 A --- white shirt.

22 Q Now, I want to play the next part of this video for
23 just a second.

24 (Whereupon, a portion of video was published in open
25 court.)

1 Q Is that the money that you gave him?

2 A Yes, ma'am, it is.

3 Q So you gave him \$100. What -- was it five 20s?

4 A It was five 20s.

5 Q Okay.

6 (Whereupon, a portion of video was published in open
7 court.)

8 Q Okay. Kind of explain that for me, what we just
9 saw, please.

10 A The story in this incidence is that Mr. Anderson was
11 buying this -- these narcotics for another individual;
12 basically, bringing Mr. -- Mr. Williams here another
13 customer, if you would say. And for him doing so, he
14 gave him a piece of crack cocaine to do the business.

15 And then you hear Sammy say, "I'm not going to gyp
16 him. Just put it in a bag." So he does hand it back to
17 him, because Mr. Williams laid the -- the -- the crack
18 cocaine on the table for Sammy to pick up to use as to
19 keep it separate from what the intended customer was
20 buying versus what Sammy was supposed to keep, in his
21 mind.

22 Q Okay. And do you advise C.I.s not to smoke crack or
23 do drugs while they're out ---

24 A That's one of the rules. You -- you -- you cannot
25 use drugs. You can't do anything other than purchase the

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1 narcotics and bring it back to us.

2 Q Okay. But do you ---

3 A Everything that they -- it's given -- if we buy \$100
4 worth of crack cocaine -- and in this instance, Mr.
5 Williams gave extra -- the C.I. still has to give
6 everything to us ---

7 Q Okay.

8 A --- no matter what it is.

9 Q And you've seen that before?

10 A On -- on numerous occasions.

11 Q Now, if he had brought back more crack cocaine than
12 \$100 worth, would he get paid more for his -- his
13 service?

14 A No, ma'am.

15 Q So it's a ---

16 A It's a ---

17 Q --- flat rate?

18 A It's a predetermined -- I mean, Sammy had done
19 enough buys that -- you know, it's usually predetermined,
20 because we know how much we're going to buy. And it's --
21 and he -- he -- Sammy knew what he was making beforehand.

22 Q Okay. So who all -- I guess, so who all was in the
23 car, one more time?

24 A Me -- myself, Shane Prather, and the informant,
25 Sammy Anderson. No one else was in the vehicle but us

1 three.

2 Q And who all, I guess, can you see in this one?

3 A Sammy Anderson and the defendant, Arthur Lee
4 Williams.

5 Q Okay. When Sammy returned back to the -- well,
6 actually, let me start over for a second. While this is
7 happening, are you able to hear what's going on?

8 A Yes, ma'am. He had a transmitter on -- on him, as
9 well as the video. And we can hear in realtime. There's
10 no delay in the transmitter on him. We can hear it in
11 realtime if anything was to go wrong.

12 Q And y'all are parked very close by during this
13 transaction; is that right?

14 A We -- we are. We actually ended up posting up at
15 Ned Kemp's Barbershop, which is at the corner of
16 Ponderosa and Highway 76.

17 Q All right. Let me show you State's Exhibit 12.

18 (Whereupon, Ms. Boykin and Mr. Scott conferred.)

19 Q Officer Veal, what -- what is this right here?

20 A That is a set of digital scales.

21 Q Okay. So that's what you were talking about that
22 they're using to weigh the drugs?

23 A That's what they put the nickel or the dollar bill
24 on it. And that's what he was using to zero -- that --
25 that -- that's the set of scales that he was zeroing out.

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1 Q Okay. Now, you gave him \$100. About how much crack
2 would that buy?

3 A It's usually 1 gram. What -- and in some instance
4 they call it a yard. But it's approximately 1 gram of
5 crack cocaine.

6 Q Okay. So a yard is 1 gram?

7 A Yes, ma'am.

8 Q Okay. When they -- when Sammy came back to the car,
9 were the drugs turned over to you?

10 A Immediately, Shane Prather had the bag. When --
11 what he done is he -- Sammy handed it to him and -- and
12 Sgt. Prather put it in a bag and laid it on our center
13 console. Then I took possession of it.

14 I was driving the vehicle. We picked Sammy up in
15 the middle of Highway 76. So it was kind of a continuous
16 flow. And it was put there, and it was sealed by me.
17 Yeah.

18 Q Okay. And Sammy returned back to the car within a
19 couple minutes of -- after the buy. He immediately
20 returned, right?

21 A I think the buy lasted about seven minutes.

22 Q Okay. I want to show you State's Exhibit 14. Do
23 you recognize that?

24 A Yes, ma'am. That is the -- what they call -- the
25 SLED calls a BEST kit package and also the evidence bag

1 with the crack cocaine that was purchased ---

2 Q Okay. And ---

3 A --- on the day ---

4 Q --- how do you recognize this?

5 A My name is on it, my signature, the date, case
6 number.

7 Q Okay. You said a BEST kit. What's a BEST kit?

8 A A BEST kit is something that State Law Enforcement
9 Division, commonly known as SLED, provides agencies to
10 submit narcotics to their lab so they can test it for
11 smaller departments that doesn't have labs, unlike
12 Greenville, Spartanburg, Anderson.

13 Q Okay. So once you -- I guess you've said you put
14 the drugs in a bag, secured it.

15 A Yes, ma'am.

16 Q What did you do next?

17 A What we do is once that -- that BEST kit is filled
18 out, we submit -- we enter it in our system in -- in what
19 we call LawTrac's into evidence. Then it's placed into a
20 temporary evidence locker with a padlock until -- at the
21 time I believe it was David Craig -- then would remove it
22 and place it into evidence.

23 Q Can you see on here what day you put the evidence
24 into the locker?

25 A Yes, ma'am. It was on the 10th of July, the same

DIRECT EXAMINATION BY MS. BOYKIN - MATT VEAL

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1 day I received it from the confidential informant.

2 Q Okay. And you sealed it properly or else it
3 wouldn't have been ---

4 A Yes, ma'am.

5 Q --- stored, correct?

6 A Yes, ma'am.

7 Q So based on -- when you -- after you took the drugs
8 into evidence, did you then review the video footage or
9 did you do that before?

10 A We usually do that before, as soon as we get back to
11 the meeting location, the predetermined meeting location.
12 In this case the -- the equipment belonged to the City of
13 Clinton. So we went back to the City of Clinton, where
14 Shane Prather's laptop was. And it was viewed by -- it
15 was viewed by him first.

16 And then once he advised that -- I was sitting with
17 Sammy. Once he reviewed it, I went over and looked and
18 it and he showed me the -- I guess what you call the meat
19 and potatoes -- actually showed me the buy. Because as
20 you see, the buy -- buy is seven minutes long. I looked
21 at what we needed to see: the money changing hands, the
22 narcotics, and who we were buying from.

23 Q All right. And based on that, did you get a warrant
24 ---

25 A I did.

1 Q --- for ---

2 A I had taken a warrant for Arthur's -- Arthur Lee
3 Williams' arrest.

4 Q Okay. For distribution of crack cocaine?

5 A Distribution of crack cocaine.

6 Q Do you know when he was arrested?

7 A I'm wanting to say -- I may have my booking sheet.
8 I do not have a booking. I'm not sure exactly what date
9 it was he was arrested.

10 Well, wait a minute. I'm sorry. It -- it was
11 served on the 16th of July.

12 Q Okay.

13 (Whereupon, Ms. Boykin and Mr. Scott conferred.)

14 Q And one more question, Officer Veal: We -- we just
15 looked at this picture, State's Exhibit 11. And it's
16 incorrect on this picture; is that right?

17 A Yes. Yes, ma'am, it is incorrect.

18 Q Okay.

19 A The arrow there is pointing at a different
20 residence.

21 Q Okay. But it is, in fact, this residence; is that
22 correct?

23 A Yes, ma'am. It's a little further -- it's the third
24 residence on the right.

25 Q And is that also in Laurens County?

CROSS-EXAMINATION BY MR. TONEY - MATT VEAL

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1 A Yes, ma'am, it is.

2 Q Okay.

3 A That entire road is in Laurens County.

4 Q All right. Thank you.

5 THE COURT: Okay. Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. TONEY:

8 Q So you say that Sammy -- Sammy laid the crack on the
9 table and then handed it to whoever's in that video?

10 A I believe Arthur Lee Williams laid it on the table
11 and Sammy picked it up and told him to put it in the bag
12 because he wasn't going to short ---

13 Q But you ---

14 A --- the intended ---

15 Q --- can't see ---

16 A --- purchaser.

17 Q You can't see whoever's in that video hand it to
18 Sammy, though, can you?

19 A It was laid on -- you know, it got to the table
20 somehow.

21 Q Okay. So you admit you can't see whoever handed it
22 to him?

23 A He did hand him the bag of -- of crack cocaine once
24 it was tied up and he handed it to him.

25 Q So the answer is you do admit that you don't have

1 any video, anything on there at all, showing him -- or
2 whoever -- handing drugs to him. You just have video
3 showing drugs going from Sammy to Arthur -- a rock,
4 correct?

5 A No, sir. I have -- we have video evidence that
6 Arthur Lee Williams handed Sammy Anderson the baggie of
7 crack cocaine.

8 Q All right. But you have -- you have a video of
9 Sammy handing a rock to whoever's on that video, correct?

10 A To put in the bag. Yes.

11 Q And that was a rock that he brought with him,
12 correct?

13 A No, it was not. He was searched before the buy. He
14 did not have any narcotics on him.

15 Q But he wasn't strip-searched, was he?

16 A We don't strip-search.

17 Q He could've had it in lots of places, correct?

18 A At this particular instance, no. He didn't have it
19 in any other place.

20 Q People conceal drugs. I don't have to go into where
21 they're concealed. They conceal them in all kinds of
22 inventive places on their body, correct?

23 A I'm assuming they can.

24 Q Yes. As a matter of fact, you know they can,
25 correct?

CROSS-EXAMINATION BY MR. TONEY - MATT VEAL 201

1 A I assume they can.

2 Q I mean, they will actually do a -- do I have to
3 spell it out, the kind of body-cavity searches they do at
4 the jail?

5 A If you think you need to, go for it.

6 Q They will sometimes put on gloves and search in
7 their -- in -- in body cavities, correct?

8 A Who does?

9 Q Persons at the jail, searching for drugs.

10 A I've never worked in the detention center, so I -- I
11 can't -- I can't answer that question.

12 Q People have been known to carry drugs in their body
13 cavities in plastic bags and all kinds of things?

14 A Sure. I'm -- I -- I can imagine.

15 Q Okay. Now, there's been a lot made of the fact
16 that, you know, if it's in the middle of the month, you
17 have to come up with a story to explain the \$100,
18 correct?

19 A Yes, sir.

20 Q Because it's presumed that a crack addict is not
21 going to be able to keep money from his check, which he
22 gets on the 3rd, longer than a couple of weeks or a week
23 or two, correct?

24 A From my understanding, the individuals that receive
25 a check at the 1st of the month, they also have to pay

1 some type of bills. I would imagine that they have a
2 short supply of money. But they also do have an
3 addiction.

4 Q And drugs are not cheap.

5 A From my -- from my workload, I would say no, they're
6 not cheap.

7 Q Addiction, aside from all this other thousands of
8 problems it creates, usually impoverishes the people that
9 have it, correct?

10 A Correct.

11 Q They not only spend every dime they have, they steal
12 everything around them; they steal their parents' money;
13 and nothing's really -- no property's safe around them,
14 correct?

15 A I can't speak for every -- every drug user in
16 Laurens County or the state of South Carolina, for that
17 matter. But in this instance Mr. Anderson -- I've not
18 known for him to -- to do that.

19 Q Okay. But drugs addicts will do anything to get
20 their hands on money, correct?

21 A Again, you're referring to all drug addicts. In
22 this case Mr. Anderson, I believe, lived with his sister,
23 as he stated and, you know, provided -- he had -- he has
24 money. I mean, he -- he admitted that he was a drug
25 user.

CROSS-EXAMINATION BY MR. TONEY - MATT VEAL 203

1 Q So when y'all give them -- and by y'all I don't mean
2 to be overly familiar. But when the police or the
3 sheriff's office or the city police gives a drug addict
4 20 or 50 dollars, you know that money is going to be
5 spent on drugs?

6 A I -- I can't speak for what they do with the money.
7 I'm not watching them after -- I don't follow them to
8 wherever they go once they're done. You know, as long as
9 they leave me in -- in a sound state of mind, I -- I
10 don't know what they do with their money. It's not any
11 of my business what -- what they do with the money that
12 we pay them for their assistance.

13 Q You wash your hands of it once they're out of your
14 sight?

15 A No, sir. I don't wash my hands. I mean, we keep --
16 usually, normal informants -- in this case, Sammy --
17 makes contact on a regular basis.

18 Q Because he wants more money. He wants to make more
19 sales or whatever else he does.

20 A I look at it as he's trying to help the community.

21 Q So his motive is to help the community?

22 A I believe so. He's also helping hisself. Like
23 Capt. Goggins stated, if he's putting hisself out there
24 in harm's way to try to eliminate the drug trade -- and
25 eventually, we think these drug dealers know who they are

1 -- then they won't sell to them anymore.

2 Q So we can -- we -- one way we could determine
3 people's intent -- intent of their heart is by looking at
4 the totality of their behavior, correct? Your actions --
5 you could look at someone's intent by their actions,
6 correct?

7 A I -- I guess so.

8 Q So Sammy Anderson, who's a -- a credit to the
9 community and a hero, does he do any other charitable
10 acts?

11 A I'm not aware of any. I'm not saying that he
12 doesn't. But ---

13 Q He's not ---

14 A --- I'm not aware of any. But ---

15 Q You aware if he's on the Rotary Club or the board
16 ---

17 A I do ---

18 Q --- of deacons ---

19 A --- not know.

20 Q --- of the ---

21 A He ---

22 Q --- local ---

23 A --- may be.

24 Q --- church?

25 A He may be.

CROSS-EXAMINATION BY MR. TONEY - MATT VEAL

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1 Q Does he volunteer ---

2 A I'm not -- I'm not the one to judge someone.

3 Q Okay. You say a nickel -- you referred to a nickel
4 in there. But when the word nickel was referred to, you
5 could hear the change being rattled, correct, on ---

6 A I don't ---

7 Q --- that video?

8 A I don't recall any change being rattled.

9 Q Okay. You could hear something rattling that
10 sounded metallic, correct?

11 A I don't recall. But in reference to the nickel,
12 from my experience, ten years in narcotics, when someone
13 asks for a nickel or a dollar bill during a drug -- drug
14 transaction, they're usually wanting that to balance out
15 their scales or -- or sometimes the suspects or the
16 targets themselves use -- use change from their own pocket.

17 Q This -- Sammy has experience as a confidential
18 informant, correct?

19 A Yes, sir.

20 Q And he knows how to operate the camera?

21 A No, he does not know how to operate the camera. We
22 -- we turn the camera on, and we turn it off. It's --
23 it's placed onto him.

24 In this instance, it was placed on him by Shane
25 Prather, Sgt. Prather. As you see in the video, it --

1 it's -- he -- he has hold of it. He turns it on. Only
2 thing Sammy does is he puts it in his pocket because it's
3 a little box. And then, when it's -- when the buy is
4 done, he takes it out of his pocket and Sgt. Prather
5 turns it off.

6 Q The drugs that Sammy put on the table and then
7 handed to whoever was in that video, you say that whoever
8 was in that video handed him the drugs first, correct?

9 A Arthur Lee Williams did.

10 Q But you also say it wasn't caught on camera.

11 A It -- it got there somehow.

12 Q Okay.

13 A I say that during the conversation, that it may be
14 that Mr. Anderson's body was pointed in a different
15 direction and it was -- from my understanding of the
16 video, that it was -- that was for him, meaning that
17 piece there that Sammy picked up was for him to use and
18 that's when Mr. Anderson stated that -- that he wasn't
19 going to short him, to put it in the bag. So I took that
20 as -- as Arthur Lee Williams handed him the original,
21 small rock and then Mr. Anderson hands it back to him and
22 says put it in the bag.

23 MR. TONEY: That's all the questions I have for this
24 witness.

25 THE COURT: Redirect, Solicitor?

REDIRECT EXAMINATION BY MS. BOYKIN - MATT VEAL 207

1 MS. BOYKIN: Briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. BOYKIN:

4 Q So as the defense attorney just mentioned, Sammy was
5 an experienced confidential informant?

6 A I say he's a very experienced informant.

7 Q Okay. And so he knew about having a flat rate going
8 in, meaning what he was going to get paid?

9 A Yes. And -- and normal search -- like, if we use
10 someone the first time, you have to establish reliability
11 I -- of these informants. And usually, the first couple
12 times, we pay them \$20. The more buys that they do, the
13 more money they make.

14 And in this instance with Mr. Anderson, I believe he
15 was paid \$50. To me, we're paying him more than what we
16 would a normal informant. So that tells you that the
17 reliability of Mr. Anderson, in mine and Sgt. Prather's
18 mind and Capt. Goggins', that he was an established
19 informant. We were able to pay him more money because of
20 his reliability.

21 Q But he also knew that he wouldn't get more money if
22 he provided y'all with more crack?

23 A That's exactly right.

24 Q Okay.

25 A And that -- and the money determined is for each

REDIRECT EXAMINATION BY MS. BOYKIN - MATT VEAL 208

1 individual buy. So if Mr. Anderson was to provide more
2 assistance, he would -- he would get more money that way.
3 But predetermined as far as each individual buy.

4 Q Okay. And like Mr. Toney said, drug addicts will do
5 anything to get their hands on money. He wouldn't have
6 gotten more money if he had put more drugs in the bag,
7 correct?

8 A That's correct.

9 Q And you agreed that drugs aren't cheap, right?

10 A They're not cheap.

11 MR. TONEY: Objection to the leading.

12 MS. BOYKIN: All right.

13 THE COURT: Well, I think it's -- you -- I think you
14 asked him on cross concerning the cost of drugs. So I'll
15 overrule.

16 Q And we've already discussed that Sammy was an
17 addict, correct?

18 A He says he's an addict. So yes, ma'am.

19 Q All right. And in your experience, have you ever
20 seen an addict just freely give away drugs?

21 A No, I have not.

22 Q Okay. Or a situation where he wouldn't get that
23 money that supposedly they would do anything for?

24 A I've never -- like I said, I've never seen a -- an
25 addict give away drugs.

1 Q Okay. So in your opinion, it was Arthur Lee
2 Williams that put the drugs on the table?

3 A I -- in my opinion, Arthur Lee Williams placed the
4 original rock on the table for Sammy ---

5 Q Okay.

6 A --- for the business that he was bringing ---

7 MR. TONEY: Objection: speculation. Not testifying
8 about evidence at this point. He's just giving his
9 opinions.

10 THE COURT: Well, based upon his experience, I -- I
11 -- I think he can -- he can answer the question. You can
12 answer, Sgt. Veal.

13 MS. BOYKIN: No further questions, Your Honor.

14 THE COURT: Okay. Anything in recross?

15 MR. TONEY: No -- no recross.

16 THE COURT: Okay.

17 THE WITNESS: Thank you.

18 THE COURT: All right. You can step down, sir.

19 THE WITNESS: Thank you, Your Honor.

20 (Whereupon, the witness exited the witness stand.)

21 THE COURT: Okay. Solicitor?

22 MS. BOYKIN: Your Honor, the state would call Willie
23 Smith.

24 (Whereupon, the witness came forward.)

25 WILLIE SMITH, having been first duly sworn,

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 210

1 testified as follows:

2 THE COURT: You may proceed, Solicitor.

3 MS. BOYKIN: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. BOYKIN:

6 Q Mr. Smith, where do you work?

7 A I work at South Carolina Law Enforcement Division,
8 also known as SLED.

9 Q And how long have you worked there?

10 A Seventeen years and eleven months.

11 Q I guess, what's -- what's your title?

12 A I'm a senior -- senior criminalist, forensic chemist
13 in the drug-analysis department.

14 Q And have you worked in the drug-analysis department
15 your whole time at SLED?

16 A Yes, for the whole 17 years and 11 months.

17 Q Okay. If you could, briefly tell the jury a little
18 bit about your educational background and training.

19 A I have a bachelor of science in biology and
20 chemistry from the University of South Carolina. I went
21 through a year of training to become a certified analyst
22 in the department of drug analysis. I attend scientific
23 meetings to keep up on the new drugs. And I'm also
24 taking graduate coursework in the field of drug analysis.

25 Q Okay. About how many -- I guess how many analyses

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 211

1 have you done, like, on -- on controlled substances, if
2 you could give a roundabout number?

3 A Well, I've -- I have analyzed over 15,000 cases.

4 Q 15,000? Okay.

5 And have you testified in court before?

6 A Yes. Eighty-seven times in the state of South
7 Carolina.

8 Q Okay. And were you qualified as an expert in those
9 cases?

10 A Yes. In all those cases.

11 Q Okay. And what were you qualified as an expert in?

12 A In the field of drug analysis.

13 Q Okay.

14 MS. BOYKIN: Your Honor, at this time we would offer
15 Willie Smith as an expert in drug analysis.

16 THE COURT: Okay.

17 MR. TONEY: No objection.

18 THE COURT: All right. Without objection, Agent
19 Smith is found to be an expert in the area of drug
20 analysis.

21 Ladies and gentlemen, normally, witnesses are only
22 permitted to testify as to what they see, hear, feel,
23 touch, that sort of thing, and not render any opinions.
24 However, individuals who are -- have an expertise, by way
25 of education, training, experience, in some particular

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 212

1 field, are permitted to give opinions as to the matters
2 that they hold their expertise in.

3 However, it's up to you to evaluate the weight and
4 value that you give this gentleman's testimony, as you
5 would with any other witness who had testified or will
6 testify in this case.

7 You may proceed.

8 MS. BOYKIN: Thank you, Your Honor.

9 Q All right. Mr. Smith, did you happen to become
10 involved in the case against the *State v. Arthur Lee*
11 *Williams*?

12 A Yes, I did.

13 Q Okay. On what date did you become involved?

14 A Well, the evidence was submitted, a BEST kit, to
15 SLED on 7/21/2015 to our evidence-login department.

16 Q Okay. And who was it submitted from?

17 A It was submitted from David Craig of Laurens County
18 Sheriff's Department.

19 Q Okay. And who -- what -- who logged it in once it
20 was received at SLED?

21 A It was logged in by Jackie Davis, who is one of our
22 evidence technicians.

23 Q Okay. And from there, where -- where did it go?

24 A From there, I would pick up the evidence from our
25 login department on 7/22/2015. And I would put it into

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 213

1 our drug vault for when I had a chance to do my testing
2 of the drugs.

3 Q Okay. And from -- from there did Doris Yarborough
4 put it in the -- the drug vault?

5 A Well, from there, I did my testing. And after I did
6 my testing, I returned the evidence to Doris Yarborough
7 on August 31st, 2015. And then I returned it -- then she
8 returned it to the agency.

9 Q Okay. To David Craig at the ---

10 A To David ---

11 Q --- sheriff's office?

12 A --- Craig at the sheriff's office.

13 Q Okay. All right. So once you receive evidence in a
14 -- in a case like this, a controlled substance, what --
15 what's the process that you -- that you do?

16 A Well, the process I do, the first thing I do is --
17 if I can ---

18 Q Of course.

19 A --- see this evidence?

20 This is what is called our BEST-evidence-submission
21 testing. And it has a tampered-indicative label. The
22 first thing I do is examine the evidence to see if
23 there's any tears in the bag or if the label at the top
24 has been tampered with.

25 If it's -- hasn't been tampered with, that's when I

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 214

1 write the word "sealed intact" and I write the lab number
2 for the case and the date and my initials on the case to
3 show that the evidence was sealed and intact and there
4 was nothing that was wrong with this case before I did my
5 testing.

6 Q Okay. And in particular, on State's Exhibit 14, is
7 this, in fact, what you tested?

8 A This is, in fact, the BEST kit that I picked up from
9 our login department. And it's -- had a B-number of
10 B25051, which corresponds to the lab number to our agency
11 case number, which is L15-09806.

12 Q Okay.

13 A Every time we get a BEST kit in from an agency, when
14 it comes into the laboratory, we supply a unique
15 laboratory number to go with that case.

16 Q Okay. And on State's Exhibit 14, does it, in fact,
17 say "sealed" on there and "intact"?

18 A It does. Sealed and intact on the date that I did
19 this case for analysis, and it has my initials by it.

20 Q All right. And so have you initialed this bag in
21 more than one spot, if you can tell?

22 A Yes. Every piece of evidence that I touch, I attach
23 the lab number to it and I put my initials on it.

24 Q Okay. All right. And so the -- it was provided to
25 you with no tampering whatsoever?

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 215

1 A None whatsoever. Because I would've indicated it on
2 the BEST bag and on my report if the evidence was
3 tampered with.

4 Q All right. And these, in fact, are your initials on
5 here?

6 A That is correct. My initials are on the evidence.

7 Q Okay. Well, let me ask you: What -- what do you
8 perform to determine what the substance it? Kind of what
9 -- what's the test that you do?

10 A Well, basically, what I do -- for example, when I
11 got this case right here, it contained an evidence bag
12 and it had a plastic bag and it had a rock substance.
13 The first thing I'm going to do is a chemical test, which
14 is a basic color test, that told me the functional group
15 that it belongs to.

16 And then, the next thing I do with the item is I
17 take a sample to test it on a molecular level. And I did
18 gas chromatography and mass spectroscopy in this case to
19 identify the substance on a molecular level.

20 Q All right. Okay. What were the -- I guess, the
21 results that you found from this case?

22 A In this case, which was -- once again, that was
23 submitted in an evidence bag that contained a plastic bag
24 that contained a rock substance, it had a weight of 1.00
25 grams. And it was found to be cocaine base.

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 216

1 Q Okay. And what is cocaine base?

2 A Basically, cocaine base is when they confer regular
3 cocaine and they turn it into a form that's more
4 smokable. And that's where you get the base for it.
5 Because with cocaine base -- with cocaine, the cocaine
6 has a melting point of around 196 to 198.

7 But you want to get it into a smokable form. And
8 they convert it into a smokable form into cocaine base or
9 cocaine crack, which is several times that most people
10 hear and everything. It has a melting point of around 96
11 to 98 degrees so that they can put it in a pipe and smoke
12 it.

13 Q Okay. So this is crack cocaine, then, this ---

14 A This is crack cocaine.

15 Q You said it weighed about 1 gram. Does that mean --
16 did you weigh the substance by itself, or were there any
17 bags associated with the weight?

18 A Whenever we test evidence, we only weigh the actual
19 substance that we're testing. And the substance that I
20 test, just the rock substance by itself, weighed 1.00
21 grams.

22 Q Okay. And again, State's Exhibit 14 has not been
23 altered in any way?

24 A Right. And another way, which you can always see,
25 once I finish my analysis, I always put the date on the

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 217

1 analysis that it was sealed and my initials. So when I
2 get to court, I can say that from the date I did my
3 analysis back on August 17, 2015, this evidence is still
4 in the same condition from when I did my analysis on that
5 date.

6 Q Okay.

7 MS. BOYKIN: Your Honor, at this time the state
8 would offer State's Exhibit 14 for admission into
9 evidence.

10 MR. TONEY: I object. I'd like to be heard on that
11 outside the presence of the jury.

12 THE COURT: Okay. All right.

13 Madam Forelady and ladies and gentlemen of the jury,
14 I'm going to ask that you go back to the jury room so I
15 can deal with this legal issue. And hopefully, we can
16 get you back out shortly.

17 (Whereupon, the jury exited the courtroom at 11:40
18 a.m.)

19 MR. TONEY: Your Honor, I -- I think there's a
20 problem with the chain of custody. Because I ---

21 THE COURT: Excuse me?

22 MR. TONEY: I -- I -- I think there's a problem with
23 the chain of custody of the drugs. I heard -- I heard
24 Officer Prather say he handled the drugs. But I don't
25 think he was -- at one point. But I don't think he's

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 218

1 part of the chain of custody. I heard him testify to
2 that.

3 THE COURT: I'm ---

4 MR. TONEY: I think he said he had them and then he
5 passed them to someone else.

6 THE COURT: All right. So you're objecting as to
7 chain of custody because Sgt. Prather testified that he
8 gave it to somebody else?

9 MR. TONEY: Gave it to another officer. I think he
10 said he had it for a -- a -- a little bit. And he's not
11 on that custody -- he's not on that log. I think there's
12 a problem with the chain of custody ---

13 THE COURT: Yeah.

14 MR. TONEY: --- of the drugs.

15 THE COURT: Well, of course, we all know that he --
16 I -- and I don't recall him testifying to that. I'm not
17 saying he didn't. I just don't recall that. But, of
18 course, you know, the -- the case law is pretty clear
19 that, you know, not everybody -- if -- if, in fact,
20 somebody else touched it for a period of time before it
21 getting to the evidence locker at the sheriff's
22 department, not everybody has to be a part of the chain
23 of custody insofar as testifying.

24 But what do you remember, Solicitor Boykin, as far
25 as what Sgt. Prather testified to?

DIRECT EXAMINATION, BY MS. BOYKIN - WILLIE SMITH 219

1 MS. BOYKIN: Your Honor, my -- my recollection of
2 the testimony was that Sgt. Prather held out the evidence
3 bag and the C.I. dropped the drugs into the bag and that
4 was put next to Sgt. Veal for him to collect the drugs.

5 THE COURT: Right.

6 MS. BOYKIN: That was my understanding of -- of what

7 ---

8 THE COURT: And that ---

9 MS. BOYKIN: --- happened.

10 THE COURT: --- and then -- then from Sgt. Veal, it
11 got to the -- the -- the evidence locker. And that's
12 when David Craig took possession of it. I -- that kind
13 of is -- is more closer to, I think, my recollection of
14 the testimony, as opposed to there being some third-
15 party, unidentified officer, or person who has testified.

16 MR. TONEY: I -- I kind of recall it -- something
17 like that too, maybe not exactly ---

18 THE COURT: Okay.

19 MR. TONEY: --- but close to that. I'm with -- with
20 you on that, Your Honor.

21 THE COURT: Okay.

22 MR. TONEY: I think that's about it. But still,
23 he's not listed on the ---

24 THE COURT: Right.

25 MR. TONEY: --- the log. He's not -- he handled the

DIRECT EXAMINATION BY MS. BOYKIN - WILLIE SMITH 220

1 bag, and I think that's a chain-of-custody problem. So I
2 move to suppress the drugs ---

3 THE COURT: Okay.

4 MR. TONEY: --- based ---

5 THE COURT: All right.

6 MR. TONEY: --- upon that.

7 THE COURT: I find that chain of custody is -- is
8 proper and will allow it into evidence.

9 Okay. Okay. Let's -- let's bring the jury back
10 out, Mr. Hair.

11 (Off the record briefly.)

12 (Whereupon, State's Exhibit 14 was entered into
13 evidence.)

14 (Off the record briefly.)

15 (Whereupon, the jury entered the courtroom at 11:46
16 a.m.)

17 THE BAILIFF: All jurors present, Judge.

18 THE COURT: Okay. Thank you, Mr. Hair.

19 All right. Exhibit 14 is into evidence for the
20 state.

21 MS. BOYKIN: Thank you, Your Honor.

22 DIRECT EXAMINATION BY MS. BOYKIN CONTINUED

23 Q One last question: Mr. Smith, in your expert
24 opinion, is the substance found in State's Exhibit 14
25 crack cocaine?

CROSS-EXAMINATION BY MR. TONEY - WILLIE SMITH 221

1 A After testing it on a molecular level, I'm 100
2 percent sure that this substance is cocaine-base crack.

3 Q Okay. Thank you. Please answer any questions ---

4 THE COURT: Okay.

5 Q --- the defense ---

6 THE COURT: Cross-examination?

7 Q --- may have.

8 MR. TONEY: If I could have a moment?

9 THE COURT: Sure. Take your time.

10 CROSS-EXAMINATION

11 BY MR. TONEY:

12 Q You -- you're a forensic technician, and you test
13 the chemical composition of the substances in that bag,
14 correct?

15 A I'm a forensic chemist.

16 Q Chemist.

17 A And I test it on a molecular level to identify it.

18 Q But what you do doesn't --, doesn't show who had the
19 drugs or who possessed them. It has nothing to do with
20 that, correct?

21 A The only information that I know about the case is
22 from the paperwork that received to me. And the subject
23 in this case was -- Arthur Williams was the subject in
24 this case.

25 Q But -- but your -- your job is not to assess who

CROSS-EXAMINATION BY MR. TONEY - WILLIE SMITH 222

1 possessed what when. Your job is to analyze the chemical
2 composition of the drugs?

3 A That is correct.

4 Q Okay. And you wouldn't know if someone possessed it
5 on one occasion or another, because that's not your job,
6 correct?

7 A That is correct. The only thing -- the information
8 that I know about the case is from where the drugs or the
9 submission was entered to the lab and from when it leaves
10 the lab.

11 Q Issues such as possession or distribution or things
12 like that, those are for the jury to determine, correct?

13 A That is correct.

14 Q Okay. That's all the question I have.

15 THE COURT: Okay. You can step down, sir.

16 THE WITNESS: Thank you.

17 (Whereupon, the witness exited the witness stand.)

18 THE COURT: Agent Smith, you -- you certainly are
19 free to leave the courthouse. However, you are more than
20 welcome to remain with us if you like.

21 THE WITNESS: All right. Thank you.

22 MR. TONEY: May -- may I say something to him as he
23 leaves?

24 THE COURT: Sure.

25 (Off the record briefly.)

1 THE BAILIFF: All jurors present, Your Honor.

2 THE COURT: All right. Thank you, Mr. Hair.

3 Good afternoon, ladies and gentlemen. And the --
4 what we have left to do is that the lawyers will make
5 their closing arguments. The state will go first, and
6 then the defense. And we may take a break before I
7 charge you the law, or we may go straight into the -- to
8 the charge. We'll just have to see how long the closing
9 arguments take.

10 This is their last opportunity that -- that they
11 have to advocate for their respective sides. So give
12 them your close and undivided attention.

13 Solicitor?

14 MR. SCOTT: Thank you, Your Honor. May it please
15 the Court?

16 CLOSING ARGUMENT BY MR. SCOTT

17 MR. SCOTT: There's a sucker born every minute.
18 Y'all ever heard that saying?

19 Maybe, like me, y'all thought that was P.T. Barnum
20 that said it. I think it's oftentimes attributed to him,
21 the greatest showman in the world, Ringling Brothers
22 Barnum & Bailey Circus.

23 It's attributed to him. But it's actually a man
24 named David Hannum. And to tell you how he coined that
25 phrase, I'm going to tell you about the Cardiff Giant.

1 1868 there was a man named George Hull. George Hull
2 made his money in tobacco, very rich man. He was also an
3 atheist.

4 After hearing a local preacher and then engaging in
5 an argument with this preacher regarding such stories as
6 Genesis talking about "once upon a time, giants roamed
7 the earth," and he was so frustrated with people taking
8 the literal word of the bible -- and this is what sparked
9 this argument. Later that night, he thought about a
10 scam. He thought about creating a fake giant. And he
11 saw this scam as a way to dupe the faithful, but also
12 maybe to strike a blow against organized religion.

13 And so he set in motion a plan. The year was 1868.
14 He hired workers in Iowa to dig up about a 10 1/2 foot
15 block of gypsum. He took this gypsum; sent it to a
16 German stone cutter in Chicago; had him form it into a
17 likeness of a man.

18 They used acids to stain the surface to make it look
19 weathered. They used other stains and everything, just
20 to make it look like a petrified human being. They even
21 took steel knitting needles, attached it to a board, and
22 beat the statue all over. That was to simulate pores in
23 the skin.

24 All in all, I think he spent something like \$2600 on
25 this thing. In today's money that's \$44,000 or so. The

1 guy had money.

2 He then had the giant shipped to a cousin's farm in
3 Cardiff, New York. In the middle of the night, they
4 buried the giant and waited the year. October 1869 they
5 had workers go out to the farm. And the deal was, "You
6 guys are going to dig a well for me." And he told him
7 the spot they needed to dig the well.

8 Of course, their shovels hit the stone. And then
9 the giant was discovered. This was before TV, obviously,
10 before, you know, we had a lot of entertainment at our
11 hands like we do now.

12 So you can imagine the excitement. People came from
13 all over. He charged 25 cents a head. Two days later,
14 he upped it to 50 cents a head. People came in wagon
15 loads, so much so that he eventually was approached by a
16 man. David Hahnum led the group I talked about.

17 They purchased the -- let me see what the numbers
18 were, because I was reading about this earlier. They
19 purchased it for \$23,000 from Mr. Hull. That's about
20 half a million dollars in today's monetary values for
21 currency.

22 They moved it to Syracuse. It grew such crowds that
23 P.T. Barnum -- that's where he comes in -- he offered
24 \$50,000 for it. Okay? That's about a million dollars in
25 today's money, all for this fake, this fraud.

1 Hannum refused P.T. Barnum's offer. He said, "I'm
2 making so much money, I don't need your offer. I'm going
3 to make that myself anyway."

4 What does Barnum do, the greatest showman in the
5 world? He hires a man to go duplicate the giant. So now
6 he's got his own. And he's saying, "Don't worry about
7 the Cardiff Giant. The real thing's over here."

8 He drew just as many spectators. Eventually, he
9 drew more. The New York Times published stories about
10 this. This -- this was the biggest hoax in the country
11 at the time, and it was a fraud on the citizens.

12 When the New York Times published stories about P.T.
13 Barnum's giant being the authentic one, at that point is
14 when Hannum exclaimed, "There's a sucker born every
15 minute."

16 This case, it's about dealing crack. Okay?
17 Nobody's arguing that it is a scourge on the community.
18 It breaks people down. It tears apart families. It
19 erodes the fabric of our communities.

20 It -- it's just like the defense said: impoverishes
21 people. You know, an addict is going to get his fix. It
22 -- if -- if the addiction's bad enough, he's going to
23 find a way to get the dope. Maybe somebody will loan him
24 the money. Maybe he can work and odd job.

25 But sometimes he's going to have to steal. He's

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1 going to have to find that money one way or another. So
2 it's not just the dealer and the addict.

3 It's far more spread than that, I mean, because it
4 reaches out into your community. It's a Laurens County
5 case. This is Laurens County dope that's leading to
6 other Laurens County crimes.

7 So we're not just talking about an isolated incident
8 of one deal done in Laurens County. It really does have
9 far-reaching effects. That's why it's important. That's
10 why we're here today.

11 The cops recognize that. That's why they employ
12 these undercover buys. That is the way that they can
13 strike back against these dealers who are perpetuating
14 this scourge, this taint on your community.

15 That's why Capt. Goggins and Officer Prather order
16 these undercover buys. That's why they sent Sammy
17 Anderson to Arthur Lee Williams' house on July 10th,
18 2015.

19 You heard how Sammy was an informant. He'd worked
20 for law enforcement for decades. And Sammy is what Sammy
21 is. And he wasn't trying to pull the wool over your
22 eyes.

23 He got up there and said, "I'm an addict. I -- I've
24 had addiction issues with crack cocaine for years." He's
25 not hiding it.

1 He spoke freely. I'll say that about Sammy. If he
2 -- he is what he is. I'm not -- I'm -- he doesn't paint
3 himself to be anything else.

4 But that's who they have to use. Again, they don't
5 send judges in there. They don't send doctors over
6 there. They don't send nuns.

7 What you think happened -- if I say, "Guys, this
8 looks fun. I want to be a C.I.," and I call Arthur Lee
9 Williams and say, "Hey, man, this is Dale. You don't
10 know me, but I want to come over and buy some crack,"
11 he'd tell me to kick rocks, wouldn't he?

12 What if I showed up at his door? "You don't know
13 me. I heard you got crack. I'd like to buy some." He'd
14 politely tell me to get off his lawn.

15 You've got to use people who move freely in that
16 community, people who are recognized as addicts, people
17 they are familiar with. You understand? That's why
18 we're here with Sammy Anderson. He is what he is, okay?

19 I wish I had a first-grade teacher up there who did
20 the buy. I don't. We never do in these cases. Those
21 aren't the people who Arthur Lee Williams sells to. You
22 understand?

23 He's not a rookie. He's done it before. He's been
24 doing it for years. You'll hear him in the video. They
25 -- they'll tell him, "Well, here's how you got to deal

1 with Sammy. Do this and that." He said, "I know how it
2 works."

3 They search him. They wire him up, mic him. The
4 reason for the search, the want to make sure he's not
5 carrying any contraband on him. Obviously, we went over
6 that -- ad nauseam, I know.

7 They give him the money. They sit there in their
8 car after they let him out, and they listen. They want
9 to make sure -- they monitor how the transaction goes.
10 But also in case things go bad, they can swoop in and
11 help Sammy out.

12 When it's done, they pick him up, get the crack from
13 him. They check him to make sure he doesn't have any
14 extra crack. They make sure he didn't keep any of the
15 money.

16 They take the crack from him. They take the mic and
17 camera. They go review the footage, right, to see what
18 they captured on the video. They get the crack, send it
19 to SLED just to make sure it is crack and not salt or
20 rock salt or anything like that.

21 That's how those things work. That was a textbook
22 controlled buy: quick, in and out, efficient. There's
23 no other variables involved. Sometimes you'll see them
24 walking. And then, other people come up to them and talk
25 with them and everything.

1 A defense attorney will say, "Well, how do you know
2 that deal didn't happen right there?" Or they'll go into
3 a gas station.

4 This one you have no variables. He gets out of the
5 car. You watch him, and he goes straight to the house.
6 He calls Arthur Lee on the phone: "Hey, man, this is
7 Sammy. I'm coming over for some crack, a yard."

8 You watch him meet Sammy in the front yard -- I
9 mean, Arthur Lee in the front yard. Arthur Lee is happy
10 to see him, because they know each other. They know each
11 other for years. They're familiar with one another.

12 Lets him inside the house, and that's where the
13 transaction takes place. You understand, the story is
14 not that Sammy is buying it for himself; he's purchasing
15 it for another individual. Okay?

16 That's why, in the video, Arthur Lee -- "If you're
17 buying it for somebody else, why don't you take this rock
18 and give it to you?"

19 This is important, okay? I want y'all to watch
20 this. I want y'all to watch that video 10, 20, 30, 40,
21 however many times you want.

22 And listen to it. Because I know sometimes in here,
23 when the TV is way over there, you can't hear everything
24 that's said. But y'all will get a chance back there to
25 listen to it and watch it with your own eyes over and

1 over.

2 He says, "I can't cheat him. I can't cheat him. I
3 ain't going cheat him." He says that multiple times.
4 That's Sammy talking. Because Arthur Lee is trying to
5 give him a rock.

6 You know what? Another reason a dealer will do that
7 is to make sure it's not an informant. Because the
8 informant is not going to be able to smoke right in front
9 of him.

10 If he had given that crack rock to Sammy and Sammy
11 had smoked it, that would make him feel good that, "Oh,
12 well, he's not an informant after all." So sometimes
13 they'll do that. Sometimes they'll -- "Go ahead and take
14 a little for yourself; you're buying it for this other
15 dude."

16 You also hear Arthur Lee say, "Well, does this dude
17 have any more money?" He's excited. He thinks he has a
18 new customer.

19 Other times, you hear Arthur Lee Williams say that
20 he's the mastermind of this thing. That's around the
21 same time he's -- you ever hear the term "tare," t-a-r-e?
22 That's what you do -- I remember that from chemistry.

23 But that is a way to take a scale and just make sure
24 it's measuring correctly. So you need a standard weight.
25 Okay?

1 Crack dealers, a lot of times, will use a nickel.
2 That's a standard weight. They know it's 5 grams. So
3 they'll show it to the addict or the buyer, whoever it
4 may be in front of them.

5 They'll drop the nickel on a weight. If it says 5
6 grams, that means the weight's -- or the scale is testing
7 correctly. That lets everybody know the deal's fair.

8 Guess what? I guess his scale was working right.
9 The chemist said it was exactly 1 gram. He came to buy 1
10 gram. Arthur Lee, the mastermind drug dealer, gave him 1
11 gram of crack. He's a good dealer.

12 But at any rate -- "I can't cheat him. I can't
13 cheat him. I can't cheat him." He gives him back the
14 rock. That is what this defense keeps harping on.

15 Y'all are going to be able to watch that up close,
16 that that one rock that he puts back in the bag -- they
17 don't want you to think about what's already in that bag.
18 You're going to see it with your own eyes.

19 Arthur Lee has the big rock, the main rock, already
20 in the bag he's twisting up. And he puts that other
21 little one he had tried to give Sammy back in the bag.

22 Sammy takes the dope; hands the money over -- \$100
23 over. Takes the dope; leaves. We see him walking back.
24 He calls Veal -- or Prather, whichever one. Tells them,
25 "I'm on my way back."

1 They pick him up. He turns the crack over
2 immediately. That's it. It's textbook. That was a
3 textbook buy.

4 And he testified to that. My direct examination,
5 when I first called him and we went through the video and
6 we went through what he did that day, I submit to you,
7 mirrored what's on the video.

8 Cross-examination, when the defense attorney got up
9 there with him, I think we'd all agree, that was fairly
10 colorful, very adversarial, okay? I submit to you, that
11 is what the defense attorney wanted when he got up here
12 and bullied and badgered and ---

13 MR. TONEY: Objection.

14 MR. SCOTT: --- tried to aggravate that C.I.

15 THE COURT: Okay.

16 MR. TONEY: Objection.

17 THE COURT: Nature of your objection?

18 MR. TONEY: May I approach the bench?

19 THE COURT: Sure.

20 (Whereupon, a bench conference was held off the
21 record in the presence of the jury, but out of the
22 hearing of the jury.)

23 THE COURT: You may proceed.

24 MR. SCOTT: The first line of questioning, it wasn't
25 -- it wasn't a question. It was an observation that the

1 defense did with the C.I., was a comment on his
2 appearance, right? It was a comment on his head.

3 And he talked about the indentation in his head. He
4 talked about the fact that Sammy was missing an eye. He
5 talked about the size of Sammy's head. This is a drug
6 case, by the way.

7 That was the first thing on cross-examination for
8 this C.I. It was all downhill from there.

9 You understand Sammy is very self-conscious about
10 his appearance. Who wouldn't be? We all saw him. He is
11 the victim of a vicious attack with a hammer.

12 To say that that is life-altering is an
13 understatement. But he came here, wanting to talk about
14 a drug deal that happened in 2015. Instead, he is
15 subjected to that.

16 And then, you'll remember questions came, the
17 duplicate questions, the duplicitous nature of the
18 questions, the same question asked over and over and
19 over, to wear him down. And he was aggravated. And I
20 understand that.

21 And then, the next set of questions: "How long were
22 you in the hospital?" Again, this is a drug case. This
23 ain't "Sammy in the hospital" case. "How long were you
24 in the hospital?"

25 "I don't know."

1 "Tell me how long you were in the hospital."

2 "I said I don't know."

3 "Tell me how long you were in the hospital?"

4 "How many times I got to tell you, man? I don't
5 know."

6 That was the cross-examination. And he was upset.
7 I submit to you, that was intentional.

8 Asked him how many times he used crack. I -- I
9 never met a crackhead who could tell you how many times
10 they used crack. And that question was asked half a
11 dozen times. And I objected. The question's been asked
12 and answered.

13 That was the aggravation, okay? Look at that,
14 compared to the direct, when I asked him questions,
15 specifically about this day. He went through it. And
16 that was even before I showed the video.

17 What I did, you'll recall, he talked about what
18 happened that day. And then I played the video. His
19 version of events were the same as what was on that
20 video.

21 What I want to know -- you know, the defense gets up
22 here after me. They get to argue. This is all you get
23 to hear from me. I -- I don't know what they're going to
24 say.

25 I have a little bit of an idea, from cross-

1 examination. And it seems to be that somehow Sammy
2 Anderson already had this crack on him. He came to the
3 deal -- all right. Again, this is an addict, who they
4 call an addict; he admits he's an addict.

5 He shows up with a gram of crack already in his --
6 well, not his pocket, in a body cavity, I think, was the
7 inference. And he shows up to the deal with that. He
8 meets with these guys. They give him \$100.

9 And then he walks down the road, and he goes into
10 Arthur Lee Williams' house. And at some point he takes
11 this crack out of the body cavity and he hands it over to
12 Arthur Lee Williams, along with \$100, and then leaves
13 empty-handed.

14 How does that make any sense? Can anyone think of
15 any scenario where that makes any sense whatsoever? An
16 addict is going to find the crack somewhere else, go to a
17 dealer's house, and give him the crack, along with \$100.
18 Does that make sense?

19 I can't -- there's no -- there's no scenario I can
20 think of. Because I -- I was trying to figure out where
21 they're -- where they're going with this.

22 There's no scenario that makes any sense to me.
23 Does it make sense to y'all? I want y'all to think about
24 that when you deliberate. Because if that's the defense,
25 it's not logical; it's not reasonable.

1 And the standard assigned these cases is reasonable
2 doubt. Do you have a reasonable doubt? Is that scenario
3 reasonable?

4 I want y'all to watch that video. When he's walking
5 down the street, tell me at what point he reaches into
6 his body cavity and pulls the crack out, okay?

7 What -- what -- what is Arthur Lee Williams twisting
8 up in the video, if Sammy's bringing the crack? I don't
9 get that either. They focus on that one small rock that
10 Arthur Lee tried to front him. But what -- what about
11 the rest of the crack? And what is he twisting up in
12 those videos?

13 What if Sammy is lying about the whole thing? Let's
14 just play devil's advocate. They call him a liar. Well,
15 what if he's lying? How does that change anything in
16 that video?

17 What -- Richard Pryor -- didn't he say something to
18 the effect of, "Believe me, not your lying eyes." Isn't
19 that what Arthur Lee is saying? Don't believe your eyes;
20 believe me.

21 If Sammy's lying, how does that change anything
22 Arthur Lee says in the video? Anything Sammy does or
23 says? How does it change what your eyes see? It
24 doesn't.

25 Again, I want y'all to watch that video as many

1 times as it take -- I have nothing to hide. The state
2 has nothing to hide. The video is right there. Watch it
3 till your heart's desire.

4 This is what he's charged with. This is what the
5 statute says. The crime is distributing crack. We heard
6 it's crack. The chemist already testified to that.

7 Here's what the statute says: "A person who
8 manufactures, distributes, dispenses, delivers,
9 purchases, or otherwise aids, abets, attempts, or
10 conspires to manufacturer, distribute, dispense, deliver,
11 or purchase or possess with intent to distribute,
12 dispense, or deliver methamphetamine or cocaine base" --
13 that's what crack is; you heard the chemist -- "is
14 guilty."

15 I want y'all to think about one other thing. If the
16 theory is -- this is interesting. Follow me here. If
17 the theory is that Sammy went there with the crack,
18 turned it over to him -- gave it to him, he's still
19 guilty under this statute.

20 You want to know why? You can't purchase crack
21 either under this statute.

22 We know that's not what happened. We know it was
23 Arthur Lee selling it and Sammy buying it with government
24 funds. Either way, he's guilty of it, okay? Even under
25 their bizarre theory, he's still guilty.

1 I talked about reasonable doubt. That is always the
2 state's standard when we prove a case. It's got to be
3 beyond a reasonable doubt.

4 You know, I try a lot of cases in this very
5 courtroom. Sometimes all we have is one person's word
6 against another person's word, right? In this case we've
7 got the crime filmed.

8 Like Ms. Boykin said in open, that is very rare that
9 the whole crime, every element, is shown to you in a
10 video or you get to witness the crime itself. That's
11 what we got. But we still got to prove it beyond a
12 reasonable doubt.

13 What does that mean? The judge is going to instruct
14 you -- he gives you the instructions so y'all get to read
15 them. Does it mean beyond all doubt? It doesn't mean
16 beyond all doubt. It means that you have a doubt that is
17 reasonable and based on logic.

18 If you do -- if you have a doubt that is reasonable
19 and it's based on logic, you should find him not guilty.
20 Find him not guilty if you've got a reasonable
21 explanation for this case.

22 But if your doubt is not reasonable, or your doubt
23 is not really logical, you should find him guilty. Does
24 it mean you have to be 100 percent certain? No.

25 And the judge will tell you this: There are very

1 few things in this world we know we absolute certainty.
2 In criminal cases the law does not require proof that
3 overcomes every possible doubt. If, based on your
4 consideration of the evidence, you are firmly convinced
5 the defendant is guilty of the crime, you must, under the
6 oath that you've taken, find him guilty.

7 Firmly convinced is one of the best ways -- when he
8 reads it to you, it's about that long. It takes up a
9 whole page. And -- and there's a lot of legalese in it.

10 But you'll -- you'll hear him say firmly convinced
11 twice. If you are firmly convinced that he's guilty of
12 distributing crack, you must find him guilty. That is
13 what the oath says.

14 Do you have reasonable doubt? Let me -- it is
15 Arthur Lee Williams right here. Tyrone's known him
16 forever. He said 100 percent certain that's him; he's
17 got tattoos.

18 Sammy said, "I've known him forever. He and my
19 nephew used to be good buddies. And that's him."

20 Do you have reasonable doubt what he's doing here?
21 There's the scale that he had -- needed the nickel for.
22 Here he is, twisting up the crack, packaging it for Sammy
23 to take with him. Do you have reasonable doubt?

24 There's a fool born every minute. What about the
25 rest of this? There's a fool born every minute, all

1 right. A sucker is born every minute, just like David
2 Hannum said. Arthur Lee Williams is counting on the fact
3 that he put twelve suckers in the box and one sucker
4 alternate.

5 MR. TONEY: Objection.

6 THE COURT: It's argument. I'll allow it.

7 MR. TONEY: Yes, sir.

8 THE COURT: You may proceed.

9 MR. SCOTT: He didn't like that, 12 sucker jurors
10 and one sucker alternate. He's counting on that. Don't
11 let him pull the wool over your eyes. Don't be a sucker.

12 Look at the facts and the evidence for what it is.
13 Deliberate; use your common sense; discuss the case with
14 one another. Watch that video over and over if you need
15 to.

16 But find him guilty of what he's done: distributing
17 crack cocaine. Thank you.

18 THE COURT: All right. Thank you, Solicitor.

19 Mr. Toney, you ready, sir?

20 MR. TONEY: Yes, I am, sir.

21 CLOSING ARGUMENT BY MR. TONEY

22 MR. TONEY: Ladies and gentlemen, once again, I'm
23 Ivan Toney. I'm proud to represent Arthur Lee Williams.
24 He's up here today. He's fighting for his life.

25 You -- you are here because the constitution

1 provides that we can come before twelve citizens and --
2 and -- and they can follow they law. And they have to
3 hold the state accountable. The state has to prove their
4 case beyond any reasonable doubt. That is the law. The
5 judge is going to instruct you on that.

6 And in this case, there is more than reasonable
7 doubt. We have not only met our burden, we've exceeded
8 it by a million miles. Because this case rests on Sammy
9 Anderson.

10 Now, the state started out by talking about the
11 bible. Well, I know the bible too. And I know the Ten
12 Commandments say, "Thou shalt not bear false witness
13 against thy neighbor." You cannot go up and down the
14 land as a tale-bearer.. That's in the Book of Leviticus.

15 The bible also says: "Every man seems right till
16 another man comes and searches him out." That's talking
17 about cross-examination, what I do.

18 I go up and they put up a case, and then I search
19 them out and I question them. And you have to do that
20 too. You have to ask important questions.

21 Now, in this case, there's a transaction. There's
22 something going, on or there's some sort of interaction
23 or something. What happened in that room depends on
24 Sammy Anderson.

25 Now, they have -- the solicitor's office has

1 admitted, in my opinion -- you have to read between the
2 lines -- that he has lied. They have virtually admitted
3 it. They can't come out and say it.

4 But they said, Well, you know, even if he lied, who
5 -- who you going to believe, your lying eyes? You're
6 going to watch the video instead?

7 And the problem I have with that is if Sammy
8 Anderson lied even one time, then you, in my opinion,
9 have to believe that that is reasonable doubt as to his
10 credibility. Because he is the one that's bringing this
11 case to you. He is the one who saying this is what
12 happened and this is what I had on me and this is what we
13 did.

14 And Sammy Anderson is a liar. Now, there's been
15 something made about my questions and asking him about
16 his head. And I didn't mean to embarrass him or
17 humiliate him. And if you think I did, then blame me,
18 okay? Please don't blame my client.

19 But I didn't mean to humiliate him. And if you
20 remember, I -- I said I'm sorry for asking these
21 questions. I was very nice; I was quiet. I said I don't
22 mean to -- to -- to humiliate you or embarrass you. But
23 I have to ask you these questions.

24 Because the questions I asked about his head injury
25 is the elephant in the room. The man had been attacked.

1 Nobody knows who. He was missing what looked to be a
2 quarter of his skull.

3 His credibility is at issue. You have to determine
4 whether or not he knows what happened and can remember.
5 And that man clearly had tremendous mental difficulties.

6 I asked him if he could remember how long he was in
7 the hospital. And they say I badgered him. But I had to
8 make sure that he answered it and he repeatedly told me,
9 "I don't know. I don't know if I was in there a day or
10 three months."

11 He had no idea. That right there is enough to find
12 reasonable doubt in this case. I -- I could literally
13 fold my notes up, sit down, and I believe you could go
14 back there and you could say, You know what? This man
15 does not remember anything. He doesn't remember if he
16 was in the hospital a month, a day, three months, who
17 visited. I don't -- I can't rely on him.

18 You would not rely on him. You would not hire him
19 to babysit your kids, to mow your lawn, or do anything.
20 You wouldn't rely on him. Nobody would hire him.

21 Sammy Anderson told many, many other lies. He said
22 he hadn't used drugs in over ten years. The police all
23 testified he was a known, current addict.

24 And you know he was. You could look at him, and you
25 could tell. The way he acted, the -- the behavior, the

1 -- all the indications, he gave enough indications in his
2 behavior to where you can see and with what he said that
3 he was a current drug addict. He was currently accepted
4 in the drug community as someone who buys drugs. That
5 right there is enough to show that he was a current
6 addict and current user.

7 And the police all testified that he was a current
8 drug addict. And yet he said, "I haven't used drugs in
9 over ten years." It's a lie.

10 Okay. This man said many other lies. He was asked
11 if he had ever used alcohol to excess. And he said no.
12 And yet he -- he admitted he had public-drunk convictions
13 on his criminal record.

14 He claimed that those were his initials on the
15 video. And he pointed the different stuff and agreed
16 with what they were pointing at. And then, when I
17 questioned him, he said he couldn't see.

18 Well, which was it? Was he able to identify things
19 on the video or not? Clearly, we don't -- we don't know.
20 Because he -- he lied.

21 So I questioned him. I said, "Well, how many" --
22 just like on My Cousin Vinny, I said, "How many fingers
23 am I holding up?"

24 "Three. Five." So he clearly could see. So which
25 was it? Could he not see, or could he see?

1 He not only lied about the details of this case. He
2 lied about the basics, like whether he could see; where
3 -- whether he was in the hospital -- how long. He -- he
4 didn't even really -- he wasn't even really trying to --
5 he wasn't even pretending to tell the truth.

6 He was getting up here and laughing. And as a
7 matter of fact, the man did laugh. I -- I asked him some
8 question, and he laughed at me. I forget what it was --
9 which one it was. But the man laughed.

10 Now, I'm up here, fighting for this man's life --
11 not his physical life, but, you know, I'm fighting for,
12 you know, his future. And I don't want him to be a
13 statistic.

14 Now, he couldn't even walk up these steps. And in
15 my opinion -- and you're going to have to make your own
16 judgment. You're going to have to say -- you know, I
17 asked him if he'd taken drugs today. He said no.

18 You, as the jury, are entitled to make your own
19 decisions, though. You are the judge of the facts. And
20 the judge is going to instruct you, you're allowed to
21 make decisions about the credibility of the witnesses.

22 You cannot say for sure -- and I'm sure you may
23 think that he was high on the witness stand. And, in
24 fact, the police took him to the hospital after the
25 hearing. I don't know if he used drugs after the

1 hearing, before the hearing ---

2 MR. SCOTT: Judge, this is misleading to say that he
3 was on drugs and then that's why he went to the hospital.
4 The testimony was ---

5 THE COURT: Right.

6 MR. SCOTT: --- he went to the hospital for
7 wheezing.

8 THE COURT: Right. The -- the jury will remember
9 what was testified to. I'm -- I'm sure their memory will
10 be -- will be fine and rely on their -- on their
11 remembering.

12 MR. TONEY: Okay.

13 THE COURT: You may proceed.

14 MR. TONEY: I ask that you look and determine
15 whether or not this witness was capable physically and
16 mentally of testifying truthfully and look at his
17 behavior and his actions and then what he -- where he
18 subsequently went to and that you make decisions based on
19 that.

20 Now, the -- the man admitted that what he does is
21 walk around and plays people. And I think that's the
22 word he used. And that's how he makes his money.

23 The police tried very hard to wash their hands of --
24 of what they do. They all said they gave him money; they
25 didn't know if he used. And yet they also testified he

1 was a current drug user. And they knew darn well where
2 that money was that they gave him was going.

3 They testified that it was the middle of the month.
4 So they had to make up a story because it was just
5 assumed that he would've spent his money by the middle of
6 the month. He didn't have any bills. He was living with
7 his mother.

8 The man -- I want to emphasize this -- claimed that
9 he couldn't even see. He claimed he -- he is such a liar
10 that he claims he's not even able to see the video or
11 anything. How can you trust a man who's caught lying
12 about that? And I don't think you can.

13 Now, in his testimony he said he was sold five
14 rocks. There's only two of them in this bag. In his
15 testimony he -- which was very argumentative, by the way
16 -- there is testimony from the police there was a drug
17 transaction.

18 And yet the only drug transaction you can possibly
19 see is there is a rock on a table, on Sammy's side of the
20 table. And he hands it across the table.

21 They say, Well, you don't see anything else. But we
22 know it's the only explanation that makes sense. They
23 don't have a video of a drug transaction from someone on
24 the other side of the table to Sammy Anderson. All they
25 have is a video of a transaction going the other way.

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1 They -- they never really searched him. They have a
2 video showing him in the car. But you can't search
3 someone inside a vehicle. It's not possible to even pat
4 them down.

5 They never searched him. And even they admitted
6 they didn't strip-search him. They don't know what he
7 had on him or what he brought there. They have no idea.
8 All we know is this is how Sammy makes a living.

9 The -- the police -- the solicitor started this
10 story -- this -- this closing, his closing by saying
11 there's a sucker born every minute. And -- and I don't
12 like that. But his argument is that you should not be
13 suckers.

14 And he -- he tells a story about a fake giant, which
15 is buried in the ground for money. And in this case, the
16 only fake that's being sold for money in this case is
17 Sammy Anderson. That is the fake giant that is being
18 peddled in this case. And they want you to buy this fake
19 giant.

20 But if you go back there and you say to yourselves,
21 In my opinion, I don't believe I can trust Sammy
22 Anderson, a man that cannot even tell the truth about the
23 most basic things, I really don't know what he was up to
24 in -- in -- in this thing that went down. I have no
25 idea. I don't know if he was searched. I don't believe

1 him. He's a liar or he's mentally ill or there's
2 something wrong with his mind or he can't remember. He
3 is so unreliable. Anything he says, all I can do is just
4 say I just can't deal with it. I -- he's just -- he's
5 just not someone I can trust or believe.

6 And if you can't believe him, then you don't know
7 what happened. So I would ask that you find that the
8 state has not met their burden of proof; that they did
9 not prove their case beyond a reasonable doubt. And I'd
10 ask that you return a verdict of not guilty.

11 Now, I have a -- a -- this gentleman that I
12 represent has not been -- he's not -- he's been allowed
13 to testify, but he has chosen not to testify. The judge
14 is going to instruct you not to hold that against him.

15 The fact that he had not testified does not mean
16 that he has not asked for this trial. He has come before
17 you, and he is putting his life in your hands. And what
18 he's asking is that you will follow the instructions of
19 this Court.

20 This Court says if there's any reasonable doubt,
21 that you must return a verdict of not guilty, lest --
22 lest you make a mistake that -- that you -- you maybe
23 can't fix; that you're not fair to my client. So please,
24 please follow these instructions.

25 Please look at the credibility of their witness.

1 And -- and really, this case is about one witness. And
2 based on that witness who's so incredibly -- he's such a
3 liar -- I think you have to return a verdict of not
4 guilty. Thank you very much.

5 THE COURT: All right. Thank you, Mr. Toney.

6 Ladies and gentlemen, we're going to take a breath
7 and take a real short break before I charge you the law.
8 So if you'll go back to the jury room.

9 Again, don't begin your discussions yet. And we'll
10 bring you back out shortly and I will instruct you on the
11 law.

12 (Whereupon, the jury exited the courtroom at 2:11
13 p.m.)

14 (Off the record briefly.)

15 THE COURT: All right. We'll take a real short
16 recess.

17 (Off the record from 2:11 p.m. until 2:21 p.m.)

18 THE COURT: All right. Let's bring the jury out,
19 Mr. Hair.

20 (Off the record briefly.)

21 (Whereupon, the jury entered the courtroom at 2:22
22 p.m.)

23 THE COURT: Okay.

24 THE BAILIFF: All present, Your Honor.

25 THE COURT: All right. Thank you, Mr. Hair.

CHARGE OF THE COURT

1
2 THE COURT: Madam Forelady and ladies and gentlemen
3 of the jury, I now will charge you the law applicable to
4 this case. You must consider the charge as a whole and
5 not focus on some portions to the exclusion of other
6 portions.

7 The indictment charges the defendant with
8 distribution of crack cocaine. I remind you, the fact
9 the defendant was arrested, charged, and indicted in this
10 case is not evidence in this case and cannot be
11 considered by you as evidence of guilt in this case, nor
12 does it create any presumption or inference of guilt.

13 This document is simply the formal written
14 instrument which contains the charge made against the
15 defendant. This is the formal document by which this
16 case is brought into this Court.

17 Once again, the defendant has pled not guilty to
18 this indictment. And that plea puts the burden on the
19 state to prove the defendant guilty. A person charged
20 with committing a criminal offense in South Carolina is
21 never required to prove himself innocent.

22 I charge you that it is an important rule of the law
23 that the defendant in a criminal trial, no matter what
24 the seriousness of the charge may be, will always be
25 presumed to be innocent of the crime for which the

1 indictment was issued, unless guilt has been proven by
2 evidence satisfying you of that guilt beyond a reasonable
3 doubt. This presumption of innocence does not end when
4 you begin your deliberations, but it accompanies the
5 defendant throughout the trial, unless you reach a
6 verdict of guilt based on evidence satisfying you of that
7 guilt beyond a reasonable doubt.

8 This presumption of innocence is like a robe of
9 righteousness placed about the shoulders of the
10 defendant, which remains with the defendant, unless it
11 has been stripped from the defendant by evidence
12 satisfying you of the defendant's guilt beyond a
13 reasonable doubt.

14 The presumption of innocence is not mere legal
15 theory. It's not just a legal phrase. It is a
16 substantial right to which every defendant is entitled
17 unless you, the jury, are satisfied, from the evidence,
18 of the defendant's guilt beyond a reasonable doubt.

19 Now, concerning reasonable doubt, some of you may
20 have served as jurors in civil cases, where you were told
21 that it is only necessary to prove that a fact is more
22 likely true than not true, such as by the greater weight,
23 or preponderance, of the evidence. In criminal cases the
24 state's proof must be more powerful than that. It must
25 be beyond a reasonable doubt.

1 Proof beyond a reasonable doubt is proof that leaves
2 you firmly convinced of the defendant's guilt. Now,
3 there are very few things in this world that we know with
4 absolute certainty. And in criminal cases the law does
5 not require proof that overcomes every possible doubt.

6 If, based on your consideration of the evidence, you
7 are firmly convinced that the defendant is guilty of the
8 crime charged, you must find the defendant guilty. If,
9 on the other hand, you think there is a real possibility
10 that the defendant is not guilty, you must give the
11 defendant the benefit of the doubt and find him not
12 guilty.

13 Now, I remind you once again that during this trial,
14 you and I have had certain duties to perform. As the
15 trial judge, it has been my responsibility to preside
16 over the trial of this case. And I also have the duty --
17 have had the duty to rule on the admissibility of the
18 evidence offered during this trial.

19 You are to consider only the competent evidence
20 before you. If there was any testimony ordered stricken
21 from the record in this case during this trial -- and I
22 don't believe that there was. But if there was, you must
23 disregard that testimony.

24 You are to consider only the testimony which has
25 been presented from this witness stand, any exhibits

1 which have been made a part of the record in this case,
2 and any stipulations of counsel.

3 I have the additional duty to charge you the law
4 applicable to this case. As the presiding judge, I am
5 the sole judge of the law of this case. And it is your
6 duty as jurors to accept and apply the law as I now state
7 it to you.

8 If you already have any idea as to what the law is
9 or what the law ought to be and it does not agree with
10 what I now tell you the law is, you must abandon your
11 idea, because you are sworn to accept the law and apply
12 the law exactly as I state it to you.

13 In every case tried in this Court before a jury, the
14 jury becomes the sole and exclusive judge of the facts in
15 a case. A trial judge cannot intimate, state, comment
16 on, or make any statement to a trial jury about the facts
17 in a case.

18 Since you, the jury, are the sole judge of the facts
19 in this case, you are not to infer, from what I have said
20 during the progress of this trial in ruling upon the
21 admissibility of evidence or otherwise, or anything that
22 I say now during the course of this instruction to you,
23 that I have any opinion about the facts in this case.
24 The law does not allow me to have an opinion about the
25 facts in this case. This is a matter solely for you, the

1 jury, to determine. As jurors it is your duty to
2 determine the effect, value, and weight of the evidence
3 presented during this trial.

4 Now, there are two types of evidence which are
5 generally presented during a trial, that being direct
6 evidence and circumstantial evidence. Direct evidence
7 directly proves the existence of a fact and does not
8 require deduction. Circumstantial evidence is proof of a
9 chain of facts and circumstances indicating the existence
10 of a fact.

11 Crimes may be proven by circumstantial evidence.
12 The law makes no distinction between the weight or value
13 to be given to either direct or circumstantial evidence.
14 However, to the extent the state relies on circumstantial
15 evidence, all of the circumstances must be consistent
16 with each other and, when taken together, point
17 conclusively to the guilt of the accused beyond a
18 reasonable doubt. If these circumstances merely portray
19 the defendant's behavior as suspicious, the proof has
20 failed.

21 Once again, the state has the burden of proving the
22 defendant guilty beyond a reasonable doubt. And this
23 burden rests with the state regardless of whether the
24 state relies on direct evidence, circumstantial evidence,
25 or some combination of the two.

1 Necessarily, Madam Forelady and ladies and gentlemen
2 of the jury, you must determine the credibility of
3 witnesses who have testified in this case and the
4 evidence presented. Credibility simply means
5 believability. It becomes your duty as jurors to analyze
6 and to evaluate the witnesses and the evidence and
7 determine the credibility of the witnesses and the
8 evidence.

9 In determining the credibility of witnesses who have
10 testified in this case, you may believe one witness over
11 several witnesses, several witnesses over one witness.
12 You may believe a part of the testimony of a witness and
13 reject the remaining part of the testimony of that same
14 witness. You may believe the testimony of a witness in
15 its entirety or reject the testimony of a witness in its
16 entirety.

17 You may consider whether any witness has exhibited
18 to you any interest, bias, prejudice, or other motive in
19 this case. You may also consider the appearance and
20 manner of a witness while on the witness stand.

21 Now, in order to establish criminal liability,
22 criminal intent is required. For example, the mental
23 state required to be proven by the state for a particular
24 crime might be purpose, intent, knowledge, recklessness,
25 or criminal negligence.

1 Criminal intent must be proven by the state beyond a
2 reasonable doubt. Criminal intent is always a matter
3 that must be determined by the jury from the
4 circumstances surrounding the situation.

5 Now, there's no way to prove intent to a
6 mathematical certainty. There is no way medical science
7 can dissect a person's brain and determine what the
8 person had in mind. So the law says that criminal intent
9 may be inferred from the circumstances shown to have
10 existed. This is how you make a determination of whether
11 or not the element requiring intent was present.

12 It is not necessary to establish intent by direct
13 and positive evidence. But intent may be established by
14 inference in the same way as any other fact, by taking
15 into consideration the acts of the parties and all the
16 facts and circumstances of the case.

17 Criminal intent is a mental state, a conscious
18 wrongdoing. It is up to you to determine what the
19 defendant intended to do, based on the circumstances
20 shown to have existed.

21 Now, I instruct you and emphasize that the fact the
22 defendant did not testify is not a factor to be
23 considered by you in any way in your deliberation and in
24 your consideration on the question of the guilt or
25 innocence of the defendant. It must not be considered by

1 you in any manner whatsoever.

2 A defendant has the constitutional right to remain
3 silent. And the assertion of this right must not be
4 considered by you in your deliberations.

5 I repeat, under your oath, you are to draw no
6 conclusion whatsoever from the fact that the defendant in
7 this case did not testify. The fact that this defendant
8 did not testify should not even be discussed in the jury
9 room.

10 The burden of proof, as I have stated to you, is on
11 the state. The defendant is not required to prove his
12 innocence. The burden of proof remains on the state to
13 prove guilt beyond a reasonable doubt.

14 Now, once again, the defendant is charged with
15 distribution of crack cocaine. The state must prove
16 beyond a reasonable doubt that the defendant
17 manufactured, distributed, dispensed, delivered,
18 purchased, or otherwise aided, abetted, attempted, or
19 conspired to manufacture, distribute, dispense, deliver,
20 or purchase, or possessed with -- with the intent to
21 distribute, dispense, or deliver crack cocaine.

22 Distribute means to deliver or to actually,
23 constructively, or attempt to transfer a drug, other than
24 by administering or dispensing. Deliver means to
25 actually, constructively, or attempt to transfer a drug.

1 A transfer can involve an exchange for money, a barter,
2 or a gift. There does not have to be anything given in
3 exchange for the drugs for a transfer to constitute
4 distribution.

5 Now, Madam Forelady, ladies and gentlemen of the
6 jury, there are two possible verdicts in this case on
7 this one charge, that being not guilty and that being
8 guilty. And your verdict that you reach, ladies and
9 gentlemen must be unanimous among the 12 of you. And
10 when you have reached a unanimous verdict, then just
11 notify the bailiff by a knock on the door. And they can
12 -- and the bailiff can let the Court know that you have
13 reached a verdict.

14 If, at any time, you believe that you need to ask a
15 question of the Court, write it down and sign it, Madam
16 Forelady, if that need arises. I am going to give you a
17 copy of what I have just read to you, and you can use
18 this written charge in any manner that you feel like is
19 necessary.

20 Now, I'm going to come down and I'm going to show
21 you the verdict form. It's very easy to complete. And
22 this is how you will indicate what your verdict is.

23 This just indicates the name of the case, the
24 indictment number, and as to the indictment number which
25 charges the defendant with distribution of crack cocaine,

1 we, the jury, find the defendant and -- guilty or not
2 guilty. And whatever line represents your verdict, you
3 will put your initials, Madam Forelady, on the
4 appropriate line, indicating your verdict. And you will
5 sign it. And it has already been dated for you.

6 Now, I need to talk with the lawyers to make sure
7 that there no additions or corrections to my charge.
8 Consequently, I need for all thirteen of you to go back
9 to the jury room and do not begin your deliberations yet.

10 If there are no additions or corrections to the
11 Court charge, then the verdict form, a copy of my charge,
12 and the exhibits will be delivered to you, along with a
13 computer.

14 If you decide that you want to look at the video,
15 that's your choice. But if you do, then we're providing
16 you with a computer to use to view that video. That's
17 your decision to do.

18 So if all that's brought to you, Madam Forelady,
19 then two things will happen. I'll need the alternate to
20 exit the jury room and come back into the courtroom for
21 further instructions. And then you can begin your
22 deliberations.

23 But don't start yet. So I need all thirteen of you
24 to go back to the jury room.

25 (Whereupon, the jury exited the courtroom at 2:34

1 THE COURT: All right. It's my understanding that
2 the jury has informed us that they have a verdict.

3 Mr, Hair, we'll bring the jury out, please.

4 (Off the record briefly.)

5 (Whereupon, the jury entered the courtroom at 3:10
6 p.m.)

7 THE BAILIFF: All present, Your Honor.

8 THE COURT: All right. Thank you, Mr. Hair.

9 Madam Forelady, without telling me what the verdict
10 is, it's my understanding that you have reached a
11 verdict. Is that correct?

12 THE FOREPERSON: Yes, sir.

13 THE COURT: And is the verdict unanimous among the
14 twelve of you?

15 THE FOREPERSON: Yes, sir.

16 THE COURT: Would you hand Mr. Hair the verdict form
17 and he'll hand it to me.

18 THE FOREPERSON: (Complied.)

19 THE COURT: All right. Madam clerk, would you
20 publish the verdict.

21 Mr. Williams, would you please stand.

22 THE DEFENDANT: (Complied.)

23 VERDICT OF THE JURY

24 CLERK OF COURT: Your Honor (As read): "In the
25 case of the *State of South Carolina v. Arthur Lee*

1 Williams, III, Case No. 2015-GS-30-1488, as to Indictment
2 No. 2015-GS-30-1488, which charges the defendant with
3 distribution of crack cocaine, we, the jury, find the
4 defendant guilty. Signed by the forelady, Mary Anne
5 Weaver, dated May 25th, 2018."

6 Ladies and gentlemen, if that be your verdict,
7 please indicate it by raising your right hands.

8 (Whereupon, each juror raised his/her right hand.)

9 CLERK OF COURT: Thank you.

10 THE COURT: All right. Let the record reflect that
11 all twelve hands were raised.

12 Does the defense request individual polling of the
13 jury?

14 MR. TONEY: I'll waive it.

15 THE COURT: Okay. You waive it? Okay. And ---

16 MR. TONEY: I saw them raise their hands.

17 THE COURT: Okay. All right. Very good. You can
18 have a seat.

19 Madam Forelady and ladies and gentlemen of the jury,
20 let me thank you for your jury service. As I told you
21 the other day, we have the greatest justice system in the
22 world. And juries play a very vital and important role
23 in our justice system.

24 Sitting on a jury is not -- is not easy. It's
25 difficult. But I believe you have performed your duties

1 conscientiously and efficiently.

2 And I hope that you have experienced something that
3 you've not experienced before and that maybe you've
4 learned some things that you did -- did not know before.
5 But once again, I do thank you for your service.

6 Madam Forelady, I'll need for you in just a moment
7 to sign the back of the indictment indicating your
8 verdict.

9 But I like to shake the hands of my jury. So I'm
10 going to come down. And as you are exiting, I'll shake
11 your hand.

12 Checks will be mailed to you in the near future. If
13 you need a work excuse, you'll -- you'll just go down to
14 the clerk's office on the other side and they'll be glad
15 to give you a -- a work excuse.

16 But you are free to go. If you want to stay around
17 for sentencing, they'll -- they'll take you around and
18 you can sit at the back if you would like to. You
19 certainly don't have to. But if you'd like to stay for
20 sentencing, then you can just sit at the back. Okay?

21 (Whereupon, the jury exited the courtroom at 3:13
22 p.m.)

23 (Off the record from 3:13 p.m. until 3:25 p.m.)

24 THE COURT: Okay. We're in the sentencing phase of
25 the case of *State of South Carolina v. Arthur Lee*

1 Williams, III, Indictment 15-GS-30-1488. As it relates
2 to sentencing, I'll hear from the state first and then
3 from the defense.

4 So Solicitor Boykin, you may proceed.

5 MS. BOYKIN: Thank you, Your Honor. First off, I
6 just would like to place on the record the defendant's
7 criminal history.

8 THE COURT: If you'll read that into the record --
9 and I'm going to write it out, so don't read real fast
10 ---

11 MS. BOYKIN: Okay. Yes ---

12 THE COURT: --- okay?

13 MS. BOYKIN: --- Your Honor. 2007 he has a public
14 disorderly conduct; 2008, possession with intent to
15 distribute marijuana. He also has a distribution of
16 marijuana in 2008. Receiving stolen goods, possession of
17 cocaine, auto-breaking and driving under suspension.
18 2011 he has a simple possession of marijuana, hit-and-
19 run, failure to stop for a blue light.

20 2012 driving under suspension, simple possession of
21 marijuana. 2013 he has a possession of cocaine. In 2013
22 he also has a trafficking of cocaine, 10 to 28 grams.

23 THE COURT: Okay.

24 MS. BOYKIN: And, Your Honor, I have certified
25 convictions for the drug offenses that would make this a

1 fourth offense, if you would like to see those, Your
2 Honor.

3 Do you want to see them?

4 THE COURT: No. I'm -- that -- that's fine.

5 Mr. Toney, if you want to look at that and if you
6 disagree with his prior record, I'll need to hear from
7 you on that.

8 MR. TONEY: This is fine.

9 MS. BOYKIN: All right.

10 THE COURT: Are you in agreement with his prior
11 record ---

12 MR. TONEY: Yes, sir, I am.

13 THE COURT: Okay. Thank you ---

14 MR. TONEY: Yes, Your Honor.

15 THE COURT: --- very much. Okay.

16 MS. BOYKIN: Your Honor, I just would -- I think
17 Officer Matt Veal would like to speak.

18 THE COURT: Okay.

19 MS. BOYKIN: You know, we've had, you know, a lot of
20 run-ins Mr. Williams; that law enforcement's had a lot of
21 run-ins with him. He is constantly shown that he will
22 not conform to the laws of society. He is, I guess, a
23 thorn in their side. I think they would like to be heard
24 at ---

25 THE COURT: Okay.

1 MS. BOYKIN: --- the appropriate time as for
2 sentencing.

3 THE COURT: Okay. All right. Sergeant Veal, I need
4 for you to be sworn in.

5 Madam clerk?

6 MATT VEAL, having been first duly sworn,
7 responded and stated as follows:

8 THE COURT: Okay. Yes, sir. Be glad to hear from
9 you, Sgt. Veal.

10 MR. VEAL: Judge, I've been a narcotics officer for
11 10, going on 11, years. And I've heard Mr. Williams'
12 name a lot. He's a menace to society. I think he needs
13 to be placed in -- in SCDC for a very long time.

14 Myself and Sgt. Prather here, we've dealt with him
15 on numerous occasions. I -- I think the jury got it
16 right. I think the Court will do its justice. And I
17 think he needs to -- he -- he needs to spend a long time
18 in jail.

19 THE COURT: Okay. All right. Thank you very much.
20 Anything further from the state as it relates to
21 sentencing ---

22 MS. BOYKIN: No ---

23 THE COURT: --- Solicitor?

24 MS. BOYKIN: --- Your Honor.

25 THE COURT: Okay. Mr. Toney, I'll be glad to hear

1 from you.. And I don't -- well, he -- I have seen some --
2 some ladies sitting behind him. I don't know if that's
3 family.

4 MR. TONEY: Yes.

5 THE COURT: If -- if they want to address the Court,
6 I'll be glad to hear from them. That's your call.

7 MR. TONEY: Your Honor, he's 28 years old. This
8 happened about three years ago. He hopes to have a
9 future.

10 He has people that love him. He has two children.
11 He loves his children.

12 He was in a tough spot. He rolled the dice. I
13 understand that.

14 He does have a bit of a record. But the fact is --
15 is he -- he has hopes for a future. He can be
16 rehabilitated.

17 I'm not going to make any of the arguments about not
18 giving people lengthy drug sentences. But I will say the
19 range is very high. And I think it's perhaps excessive
20 under -- even under our constitution.

21 I think that a more appropriate sentence, other than
22 the maximum, might be 10 to 15 years. That would be
23 enough to -- to basically punish him. He would be doing
24 85 percent time.. It's a long time. Ten years is not
25 insignificant.

1 I've been dealing with people in SCDC now for a long
2 time. And I'm starting to understand more and more about
3 it. It's very dangerous.

4 I was up in a prison last year. And in the one ward
5 I was in, three people were stabbed in the neck on three
6 separate occasions in just one -- one dorm. It's very
7 violent. It's 100 times worse than what's on the news,
8 and what's on the news is bad.

9 The -- the risk to his safety while he's there,
10 tremendous. And I think those risks, which are now a
11 subject of -- of political campaigning and -- and are
12 well-known, should be taken to -- into account by the
13 Court, the fact that it is well-known that South Carolina
14 has a very violent prison system. It's very dangerous.
15 And it's -- it's -- it's -- it's unsafe.

16 And -- and his mother would like to speak.

17 THE COURT: Okay.

18 MR. TONEY: And he would like to say something.

19 THE COURT: Okay. Would you come up here please,
20 ma'am? And you can just stand over here.

21 (Whereupon, Ms. Butler came forward.)

22 THE COURT: I'll need to have you sworn in, and then
23 identify yourself once you -- once you are.

24 LEOMIA BUTLER, having been first duly sworn,
25 responded and stated as follows:

1 THE COURT: Yes, ma'am. Would you state your name?

2 MS. BUTLER: Leomia Butler.

3 THE COURT: Okay.. Ms. Butler, be glad to hear from
4 you.

5 MS. BUTLER: I would like to say -- and to add to
6 what defense attorney has already said, that we all have
7 a history. We all have done things that you know is not
8 pleasing to -- to our life now. Yes. My son had done
9 some things that is not appropriate.

10 And with the sentence that the solicitor want to
11 give him, I feel, you know, it -- it's unfair. It's
12 unfair to what was already brought forth towards the
13 jury. And we ask -- ask -- ask the jury to hear what was
14 said.

15 In his past life, yeah. He -- he did those things.
16 He -- now he's a -- he's a father. He has two young
17 children who -- who needs him: 15 months old and just
18 recently had a 3-month-old baby who has yet to get to see
19 him -- have seen due to the fact that, you know, he's
20 been incarcerated on charges that he's already been
21 somewhat faced with.

22 And with the time that they want to give him now,
23 he's going -- it's going to take away his life, his life
24 from his children, his life from his family, me as his
25 mother. And to -- to close on that, you know, I just

1 find that, you know -- that we have a heart. We have a
2 heart. Just have a heart and doing what is right, doing
3 what is fair, based on what was already presented and
4 what was -- and what was given beyond his past.

5 THE COURT: Okay. Thank you, ma'am.

6 MS. BUTLER: You're welcome.

7 THE COURT: And did you say that Mr. Williams would
8 like to address the Court? You're ---

9 MR. TONEY: Yes ---

10 THE COURT: --- more than ---

11 MR. TONEY: --- yes ---

12 THE COURT: --- welcome.

13 MR. TONEY: --- Your Honor.

14 THE COURT: I'll be glad to hear from you, Mr.
15 Williams.

16 THE DEFENDANT: Just I'd like to start by saying
17 that yes, once upon a time, I did do some things I
18 shouldn't have done. Those were years ago.

19 At that time I actually thought I was just -- I was
20 living. I -- I thought I was living. But now that I
21 understand what living actually is, I know I wasn't
22 living.

23 Once I had children, I really understood what it
24 was. I thought I was a man. It changed my life
25 completely. I never have just -- I had three month -- at

1 the time my son was 3 months old. I got incarcerated.
2 That opened my eyes up even more.

3 I just had a daughter. She's 4 months old. I never
4 held her. It hurts me every day. This is the reason why
5 I have been fighting like I have.

6 I've even tried to compromise with the solicitors to
7 even get a short sentence to satisfy both sides of the
8 party to get home to my children. It's not just me at
9 stake that I feel; it's them, my family, loved one. I
10 mean, it -- it tears me apart.

11 I'm just asking if you could be as light on
12 sentencing as you could, I would greatly appreciate it,
13 Your Highness, Your Honor, Your Majesty, all the great
14 things above, Your Perfectness. I wish I could be on the
15 level that you are.

16 I've messed up. So if you could be as lenient as
17 you can, I would greatly appreciate it.

18 THE COURT: All right. Thank you, sir.

19 I need a -- a -- a credit amount. Do we have that
20 figure handy?

21 MR. TONEY: I know he did ten months and then some
22 before that.

23 MS. BOYKIN: As for this charge, Judge, I -- I'm not
24 exactly sure the amount. We'd have to calculate that.

25 THE COURT: All right.

1 MS. BOYKIN: He's been in the jail, I believe, since
2 January of this year ---

3 MR. TONEY: Is that it?

4 MS. BOYKIN: --- or February?

5 THE DEFENDANT: I've been incarcerated since August
6 of last year.

7 MS. BOYKIN: So ---

8 MR. TONEY: On this charge?

9 MS. BOYKIN: That wasn't on this charge, though. So
10 I -- that wouldn't be credit for that.

11 THE COURT: Right. As far as the amount of time he
12 has been incarcerated on this charge, can y'all just
13 maybe step back, put your heads together? Because I want
14 to go ahead and have that determined.

15 (Off the record from 3:34 p.m. until 3:37 p.m.)

16 MR. TONEY: Your Honor, I guess he did five days and
17 then he was picked up on a bench warrant. But the
18 bondsman never went off his bond. I think they should
19 give him credit for all the time he's been in since then.
20 Because the bondsman should've gone off his bond.

21 MS. BOYKIN: I ---

22 THE COURT: Okay. He was picked up on a bench
23 warrant. But for whatever reason, bond was not revoked?

24 MS. BOYKIN: Judge, so he was arrested on July 16th,
25 2015. He spent five days in the detention center; bonded

1 out. A bench warrant was issued on November 4th. 2015.

2 He eventually was picked up. He did 39 days in the
3 detention center. And the bench warrant was lifted April
4 1st, 2016.

5 THE COURT: Okay.

6 MS. BOYKIN: The charge he is in on now -- and
7 that's what I wanted to go over -- he has multiple other
8 pending charges with our office. He is in right now, I
9 believe, on the newest distribution of crack cocaine,
10 which is 2017, as a bench warrant. And I believe ---

11 MR. TONEY: I would ask that the Court not consider
12 that.

13 MS. BOYKIN: Well, for bench warrant purposes of why
14 he's in the detention center and also ---

15 THE COURT: I -- I will not consider pending
16 charges, as far as sentencing. Be assured of that.

17 But I think we need to go through this so he can --
18 he -- he can get the credit that he is entitled to. I
19 want to make sure that he gets every day that he has been
20 incarcerated.

21 MS. BOYKIN: And the other charge he has a bench
22 warrant on is the strong-arm robbery, I believe. And
23 that is why he is currently being held at the detention
24 center, not for this charge.

25 THE COURT: Okay.

1 MS. BOYKIN: So the state would ask that he not get
2 credit for those -- that time, because he's not entitled
3 to it for this case.

4 THE COURT: Okay. All right.. So for this charge,
5 then, Solicitor, you're saying 44 days?

6 MS. BOYKIN: Yes, Your Honor.

7 THE COURT: Okay. And, Mr. Toney, are you asking
8 for credit that he's been in jail on unrelated charges?

9 MR. TONEY: Yes, I am. Because they could've very
10 easily or perhaps should've gone off his bond immediately
11 upon him being picked up. And he has basically been
12 serving time on this charge also, I think.

13 I -- I just believe that they -- bondsmen sometimes
14 just say, Well, let's just let it ride. And basically,
15 he's out on bond while he's in jail. It doesn't make any
16 sense.

17 THE COURT: Well, is it -- is it -- does it even
18 apply -- if he's picked up on a bench warrant and the
19 bond is still there but he's in jail because of the bench
20 warrant, then whether or not the bondsman comes off his
21 bond, that's not -- I don't see where that's really
22 important. He's in jail.

23 And then, we have to look at: Is he in jail because
24 of this charge, or is he in jail because of something
25 else? Isn't that how we are supposed to look at it?

1 MS. BOYKIN: Yes, Your Honor..

2 MR. TONEY: I think the Court could give him credit
3 for the time he's been in. I -- I believe the Court can.

4 THE COURT: Let -- let ---

5 MS. BOYKIN: And, Judge, I believe he's been in the
6 detention center in Laurens here since -- is it January
7 or February? He went down to SCDC for a few months and
8 then was brought here to the Laurens Detention Center, I
9 believe, in -- the end of January or beginning of
10 February of this year and was being held on the bench
11 warrants for those other charges.

12 THE COURT: Right. Okay. All right. Everybody be
13 at ease just a moment.

14 (Off the record briefly.)

15 THE COURT: All right. Under 24-13-40, it says that
16 (As read): "Provided, however, that credit for time
17 served prior to trial and sentencing shall not be given"
18 -- and No. 1 deals with escape, so that's not applicable
19 -- "shall not be given when the prisoner is serving a
20 sentence for one offense and is awaiting trial and
21 sentence for a second offense, in which case he shall not
22 receive credit for time served prior to trial in a
23 reduction of his sentence for the second offense."

24 MR. TONEY: I ---

25 THE COURT: I'm not ---

1 MR. TONEY: --- I would ---

2 THE COURT: --- sure exactly what that -- what that
3 really is telling us.

4 Here's what -- here's what I'm going to do, Mr.
5 Toney, is I'm going to give him credit -- and -- but hear
6 me out completely. I'm going to give him credit for only
7 the 44 days. However, I will allow you -- well, you're
8 allowed ten days -- and I'll give you ten days -- to file
9 any motions for new trial or whatever, if you feel like
10 that is appropriate.

11 I'll allow you to file a motion for reconsideration
12 of the credit issue. And we could look at it a little --
13 a little further. I'm just -- I'm just extending that
14 offer to you and let you make that -- let you make that
15 decision.

16 MR. TONEY: Thank you.

17 THE COURT: Okay. All right.

18 I mean, I will say this: I typically don't give
19 credit when it's unrelated to the charge. But in -- in
20 -- in reading the statute, which I haven't read in -- in
21 a -- in a while, it's not necessarily real clear. So
22 that's why -- and I'm not suggesting, by my offer to you,
23 Mr. Toney, to file a reconsideration of the credit issue.
24 It wouldn't necessarily change the credit, but would
25 certainly give us all an opportunity to maybe take a look

1 at it a little further. Okay.

2 Well, Mr. Williams, you've had a -- needless to say,
3 a very long drug history. And we have got such a problem
4 with drugs, not only in -- in this county, across the
5 state, across the nation. Notwithstanding the work that
6 these fine officers are -- have done and are doing, we
7 still have a tremendous problem.

8 Whether or not the problem can ever be remedied, I'd
9 love to be able to say yes. But I'm not -- I'm not
10 convinced that we'll ever be able to -- to solve it.

11 But you -- you evidently have been -- been a major
12 player in the -- in the drug problem in this county, just
13 by virtue of your very significant drug record. And, I
14 mean, even -- you were convicted two years or less with a
15 trafficking in cocaine, and then, here you turn around in
16 2015 and sell some cocaine.

17 There's got to be some significant consequences for
18 your -- for your actions. I've said this before. And
19 I'm going to say it again. I got a good friend who --
20 who says: You can choose your sins, but you just can't
21 choose your consequences.

22 Your consequences are determined by me. That's what
23 the Supreme Court of this state has vested with me, the
24 -- the authority to impose the consequences, which I
25 believe are appropriate in this case.

1 SENTENCE OF THE COURT

2 THE COURT: Mr. Williams, on Indictment 15-GS-30-
3 1488, sentence of the Court is you be committed to the
4 State Department of Corrections for a period of 25 years,
5 credit for 44 days. Good luck to you. Sheriff, take him
6 into custody! Well, he's already in custody.

7 All right. This matter is adjourned.

8 MR. TONEY: Thank you.

9 MS. BOYKIN: Thank you, Your Honor.

10 (Whereupon, the proceedings were concluded at 3:44 p.m.)

11 --- END OF TRANSCRIPT OF RECORD ---
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THE STATE OF SOUTH CAROLINA

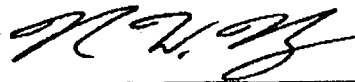
COUNTY OF LAURENS

INDICTMENT FOR**Distribution Crack Cocaine
§44-53-0375**

At a Court of General Sessions, convened on the 2nd day of October, 2015, the Grand Jurors of Laurens County present upon their oath:

That Arthur Lee Williams III did, on or about July 10, 2015, in Laurens County, willfully, unlawfully, and knowingly distribute, dispense, deliver, and/or did otherwise aid, abet, attempt, or conspire to distribute, dispense, or deliver cocaine base (crack cocaine), in violation of the provisions of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Assistant Solicitor

WITNESSES

Matthew Veal
Laurens County Sheriff

WARRANT NUMBER

2015A3010101066

True Bills

Marietta Thompson
Foreman of the Grand Jury

Date: 10-2-15

VERDICT

GUILTY
Mary Ann Weaver 5/25/18
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2015

Indictment # 15GS30- 1488

THE STATE

vs.

Arthur Lee Williams III

BW issued

INDICTMENT FOR

Distribution Crack Cocaine
§44-53-0375

CDR: 3039

COUNTY OF LAURENS

STATE VS.

ARTHUR LEE WILLIAMS, III

AKA:

Race: Black Sex: M Age: 28

DOB: SS#:

Address:

City, State, Zip: Clinton, SC 29325

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Distribution of Crack Cocaine 3rd or Sub. Offense

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3039

INDICTMENT/CASE#: 15GS30-1488

A/W: 2015A3010101066

Date of Offense: 07/10/2015

S.C. Code §: 44-53-0375

CDR Code #: 3039

SENTENCE SHEET

☒ CONVICTED OF or☐ PLEADS☒ 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:

Margaret Boykin, Assistant Solicitor 101017 SC Bar #

Defendant

Attorney for Defendant

2460 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Ordered PTUP

_____ days/hours Public Service Employment

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: _____

Judge Code: 21167

Sentence Date: 5/25/18

Recipient: _____

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ca \$ _____

3% to County (if paid in installments) \$ \$ 18.25

TOTAL \$ 283.25

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

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,



Victor R Seeger
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of May, 2019.

RECEIVED

MAY 30 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County
Donald B. Hocker, Circuit Court Judge

ORIGINAL

RECEIVED
JUN 04 2019
SC Court of Appeals

THE STATE,

Respondent,

v.

ARTHUR LEE WILLIAMS, III,

Appellant.

APPELLATE CASE NO 2018-000982

FINAL BRIEF OF APPELLANT

VICTOR R. SEEGER
Appellate Defender

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

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying Appellant's motion to remove or strike the videotape of the drug buy after the State's main witness, who was the confidential informant in the case, contradicted himself on the stand and showed signs he was incompetent to testify?

STATEMENT OF THE CASE

In 2015, the Laurens County Grand Jury indicted Arthur Lee Williams, III (Appellant) for distribution of crack cocaine, indictment #2015-GS-30-1488. On May 24–25, 2018, Appellant proceeded to a jury trial before the Honorable Donald B. Hocker. Ivan J. Toney represented Appellant at trial. Deputy Solicitor Dale Scott and Assistant Solicitor Margaret Boykin prosecuted the case. The jury returned a verdict of guilty, and Judge Hocker sentenced Appellant to twenty-five (25) years' imprisonment. On May 29, 2018, Appellant filed a Notice of Appeal. This appeal follows.

STANDARD OF REVIEW

In criminal cases, an appellate court sits to review only errors of law. *State v. Anderson*, 407 S.C. 278, 285, 754 S.E.2d 905, 908 (Ct. App. 2014) (citing *State v. McEachern*, 399 S.C. 125, 135, 731 S.E.2d 604, 608 (Ct.App.2012)). “The admission or exclusion of evidence is left to the sound discretion of the trial [court], whose decision will not be reversed on appeal absent an abuse of discretion.” *Id.* (quoting *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012)). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” *Id.* (quoting *State v. Jennings*, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)).

ARGUMENT

The trial court erred in denying Appellant's motion to remove or strike the videotape of the drug buy after the State's main witness, who was the confidential informant in the case, contradicted himself on the stand and showed signs he was incompetent to testify.

Relevant Facts

The State tried Appellant for distribution of crack cocaine. (R. 6, lines 1-23). The State's case was based on the videotape of a controlled drug buy orchestrated by law enforcement and involving a confidential informant by the name of Sammy Anderson. The State called Anderson as a witness and had him authenticate the videotape of the drug buy. (R. 54, lines 20-R-65, line 16).

On cross-examination, defense counsel began by questioning Anderson about some injuries he had sustained to his head and eye from an attack with a hammer. (R. 71, line 13-R. 73, line 11). Defense counsel asked him how long he was in the hospital, and Anderson replied that he did not know. (R. 73, lines 14-25). Defense counsel tried asking whether he was there for a month or more than three months, and Anderson replied that he had no idea whatsoever. (R. 73, line 18-R. 74, line 2). Defense counsel then asked whether the incident had any effect on his memory, to which he replied that it did not. (R. 75, lines 5-7). When defense counsel tried to inquire into who came and visited him while he was in the hospital, Anderson said he did not know, and the State interjected that the defense was asking the same question and Anderson did not remember. (R. 75, line 8-R. 76, line 2). The trial judge asked the defense to "move on to something else." (R. 76, lines 3-4).

Next, defense counsel began questioning Anderson about his work as a confidential informant for the police. (R. 76, lines 7-10). He claimed not to know how many times he had worked for them, saying he could not remember. (R. 76, lines 9-11). Anderson seemed to get

frustrated by the questions, saying, "Oh, man. Come on. Get off my back, man." (R. 76, lines 14–18). At that point, the trial judge sent the jury out of the courtroom. (R. 76, lines 19–24). He then instructed the witness to answer the questions and offered him a break before continuing. (R. 77, lines 2–24). When the jurors were back in the courtroom, defense counsel continued his cross-examination, asking about Anderson's history of drug use and some of his criminal record. (R. 79, line 15–R. 80, line 25).

Defense counsel brought up the videotape and began asking questions about some drugs that could be seen on the table in the videotape. (R. 83, lines 1–10). When defense counsel asked Anderson about his hand in the videotape, Anderson denied that it was his hand that appeared. (R. 83, line 11–R. 85, line 11). The topic of whose hand was in the videotape came up again, and Anderson further denied it was his, at which point he also explained that he could not see. (R. 92, line 22–R. 93, line 7). He elaborated that he could see the screen where the videotape was played but could not see "paperwork." (R. 93, lines 8–24). Although he had told the solicitor he could see his initials on the CD of the videotape earlier, he now claimed he could not see the initials but that he knew they were there because he put them there. (R. 94, line 14120, line 6). Despite claiming he could not see out of either eye, Anderson was able to correctly identify the number of fingers defense counsel was holding up. (R. 96, line 8–R. 97, line 25).

When court reconvened the next morning, defense counsel moved to remove the videotape from evidence based on the fact that it was authenticated by Anderson, who he now knew or alleged was not competent to testify. (R. 108, lines 12–23). He stressed that he had no way of knowing Anderson was not competent and it was not disclosed to him prior to trial. (R. 108, line 21–R. 109, line 1). He pointed out that Anderson repeatedly testified that it was not his

hand in the videotape, so he was not in the videotape; he could not see, so he could not see the videotape or his own initials on the CD; he could not read English; and he had a memory that was almost “nonexistent.” (R. 109, lines 2–14). Defense counsel then noted that during the State’s redirect, the solicitor inserted commentary and on one occasion tried to stop Anderson from testifying by saying, “No, no, no, no.” (R. 109, lines 15–20).

Defense counsel went on to say that Anderson’s testimony was lacking in competence, honesty, or reliability. (R. 109, lines 21–24). Further, he argued the testimony was so prejudicial that it had fatally infected the trial such that it was unfair to both sides. (R. 111, line 20–R. 113, line 3). He requested that at the very least the trial judge should remove the videotape from evidence based on the lack of proper authentication. (R. 113, lines 4–11).

In response, the State characterized Anderson’s testimony as a response to badgering and bullying by defense counsel. (R. 118, lines 13–22). The solicitor pointed out that Rule 601(a), SCRE, states that every person is competent unless the trial court determines otherwise. (R. 118, lines 8–12). He noted that Anderson was able to clearly walk through what happened on the day of the controlled buy and said he understood why the witness reacted badly when defense counsel began asking him about the attack and his injuries. (R. 119, lines 5–24).

While the trial judge agreed that Anderson’s testimony was outside the norm, he found that it did not rise to the level of questioning his competency to the extent of granting a mistrial. (R. 120, lines 20–25; R. 121, line 23–R. 122, line 2). He found that Anderson was clear about being able to see the television monitor even though he was unclear about seeing his initials. (R. 121, lines 1–7). Furthermore, he felt that whether he could see the documents went to the weight of his testimony rather than to competency. (R. 121, lines 8–11). He found no authenticity issue

with the videotape because it was testified to by Officer Prather. (R. 121, lines 12–18). The judge denied both motions. (R. 122, lines 3–5).

Ultimately, the jury found Appellant guilty of distribution of crack cocaine and the judge sentenced him to twenty-five years' imprisonment. (R. 219, lines 2–5).

Discussion

In criminal cases, an appellate court sits to review only errors of law. *State v. Anderson*, 407 S.C. 278, 285, 754 S.E.2d 905, 908 (Ct. App. 2014) (citing *State v. McEachern*, 399 S.C. 125, 135, 731 S.E.2d 604, 608 (Ct.App.2012)). “The admission or exclusion of evidence is left to the sound discretion of the trial [court], whose decision will not be reversed on appeal absent an abuse of discretion.” *Id.* (quoting *State v. Black*, 400 S.C. 10, 16, 732 S.E.2d 880, 884 (2012)). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” *Id.* (quoting *State v. Jennings*, 394 S.C. 473, 477–78, 716 S.E.2d 91, 93 (2011)).

It is the duty of a trial judge to determine competency of a witness to testify and to make a careful examination of the witness upon timely motion of counsel that will reveal to the trial judge’s satisfaction the witness’s ability to give competent testimony. *State v. Pitts*, 256 S.C. 420, 429, 182 S.E.2d 738, 743 (1971). The *Pitts* Court quoted the applicable rule from *State v. Comstock*, 70 S.E.2d 648 (W. Va. 1952): “The question of the competency of a witness is a question for the court, and not for the jury, and when a witness is offered in a criminal case, **and doubt is raised as to the competency of such witness, it is the duty of the court to determine that question upon a careful examination of the witness** as to age, capacity, and moral and legal accountability.” *Id.* at 430, 182 S.E.2d at 743 (emphasis added). The Court noted in *Pitts* that while the appellant should have objected to the witness’s competency before he was sworn, even if it was discovered after he

was sworn that he was incompetent, the appellant should have made the motion to strike his testimony from the record. *Id.* This Court emphasized competency of a witness is a question for the judge, not the jury. *Id.* While that case focused on the appellant not making a timely motion to object to the competency of the witness, the *Pitts* Court still provides guidance for what the role of the trial judge is when competency is raised. And it is clear the judge has a duty to examine a witness whose competency is questioned.

All witnesses are presumed competent to testify. Rule 601(a), SCRE. However, a witness will be disqualified if he is unable to express himself “concerning the matter as to be understood by the judge and jury . . . or is incapable of understanding the duty of a witness to tell the truth.” Rule 601(b), SCRE. A proposed witness understands the duty to tell the truth. *State v. Green*, 267 S.C. 599, 606, 230 S.E.2d 618, 621 (1976). “As succinctly explained by the Pennsylvania Supreme Court, in order to be competent to testify, a witness must have the ability (1) to perceive the event with a substantial degree of accuracy, (2) remember it, (3) communicate about it intelligibly, and (4) be mindful of the duty to tell the truth under oath.” *State v. Needs*, 333 S.C. 134, 143, 508 S.E.2d 857, 861 (1998), *holding modified by State v. Cherry*, 361 S.C. 588, 606 S.E.2d 475 (2004), (citing *Commonwealth of Pennsylvania v. Goldblum*, 498 Pa. 455, 447 A.2d 234, 239 (Pa.1982)).

Anderson did not seem to understand the duty to tell the truth. He repeatedly contradicted himself while on the stand, changing his answers during cross-examination from what he had said on direct. While the State attributed this to defense counsel’s “bullying,” the fact remains that he changed his answers. Furthermore, Anderson called each of the four abilities outlined by the Court in *Needs* into doubt. He certainly seemed not to be able to perceive the events with a substantial degree of accuracy when he claimed not to be able to see;

he continually failed to remember things when asked; he failed to communicate intelligibly; and he did not display a mindfulness of telling the truth.

Here, the trial court abused its discretion in refusing to grant Appellant's motion to remove or strike the videotape evidence. The State's witness—who was the confidential informant in the case—blatantly contradicted himself and got so belligerent that he was yelling and had to be told by the judge to stop. (R.54–107; R. 90, line 12). He refused to answer defense counsel's questions, despite being told by the judge numerous times that he had to answer the questions. (R. 77, lines 2–20; R. 84, lines 5–9; R. 89, lines 10–11; R. 90, lines 1–10; R. 91, lines 4–8; R. 93, lines 10–14). After initially visually identifying things that happened in the videotape of the controlled buy and his own initials on the CD of that buy, he then claimed he could not see. (R. 63, lines 20–24; R. 67–70; R. 93, line 6; R. 94, line 14–R. 95, line 11). At one point, after being told by the judge to give a “yes” or “no” answer, Anderson apparently began yelling, “Yes. Yes. Yes. Yes.” while talking over the judge. (R. 90, lines 4–12). Anderson made inexplicable comments while being cross-examined, such as when asked where he carried drugs, he said, “In your pocket” to defense counsel. Defense counsel asked, “In my pocket?” and Anderson answered, “That's what I just said.” (R. 90, lines 19–23). Similarly, when asked whose hand it was in the videotape if not his, Anderson answered, “I don't know. Maybe it's yours.” (R. 92, line 22–R. 93, line 1).

When looked at in its entirety, Anderson's testimony was confusing at best, and completely unreliable and untrustworthy at worst. Had he simply been a regular witness, this may not have been particularly prejudicial to the case. But here, when Anderson was the confidential informant on whom the whole case depended, and the witness who got the videotape entered into evidence, his testimony was extremely prejudicial. As defense counsel pointed out

during his argument, the testimony could have even been prejudicial to the State. (R. 112, lines 10-19). Due to the unreliable nature of the witness who authenticated the videotape, with troublesome matters brought up such as whose arm was in the videotape and whether Anderson could even see, it is hard to imagine how the jury considered the videotape reliable at all. The judge should have struck the videotape from evidence and instructed the jury to not consider it.

In the judge's ruling denying Appellant's motions, he noted that he did not "see that there's an authenticity issue with the . . . video[tape]" because "I think it was testified to by Officer Prather" and it "was taken as soon as – or close to the time that Sammy Anderson got back into the officer's car." (R. 121, lines 12–18). However, the State introduced the videotape based on Anderson's authentication, not Officer Prather's.

Rule 901(a), SCRE, requires "authentication or identification as a condition precedent to" the admissibility of evidence. This requirement "is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Rule 901(a), SCRE. Under Rule 901(b)(1), authentication can be accomplished by testimony from someone familiar with and with knowledge of the contents of the document or recording. Authentication can therefore be accomplished through someone with knowledge of the events depicted on a videotape. *See State v. Brown*, 424 S.C. 479, 488, 818 S.E.2d 735, 740 (2018) ("It is black letter law that evidence must be authenticated or identified in order to be admissible."); *see State v. Campbell*, 259 S.C. 339, 344, 191 S.E.2d 770, 773 (1972) ("Normally it is sufficient to justify admittance of photographs into evidence if a person familiar with the scene can say that the pictures truly represent the scene involved.").

While the judge was correct that Officer Prather did testify that he recognized the videotape and testified to what it showed, the State did not admit that evidence through his

testimony. Instead, the State chose to use Anderson to admit the videotape. Thus, the fact that Anderson then became an unreliable witness tainted the admission of the videotape.

Appellant argued for either the removal of the videotape from evidence or a mistrial, neither of which the trial judge granted. At the very least, the trial judge should have determined the competency of the witness after defense counsel brought it to his attention. That was the trial judge's duty according to *State v. Pitts*. Here, however, the judge simply based his decision not to question Anderson's competency on the basis that some of what he said could have supported his being able to see the television monitor when the videotape was played. (R. 121, line 1–R. 122, line 5). Moreover, because he mistakenly believed Officer Prather's testimony was sufficient to admit the videotape of the controlled buy, the judge did not explore the issue any further. This was error. The judge had a duty to make a careful examination of the witness upon timely motion of counsel. *Pitts*, 256 S.C. at 429, 182 S.E.2d at 743. Because doubt was raised as to the competency of this witness, it was "the duty of the court to determine that question upon a careful examination of the witness as to age, capacity, and moral and legal accountability." *Id.* at 430, 182 S.E.2d at 743.

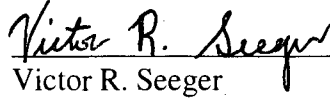
Rather than ruling that even though Anderson "testified . . . and acted in a way and . . . displayed a manner very unusual and not what we're accustomed to seeing, that in and of itself would not rise to the level of me questioning his competency to the extent of granting a mistrial," the trial judge had a duty to question the witness's competency once defense counsel brought it to the trial judge's attention. (R. 121, line 23–R. 122, line 2). Not questioning Anderson's competency was error.

As Rule 601(a), SCRE, points out, a witness will be disqualified if the court determines he is "incapable of expressing himself concerning the matter as to be understood by the judge and jury either directly or through interpretation by one who can understand him, or (2) the proposed witness

is incapable of understanding the duty of a witness to tell the truth.” The trial judge here did not make that determination despite obvious signs that Anderson did not express himself in an understandable manner nor understand his duty to tell the truth.

CONCLUSION

Based on the above arguments, Appellant's conviction and sentence should be reversed.

A handwritten signature in cursive script, reading "Victor R. Seeger", is written over a horizontal line.

Victor R. Seeger
Appellate Defender

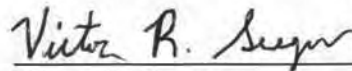
ATTORNEY FOR APPELLANT

This 4th day of June, 2019.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Final Brief of Appellant 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,



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ATTORNEY FOR APPELLANT

This 4th day of June, 2019.

RECEIVED

JUN 04 2019

SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
The Honorable Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2018-000982

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THE STATE,

Respondent,

v.

ARTHUR LEE WILLIAMS, III

Appellant.

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STATEMENT OF ISSUE ON APPEAL

Was the issue of whether the trial judge erred in denying Appellant's motion to remove or strike the videotape of Appellant's drug purchase from evidence preserved for appeal when Appellant waived any objection to the videotape's admissibility by explicitly conceding that he had no objection to the videotape, and where Appellant did not object to Sammy Anderson's competency until after he had testified? And even if Appellant had preserved these issues for appeal, whether the trial judge erred in denying Appellant's motion where Appellant failed to prove Anderson was incompetent and the State appropriately authenticated the videotape of the drug purchase?

STATEMENT OF THE CASE

In October 2015, the Laurens County Grand Jury indicted Appellant for one count of distribution of cocaine base third offense. On May 24-25, 2018 a jury trial was held in the Laurens County Court of General Sessions with the Honorable Donald B. Hocker, presiding. Appellant was represented by Ivan J. Toney, Esq. The State was represented by Assistant Solicitors Margaret Boykin and Dale Scott of the Eighth Circuit Solicitor's Office. At the conclusion of trial, the jury convicted Appellant. The trial judge sentenced Appellant to a term of twenty-five years' imprisonment for distribution of cocaine base third offense. Appellant timely filed a notice of appeal and an initial brief. This brief of Respondent now follows.

STATEMENT OF FACTS

On July 10, 2015, Officer Shane Prather of the Clinton City Police Department utilized the services of Sammy Anderson as a confidential informant to execute a controlled purchase of cocaine base at 84 Ponderosa Lane in Laurens County (R. 20-21). Appellant was the target of the controlled purchase operation. (R. 24). Anderson was equipped with a video recording device and given \$100 to make a purchase of cocaine base. (R. 26, 33). Anderson was dropped off in the vicinity of the residence at 11:18 AM and picked up by law enforcement after completing the buy at 11:25 AM. (R. 26-27). Anderson gave law enforcement the suspected cocaine base. (R. 33). The substance was later tested and analyzed by SLED and found to be one gram of cocaine base. (R. 155). Anderson was paid \$50 by law enforcement for his help with this transaction. (R. 40).

At trial, Anderson testified he was the victim of an attack in July 2017 where he was beaten with a hammer. (R. 71-73). Anderson could not remember how long his injuries left him in the hospital, but his injuries were severe enough for Defense counsel to opine that he looked “like John Merrick, the ‘elephant man’ with his distorted skull and his facial disfigurements.” (R. 116, lines 8-10). Despite his injuries, Anderson was able to remember specific details of his transaction with Appellant. Anderson remembered that he asked law enforcement to let him out of their car a certain distance away from Appellant’s house because Appellant knew Anderson didn’t have a car. (R. 60-61). Anderson also told Appellant that he was buying the drugs for someone else. (R. 61, State’s Exhibit #13). Anderson identified Appellant in court and said he knew Appellant for twenty years. (R. 57-58). At the conclusion of Anderson’s direct testimony, the State offered the video of the drug transaction into evidence. Appellant did not object. (R.

65). The video depicts a hand to hand drug transaction between Appellant and Anderson. (State's Exhibit #13). At the conclusion of trial, Appellant was convicted of distribution of cocaine base.

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion. State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) (referencing State v. Gaster, 349 S.C. 545, 557, 564 S.E.2d 87, 93 (2002)). “An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law.” State v. Bickham, 381 S.C. 143, 147, 672 S.E.2d 105, 107 (2009).

ARGUMENT

I.

The issue of whether the trial judge erred in denying Appellant's motion to remove or strike the videotape of Appellant's drug purchase from evidence was not preserved for appeal because Appellant waived any objection to the videotape's admissibility by explicitly conceding that he had no objection to the videotape. Furthermore, Appellant did not object to Sammy Anderson's competency until after he had testified. Even if Appellant had preserved these issues for appeal, the trial judge did not err in denying Appellant's motion because Appellant failed to prove Anderson was incompetent and the State appropriately authenticated the videotape of the drug purchase.

Appellant contends the trial judge erred in denying his motion to remove or strike the videotape of Appellant's drug buy with Sammy Anderson, the confidential informant, from evidence after Anderson contradicted himself during cross examination. Specifically, Appellant argues Anderson was not competent to testify and should have been excluded as a witness by the trial judge. Furthermore, Appellant argues the videotape was not properly authenticated and should have been excluded from evidence. Appellant's arguments are without merit. Appellant waived any objection to the admissibility of the videotape by explicitly conceding that he had no objection to its admission. Furthermore, Appellant did not challenge Anderson's competency until after Anderson had already testified. Thus, Appellant failed to preserve any issue regarding Anderson's competency on appeal. However, even assuming Appellant did not waive his objection to the admission of the videotape, the trial judge nonetheless properly admitted it into evidence because it was properly authenticated by the State. Additionally, assuming Appellant preserved the issue of Anderson's competency for appeal, Anderson was presumed competent to testify and Appellant otherwise failed to prove that Anderson was incompetent. Appellant's conviction and sentence should be affirmed.

Waiver/Issue Preservation

Appellant argues the trial judge erred in denying his motions to remove or strike the videotape of Appellant's drug buy from evidence. At trial, Appellant argued that if the video was not removed from evidence, a mistrial should be granted in the alternative¹. (R. 108). Appellant waived any objection he may have had to the admissibility of the videotape by explicitly acknowledging he did not object to the videotape's admission when it was offered into evidence. (R. 65). Furthermore, Appellant did not challenge Anderson's competency until after he already testified. (R. 108). Because Appellant did not object to Anderson's testimony and did not challenge Anderson's competency until after he testified, any issues regarding Anderson's competency are not preserved for appellate review.

"In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal." State v. Dunbar, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003). "For an objection to be preserved for appellate review, the objection must be made at the time the evidence is presented, and with sufficient specificity to inform the circuit court judge of the point being urged by the objector." State v. Byers, 392 S.C. 438, 444, 710 S.E.2d 55, 58 (2011). Failure to contemporaneously object to the question now advanced as prejudicial cannot be later bootstrapped by a motion for a mistrial." State v. Lynn, 277 S.C. 222, 226, 284 S.E.2d 786, 789 (1981). When a party specifically states they have no objection to the admission of evidence, it acts as a waiver of any issue that party subsequently has with the admissibility of the evidence. State v. Dicapua, 373 S.C. 452, 455, 646 S.E.2d 150, 152 (Ct. App. 2007).

¹ Appellant does not argue on appeal that the trial judge erred by not granting a mistrial.

To determine if Appellant successfully preserved this issue for appeal, it is instructive to review the portion of the record where the video was entered into evidence:

Assistant Solicitor: Your Honor, the state at this point – he's ID'ed it – identified it, vouched for its accuracy. The state would publish State's No. 13---

The Court: Okay.

Assistant Solicitor: --- or offer it for admission into evidence and then publish it.

The Court: Okay. Mr. Toney?

Defense Counsel: No objection.

The Court: All right. Without objection, No. 13 into evidence for the state.

(R. 65, lines 5-14). Appellant did not object to the admissibility of the videotape. In fact, Appellant specifically acknowledged he had no objection to the videotape's admission. Appellant therefore waived any objection to the videotape's admissibility. Additionally, Appellant did not object to Anderson's competency until the day after Anderson testified. Because Appellant did not offer a timely objection or a challenge to Anderson's competency, any issue regarding Anderson's competency is not preserved for appeal.

Competency

Even if Appellant properly preserved the issue of Anderson's competency for appeal, Anderson was properly allowed to testify because Anderson's testimony was presumed to be competent and Appellant did not otherwise prove that Anderson was incompetent.

A determination of competency is rooted in South Carolina Rule of Evidence 601. The rule states:

- (a) General Rule. Every person is competent to be a witness except as otherwise provided by statute or these rules.
- (b) Disqualification of a Witness. A person is disqualified to be a witness if the court determines that (1) the proposed witness is incapable of expressing himself concerning the matter as to be understood by the judge and jury either directly or

through interpretation by one who can understand him, or (2) the proposed witness is incapable of understanding the duty of a witness to tell the truth.

Rule 601 SCRE. “[A] trial judge should make a judicial determination of competency through his personal observations of a witness while that witness is being questioned.” State v. Camele, 293 S.C. 302, 304, 360 S.E.2d 307, 308 (1987). “[S]tatements from advocates for either party in a judicial proceeding evaluating a witness’ competency cannot substitute for a trial judge’s personal observations of a person’s capacity to be a competent witness.” Id. “Courts presume a witness to be competent because bias or other defects in a witness’s testimony—revealed primarily through cross examination—affect a witness’s credibility and may be weighed by the factfinder.” State v. King, 367 S.C. 131, 137, 623 S.E.2d 865, 868 (Ct. App. 2005). “In order to be competent to testify, a witness must have the ability (1) to perceive the event with a substantial degree of accuracy, (2) remember it, (3) communicate about it intelligibly, and (4) be mindful of the duty to tell the truth under oath.” State v. Needs, 333 S.C. 134, 143, 508 S.E.2d 857, 861 (1998) (citing Commonwealth of Pennsylvania v. Goldblum, 498 Pa. 455, 447 A.2d 234, 239 (Pa.1982)). “The party opposing the witness has the burden of proving a witness is incompetent.” Id.

Here, Anderson was presumed to be competent to testify. Appellant did not question Anderson’s competency prior to his testimony, but rather questioned it the day after Anderson testified. Even if Appellant made a timely objection to Anderson’s competency, he did not prove that Anderson was incapable of expressing himself or incapable of understanding the duty to tell the truth. Appellant argues that Anderson was incompetent to testify because he contradicted himself on cross examination. If a witness contradicting himself on cross examination rendered him incompetent to testify, then perhaps no witness would ever be deemed competent. Any contradictions in Anderson’s testimony could certainly be considered by the jury when deciding

the weight to be given to the testimony. Indeed, Appellant rightly encouraged the jury in closing argument to consider Anderson's contradictions when deciding if Anderson was a credible witness. (R. 181-91). However, a contradiction in testimony alone does not prove that a witness is incompetent. Because Appellant failed to prove Anderson was incapable of expressing himself or understanding the duty to tell the truth, the trial judge did not abuse his discretion in ruling that Anderson was a competent witness.

Authentication

Assuming for the sake of argument that Appellant preserved the issue of authentication of the drug buy videotape for appeal, the trial judge did not abuse his discretion in admitting the videotape. The State produced sufficient evidence for the jury to conclude the videotape was what the State claimed it to be.

"The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Rule 901, SCRE. Evidence must be authenticated before it can be admitted State v. Aragon, 354 S.C. 334, 336, 579 S.E.2d 626, 627 (Ct. App. 2003). "The burden to authenticate . . . is not high', and requires only that the proponent 'offer a satisfactory foundation from which the jury could reasonably find that the evidence is authentic.'" Deep Keel, LLC v. Atl. Private Equity Grp., LLC, 413 S.C. 58, 64, 773 S.E.2d 607, 610 (Ct. App. 2015) (quoting United States v. Hassan, 742 F.3d 104, 132 (4th Cir. 2014)).

Here, two witnesses authenticated the videotape for the State. Officer Prather identified his initials on the tape. (R. 37). Prather testified that he reviewed the tape and said it showed a drug transaction between Anderson and Appellant. (R. 37). Next, Anderson testified that he reviewed the tape and it was a fair and accurate depiction of his drug transaction with Appellant.

(R. 63-64). The testimony of Anderson and Prather combined to form a satisfactory foundation for the jury to conclude the videotape was, in fact, a depiction of a drug transaction between Appellant and Anderson. Appellant's conviction and sentence should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court should be affirmed.

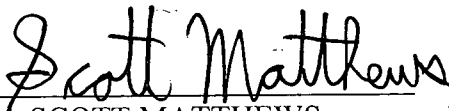
Respectfully submitted,

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Attorney General

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Assistant Attorney General

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ATTORNEYS FOR RESPONDENT

June 5, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUN 05 2019

APPEAL FROM LAURENS COUNTY
The Honorable Donald B. Hocker, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2018-000982

THE STATE,

Respondent,

v.

ARTHUR LEE WILLIAMS, III,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies the Final Brief of Respondent complies with Rule
211(b), SCACR.

ALAN WILSON
Attorney General

SCOTT MATTHEWS
Assistant Attorney General

DAVID M. STUMBO.
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ATTORNEYS FOR RESPONDENT

June 5, 2019

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Arthur Lee Williams, III, Appellant.

Appellate Case No. 2018-000982

Appeal From Laurens County
Donald B. Hocker, Circuit Court Judge

Unpublished Opinion No. 2020-UP-161
Submitted May 8, 2020 – Filed May 27, 2020

AFFIRMED

Appellate Defender Victor R. Seeger, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Jonathan Scott Matthews, both of
Columbia, and Solicitor David Matthew Stumbo, of
Greenwood, all for Respondent.

PER CURIAM: Arthur Lee Williams, III, appeals his conviction for distribution
of crack cocaine, for which he was sentenced to twenty-five years' imprisonment.

Williams asserts the circuit court erred in failing to remove or strike from the record the videotape of his drug sale to the State's confidential informant after the informant contradicted himself on the witness stand and showed signs he was incompetent to testify. Because Williams expressly conceded he had no objection to the admissibility of the videotape and failed to contemporaneously object to the informant's testimony, we find these issues unpreserved for review. Accordingly, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Dicapua*, 373 S.C. 452, 455, 646 S.E.2d 150, 152 (Ct. App. 2007) (finding trial counsel's specific statement that he had "no objection" upon State's motion to enter videotape into evidence and publish it to the jury amounted to waiver of any issue with respect to admission of videotape); *State v. Curtis*, 356 S.C. 622, 633, 591 S.E.2d 600, 605 (2004) (holding an objection made after several pages of testimony came too late to preserve the issue for review); *State v. Hoffman*, 312 S.C. 386, 393, 440 S.E.2d 869, 873 (1994) ("A contemporaneous objection is required to properly preserve an error for appellate review."); *State v. Lynn*, 277 S.C. 222, 226, 284 S.E.2d 786, 789 (1981) ("Failure to contemporaneously object to the question now advanced as prejudicial cannot be later bootstrapped by a motion for a mistrial.").

AFFIRMED.¹

LOCKEMY, C.J., and MCDONALD and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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June 19, 2020

The Honorable Lynn W. Lancaster
PO Box 287
Laurens SC 29360-0287

REMITTITUR

Re: The State v. Arthur Lee Williams, III
Lower Court Case No. 2015GS3001488
Appellate Case No. 2018-000982

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
Jonathan Scott Matthews, Esquire
Victor R Seeger, Esquire
David Matthew Stumbo, Esquire
The Honorable Donald B. Hocker

FORM 5

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LAURENS

Arthur Lee Williams, SCDC № 00344402

Full name and prison number (if any) of Applicant.

V.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention: McCormick Correctional Institution
2. Name and location of Court which imposed sentence: Laurens County Court of General Sessions
3. Name(s) of co-defendant(s) (if any): None

Revised 3/2003

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
- (a) 2015-GS-30-1488
 - (b) —
 - (c) —
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) May 25, 2018
 - (b) —
 - (c) —
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty —
 - (b) after a plea of not guilty X
 - (c) after a plea of nolo contendere —
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. South Carolina Court of Appeals
 - ii. —
 - iii. —
 - (b) the result in each such Court to which you appealed:
 - i. Affirmed
 - ii. —
 - iii. —
 - (c) the date of each such result:
 - i. May 27, 2020
 - ii. —
 - iii. —
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. 2020-UP-161

Revised 3/2003

ii. —

iii. —

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) —

(b) —

(c) —

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Trial counsel failed to properly preserve issues as to the video tape of the alleged transaction for appellate review

(b) Trial counsel failed to object to improper bolstering as to the reliability of the informant in this case

(c) Trial counsel failed to object to opinion testimony given by the officers in this case

(d) Appellate counsel failed to brief on appeal an objection as to opinion testimony given the the investigating officer

(e) Appellate counsel failed to brief the issue when the reputation of Arthur Williams as a drug dealer was placed before the jury and objected to by defense counsel.

(f) Trial counsel failed to object to the opinion of the investigating officer as to the alleged drug transaction

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) In dismissing the appeal in this case, the South Carolina Court of Appeals found that trial counsel failed to properly preserve the issue was the admissibility of the video tape.

(b) During the course of the trial, the investigating officers were permitted to bolster the credibility of the informant used in this case. For example, on page 207, ll 16-20 of the transcript the investigating officer was permitted to testify that the informant in this case was paid more because he was more reliable.

(c) The investigating officer was permitted to give an opinion when he stated without objection, "in my opinion, Arthur Lee Williams placed the original rock on the table for

Sammy." Tr. at 209, ll 3-4.

(d) The investigating officer testified "in my opinion Arthur Lee Williams placed the original rock on the table for Sammy." Tr. at 209, ll 3-4. A proper objection to this improper testimony was raised, but the issue was not briefed on appeal.

(e) On page 49 of the transcript, the investigating officer gave an opinion as to the reputation of Arthur Lee Williams as a drug dealer in the community. A timely objection was raised. This issue was not briefed on appeal.

(f) On page 62, ll 20-21 of the transcript, the investigating officer was permitted, without objection, to give his opinion as to what the video showed when the officer testified without objection, "It shows the informant making contact with Arthur Williams and purchasing \$100 worth of crack cocaine."

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? ____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? ____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? ____
- (d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. ____

ii. ____

iii. ____

iv. ____

(b) the name and location of the Court in which each was filed:

i. ____

ii. ____

iii. ____

iv. ____

Revised 3/2003

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

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- (a) —
- (b) —
- (c) —

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or

applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Ivan James Toney, 600 East Washington St., Greenville, SC
 - ii. Victor R. Seeger, 1330 Lady St. Columbia, SC 29201
 - iii. C. Rauch Wise, 305 Main Street, Greenwood, SC 29646
- (b) the proceedings at which each such attorney represented you:
 - i. trial and sentencing
 - ii. Appeal
 - iii. preparation of this PCR

19. State clearly the relief you seek in filing this application:

conviction reversed and new trial granted

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA

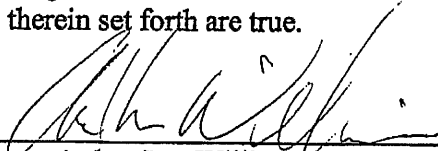
)
)

VERIFICATION

County of McCormick

)

I, Arthur Lee Williams, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



Arthur Lee Williams

SWORN to and subscribed before me this 21
day of May, 2021.



Notary Public (L.S.)

My Commission Expires: 5/18/2030

Revised 3/2003

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LAURENS	)	FOR THE EIGHTH JUDICIAL CIRCUIT
	)	
Arthur Williams, #344402,	)	
Applicant,	)	Case No.: 2021-CP-30-479
	)	
v.	)	
	)	RETURN
State of South Carolina,	)	(Counsel Retained)
Respondent.	)	
	)	

In response to the application for post-conviction relief filed by Applicant Arthur Williams on May 21, 2021, Respondent the State of South Carolina makes this return:

I. Procedural History

In October 2015, the Laurens County Grand Jury indicted Applicant for Distribution of Crack Cocaine (2015-GS-30-1488). Applicant was represented by Ivan Toney, Esquire. Deputy Solicitor C. Dale Scott, and Assistant Solicitor Margaret G. Boykin of the Eighth Circuit Solicitor's Office prosecuted the case.

On May 24, 2018, Applicant proceeded to trial before the Honorable Donald B. Hocker, and a jury. Following Applicant's conviction for Distribution of Crack Cocaine, Judge Hocker, sentenced Applicant to twenty-five years imprisonment. Applicant filed a timely notice of appeal.

An appeal was perfected on Applicant's behalf by Victor Seeger of the South Carolina Commission of Indigent Defense. On appeal Applicant raised the following issue:

1. The trial judge erred in denying Applicant's motion to remove or strike the videotape of the drug buy after the State's main witness, who was the confidential informant in the case, contradicted himself on the stand and showed signs he was incompetent to testify.

On May 27, 2020, the South Carolina Court of Appeals issued an order affirming Applicant's conviction, finding Applicant's counsel failed to object to the informant's testimony

or the admissibility of the videotape of the drug buy and therefore these issues are not preserved for appellate review. The Remittitur was issued on June 19, 2020.

II. Facts

On July 10, 2015, Officer Shane Prather of the Clinton County Police Department, with the help of a confidential informant Sammy Anderson, executed a controlled purchase of cocaine base at 84 Ponderosa Lane in Laurens County. ROA P. 20-21. Sammy Anderson was equipped with a video recording device and was given \$100 to make a purchase of cocaine base from Applicant. ROA p. 24, 26, 33. Anderson was dropped off in the vicinity of the Ponderosa Lane address at 11:18AM and was picked up by law enforcement after completing the purchase around 11:25AM. ROA p. 26-27. Anderson gave law enforcement the suspected cocaine base, which was later tested by SLED and found to be one gram of cocaine base. ROA p. 33, 155. Anderson was paid \$50 by law enforcement for assisting in the controlled buy. ROA p. 40.

III. Current Application

Applicant timely commenced this PCR action on May 21, 2021. Applicant asserts he is being held in custody unlawfully, alleging:

1. Ineffective assistance of counsel:
 - a. Counsel failed to properly preserve issues as to the video tape of the alleged transaction for appellate review.
 - b. Counsel failed to object to improper bolstering as to the reliability of the informant in this case.
 - c. Counsel failed to object to opinion testimony given by the officer in this case.
 - d. Counsel failed to object to the opinion of the investigating officer as to the alleged drug transaction.
2. Ineffective assistance of appellate counsel:
 - a. Appellate Counsel failed to brief on appeal an objection as to opinion testimony given by the investigating officer.
 - b. Appellate Counsel failed to brief the issue when the reputation of Arthur Williams as a drug dealer was placed before the jury and objected to by defense counsel.

c.

Applicant requests relief in the form of “Conviction reversed and new trial granted.”

Attached herewith and incorporated herein are the Laurens County Clerk of Court records regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the trial transcript, the appellate records, and the records of this PCR action. Respondent reserves the right to amend this Return upon receipt of any relevant materials

IV. Response to Allegation of Ineffective Assistance of Counsel

Applicant’s allegations of ineffective assistance of counsel are without merit. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668 (1984). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions) (emphasis added). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction or sentence. 466 U.S. at 687. To obtain reversal of a conviction, the applicant must prove that (1)

their attorney's performance fell below an objective standard of reasonableness (the performance prong) and (2) the deficient performance prejudiced the defense to the degree that it deprived the defendant of a fair trial (the prejudice prong). *Id.* at 690–95; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. The defendant's burden for proving both of these components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. *Strickland*, 466 U.S. at 690. Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Id.* at 700.

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of “reasonableness under prevailing professional norms.” *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, “does not guarantee perfect representation [—]only a ‘reasonably competent attorney.’” *Harrington v. Richter*, 562 U.S. 86, 110 (2011) (quoting *Strickland*, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” *Harrington*, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel's performance must be highly deferential, as

it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." *Strickland*, 466 U.S. at 689; *see also Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. *Strickland*, 466 U.S. at 689. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a "strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

A reviewing court "must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed at the time of counsel's conduct." *Strickland*, 466 U.S. at 690. An applicant making a claim of ineffective assistance "must identify the acts or omissions of counsel that are alleged *not* to have been the result of reasonable professional judgment." *Strickland*, 466 U.S. at 690 (emphasis added). The reviewing court must then "determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance." *Id.*

The *Strickland* standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; *see also Harrington*, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and

raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel's representation is a most deferential one. *Harrington*, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," *not* whether it deviated from best practices or most common custom. *Id.* (quoting *Strickland*, 466 U.S. at 690) (emphasis added).

The second, or "prejudice" prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. *Id.* at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. In determining prejudice, the reviewing court must consider the totality of the evidence before the jury. *Id.* at 695.

Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to *deprive the defendant of a fair trial.*" *Id.* at 687 (emphasis added). "An error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." *Id.* at 668.

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result

is being challenged.” *Strickland*, at 696. Moreover, “there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one.” *Id.* at 697. The court “need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. *Id.* If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. *Id.*

Applicant has failed to present any evidence suggesting counsel was deficient for not objecting to specific testimony proffered at Applicant’s trial. “trial counsel is repeatedly required during any trial... to make split-second decisions on many subjects, including whether to object to testimony. There are a variety of reasons counsel may soundly choose not to make such objections, including the reality that not all evidence offered by the State is harmful to the defendant. Under certain circumstances, therefore, counsel may employ a strategy of not objecting – even when counsel has a good argument for exclusion – if counsel reasonably perceived the benefits of doing so are outweighed by some other consideration.” *Stone v. State*, 419 S.C. 370, 383, 798 S.E.2d 561, 568 (2017). Trial counsel’s strategy is reviewed under “an objective standard of reasonableness.” *Magazine v. State*, 361 S.C. 610, 617, 606 S.E.2d 761, 764 (2004). “[j]udicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” *Strickland*, 466 U.S. at 689; *see also Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Respondent submits

Applicant has failed to demonstrate how counsel's decisions were deficient, or how Applicant was prejudiced as a result of counsel's representation. Therefore, Applicant cannot satisfy either requirement of *Strickland*. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See *Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

V. Response to Allegations of Involuntary Guilty Plea

Beyond the right to effective assistance of counsel at trial, a criminal defendant is constitutionally entitled to effective assistance of appellate counsel on direct appeal. *Evitts v. Lucey*, 469 U.S. 387, 404–05 (1985) (finding that to be effective, appellate counsel must give assistance of such quality as to make appellate proceedings fair); accord. *Thrift v. State*, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990). The analysis of counsel's performance under *Strickland* remains unchanged—the applicant must demonstrate (1) that his "counsel's representation fell below an objective standard of reasonableness" in light of the prevailing professional norms, *Strickland*, 466 U.S. at 688, and (2) that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694; cf. *Smith v. Robbins*, 528 U.S. 259, 285 (2000) (holding that habeas applicant must demonstrate that "counsel was objectively unreasonable" in failing to file a merits brief addressing a nonfrivolous issue and that there is "a reasonable probability that, but for his counsel's unreasonable failure . . . , he would have prevailed on his appeal").

In applying *Strickland* to claims of ineffective assistance of appellate counsel, reviewing

courts must accord appellate counsel the “presumption that he decided which issues were most likely to afford relief on appeal. A decision with respect to an appeal is entitled to the same presumption that protects sound trial strategy.” *Pruett v. Thompson*, 996 F.2d 1560, 1568 (4th Cir. 1993). Generally, only when ignored issues are clearly stronger than those presented, will the presumption of effective assistance of counsel be overcome.” *Robbins*, 528 U.S. at 288 (quoting *Gray v. Greer*, 800 F.2d 644, 646 (7th Cir. 1986)). To prove prejudice, the applicant must demonstrate that, “but for counsel’s errors, there is a reasonable probability he would have prevailed on appeal.” *Anderson v. State*, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

Appellate counsel is *not* obligated to raise every non-frivolous issue that is presented by the record, as “[t]here can hardly be any question about the importance of having the appellate advocate examine the record with a view to selecting the most promising issues for review.” *Jones v. Barnes*, 463 U.S. 745, 752 (1983); *Thrift*, 302 S.C. at 539, 397 S.E.2d at 526. Indeed, “[w]innowing out weaker arguments on appeal and focusing on those more likely to prevail, far from being evidence of incompetence, is the hallmark of effective appellate advocacy.” *Smith v. Murray*, 477 U.S. 527, 536 (1986). “For [courts] to second-guess reasonable professional judgments and impose on [appellate] counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very goal of vigorous and effective advocacy . . .” *Jones*, 463 U.S. at 754.

Applicant contends Appellate Counsel was ineffective for failing to brief on direct appeal (1) an objection as to opinion testimony given by the investigating officer, and (2) the issue of Arthur Williams’s reputation as a drug dealing being placed before the jury following an objection by defense counsel. Applicant has addressed specific instances where Appellate Counsel did not raise issues regarding specific objections from Applicant’s trial. However, Applicant has failed to

show Appellate Counsel's decision not to raise any of these issues was objectively unreasonable. Therefore, Applicant cannot satisfy either requirement of *Strickland*. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests and evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

VI. Any Future Amendments and Invocation of Discovery

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See Id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.").

Pursuant to section 17-27-150 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to

request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VII. Any and All other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VIII. Conclusion

WHEREFORE, the State requests an evidentiary hearing be held on the claims of ineffective assistance of counsel and involuntary guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

MICHAEL J. NEUBAUER
Assistant Attorney General

By:



ATTORNEYS FOR RESPONDENT
Office of the Attorney General
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10 / 8, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LAURENS	)	FOR THE EIGHTH JUDICIAL CIRCUIT
	)	
Arthur Williams, #344402,	)	
Applicant,	)	Case No.: 2021-CP-30-00479
	)	
v.	)	
	)	ORDER OF DISMISSAL
State of South Carolina,	)	
Respondent.	)	

This matter comes before the Court by way of an application for post-conviction relief filed by Applicant Arthur Williams on May 21, 2021. The Court convened an evidentiary hearing into the matter on December 1, 2022. Applicant was present at the hearing and represented by C. Rauch Wise, Esquire. Assistant Attorney General Zachary W. Jones represented Respondent.

Testimony was taken from Ivan Toney, Esquire, who represented Applicant at his trial, and Victor Seeger, Esquire, who represented Applicant on direct appeal. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Laurens County Clerk of Court regarding the subject convictions, Applicant's appellate records, and the pleadings. In addition, the Court considered a video recording that was introduced by the State at Applicant's trial. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and, therefore, denies and dismisses this application with prejudice. The Court finds as follows:

I. Procedural History

In October 2015, the Laurens County Grand Jury indicted Applicant for Distribution of Crack Cocaine (2015-GS-30-1488). Applicant was represented by Ivan Toney, Esquire ("Trial Counsel"). Deputy Solicitor C. Dale Scott and Assistant Solicitor Margaret G. Boykin, of the

Eighth Circuit Solicitor's Office, prosecuted the case.

On May 24, 2018, Applicant proceeded to trial before the Honorable Donald B. Hocker, circuit court judge, and a jury. Applicant was found guilty as indicted, and Judge Hocker sentenced Applicant to twenty-five years' imprisonment. Applicant filed a timely notice of appeal.

An appeal was perfected on Applicant's behalf by Victor Seeger, Esquire ("Appellate Counsel"), of the South Carolina Commission of Indigent Defense. On appeal Applicant raised the following issue:

1. The trial judge erred in denying Applicant's motion to remove or strike the videotape of the drug buy after the State's main witness, who was the confidential informant in the case, contradicted himself on the stand and showed signs he was incompetent to testify.

On May 27, 2020, the South Carolina Court of Appeals issued an order affirming Applicant's conviction, finding Applicant's counsel failed to object to the informant's testimony or the admissibility of the videotape of the drug buy and therefore these issues are not preserved for appellate review. The Remittitur was issued on June 19, 2020.

II. Facts

On July 10, 2015, Officer Shane Prather of the Clinton County Police Department, with the help of confidential informant Sammy Anderson, executed a controlled purchase of cocaine base at 84 Ponderosa Lane in Laurens County. (Tr. p.49, line 23–p.50, line 10). Anderson was equipped with a video recording device and was given \$100 to make a purchase of cocaine base from Applicant. (Tr. p.50, line 11–p.52, line 1; p.58, lines 6–11). Anderson was dropped off in the vicinity of the Ponderosa Lane address at 11:18 a.m. and was picked up by law enforcement after completing the purchase around 11:25 a.m. (Tr. p.51, line 14–p.52, line 17). Anderson gave law enforcement the suspected cocaine base, which was later tested by SLED and found to be one gram of cocaine base. (Tr. p.58, lines 12–23; p.215, line 10–p.216, line 21). Anderson was paid

\$50 by law enforcement for assisting in the controlled buy. (Tr. p.65, lines 8–21; p.207, lines 14–20).

III. Current Application

Applicant timely commenced this PCR action on May 21, 2021. Applicant asserts he is being held in custody unlawfully, alleging:

1. Ineffective assistance of counsel:
 - a. Counsel failed to properly preserve issues as to the video tape of the alleged transaction for appellate review.
 - b. Counsel failed to object to improper bolstering as to the reliability of the informant in this case.
 - c. Counsel failed to object to opinion testimony given by the officer in this case.
 - d. Counsel failed to object to the opinion of the investigating officer as to the alleged drug transaction.
2. Ineffective assistance of appellate counsel:
 - a. Appellate Counsel failed to brief on appeal an objection as to opinion testimony given by the investigating officer.
 - b. Appellate Counsel failed to brief the issue when the reputation of Arthur Williams as a drug dealer was placed before the jury and objected to by defense counsel.

Applicant requests relief in the form of “Conviction reversed and new trial granted.”

IV. Findings of Fact and Conclusions of Law

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Before the Court are Applicant’s records from the South Carolina Department of Corrections, the transcript of Applicant’s trial, the records of the Laurens County Clerk of Court regarding the subject conviction, Applicant’s appellate records, and the application for post-conviction relief. This Court has reviewed the evidence submitted to it by the parties, the legal arguments made by the attorneys, and the pleadings. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

Ineffective Assistance of Trial Counsel

Applicant's allegations of ineffective assistance of trial counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011);

Harrington v. Richter, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371–72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

1a. Failure to preserve issues regarding video

Applicant argues Trial Counsel was ineffective for failing to preserve his motion to strike the video from evidence on the ground that the witness, Samuel Anderson, through whom the video was introduced, was incompetent. The Court finds this argument is without merit.

At Applicant’s trial, Samuel Anderson testified that he bought drugs from Applicant under the supervision of law enforcement and recorded the transaction with a hidden camera. The DVD video depicting the transaction was introduced into evidence and published to the jury, without

objection, as State's exhibit No. 13 after Anderson identified his initials on it and testified he had watched the DVD and confirmed that it accurately reflected the transaction that took place between him and Applicant.

Trial Counsel cross-examined Anderson about a head injury Anderson had received, his memory, his criminal record, his drug addiction, his ability to read, and his ability to see. Anderson admitted he had memory and vision problems and used crack cocaine extensively over his lifetime. On several occasions, Anderson became upset during questioning, interrupting Trial Counsel's questions and complaining about Trial Counsel "badgering" him.

At the beginning of the next day of trial, Trial Counsel moved for a mistrial and for the video to be stricken from the record. Trial Counsel argued Anderson was not competent to testify because his memory was poor, his vision was impaired, and his answers to multiple questions were contradictory. Trial Counsel admitted that he had not objected to the admissibility of the video at the time it was introduced because he did not realize the extent of Anderson's incompetency until he started cross-examining him, and he argued that Anderson's testimony on re-direct examination suggested coaching by the solicitor's office.

The trial court denied both motions, ruling that, although Anderson's testimony had been "somewhat outside the norm," he clearly answered that he could see the video being played on the monitor and identified the video as accurately depicting the transaction. The court ruled that the other issues mentioned by Trial Counsel went to Anderson's credibility, not his competency. The Court also noted that Officer Prather, who had testified earlier about setting up the controlled buy, was also able to authenticate the video because he took possession of it immediately after Anderson completed the transaction and got back in the officer's car.

After Applicant was convicted, he appealed on the ground the trial court erred in denying

his motion to strike the video from evidence. The court of appeals affirmed, holding the issue was not properly preserved for appellate review because Trial Counsel expressly did not object to the introduction of the video and did not contemporaneously object to Anderson's testimony.

Applicant now argues Trial Counsel was ineffective for failing to preserve the issue. This Court finds Trial Counsel's conduct was not deficient. Although the court of appeals declined to address the issue, the trial court heard the motion and ruled on it. Applicant has presented no argument that the trial court's ruling was improper or that the court of appeals would likely have reversed it if the issue had been properly preserved. At the evidentiary hearing, Trial Counsel testified that Anderson's head had a visible deformation due to an attack with a hammer perpetrated by Applicant's associates. He stated Anderson was extremely stressed and terrified at trial. Nevertheless, Trial Counsel thought Anderson's testimony was "pretty good," and he made the motion to strike the video out of a desire to "just object to everything," rather than a subjective belief that Anderson was incompetent to authenticate the video.

The Court has reviewed the transcript of Anderson's testimony and can see no reason to believe the trial court's ruling on this issue would likely have been reversed on appeal. Despite Anderson's interruptions and occasional reluctance to answer Trial Counsel's questions, his responses concerning the authentication of the video were reasonably clear; he identified the DVD by his initials, confirmed that he had watched the video, and testified that it accurately represented his transaction with Applicant to purchase drugs. Furthermore, even if Anderson had been deemed incompetent to testify, the record supports the trial court's additional finding that the investigating officer who took possession of the video recording after Anderson returned from the controlled buy could have authenticated the video. Therefore, this Court finds Applicant has not met his burden of proving prejudice, and Trial Counsel was not ineffective as to this issue.

1b. Failure to object to bolstering

Applicant argues Trial Counsel was ineffective for failing to object when Officer Veal testified that Anderson was paid more than a normal informant because he was an established informant and was reliable. Applicant contends this testimony constituted improper bolstering because it amounted to a statement that Veal believed Anderson. The Court finds this allegation is without merit.

The Court notes that Veal did *not* say he thought Anderson's testimony was credible; he merely stated he had worked with Anderson in the past and paid him more money than a normal informant because of his past reliability. Regardless, however, of whether Veal's testimony was improper, Trial Counsel articulated a valid strategic reason for not objecting to this portion of Veal's testimony: at the evidentiary hearing, Trial Counsel testified that he wanted evidence to come in that Anderson was being paid by law enforcement because it could support his argument to the jury that Applicant had a motive to lie. The Court finds Trial Counsel was not deficient as to this issue. More importantly, the Court finds that any minor effect Veal's testimony might have had on Anderson's credibility is negligible compared to the other evidence in the case, particularly the video depicting the drug transaction. Therefore, the Court finds Applicant has not met his burden of proving he was prejudiced by Trial Counsel's failure to object to Veal's statement.

1c, 1d. Failure to object to non-expert opinion testimony

Applicant argues Trial Counsel was ineffective for failing to object when Officer Veal gave his opinion that the video depicted Applicant distributing drugs to Anderson. The Court finds this allegation is without merit.

The record reflects that Trial Counsel *did* object to Veal's statement, but his objection was overruled. Nevertheless, a lay witness may properly testify to "opinions or inferences which (a)

are rationally based on the perception of the witness, (b) are helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) do not require special knowledge, skill, experience or training.” Rule 701, SCRE. Here, Officer Veal was merely describing his opinion, rationally based on his perception of the controlled buy video, which was related to the determination of a fact in issue (namely, whether Applicant distributed drugs to Anderson), and which did not require special knowledge or skill to infer. Essentially, Officer Veal described what he had just watched on the courtroom television monitor. In addition, there was patently no prejudice because the jury was watching the same video at the same time and could come to their own conclusions about what the video depicted without any deference to Officer Veal. As Applicant has failed to prove any deficiency or prejudice as to this allegation, the Court finds Trial Counsel was not ineffective.

Ineffective Assistance of Appellate Counsel

In applying *Strickland* to claims of ineffective assistance of appellate counsel, reviewing courts must accord appellate counsel the “presumption that he decided which issues were most likely to afford relief on appeal. A decision with respect to appeal is entitled to the same presumption that protects sound trial strategy.” *Pruett v. Thompson*, 996 F.2d 1560, 1568 (4th Cir. 1993).

Although appellate counsel is required to provide effective assistance of counsel, “appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record.” *Thrift*, 302 S.C. at 539, 397 S.E.2d at 526 (citing *Jones v. Barnes*, 463 U.S. 745 (1983)). Indeed, “[w]innowing out weaker arguments on appeal and focusing on those more likely to prevail, far from being evidence of incompetence, is the hallmark of effective appellate advocacy.” *Smith v. Murray*, 477 U.S. 527, 536 (1986). “For judges to second-guess reasonable professional

judgments and impose on . . . counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very goal of vigorous and effective advocacy . . .” *Jones*, 463 U.S. at 754.

“Generally, only when ignored issues are clearly stronger than those presented, will the presumption of effective assistance of counsel be overcome.” *Robbins*, 528 U.S. at 288 (quoting *Gray v. Greer*, 800 F.2d 644, 646 (7th Cir. 1986)). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. *Anderson v. State*, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

2a. Failure to brief issue of non-expert opinion testimony

Applicant argues Appellate Counsel was ineffective for failing to brief the issue of Officer Veal’s non-expert opinion testimony. The Court finds this issue is without merit. As explained above, Officer Veal was merely offering an inference based on his perception of the controlled buy video, which the jury had already seen for itself.

Appellate Counsel testified at the evidentiary hearing that the most important issue in the case was the admissibility of the video. Because the video was so damning, he believed that it would not be worthwhile to challenge other issues which would likely not result in a reversal if the trial court’s admission of the video was allowed to stand. The Court finds Appellate Counsel has articulated a valid strategic reason for not raising the opinion issue, as that issue was not “clearly stronger” than the issue actually presented concerning the admissibility of the video: Officer Veal’s testimony was *not* improper opinion testimony, and even if it had been, its prejudicial value would have been negligible compared to the video itself. Therefore, the Court finds Appellate Counsel was not ineffective as to this issue.

2b. Failure to brief issue of testimony concerning Applicant’s reputation

Applicant argues Appellate Counsel was ineffective for failing to brief the issue of Officer

Prather's testimony that Applicant's name had somehow gotten on law enforcement's "radar." Trial Counsel objected to Officer Prather's statement as hearsay, but the trial court overruled the objection. Applicant contends Appellate Counsel should have challenged the trial court's ruling on appeal. The Court finds this allegation is without merit.

As explained above, due to the damning nature of the video evidence against Applicant, Appellate Counsel wisely decided to focus his appeal on reversing the trial court's denial of Trial Counsel's motion to strike the video from evidence. The issue of Applicant's being on law enforcement's "radar" is not "clearly stronger" than the issue Appellate Counsel chose to present. Officer Prather's testimony on this point was extremely vague; he did not say *how* Applicant's name came to law enforcement's attention, nor did he say that Applicant had a reputation as a drug dealer. The Court finds the impact of Officer Prather's testimony was negligible compared to the other evidence in the record, especially the video depicting Applicant engaged in a drug transaction. Furthermore, the only ground on which Trial Counsel objected to Officer Prather's statement was hearsay, and this Court agrees with the trial court that Officer Prather's statement was not hearsay because it was not offered for the truth of the matter asserted. Any appellate challenge to the statement on the ground of hearsay would probably have failed. There were no other preserved objections to this portion of Officer Prather's testimony that Appellate Counsel could have raised in his appeal.

Therefore, the Court finds Applicant has failed to prove either deficiency or prejudice resulting from Appellate Counsel's conduct. Accordingly, the Court finds Appellate Counsel was not ineffective.

V. Conclusion

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief be denied and dismissed with prejudice; and
2. The Applicant be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 28 day of March, 2024.



R. SCOTT SPROUSE
Presiding Judge
Eighth Judicial Circuit

Wallula, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LAURENS	)	
Arthur Williams , № 344402,	)	
	)	
Applicant,	)	
	)	
	)	Case № 2021-CP-30-00479
-vs-	)	
	)	Rule 59 Motion to Alter or Amend
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Pursuant to Rule 59, of the South Carolina Rules of Civil Procedure, Arthur Williams, the Applicant above named, hereby moves this Court to Alter or Amend the Judgment in this case based upon the following:

1. This Court concluded, “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reason rather than through sheer neglect.” Order at 4. While this is a correct statement of law, neither trial nor appellate counsel ever testified the decision not to focus on any issue raised in the application was for a tactical reason.

2. In his testimony, Matt Veal stated:

And in this instance with Mr. Anderson, I believe he was paid \$50. To me, we’re paying him more than what we would a normal informant. So, that tells you that the reliability of Mr. Anderson, in mine and Sgt. Prather’s mind and Capt. Goggins, that he was an established informant. We were able to pay him more because of this reliability. Tr. at 207, ll 16-20

This Court erred in the finding that this testimony did not vouch for the testimony of the informant. Officer Veal stated the informant was reliable. This vouches for the credibility of

the informant. Mr. Veal elected to use the word “reliable.” The testimony told the jury the informant was reliable. This was vouching. No other meaning can be given to the testimony.

Also, this Court erred in finding that trial counsel had a valid strategic reason for not objecting. Trial counsel did testify, “[W]hen you’ve got a paid informant, the jury has a right to hear if they are getting paid.” Tr. at 13, ll 2-3. While this statement is correct, this Court appears to have failed to consider that Officer Veal saying the informant being paid “more because of [his] reliability,” goes well beyond how much the informant is paid and vouches for his credibility.” South Carolina case has long held witnesses may not vouch for the credibility of other witnesses. *State v. Kromah*, 401 S.C. 340, 737 S.E.2d 490 (2013). While South Carolina does not have a case where the witness testified as to the reliability of an informant other states have had such cases. See, e.g. *People v. Nicholas*, 130 A.D.3d 1314, 14 N.Y.S.3d 214 (2015). As one court said, “It is especially harmful for a police witness to give his opinion of a witnesses’ credibility because of the great weight afforded an officer’s testimony.” *Page V. State*, 733 So. 2d 1079, 1081 (Fla. Dist. Ct. App. 1999). See, also *State v. Brinklow*, 288 Kan. 39, 50, 200 P.3d 1225, 1233 (2009)(“it is wholly improper to tell the jury that the prosecutor thinks a witness is reliable and credible.”)

This Court further erred on this issue by the above was not prejudicial because, in part, of “the video depicting the drug transaction.” Order at 8. This Court erred in relying upon the video as the video did not clearly show a drug transaction by the applicant. The case turned primarily upon the testimony of the informant.

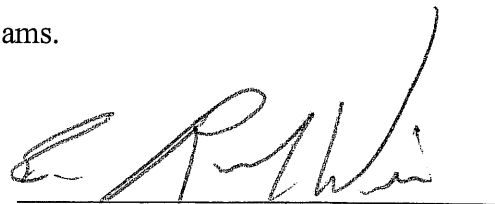
3. This Court correctly noted that trial counsel objected to the comment by Officer Veal as to what was shown on the video. This Court, however, erred in concluding that the appellate

Counsel “articulated a valid strategic reason for not raising the opinion issue.” Order at 10. The reason given by appellate counsel was that it was not error. PCR Tr. at 32, 11 119-24. Appellate counsel improperly concluded that Officer Veal could look at a video that does not clearly show the Applicant conducting a drug transaction and permit him to tell the jury that is what is on the video. As one court noted, “The problem on appeal is that both Walthers and Barnes, as well as a third officer named Dubose, were allowed to testify, over objection, that in their opinion Ruffin was the man in the videotape. This was an invasion of the province of the jury. When factual determinations are within the realm of an ordinary juror's knowledge and experience, such determinations and the conclusions to be drawn therefrom must be made by the jury.” *Ruffin v. State*, 549 So. 2d 250, 251 (Fla. Dist. Ct. App. 1989). As this issue was preserved and it was error, this Court erred in failing to find appellate counsel ineffective.

Furthermore, this court erred again in the finding that the appellate counsel was justified in not briefing the issue, “due to the damning nature of the video evidence against Applicant.” Order at 11. At the PCR hearing, appellate counsel never testified he actually viewed the video in this case.

Based upon the above, this Court should alter or amend the judgment in this case and issue an order granting the relief requested by Arthur Williams.

April 5, 2024



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STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

Arthur Williams, No. 344402,

Applicant,

vs.

State of South Carolina,

Respondent.

IN THE COURT OF GENERAL SESSIONS
FOR THE EIGHTH JUDICIAL CIRCUIT

Case No.: 2021-CP-30-00479

ORDER

After careful consideration of the able argument and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, Plaintiff's Amended Motion to Reconsider, pursuant to Rule 52, SCRCP,¹ is DENIED.

AND IT IS SO ORDERED.



R. SCOTT SPROUSE
Judge, Tenth Judicial Circuit

Oconee, South Carolina
April 9, 2024

K. MICHAEL SIMMONS
2024 APR 18 P 1:52
CLERK OF COURT
EIGHTH JUDICIAL CIRCUIT

¹ The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 52(c), SCRCP.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM LAURENS COUNTY
Court of Common Pleas
R. Scott Sprouse, Circuit Court Judge

Lower Case No 2021-CP-30-00479

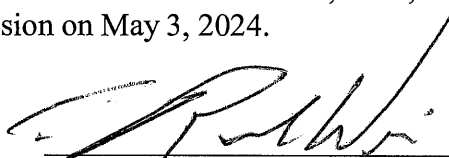
Arthur L. Williams, #344402 Appellant,
vs.

State of South Carolina Respondent.

NOTICE OF INTENT TO APPEAL

Arthur Lee Williams appeals the Order of the Honorable R. Scott Sprouse dated April 9, 2024, and filed April 18, 2024, and the Order of Dismissal dated March 28, 2024, and filed April 18, 2024. Appellant received a copy of this decision on May 3, 2024.

May 17th, 2024



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