

RECEIVED

Sep 26 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RODNEY DAVID RIGGINS,

APPELLANT

APPELLATE CASE NO. 2023-000892

RECORD ON APPEAL

JESSICA M. SAXON
Appellate Defender

ALAN WILSON
Attorney General

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

ANDREW D. POWELL
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29221
(803) 734-3727

ATTORNEY FOR APPELLANT

W. WALTER WILKINS III
Solicitor, Thirteenth Judicial Circuit

305 East North Street,
Suite 325
Greenville, SC 29601
(864) 467-8647

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 30, 2023	1
PRE-TRIAL MOTIONS	4
JURY VOIR DIRE	48
JURY SELECTION.....	63
TESTIMONY (IN-CAMERA)	
NOAH MILLSPAUGH	
Direct Examination by Mr. Hofferth	73
Cross-Examination by Mr. Crane	85
Cross-Examination by Ms. Newton.....	92
COLLOQUY.....	99
RULING BY THE COURT.....	108
TRIAL TRANSCRIPT DATED MAY 31, 2023	110
COLLOQUY.....	113
MOTION IN LIMINE	116
OPENING REMARKS BY THE COURT.....	118
OPENING STATEMENT BY MR. HOFFERTH.....	124
OPENING STATEMENT BY MR. CRANE.....	129
OPENING STATEMENT BY MS. NEWTON.....	132
TRIAL TESTIMONY	
NOAH MILLSPAUGH	
Direct Examination by Mr. Hofferth	134
COLLOQUY REGARDING ADMITTING EVIDENCE	156

NOAH MILLSPAUGH	
Cross-Examination by Mr. Crane	161
Cross-Examination by Ms. Newton.....	183
Re-Direct Examination by Mr. Hofferth.....	189
DAVID OWENS	
Direct Examination by Mr. Hofferth	194
Cross-Examination by Mr. Crane	200
Cross-Examination by Ms. Newton.....	209
Re-Direct Examination by Mr. Hofferth.....	219
MOTION TO DISMISS	221
RULING BY THE COURT.....	229
TESTIMONY	
JONATHAN DUNCAN	
Direct Examination by Mr. Hofferth	232
Cross-Examination by Ms. Newton.....	237
STATE RESTS	238
MOTION FOR DIRECTED VERDICT BY MR. CRANE	239
RULING BY THE COURT.....	242
MOTION FOR DIRECTED VERDICT BY MS. NEWTON	245
MOTION AS TO IDENTIFICATION	249
RULING BY THE COURT ON IDENTIFICATION MOTION.....	250
RULING BY THE COURT ON DIRECTED VERDICT MOTION.....	251
ADVICE OF RIGHTS	252
CLOSING ARGUMENT BY MR. HOFFERTH	259
CLOSING ARGUMENT BY MR. CRANE	270
CHARGE ON THE LAW	278
VERDICT	290
RENEWAL OF ALL MOTIONS.....	292

RULING BY THE COURT.....292

SENTENCING302

STATE’S EXHIBIT NO. 2 (INCIDENT REPORT).....475

INDICTMENTS AND SENTENCE SHEETS.....306

CERTIFICATE OF COUNSEL313

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 1 (USB DRIVE VIDEO)

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

State of South Carolina,)
PLAINTIFF,)
v)
Rodney David Riggins)
DEFENDANT.)

2023-GS-39-00604, -00839
TRANSCRIPT OF RECORD

May 30, 2023
Pickens, South Carolina

B E F O R E:

The Honorable Perry H. Gravely, Judge, and a jury

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

ATTORNEY FOR PLAINTIFF:
Jacob Quinn Hofferth, Esquire

ATTORNEY FOR DEFENDANT RIGGINS:
Jeremy L. Crane, Esquire

ATTORNEY FOR DEFENDANT TIPPINS:
Caroline H. Newton, Esquire

Tara T. Scott, CVR
Official Court Reporter
South Carolina Judicial Department

I N D E X

	<u>PAGE NUMBER</u>
Pre-trial Motions.....	4
Jury Selection.....	48
(In camera) Witness: Noah Millspaugh	
Direct Examination by Mr. Hofferth.....	73
Cross Examination by Mr. Crane.....	84
Cross Examination by Ms. Newton.....	92
Certificate of Court Reporter.....	109

EXHIBITS

State's Exhibit No. 1 USB drive video

State's Exhibit No. 2 Incident Report

State's Exhibit No. 3 Chain of Custody

(ALL EXHIBITS PRE-MARKED FOR IDENTIFICATION ONLY)

1 (WHEREUPON, on the record at 12:08 p.m.)

2 THE COURT: We are here on Rodney Riggins and Jodie
3 Tippins. Anything from the State?

4 MR. HOFFERTH: There are a few motions to be heard by
5 the State, Judge. I'm happy to address those whenever you
6 like.

7 THE COURT: Yes, let's go ahead. Let's just go in
8 order since we've got time.

9 MR. HOFFERTH: Judge, first and foremost -- I've given
10 a copy to counsel as well. It was emailed to counsel and
11 filed, a motion to quash. The background of this case,
12 Judge, this is a co-defendant case dealing with the
13 constructive possession of a quantity of drugs that was
14 found in the vehicle back in June of 2020. Both defendants
15 were in a vehicle. Both defendants denied possession of
16 said drugs that were found in the vehicle.

17 In November of last year, which would be 2022, I had
18 discussions with Caroline Newton, who was counsel for Jody
19 Tippins, one of the co-defendants in this case, about the
20 potential for Ms. Tippins to testify against Mr. Riggins in
21 this case. We met in November of 2022 and we, being myself,
22 Ms. Newton, counsel for Ms. Tippins, Ms. Tippins, and a
23 family member of Ms. Tippins. The meeting lasted about 30
24 minutes and in subsequent weeks, based on what the State
25 believed to be the insufficiency of substantive testimony

1 that the co-defendant could offer, I informed Ms. Newton
2 that the State would go forward against both co-defendants
3 at trial.

4 In April of this year, as we were structuring this case
5 for trial moving forward, I shared with Mr. Crane, who was
6 counsel for Mr. Riggins, my notes, which were taken at that
7 meeting, and in early June or -- excuse me, early May of
8 this year, I was served with a subpoena to testify on this
9 case by both Mr. Crane and Ms. Newton. Your Honor, shortly
10 after that, I filed a motion to quash the subpoena and it
11 was made on multiple grounds.

12 I, of course, don't need to inform the Court of how
13 unusual it is for counsel to be subpoenaed to testify as a
14 witness in a case that I myself am prosecuting. But there
15 are, of course, specific rules put forth to bar this type of
16 testimony. Obviously, 3.7 is the first Rule that comes to
17 mind which lays out some guidelines in barring counsel from
18 testifying when involved as counsel for the case, and then,
19 of course, on these grounds set forth in South Carolina,
20 Rule 131(e) three through five, which provide multiple
21 guidelines on why counsel should not serve both as an
22 advocate and a witness in a case outside of the obvious
23 conflict there that would arise in those dual roles. It
24 obviously would pose an undue burden on me presenting the
25 case and laying forward the appropriate facts, but more

1 specifically, Your Honor, I don't believe -- And I spoke to
2 both Ms. Newton and Mr. Crane after I was served with the
3 subpoena. And I don't believe they have any substantive
4 reason, at least that would be admissible for me to testify
5 to as a witness. And therefore, I simply believe there is
6 no reason for this subpoena to be upheld by the Court and it
7 should be quashed for those reasons.

8 THE COURT: All right. Mr. Crane?

9 MR. CRANE: Thank you, Your Honor. May it please the
10 Court. In Mr. Hofferth's Motion to Quash the subpoena he
11 lists quite a quite a few things, A through E on here. I'd
12 like to go over those one by one if we could. It says
13 specifically, "Counsel for the State will offer no testimony
14 that would be exculpatory, relevant, or admissible." It is
15 exculpatory. He had a conversation with Ms. Tippins.
16 During that conversation, she told him, "I don't know
17 anything about those drugs. Mr. Riggins didn't know
18 anything about those drugs." So, it is exculpatory.

19 It is certainly relevant that she had a second chance
20 to -- she essentially had a get-out-of-jail-free card and
21 sat down with Mr. Hoffert and told him, "I don't know
22 anything about these drugs and neither does Mr. Riggins."
23 So, we believe it is definitely exculpatory and relevant.
24 Mr. Hofferth says that a family member was present during
25 the meeting. The fact that he refers to her as a family

1 member of Tippins it goes to show that he doesn't have any
2 idea who it is. So, therefore, how am I supposed to
3 subpoena the other person who is in the room with them. The
4 family member may or may not remember what was discussed
5 that day, but yet I know that Mr. Hofferth did take notes
6 that day, so he knows exactly what was discussed.

7 There's also -- he states that there's an undue burden
8 on the State to have counsel be both subject to testimony
9 and advocate for the State. Your Honor, the Solicitors
10 Office is the largest law firm in the county and in the
11 circuit. Surely they have another -

12 THE COURT: It depends on which day.

13 MR. CRANE: What's that?

14 THE COURT: It depends on which day.

15 MR. CRANE: That's true. Late on a Friday, I don't
16 know if that's the case, but surely they have somebody who
17 can step in and question Mr. Hofferth on -- you know, he's
18 not having to step down for the entire trial. Just, you
19 know, if he were to stand as a witness, he could obviously
20 have somebody standing right behind him who could question
21 him.

22 He says the subpoena is vague. All subpoenas are
23 vague. You know, there's no notarized affidavit that has to
24 go with it for someone to come up here in court. If we had
25 to do that, we would have complied. He also -- Mr. Hofferth

1 was given a subpoena which said that he was to appear here
2 with his notes from his meeting with Ms. Tippins. What else
3 would he think that this had to do with? It's not vague.
4 It's pretty specific as to what we asked them to be here
5 with. Again, he says that it's unreasonable where it places
6 him in a dual role. We've already discussed that. It would
7 just be for one witness for him to shed light on what was
8 discussed that day.

9 Our other argument is that he made himself a witness to
10 a statement by Ms. Tippins. Ms. Tiffins is here as a co-
11 defendant. In order to get in evidence of what was
12 discussed at that meeting, Ms. Tippins would have to take
13 the stand and she would essentially be forced -- she would
14 be forced to testify against her Fifth Amendment right to
15 remain silent. I would point the Court to State v Nelson,
16 which is 699 SE 2nd 595. In that case, it was an
17 investigator of the Solicitor's office who interviewed
18 someone who is affiliated, affiliated with the case. In
19 that case, the Court ruled that the statement that was taken
20 was admitted via hearsay exception. On that one they ruled
21 it as an 803, a prior consistent statement. My argument is
22 that there's also a hearsay exception 803-6, which is a
23 record of a regularly conducted activity. In short, that
24 says that any --

25 THE COURT: Are you saying you're saying that Mr.

1 Hofferth documented as a regular ---

2 MR. CRANE: That's what I would argue, and he's going
3 to say that, you know, I would think that one of his
4 arguments would be that it would be hearsay, anything he
5 said. But I'm arguing that it's a hearsay exception.

6 THE COURT: Well, but you still can't overcome the
7 hearsay part of that, but go ahead.

8 MR. CRANE: We're saying that it was a memorandum that
9 was recorded in any form. And the information was
10 transmitted by a person with knowledge kept in the course of
11 regularly conducted business.

12 THE COURT: But that's like a medical custodian or one
13 of those people. That's not somebody writing down what
14 somebody told them.

15 MR. CRANE: Your Honor, the rule says the term business
16 is used as includes a business, institution, profession,
17 occupation. So, I'm arguing that it would classify as a
18 record that Mr. Hofferth took in the normal course of his
19 business. But our main argument is that he took a statement
20 from her. For us to -- for that to come out to the jury that
21 she, a second time, made a statement saying that the drugs
22 were not hers and were not Riggins', she's going to have to
23 take stand. And that tramples under Fifth Amendment right
24 to remain silent.

25 THE COURT: Ms. Newton?

1 MS. NEWTON: Thank you, Your Honor. May it please the
2 Court. Judge, on behalf of Ms. Tippins, I will say the
3 purpose of -- and our subpoena was a little bit different.
4 I didn't actually include the notes part portion of it, but
5 the intent was somewhat similar, however not to provide any
6 light on during the case in chief. But depending on what
7 comes out, you know, if the State implies that there is
8 something different, and I believe it's very much in line
9 what she talked to Assistant Solicitor Hofferth about. We
10 went into that meeting not thinking that there would be a
11 day where she was on the trial docket. But when that as a
12 result she provided basically similar testimony to what will
13 be seen and what I believe the State intends to prove and
14 show with the video evidence. So, for consistent statement
15 that may come into play under 803.

16 There's also a chance that 804(b) would apply based on
17 her being unavailable due to the fact that she has to
18 protect her Fifth Amendment right not to testify against
19 herself in trial. So, depending on the implications, (b)3
20 or (b)4. But, I guess my -- purpose of my subpoena was more
21 of a protection against what she may have to testify -- be
22 forced to testify at trial, and that's why we had this
23 conversation. I do adopt and believe and don't want to
24 duplicate a lot of Mr. Crane's arguments for purposes of be
25 addressing unduly burdensome and things like that.

1 MR. HOFFERTH: Judge, if I may respond.

2 THE COURT: Yes.

3 MR. HOFFERTH: Well, starting with Mr. Crane's
4 arguments, what's important to distinguish this sequence of
5 events in particular is the fact that in having that meeting
6 this isn't a situation where I spoke to Ms. Tippins alone.
7 This isn't a situation where I spoke to Ms. Tippins and Ms.
8 Newton. This is a situation where three people were in the
9 room. I understand Mr. Crane shows that there is a little
10 bit of vagueness as to my knowledge of who that individual
11 was. I know it was a family member of Ms. Tippins. I'm
12 sure Ms. Newton would be able to identify who that
13 individual is and offer substantially the same testimony.
14 But then again, it's not the same testimony, because
15 everything that I would have said at that meeting is
16 hearsay.

17 And, as for the work product argument, if that's the
18 train of thought you're going down then essentially all work
19 product is business record. Again, these are notes that I
20 shared with Mr. Crane. He's able to see them. And I think
21 in essence what is trying to -- this vehicle that they're
22 trying to use here is to bolster Ms. Tippin's testimony in
23 some way, but then again I think it's important to correct
24 some things that were said here because what Ms. Tippins
25 offered in that meeting amounted to her denying knowledge of

1 the drugs in the vehicle as a sweeping statement. She
2 indicated that it was her belief that Mr. Riggins was in
3 possession of those drugs, but could offer no testimony or
4 any substantial grounds that would be admissible at trial.
5 That is the reason that the State decided to ultimately go
6 forward, and again, I let Ms. Newton know of this about two
7 weeks after this meeting.

8 So just going back to this as a whole, there is a
9 witness that could offer whatever, you know, whatever
10 testimony that might ultimately be sought by someone who
11 could testify to that meeting. Again, this is a meeting
12 that was in contemplation of possibly a resolution in this
13 case and possibly getting Ms. Tippins to testify against Mr.
14 Riggins. That did not happen here. I'm not calling any
15 witness as a result of that meeting. I'm not introducing
16 any evidence as a result of that meeting. I'm not using the
17 information from that meeting to my advantage to prosecute
18 either defendant.

19 So again, the prospect of me taking this and testifying
20 to it is irrelevant, and I believe that anything that I
21 could prospectively say is inadmissible.

22 THE COURT: Anything else from either defendant?

23 MS. NEWTON: Just quickly. Judge, I did want to
24 clarify and it is attached to his motion, but if the meeting
25 was on November 10, 2022 and the first time that he was

1 putting it on my radar for her being on trial was after Mr.
2 Riggins had been on a previous trial docket and published
3 without my client as the co-defendant was that Monday,
4 February 27. So, it was a little bit longer than two weeks.

5 THE COURT: Obviously, this is a very unusual issue that
6 doesn't come up very often. I'll take a look at it here at
7 lunch and let y'all know what I come up with. All right.
8 Anything else from the State?

9 MR. HOFFERTH: Yes, Your Honor. I think this kind of
10 runs into a motion that Mr. Crane will have as to quashing
11 an indictment, which is the trafficking indictment for Mr.
12 Riggins. However, to provide some context to this, it was
13 the State's intention to arraign Mr. Riggins back in March
14 of this year. He was initially charged with trafficking 10
15 to 28 grams first offense. His prior record provides for
16 him being charged as a third offense. He has a prior
17 distribution charge and a prior possession charge, which I'm
18 happy to hand up to the Court if you would like.

19 THE COURT: I'll accept your word, unless they have an
20 issue with that.

21 MR. CRANE: We don't have an issue with it, depending on
22 which priors he's using.

23 THE COURT: So, right now Mr. Riggins is indicted for
24 possession with intent to distribute. Let me see. I think
25 the only diamond I have is possession with intent to

1 distribute heroin.

2 MR. HOFFERTH: It should be possession with intent to
3 distribute heroin and trafficking methamphetamine third
4 offense 10 to 28 grams.

5 THE COURT: Do you have another one?

6 (WHEREUPON, the Court confers with the Clerk of Court
7 off the record briefly.)

8 THE COURT: He's going to get a copy of that, so I'll
9 be glad to hear from you.

10 MR. HOFFERTH: In the course of trying to get this case
11 worked out, I indicated Mr. Crane, I have a copy of an
12 e-mail from May 10 of this year. I did let him know in
13 person prior to that, that would be my intention to arraign
14 Mr. Riggins on a third offense for the trafficking charge.
15 The true bill indictment came through on March 21, 2023.
16 Therefore, I mean, I would defer to Mr. Crane as to his
17 objection, but those are the grounds for arranging him as
18 the third offense.

19 THE COURT: So, it has been indicted. As of March 21,
20 it was indicted?

21 MR. HOFFERTH: That's correct.

22 THE COURT: Okay. All right. Do you want to present
23 your motion now?

24 MR. CRANE: Thank, Your Honor. Your Honor, this
25 incident occurred on June 8, 2020. That's roughly a week

1 shy of three years ago. The facts of this case haven't
2 changed. Mr. Riggins' record hasn't changed. Once this was
3 indicted as a third offense, all of a sudden his sentence
4 goes from three years to 25 years. It's my belief that, as
5 Mr. Hofferth said, something to the effect of trying to work
6 this out, you know, there was an offer of plea bargain for
7 trafficking first degree -- or excuse me, first offense. Mr.
8 Riggins didn't accept this, so then Mr. Hofferth decided he
9 wanted to go back to the Grand Jury to amend the charges and
10 put them on a third offense. Mr. Riggins has been on the
11 docket already. Once back in November 14, '22. Mr. Riggins
12 was having some health issues, so that was pushed off and on
13 that docket he was going up for a first offense. So, you
14 know, we're looking at -- what's that. Six months ago, he
15 was still ready to try him as a first offense. Now, all of
16 a sudden, he wants to come in, you know, and try him as a
17 third. We're not really sure what happened between ---

18 THE COURT: Why can't he do that?

19 MR. CRANE: Well, I don't believe that Mr. Riggins has
20 had any notice of this. You know, he told me that he that
21 he was going to indict him. Mr. Riggins -- I asked him. I
22 said, have you -- we were supposed to be here, I believe in
23 March, for an arraignment. I asked him by e-mail. Have you
24 let Mr. Riggins know? I said. Well, no. I'll let you
25 know. So, Mr. Riggins doesn't have any notice of this. He

1 was never placed on notice for a trafficking third. This
2 has been a trafficking first up until today. And so, I just
3 feel that it's, you know, it's a new direct presentment to
4 the grand jury. I don't -- I think it's -- I don't know why
5 Mr. Hofferth would just move forward almost three years
6 later to then indict him on the third offense and we just
7 think it's -- he hasn't had notice and we think it's
8 improper.

9 MR. HOFFERTH: Judge, I can certainly understand
10 frustration from the context of potentially notice here, but
11 I don't think anything that Mr. Crane put forward to the
12 court is something that would provide the Court a means to
13 quash this indictment based on grounds of notice. If that
14 is even a route that could be used to do so. As to notice,
15 we attempted to serve Mr. Riggins. I did let Mr. Crane know
16 in March of my intention to arraign him for a third offense,
17 and I did -- we did attempt to serve Mr. Riggins. We went
18 to his home address. We even went to the medical facility
19 that we were told that he was at in attempts to serve him.
20 We simply were unable to. In the time starting -- if you
21 start this time frame in March, even if you want to go that
22 late and go forward, Mr. Crane has had two months to explain
23 this to him.

24 This isn't a situation where Mr. Crane didn't have Mr.
25 Riggins's prior record and wouldn't be able to derive that

1 the State could go forward on a third offense on him. He
2 has had that record for three years, so I think that's
3 something that he was certainly within his realm to advise
4 him, that it's within the State's discretion to go forward
5 on a third offense based on his prior record. And I did. I
6 let Mr. Crane know. We attempted to serve him back in
7 March. He was -- we were, unfortunately, unable to. We
8 attempted to do it again in April and unfortunately Mr.
9 Crane was protected.

10 So, you know -- and we need to remind the Court, I
11 mean, as far as the indictment, the substantive grounds for
12 bringing forth the indictment were there and available to
13 Mr. Crane this entire time. So this is within the State's
14 domain to be able to elevate the charge based on his prior
15 history and that's what we've done. So, I simply don't
16 believe that the grounds are there to quash it based on, I
17 guess, an unfair notion of notice, if that's what's being
18 offered.

19 THE COURT: All right. Yes.

20 MR. CRANE: If I can address one thing. He showed me
21 the two prior convictions that that Mr. Riggins has. One is
22 from 2018. One is from 2004. It is my belief, under 44-53-
23 470, which determines which offense it is, that you can only
24 go back ten years for a drug offense to use it as a first or
25 or a second or a third. This occurred in 2020. Mr. Riggins

1 had a conviction in 2018. So, technically, yes, this could
2 be his second. Mr. Hofferth is then using a conviction from
3 2004. Even if you go back 10 years from 2018, you still
4 don't get to 2004. The other way that he could charge him
5 with a third offense is if at any time he's ever been
6 convicted of a second offense. He only has first offenses.
7 I know that that Mr. Hofferth is going to get up and argue
8 that two first offenses equals a second, but that's not the
9 way that I read the statute.

10 I believe that the 2018 conviction could count as a
11 prior, but 2004 is at the time of the arrest, sixteen years
12 old. It can't be used as a prior offense. And even if he's
13 trying to make it go back 10 years from 2018, he's still at
14 2008, so that would be another argument that I have is this
15 cannot be a third offense because he only has one drug
16 offense in the past ten years and no conviction for a second
17 offense. Our statutes have specifically first offense,
18 second offense, third offense. He has never -- Mr. Riggins
19 has never been convicted of a second offense, which is what
20 the statute says.

21 MR. HOFFERTH: I disagree as to the interpretation of
22 the statute starting with the ten year timer. I do not see
23 that language at all in the enhancement when we're talking
24 about offenses relating to methamphetamine, heroin. I think
25 the ten-year exception only comes into play on very -- on

1 low level drugs, the marijuana and perhaps some controlled
2 substances. I'm flatly unaware of the ten year timer on
3 enhancements and as to, I guess, counting the prior
4 offenses, I don't believe it makes a difference whether
5 you're charged with a first or second. There are two prior
6 offenses, rendering this his third for purposes of the
7 trafficking. So, just flatly from an interpretation
8 standpoint, I don't believe that's correct.

9 THE COURT: All right. The statute in play for this
10 would be 44-53-375.

11 MR. HOFFERTH: Yes.

12 THE COURT: And you're quoting -370 is where it talks
13 about the ten year.

14 MR. HOFFERTH: 470.

15 THE COURT: 470.

16 MR. HOFFERTH: Second or subsequent offense.

17 THE COURT: All right. Anything else from the State?
18 I'm going to look at those statutes.

19 MR. HOFFERTH: I mean, yes, Your Honor. I just
20 reiterate my point. 470 specifically names marijuana and
21 other controlled substances. We're not talking about
22 methamphetamine here. There is no time around
23 methamphetamine enhancements and I think the statute
24 clarifies that.

25 THE COURT: Any other motions from the State?

1 MR. HOFFERTH: Just two quick motions, Your Honor. This
2 can be done after the jury is sworn or now, whenever you
3 like.

4 THE COURT: I figure we can entertain all motions now.

5 MR. HOFFERTH: Understood. Counsel is aware of this and
6 to my knowledge has agreed. The chemist in this case, her
7 name -- and I hope I don't butcher the annunciation. Her
8 name is Vishwa bin Nik. She used to be with Greenville Drug
9 Lab. She is currently, I believe, in Raleigh and working in
10 a drug lab in North Carolina. She was gracious enough to
11 make herself available to the extent necessary, obviously
12 taking into account that's about a five-hour drive for what
13 would amount to probably about thirty minutes of testimony.

14 I extended to both Mr. Crane and Ms. Newton an
15 affidavit that Ms. Knight has provided the Court as to her
16 qualifications, her history in testifying in the drug labs.
17 Pursuant to the rules, this is a vehicle that if both Mr.
18 Crane and Ms. Newton agree to, the affidavit could serve in
19 lieu of her testimony and the lab report can be read through
20 the evidence custodian of Clemson, who is going to testify.
21 So, I just want to make the court aware of that, and
22 obviously that would put the ball in their court.

23 THE COURT: Are y'all in agreement with that, Mr.
24 Crane?

25 MR. CRANE: I am, Your Honor.

1 THE COURT: Ms. Newton?

2 MS. NEWTON: I am, Judge. We were provided with the --

3 THE COURT: To keep from having a State v Barnes issue.

4 MS. NEWTON: We were provided with an affidavit, and
5 then I assume that they're going to include is what else we
6 were provided with, with pictures of labs attached. When he
7 reached out to us, Mr. Hofferth was able to provide
8 additional information prior to us making the decision, or
9 prior to me making the decision on my case. I believe Mr.
10 Crane will agree, though, that everything from the
11 Greenville crime lab that we requested, we were provided
12 with and there's no concerns there on behalf of Ms. Tifford.

13 THE COURT: All right. So, basically the lab technician
14 at Clemson will be able to testify as to the lab results.
15 Is that what you're saying?

16 MR. HOFFERTH: Correct, Your Honor. It's my intention
17 to admit test results through technician Duncan, the
18 evidence technician at Clemson, I mean. He would simply
19 read the results straight off that report.

20 THE COURT: All right. And that's your understanding,
21 Mr. Crane, and Mr. Crane?

22 MR. CRANE: Yes, Your Honor.

23 THE COURT: And Ms. Newton?

24 MS. NEWTON: I just thought he was admitting just the
25 affidavit on its face, but and I thought the evidence tech

1 who took the drugs

2 THE COURT: Did he take it or did he analyze it?

3 MS. NEWTON: Well, yeah, so. I guess without having
4 seen a witness list, I just want to make sure I know who's
5 what. Because I thought we were just -- the results were
6 just coming in pursuant to the affidavit and then the drugs
7 themselves were being admitted.

8 THE COURT: All right. Y'all just work out that detail
9 on how to do that. Anything else?

10 MS. NEWTON: I'm sorry.

11 THE COURT: That's all right. Anything else from the
12 State?

13 MR. HOFFERTH: I just want to make the Court aware that
14 it is the State's intention to admit both body cam and
15 dashcam footage in today's trial. In the course of that
16 footage, both Ms. Tippins and Mr. Riggins make certain
17 statements. I don't believe any of them are testimonial in
18 so far as I think the extent of the statements are amounting
19 to denials of possession of the drug. This is before
20 Miranda. I just wanted to make the Court aware of that, if
21 any objections are being raised as to the statements.

22 THE COURT: I guess they're going to ---

23 MR. HOFFERTH: Both his and her statements, excuse me.

24 THE COURT: I guess we'll address, I mean, I guess we
25 need to address those beforehand, because if we need to

1 redact the video.

2 MR. HOFFERTH: And I will just say before they speak, I
3 -- we came to -- at least Ms. Newton and I -- I hope Mr.
4 Crane has had a chance to review it as well. I've made
5 certain edits to the videos. There are some statements that
6 the officers make related to prior encounters with both
7 defendants. I have muted those portions of the video and
8 there was another portion that was brought to my attention
9 this morning by Ms. Newton that I am in agreement with her
10 should be muted as well, which I will simply have to do
11 manually as a result of the notice that we have to edit the
12 videos, but to that extent we have discussed edits to the
13 videos.

14 THE COURT: Mr. Crane, any comments on that?

15 MR. CRANE: No, Your Honor. I agree with Mr. Hofferth.
16 We've looked at the videos. They've been redacted and
17 edited.

18 THE COURT: Y'all don't have any issues with what else
19 is on it?

20 MR. CRANE: No, Your Honor.

21 THE COURT: Ms. Newton?

22 MS. NEWTON: Judge, same. We -- and I've tried and I
23 apologize to Mr. Hofferth, but we caught something late last
24 night on something else, but everything else has been muted
25 as long as he's playing the ones he's provided us with and

1 then we'll continue to physically mute that at the
2 appropriate time. For purposes of -- just in response
3 briefly to some of the other redactions for the record.
4 There was a lot of -- it is -- we agree that it needs to be
5 kept out, but this may be relevant or not. There was a lot
6 of just conversation talk that didn't ever have, really, any
7 backing that came to fruition with some of the discussion.
8 So, I didn't want you to hear that, that there was prior
9 drug encounters and not be relevant at all.

10 THE COURT: All right. Any other motions from the
11 State?

12 MR. HOFFERTH: Nothing further from the State.

13 THE COURT: Defendant Riggins?

14 MR. CRANE: Yes, Your Honor. We are going to have a
15 motion to suppress based on lack of probable cause to
16 suppress the evidence. I believe Ms. Newton is going to
17 have the same arguments on this. If you want to hear from us
18 at the same time, or if you want to do one at a time.

19 THE COURT: I'll hear both.

20 MS. NEWTON: Judge, I think we can probably kind of tag
21 team, just a little bit, but on behalf of Ms. Tippins, I'm
22 moving to suppress, and I believe Mr. Crane is moving to
23 suppress on behalf of Mr. Riggins the evidence related to
24 the drugs under the Fourth Amendment to the Constitution.
25 And article one, section 10 of the South Carolina

1 Constitution. It's our position that the evidence was
2 obtained based on an illegal seizure during the traffic stop
3 and subsequent warrantless search. Regarding the
4 unreasonable seizure, it's on behalf of my client. There's
5 no probable cause of a traffic violation or reasonable
6 suspicion of criminal activity to justify the traffic stop
7 at the outset. Of course, according to *Brendlin v*
8 *California*, 521 U.S. 249, add the passenger, Ms. Tippins
9 does have standing to challenge the reasonable
10 reasonableness of the initial stop. Immediately with the
11 dash camera recording, Judge, and I would like for the Court
12 to review both of those at the appropriate time. It starts
13 with the results of the vehicle license plate information
14 being brought in through dispatch. He then -- the officer,
15 Millspaugh, immediately says he's 10-48 on that vehicle on
16 123 approaching 93. The start time is 10:43 PM at night.
17 Where the traffic stop started at 10:44:09. The blue lights
18 and then the 93 ramp on the white Nissan Quest CAD end up at
19 like 10:45, so about a minute later, and then the sirens in
20 Habenero's parking lot with another minute 10:46:16.

21 It's our position that the officer lacked reasonable
22 articulable suspicion rising to the level of probable cause
23 for the traffic stop. Allegedly, the reason for the stop
24 was failing to maintain his lane. None of that is viewed.
25 There's a potential for a wide turn being viewed on the

1 camera, but that's the only thing that we see. Do you have
2 anything to add?

3 MR. CRANE: And also on that stop, apparently the
4 dispatch came back and said that the plate did not belong to
5 the vehicle that they were in. That is untrue. The vehicle
6 did come back to that car, so it was supposed to be on the
7 van. It was registered to that van with the same VIN
8 number.

9 MS. NEWTON: Judge, it's further my position that the
10 police officer unlawfully extended the detention beyond the
11 purpose of the initial traffic stop, which like I've
12 mentioned, I mean -- failing to maintain lane is
13 questionable, but assuming that that is valid, the officer
14 immediately jumps into a suspected DUI with, "Have you been
15 drinking?" There's no smell of alcohol. Nothing is visibly
16 wrong. The driver, Mr. Riggins, is answering questions and
17 getting the paperwork for the registration information.
18 That jumps straight into an inquiry about, "Anything illegal
19 in this vehicle that should not be here?" One minute and
20 five seconds into the video, the officer says, "Otherwise I
21 might take you to jail." All while the driver is complying
22 with the request, answering questions about vehicle
23 registration to assist with getting the answer for the tag
24 that was just sort of unclear and it was taking a little bit
25 of time with dispatch, supposedly, but it did come back as

1 fine. He provided the registration.

2 By one minute and 13 seconds, he had asked my client,
3 Ms. Tippins, the passenger, if there was anything illegal in
4 the car. Judge, under the Fourth Circuit opinion, United
5 States v Giovanni, which is 650 F3d 498. It's my position
6 that the officer definitely abandoned the prosecution of the
7 traffic stop and embarked in another sustained course of
8 investigation when he goes into the, "You could end up in
9 handcuffs", and starts those threats right away. When he's
10 there only because of an alleged failure to maintain. But
11 he didn't even get a ticket for that. He hadn't even
12 learned at this point -- threatening to put him into
13 handcuffs, he hadn't even learned what he would later learn,
14 which was that the driver was driving under suspension.
15 Who, again, he acknowledged that. And then dispatch letting
16 him know that the information on the tag was proper and the
17 driver was given all this information before -- well, you
18 know one minute in and he's being threatened to put him into
19 handcuffs.

20 It's my position that there's no objectively reasonable
21 and articulable suspicion of illegal activity that had
22 occurred to extend the traffic stop. Rodriguez v United
23 States. The officer's mission includes to address the
24 traffic violation that warranted the stop, checking the
25 driver's license, inspecting the registration and proof of

1 insurance. That's the Supreme Court case, 135 S.Ct. 1609.
2 Florida v Royer, plurality opinion 460 US 491, the scope of
3 the detention must be carefully tailored to its underlying
4 justification. United States v Branch, Fourth Circuit 537
5 F.3d 328 provides that if a police officer seeks to prolong
6 a traffic stop to allow for investigation into a matter
7 outside the scope of the initial stop, he must possess
8 reasonable suspicion or receive the driver's consent. State
9 v Frazier, South Carolina case, Supreme Court case in
10 September of last year, 437 S.C. 625. Nervousness is not a
11 reason. It is equally apparent that this was a drug stop
12 masquerading as a traffic encounter. And then we -- in ten
13 minutes into the body camera in the search, the officer
14 says, quote, "I'm thinking they have something somewhere.
15 He's just been acting weird."

16 It is my position the tension did not become a
17 consensual encounter because the driver and my client were
18 not free to leave. I believe I said this, but one minute in
19 the officer threatening about drugs. The only thing we
20 actually see on the dash camera is a possible wide turn, but
21 consistent lane maintenance two minutes into the body
22 camera, officer immediately is requesting an additional
23 unit, which I think also provides some background. By three
24 minutes he's got the driver stepping out of the vehicle, and
25 by five minutes two officers are on him, convincing him to

1 basically consent and there's a conversation about that.
2 Judge, it's our position that the exclusionary rule is
3 reasonable and necessary given the unique and unlawful
4 circumstances here. United States v Foster 4th Circuit, 634
5 3d 243. Exclusionary rule is our sole means of ensuring
6 that police refrain from engaging in the unwarranted
7 harassment or unlawful seizure of anyone, and the government
8 cannot rely on post hoc rationalizations to validate those
9 seizures that happen to turn up contraband. Judge, it's the
10 only solution to prevent this harassment behavior of this,
11 what I believe is very clear on its face, a fishing
12 expedition.

13 THE COURT: Mr. Crane, is there anything you want to add
14 to that?

15 MR. CRANE: Just briefly, Your Honor. We talked about
16 the officer saying Mr. Riggins failed to maintain his lane.
17 From where he turns the camera on to the bottom of the ramp
18 on 93 in Clemson is approximately .55 miles. I looked it up
19 last night. Never once did he cross into the other lane.
20 On the video, he follows him for 53 seconds. Never once did
21 he leave his lane. Then he blue lights him and follows him
22 for another minute before. Once again, never does he hit a
23 curb. He doesn't leave his lane. He turns right, turns
24 into a parking. This is the timestamp on the video. At
25 23:04:52 the officer makes contact with Mr. Riggins, tells

1 him he failed to maintain his lane, and the plate. At
2 23:05:40, Millspaugh asks Mr. Riggins, "Is there anything in
3 his vehicle to not supposed to?" It took him 48 seconds to
4 turn what was a traffic stop into a drug investigation. He
5 had no probable cause to ask him about drugs in the car. He
6 he obviously had already made up his mind that there must be
7 drugs in that car. As Ms. Newton said, he said, "I might
8 take you to jail if I find anything." So, essentially
9 threatening him that he's going to get into the car no
10 matter what.

11 Ms. Newton brought up State v Frazier 437 S.C. 625. In
12 order to prolong or exceed the scope beyond the initial
13 traffic violation, law enforcement must have a reasonable
14 suspicion that criminal activity be afoot. Although
15 reasonable suspicion is not susceptible to a rigid,
16 formulaic approach, it requires more than a mere hunch or an
17 unparticularized suspicion. So, in other words, the Frazier
18 case says it for an officer to have reasonable suspicion,
19 there must be an objective basis for suspecting the person
20 stopped of criminal activity. This officer literally has
21 spoken with Mr. Riggins 48 seconds and asked him to get his
22 registration out of the glove box and then from that point
23 on he must have thought that there was criminal activity
24 afoot. He didn't see any items that would have demonstrated
25 any criminal activity. He didn't see any, you know, cash on

1 hand. He didn't see any, you know, didn't smell marijuana.
2 Nothing to that effect.

3 In the Frazier case the court held that the arresting
4 officer did not have reasonable suspicion to prolong or even
5 to exceed the scope beyond the traffic violation, and in
6 that case there was a couple of instances. In that case,
7 the car took longer than usual to pull over. The driver's
8 pants were unzipped when he pulled him over, which was
9 suspicious. The passenger appeared to be nervous. He
10 avoided eye contact and kept repeating officer's questions.
11 Even after all those examples, the court still ruled that he
12 didn't have enough to get into that car.

13 So, he goes up to Mr. Riggins, speaks to him for 48
14 seconds and -- if it doesn't lend itself to reasonable
15 suspicion in Frazier, there's no way it does with the stop
16 with Mr. Riggins. There was simply -- our first argument,
17 there's no probable cause for Officer Millspaugh to stop Mr.
18 Riggins in the vehicle, and even if you did have probable
19 cause to pull him over, he certainly didn't have probable
20 cause to start asking him about drugs being in the car. Per
21 Frazier, there must be more than just a hunch or suspicion.
22 And there was simply no reason for Officer Millspaugh to
23 believe that there was illegal activity afoot or that there
24 were drugs in the car. And, as Ms. Newton said, a fishing
25 expedition.

1 THE COURT: Mr. Hofferth?

2 MR. HOFFERTH: Thank you, Judge. I think it's probably
3 most efficient to start, obviously, at the beginning of this
4 stop and going forward through the search. Beginning with
5 the stop, Officer Millspaugh was following Mr. Riggins ---

6 THE COURT: Hold on.

7 MS. NEWTON: I'm sorry, just one second. I do have an
8 additional argument related to the search. The warrantless
9 search portion. If you want him to just respond to the
10 unreasonable seizure. I just didn't want to forget that
11 part. Do you want me to keep going or ---

12 THE COURT: Do you want to go ahead or do you want to
13 hear that one?

14 MR. HOFFERTH: I'm happy to let her.

15 THE COURT: All right, go ahead.

16 MS. NEWTON: It's my position on behalf of Ms. Tippins
17 that there's no probable cause to support the warrantless
18 search of the vehicle. It does reference State v Frazier,
19 and that's when I was going to -- I have a copy for Mr.
20 Hofferth, as well as the Court, so I was going to pass that
21 up. I don't know if you have one of those on hand. So,
22 it's relevant for both the unreasonable seizure as well as
23 the warrantless research. It states that police may search
24 an individual if that person consents, but the burden is on
25 the State to demonstrate consent. And that cite is State v

1 Harris.

2 THE COURT: Now, are we talking about the search of the
3 person or the car?

4 MS. NEWTON: Search of the vehicle. There's no probable
5 cause to support a warrantless search of the vehicle. The
6 burden of proving the voluntariness of a consent to search
7 from the totality of the surrounding circumstances. Law
8 enforcement must obtain consent voluntarily, which is a fact
9 intensive inquiry viewed under the totality of the
10 circumstances. Police do not, of course, have to tell an
11 individual he can refuse to consent, but it's a factor in
12 the overall analysis. And five minutes in, when Mr.
13 Riggins, the driver, said he doesn't own the car -- five
14 minutes, 40 seconds, he says, "I won't consent". And then
15 the two officers can -- tagging up with him on one -- my
16 client is still sitting buckled into her seat belt and the
17 passenger at this point. He then says, "On my part, I say
18 go ahead." And so the two officers convincing him he's in
19 possession of the vehicle and to make a decision. It's our
20 position that the consent wasn't lawful for them to be able
21 to search and therefore it was a warrantless search of that
22 vehicle.

23 MR. HOFFERTH: Just starting back here. As to the stop,
24 Your Honor, Officer Millspaugh is following this Nissan on
25 US Highway 123 when the start of the dash camera footage

1 begins. It's in the very right lane. It's going slow and
2 it has its right turn signal on from the moment the video is
3 started up through a turn, specifically at 2 minutes and 30
4 seconds of the video of the -- in the video you see the car
5 making the turn, enter the lane to its left and making this
6 wide turn. That, in and of itself, is a sufficient grounds
7 for Officer Millspaugh to conduct a traffic stop on this
8 vehicle. Now, once he does stop the vehicle and he goes and
9 approaches Mr. Riggins -- Mr. Riggins -- and I -- granted,
10 it's June, about 10:30 at night. He's drenched in sweat.
11 He asked him for his license, registration. Immediately,
12 Officer Millspaugh learns that Mr. Riggins has his license
13 suspended. That's an arrestable offense. Now, when Officer
14 Millspaugh was talking to Mr. Riggins, he asked him to step
15 outside the vehicle, which he's perfectly entitled to do
16 now. He asked him about drugs. Anything in the vehicle.
17 And the second branch of this is, it's not my vehicle. Now,
18 when he asked him if there's any drugs in it, he states,
19 "Well, not that I know of". So, of course that would lead
20 Officer Millspaugh to want to learn a little bit more about
21 what's going on. Here is a guy who doesn't have his
22 license, in a car that he doesn't even know where he got it
23 from, packed with personal belongings. So, he begins
24 speaking with him, and eight minutes into the video he asked
25 him for his consent to search the vehicle. Now, he initially

1 did not -- initially denies this. And his interpretation of
2 the law. He believed that you have to call the owner of the
3 vehicle to search it. So, obviously incorrect and Officer
4 Millspaugh corrects him. Says, "You are the driver of the
5 vehicle. You have the ability to grant consent to search
6 the vehicle. And shortly afterward, he gets Mr. Riggin's
7 consent to search the vehicle. This is eight minutes into
8 the video. Eight minutes. We're not talking about a 30
9 minute extension. We're not talking about an hour. We're not
10 talking about fishing expedition. We're talking about a
11 routine stop where he is learning along the way. And Mr.
12 Riggins is suspended that he doesn't even know whose vehicle
13 it is.

14 Now, as to, I think it's appropriate to speak on Ms.
15 Newton's argument here, as the seizure and the subsequent
16 search of the vehicle from Ms. Tippin's standpoint. She's a
17 passenger in the vehicle. The driver of the vehicle is the
18 individual who grants consent to search the vehicle. In
19 essence, I think it's groundless for her to state that Ms.
20 Tippins wouldn't have allowed the search of the vehicle.
21 She's not in a position where she can deny search of the
22 vehicle. We're talking about Mr. Riggins here. Now, the
23 entirety of the search of the vehicle lasts about 25
24 minutes. And in the course of searching this vehicle,
25 miscellaneous items are found. Among the personal belongings

1 of what Mr. Riggins himself says is camping stuff. They
2 find knives. They find a torch lighter, and they find a
3 syringe in the vehicle. Now, and these are spaced out over
4 multi minute increments, but they find these items in the
5 course of their search of the vehicle. This is what -- and
6 if we're arguing about it being a unreasonably extended,
7 this is the reason that the search gets extended is because
8 they're finding paraphernalia in the course of their search.
9 Now, and back to what I'm saying, the entire search is under
10 thirty minutes long. We're not talking about an all night
11 occurrence here. And granted this is 10:30 at night, going
12 into 11:00, when they're driving around.

13 I think that the focal points here are the fact that
14 immediately after this initial stop, Officer Millspaugh
15 learned Mr. Riggins is suspended. He's asking Officer
16 Millspaugh repeatedly, "I appreciate you helping me out. I'd
17 like it if you could help me out." And then when he's
18 asking about ownership of the vehicle, all he can offer is,
19 "I only know her name is Pink." He doesn't even have a full
20 name of whose vehicle it is. I mean, these are things that
21 a tried, officer, which Officer Millspaugh, I believe, has
22 been with Clemson for about four years. He'll tell you and
23 he could tell you, that these are red flags going up in
24 talking to Mr. Riggins. So, I think this distinguishes
25 itself from Frazier, where in Frazier we're talking about

1 the nuance of someone being nervous, which everybody's
2 nervous when you get pulled over by police, and somebody
3 being sweating, which everybody is sweating when you're in
4 South Carolina in the summer. This distinguishes itself.
5 We have the suspension. We have the no knowledge of who's
6 the vehicle -- whose vehicle it is, and we have the items
7 found during the search that would justify any argument that
8 it was unreasonably prolonged. So, I simply think that
9 Officer Millspaugh's search, how he conducted this, we're
10 perfectly fine. And I don't believe that there should be
11 any suppression on those grounds.

12 THE COURT: All right. Anything further from defense?

13 MS. NEWTON: I'll just briefly respond and then, I
14 guess, you can. Judge, I would ask that the court review
15 this, because I believe that the facts are very important to
16 watch in the -- at least in the beginning. And I did want
17 to clarify that our consent argument was not regarding my
18 client. She does have standing to challenge the warrantless
19 search of her co-defendant, and I believe that the consent
20 portion that is the challenge from Riggins, with his actual
21 consent and argument.

22 THE COURT: You're saying if Riggins consents then your
23 client can veto that?

24 MS. NEWTON: No, I'm saying I have a challenge to his
25 consent. That's the warrantless search component of that.

1 I don't believe, under Frazier, that the consent was
2 actually valid.

3 THE COURT: I got you.

4 MS. NEWTON: And then the driving under suspension or
5 potential for an inventory search of some sort isn't even in
6 play at that time.

7 THE COURT: You're saying look at the video, but don't
8 I actually have to hear the testimony of the officer for
9 some of this? I mean, the video itself is not going to
10 maybe not be...

11 MS. NEWTON: Well, I agree. I was using that as our
12 last suppression motion that I had with you where we just
13 played the video without the officers. So, I mean, yeah.

14 THE COURT: I mean, I mean this one, maybe, looks like
15 maybe a little bit different.

16 MS. NEWTON: And it is. And the charges are very
17 different. But yeah, I mean normally to be able to view
18 that and hear that officer's discussion, but I was just
19 going off of that.

20 THE COURT: Yes. Something else?

21 MR. CRANE: Just quickly, Your Honor. Mr. Hofferth
22 brings up the DUS, not knowing who the car belonged to.
23 Miscellaneous paraphernalia in the car. All these red flags.
24 All of that happened after Officer Millspaugh said, "Is
25 there anything in the car I need to know about?" So, he had

1 no reason to to know that Mr. Riggins was under DUS. He had
2 no reason to know there was a torch lighter in the car.
3 None of that stuff happened until after the fact. He was in
4 the car. He asked him, how is he doing? Made some niceties
5 with him and then before Mr. Riggins said that he was DUS,
6 he had already moved into a drug investigation by saying,
7 "Is there anything in the car?" So I just wanted to point
8 out the fact that everything that Mr. Hofferth alluded to
9 happened after Officer Millspaugh changed it from a traffic
10 violation to a drug investigation.

11 THE COURT: Are we talking two videos here? I'm just
12 trying to -- will we be able to do this or are we working on
13 redactions?

14 MR. HOFFERTH: There are two videos. They cover the
15 same thing.

16 MS. NEWTON: The dash cam, you could start and just
17 watch the three minutes, or whatever it is, until the
18 officer gets out of the car and his body cam picks up. For
19 purposes of watching the ---

20 MR. CRANE: I believe if you're going to watch one of
21 them, you need to watch the body, cam because it shows
22 interaction between Officer Millspaugh and Mr. Riggins.

23 THE COURT: All right. Let me figure out we're going to
24 do on that.

25 MS. NEWTON: The ruling based on the unreasonable

1 seizure just to see the driving.

2 THE COURT: All right. So, all right, let me figure out
3 how we'll do that then. All right. Any other motions from
4 Defendant Riggins?

5 MR. CRANE: No, Your Honor.

6 THE COURT: Anything else?

7 MS. NEWTON: Judge, I don't have a particular motion,
8 but I did want for the sake of the record to put some
9 relevant information on with regards to Ms. Tippin's
10 indictment. She also was direct indicted in May of this
11 year. It is a direct indictment that matches the language
12 of the warrant from three years ago.

13 THE COURT: You said May or March?

14 MS. NEWTON: It was, I believe, May was the PWID heroin
15 direct presentment and that is because -- so, she initially
16 was indicted under the PWID heroin warrant for a possession
17 heroin. So, when she was first on the trial docket for the
18 first time in April, it was a possession of heroin, along
19 with the trafficking methamphetamine. For purposes of this
20 docket, it's possession with intent to distribute heroin,
21 which was a direct presentment. I believe it was just more
22 convenient, I guess, for Mr. Hofferth, even though the
23 warrant initially was the possession with intent to
24 distribute heroin charge. I just wanted to make that clear
25 that we've been on notice for the two types of charges for

1 the last three years, even though our time frame for the
2 charging and indictment that you've gotten is a little bit
3 jumbled between the last three.

4 THE COURT: All right. Anything else? This is kind of
5 my thought. Let me look through this. If it looks like I
6 need to watch the videos to make the decision or hear from
7 the officer, then that's something that we could do even
8 after we draw the jury. Because that's not a -- Yeah, that
9 doesn't have affect anything on actually any voir dire or
10 anything like that on the jury. So, let me look at all this
11 and then I will let you -- I can rule on everything probably
12 except the motion to suppress. And then, depending on the
13 others, we can figure out how to proceed forward on that.
14 Does that work? And that way, everybody at least gets a
15 little lunch. So, all right. I think the jury panel is
16 coming back at 2:00.

17 (WHEREUPON, the following exhibits were pre-marked for
18 identification; State's Exhibit No. 1 USB Drive, State's
19 Exhibit No. 2 Incident report, and State's Exhibit No. 3
20 Chain of Custody.)

21 (WHEREUPON, recess for lunch 1:10 PM-2:10 PM.)

22 THE COURT: We're back on the record. I have reviewed
23 all the matters presented prior to lunch. First start off
24 with the State's motion to quash subpoena. And I've read
25 the infamous case of State v Buck Inman plays into that, a

1 very famous case right out of here in Pickens. I reviewed
2 it. I don't believe that the testimony that you all would be
3 eliciting, at least from reviewing the notes on what was
4 said, would be relevant and material. I also believe I
5 question whether it was admissible. I do not find that the
6 Rule 803-6 or 804 would apply. Specifically, 804, even
7 though the person may be deemed to be unavailable, he would
8 only be for former testimony, which this was not testimony,
9 statement under impending death, statement against interest
10 and statement of personal family. I don't believe any of
11 those exceptions would apply there, so I'm going to grant
12 the motion to quash the subpoena as to Mr. Hofferth. As to
13 whether this is a legitimate third offense and then first
14 off, I feel like the proper notice was provided and, but as
15 far as just being a proper third offense, I read section 44-
16 53-470 specifically says that it defined for purpose of this
17 article second offense it specifically the first two
18 sections deal with marijuana. And then it talks about
19 controlled substances. I reviewed all the little statutes
20 just to be sure, and it was Schedule I-V, and unless I
21 missed something then this charge would not fall within
22 controlled substance I-V. Do y'all have anything that shows
23 otherwise from the defense, Ms. Newton? And I realize. I
24 mean, and I'm really -- it's kind of funny that the way that
25 all that whole statutory scheme, but it specifically states

1 marijuana and specifically states controlled substances.
2 So, I don't think there's anything else that limits how far
3 back you can go on.

4 MR. CRANE: And we would just argue that then what is
5 methamphetamine? It's not a controlled substance.

6 THE COURT: Well, I mean it's not, but if you go one of
7 those statutes it's, I mean, it's not one of the ones
8 listed. It's what -- I went back and looked at those, the
9 list. It says as provided by in each one of those little
10 code sections. It's section Schedule I, Schedule II,
11 schedule III, IV, and V. So therefore, I deny the motion to
12 quash the indictment. And then on the motion to suppress, I
13 realize that -- do you have something else on that that you
14 want to -- before I go on?

15 MR. CRANE: Your Honor, in the footnotes, there's a case
16 here the Defendant was properly sentenced as a second time
17 offender pursuant to 44-53-375 where he pled guilty to
18 possession of crack cocaine second offense. If they're
19 using crack cocaine as a second offense, I don't know how
20 you can exclude that as being the same as crack cocaine.

21 THE COURT: Well, now you can use the previous
22 convictions for any drugs, but when you're being charged --
23 when you're going back that ten year period for conviction
24 marijuana second offense and second offense for controlled
25 substance. Other words, you can use other drug offenses that

1 are not listed as scheduled, but when you're being charged
2 with second offense controlled substance, you can only go
3 back ten years. As to the motion to suppress. Again, I have
4 not reviewed the videos, and it may require me to review
5 those, but based on what y'all have indicated to me and I've
6 looked at the State v Frazier and also looked at State v
7 Provit, which talks about when you're having discussions and
8 basically you can have these discussions and even go outside
9 the realm of what has been stopped as long as it's not being
10 used to prolong the stop. At this point, they're clearly
11 waiting to determine, to find out what is the status of his
12 driver's license, and then at the time that they find out --
13 and, I might have to review this briefly just to make the
14 final decision, but I think once they find out he's driving
15 under suspension, then it's an additional criminal activity
16 and even though I think, Frasier says, even if it's not the
17 one for which they originally stopped, it can be a basis for
18 prolonging the stop. So, my preliminary -- again, I may
19 need to maybe I need to review the videos to make a final
20 decision, but my preliminary is to deny the motion to
21 suppress. I'm just wondering can we do it as part of the
22 testimony, or do I need to -- because then ou can renew your
23 motion on directed verdict stage. Or do y'all want me to do
24 it before we actually bring the jury in?

25 MS. NEWTON: So, I guess my position on that would be

1 that the -- if I understand the preliminary ruling, but
2 without seeing the full picture and whether that needs to be
3 through proffered testimony from him as to the reason for
4 the stop, and then the review of the warrantless search.

5 THE COURT: I guess what I can do is review.

6 MS. NEWTON: Without viewing that -- and I know you --
7 there's a time when the jury is waiting.

8 THE COURT: Well, we still want to make sure we get it
9 right.

10 MS. NEWTON: But if it's going to be suppressed. So, I
11 get that you're leaning towards not, but in the event that
12 review of that does change something, then what would be the
13 point in him even starting his entire case?

14 THE COURT: Well let us do this, then. Let's go ahead
15 and select the jury. We won't swear them in, and that way
16 we just only have 14 people that we're dealing with and not
17 the whole jury panel. And then I'll handle that. Because I
18 don't think the proffer would be very long. I mean, I don't
19 think it'll be very long. So, does that work for everybody?

20 Anything else then before we bring the jury panel in?

21 MS. NEWTON: Oh, yes. There is a matter. Sorry. Juror
22 Number 9, the juror that walked up to you about the
23 religious beliefs. I just was using that to describe him.
24 Not actually related to him. His place of employment is
25 Millken, which is also where my client works and I believe

1 that the State doesn't have issue wit

2 THE COURT: I just kind of the way I take the position
3 of all. Those when they. Kind of come up and say those I
4 can't be fair and impartial. I have found that that's not
5 improper because when we don't have the record. So I mean,
6 if he says the same thing here.

7 MS. NEWTON: I'm not worried about actually his
8 response. It's just that he works at Milliken, which is
9 where my client works, so...

10 THE COURT: Right.

11 MS. NEWTON: I guess that's the basis to exclude him.

12 MR. HOOFTERTH: I mean, I don't think a shared place of
13 employment, on its own, is enough to excuse them off the
14 bat. I think it, you know, if he's asked about, you know,
15 his relationship with Ms. Tippins and there's some kind of
16 conflict that arises from that point. I just don't think,
17 you know, shared place of employment.

18 THE COURT: I think they're about the third largest
19 employer in the state. I mean, if he doesn't know him and I
20 don't think he's -- I think based on ---

21 MS. NEWTON: She hasn't seen him yet, but yeah,
22 depending on what his answer for that and I just wanted to
23 make the Court aware of that and I didn't realize that the
24 State didn't agree. Sorry.

25 THE COURT: Anything else?

1 MR. CRANE: Just quickly, Your Honor. I'd like to put
2 on the record the objection to your ruling and what we were
3 discussing the third offense 44-53-470. The last portion of
4 subsection 3 which you were referring to. It does mention
5 the controlled substance defense provision other than
6 marijuana of this article. And then it says, "Or of another
7 state or federal statute related to narcotic drugs,
8 depressant, stimulant, or hallucinogenic drug." So, my
9 argument would be that under the narcotic drugs wording of
10 the last sentence of subsection 3 would include meth.

11 THE COURT: But doesn't it say from another state? I
12 mean, I don't know if they just don't want to.

13 MR. CRANE: This has a word -- no. It says of this
14 article, or of another state or federal statute. Doesn't
15 say that it has to be a statute of another state. It just
16 says another state statute.

17 THE COURT: Going back to your argument there. If you
18 look at section 44-53-470, it defines what second or
19 subsequent offense is and it says second offense is
20 marijuana, two also is talking about the second offense of
21 marijuana, and three says for an offense involving
22 controlled substance, a second offence can be violation of
23 controlled substance or other narcotics. So any narcotics,
24 meth and all that, can be used to determine whether this is
25 a second or subsequent offense of controlled substance. But

1 it does not say that for second offense of methamphetamine
2 you can go back and use any narcotic. Or that within 10
3 years. So that statute only applies to marijuana to
4 determine what second offense or subsequent offense is for
5 marijuana and controlled substance, but it does not say that
6 you have to go back -- that you -- a limit of 10 years for
7 second or subsequent offense of methamphetamine.

8 MR. CRANE: Your Honor, what is the controlling statute
9 that makes it a third offense?

10 THE COURT: I guess just, I mean, there's no
11 limitations. I mean, I think that any -- because it says
12 for second offense, so therefore any prior offenses, and
13 then particular statute, I don't know why they decided that
14 they should limit marijuana and control substances ten
15 years. Well, I think marijuana is actually five years, so I
16 don't know that you -- I'm not aware of anything that limits
17 it as to how far back you can go for methamphetamine or
18 crack. So, that's going to be the ruling of the Court. All
19 right. Ready for the jury? And I'll just tell them a
20 little bit that we had some other matters to go over.

21 JURY SELECTION

22 (WHEREUPON, the jury panel entered the courtroom at
23 2:28 PM.)

24 THE COURT: Ladies and gentlemen, first of all, I want
25 to apologize for the delay. We have been working basically

1 since I've seen y'all last. We have not stopped. So, we
2 had just quite a few matters to go through, so I do
3 apologize for y'all having to come out there too and just
4 sit there, but we just weren't right back here twiddling our
5 thumbs. So, with that being said, now, and y'all just went
6 through this downstairs, I think, on the previous case. And
7 this is a different scenario here. What we're doing now
8 will be asking you questions that specifically relate to a
9 particular case that we're going to start trial this
10 afternoon, and the purpose of these questions is twofold.
11 One is to make sure that you to see if you know anything
12 about this case and whether you can be fair and impartial in
13 the trial of the case. All right, so at this time, I'm
14 going to read to you indictments of the two individuals. I
15 will preface that by saying indictment is not evidence.
16 These are merely the allegations that the State has
17 presented and which sets up their burden. The defendants in
18 this matter have pled not guilty to both of these sets of
19 charges, but again, the indictment is merely the charging
20 papers, the formal paper, that brings this matters to court.
21 So, the first one is to Rodney David Riggins. This is
22 trafficking methamphetamine that Rodney David Riggins did in
23 Pickens County all about June 7, 2020, knowingly sell,
24 manufacture, deliver, or bring into to the State of South
25 Carolina, or did knowingly provide financial assistance or

1 otherwise aid, abet, attempt, or conspire to sell,
2 manufacture, deliver, or bring into the State, or was
3 knowingly in actual or constructive possession of more than
4 10 grams of methamphetamine. The second indictment is that
5 Rodney David Riggins did in Pickens County on or about June
6 7, 2020, possess with intent to distribute, or aid or abet
7 or conspire to possess with intent to distribute a quantity
8 of Schedule 1 controlled substance, heroin. Such possession
9 not having been authorized by law. As to Jodi Spearman
10 Tippins also trafficking methamphetamine. That Jodi
11 Spearman Tippins did in Pickens County on or about June 7,
12 2020 knowingly sell, manufacture, deliver, or bring into the
13 State of South Carolina or did knowingly provide financial
14 assistance or otherwise aid, abet, attempt, or conspire to
15 sell, manufacture, deliver, bring into the State, or was
16 knowingly in actual constructive possession of more than ten
17 grams of methamphetamine. Secondly, that Jodi Spearman
18 Tippins did in Pickens County on or about June 7, 2020,
19 possess with the intent to distribute, aid, or abet, or
20 conspire to possess with intent to distribute a quantity of
21 a Schedule I controlled substance, heroin. Such possession
22 not having authorized by law.

23 First of all, I would ask if any member of the jury
24 panel knows anything about the indictments or the charges
25 which I've just published. If so, please stand.

1 (WHEREUPON, no member of the jury panel stands.)

2 At this time, Mr. Riggins, if you could stand, please,
3 sir. Thank you. Is anybody related by blood or marriage,
4 have a close personal, business, or social relationship with
5 Rodney David Riggins? If so, please stand.

6 (WHEREUPON, no member of the jury panel stands.)

7 And Ms. Tippins, if you could stand. Thank you. Is
8 anybody related by blood or marriage, have a close personal,
9 business, or social relationship with Jodi Spearman Tippins?
10 If so, please stand.

11 (WHEREUPON, no member of the jury panel stands.)

12 At this time, I'll ask that counsel introduce
13 themselves and anybody that will be assisting them in the
14 trial of the case. Hold on.

15 (WHEREUPON, there was a pause in the proceeding.)

16 I'll address that in just a minute. All right, go
17 ahead and proceed with introducing yourself.

18 MR. HOFFERTH: Good afternoon. My name is Jake
19 Hofferth. I'm an Assistant Solicitor prosecutor here in
20 Pickens County.

21 MS. NEWTON: Hi. I'm Caroline Newton, and I have the
22 pleasure of representing Ms. Jodi Tippins today. Seated at
23 counsel table with me is my colleague and another attorney
24 in my office, Max Scravely.

25 THE COURT: Is there anybody related -- I'm sorry.

1 MR. CRANE: Last, but not least, my name is Jeremy
2 Crane. I'll be representing Mr. Riggins today. Back behind
3 here is my law partner, Mr. Larry Crane.

4 THE COURT: Is there anybody related by blood or
5 marriage, have a close business, personal, or social
6 relationship with any of the attorneys involved in this
7 matter? If so, please stand.

8 (WHEREUPON, no member of the jury panel stands.)

9 Is there any member of the jury panel ever been
10 involved with these attorneys, either they've represented
11 you or they've been in a matter on the other side of any
12 case that you were involved in. If so, please stand.

13 (WHEREUPON, no jury panel member stands.)

14 No response. Let me at this point give you a possible
15 witnesses in the case, and again the same. Ms. Newton,
16 counsel approach just a minute. I want just to verify the
17 witness list.

18 Ladies and gentlemen, these are possible witnesses in
19 the trial of this case. So, the same question is going to
20 be are you related by blood or marriage, have a close
21 personal business or social relationship with any of these
22 individuals? So, if you hear a name that you recognize or
23 know, then stand up and I'll follow up with you. Noah
24 Millspaugh, from the Clemson Police Department, David Tyler
25 Owens, Clemson Police Department, Bishwabin Nake, formerly

1 Greenville County Forensic division. Jonathan Duncan,
2 Clemson Police Department. Ashley Jolene Pilgrim, Charles
3 Tippins, and Dora Norris. Does anybody have a close
4 personal, business, or social relationship with any of these
5 individuals?

6 (WHEREUPON, jury panel member stands.)

7 Yes. Your name and number?

8 JUROR: Brandon Maxwell, 141. I went to a school with
9 Ashley Pilgrim.

10 THE COURT: With who?

11 JUROR: Ashley Pilgrim. That is the only relations I
12 have.

13 THE COURT: Could you still be fair and impartial in
14 the trial of this case?

15 JUROR: It would be hard to say at this time, Judge.

16 THE COURT: Well, I mean -- you know, I have to know
17 that you can be fair and impartial in the trial of the case.
18 That's -- I mean, I don't -- if you -- listen, let me answer
19 this. Could you listen to the evidence that's presented and
20 still give the defendant and the State a fair trial?

21 JUROR: Probably not, no.

22 THE COURT: I'm going to go ahead and excuse you from
23 the trial of this case then. Hold on. What was your -- hold
24 on. We just need to give you some additional instructions,
25 so just hang tight for now. Thank you. All right. Anyone

1 else?

2 (WHEREUPON, no jury panel member stands.)

3 All right. Has any member of the jury panel formed or
4 expressed an opinion about any matters involved in this
5 case? If so, please stand.

6 (WHEREUPON, no jury panel member stands.)

7 No response. Is there any member of the jury panel,
8 member of your immediate family, associated with -- has any
9 member of the jury panel or member of your immediate family
10 employed or associated with the Clemson Police Department or
11 Greenville Forensic Division? If so, please stand.

12 (WHEREUPON, no member of the jury panel stood.)

13 No response. Is there any member of the jury panel who
14 is a -- or member of your mediate family, a member of law
15 enforcement, either currently or in the past? If so, please
16 stand.

17 (WHEREUPON, several members of the jury panel stand.)

18 THE COURT: We will start with you. Over here, your
19 name and number?

20 JUROR: Kristen Gallant, Juror number 67. I have a
21 sister-in-law and a brother-in-law who are both police
22 officers.

23 THE COURT: Okay, and where are they police officers?

24 JUROR: My sister-in-law is at Liberty Police
25 Department, and my brother-in-law is in York County.

1 THE COURT: Could you still be fair and impartial in
2 trial of this case?

3 JUROR: Yes.

4 THE COURT: Thank you. Yes, your name and number?

5 JUROR: Lorie Steveson, Number 221. My brother-in-law
6 is a deputy with Pickens County.

7 THE COURT: And what's his name?

8 JUROR: Kevin Crowe.

9 THE COURT: And could you still be fair and impartial
10 trial of this case?

11 JUROR: Yes.

12 THE COURT: Thank you. Your name and number?

13 JUROR: Justin Cheeks, Juror Number 42. I have a son
14 who's a highway patrolman. I have a nephew who's a Easley
15 police officer. I am a retired Pickens County Sheriff's
16 Office and SLED Agent.

17 THE COURT: And could you still be fair and impartial
18 trial of this case?

19 JUROR: Yes.

20 THE COURT: All right. Thank you. Yes, ma'am.

21 JUROR: I'm Vicky Chappell, Number 40, and my husband is
22 a retired police officer from Liberty and also a detention
23 officer at the Pickens County Law Enforcement Center.

24 THE COURT: And do you think you could still be fair
25 and impartial at trial of this case?

1 JUROR: Yes, sir.

2 THE COURT: Thank you. Yes, ma'am.

3 JUROR: My husband works at the Pickens County Sheriff's
4 office.

5 THE COURT: Okay, and what's your name and number?

6 JUROR: Delores Cassell, Number 36.

7 THE COURT: And could you still be fair and impartial
8 at trial of this case?

9 JUROR: No.

10 THE COURT: You could not be?

11 JUROR: No.

12 THE COURT: I will excuse you from the trial of the
13 case then. You said 32?

14 CLERK OF COURT: It's 36, Your Honor.

15 THE COURT: Okay. Has any member of jury panel read any
16 newspaper articles, any postings, any internet sites,
17 anything on social media, anything about either the
18 defendants or anything related to this matter? If so,
19 please stand.

20 (WHEREUPON, no jury panel member stands.)

21 THE COURT: And no response. Also, while you were
22 waiting to come in, did anybody hear anything about this
23 case with any other individuals in the lobby area? Did you
24 hear anyone discussing anything about this case?

25 JUROR: The ladies that were standing down here were

1 asking if we were jurors or kind of talking about somebody
2 getting their kids back in programs and things like that. I
3 left and went to the other end.

4 THE COURT: And what is your name and number?

5 JUROR: Joan Acree, Number 2.

6 THE COURT: And could you still be fair and impartial
7 in the trial of this case?

8 JUROR: Yes, sir.

9 THE COURT: Did anyone else hear anything while sitting
10 outside? If so, please stand.

11 JUROR: Well, I heard the same thing that this lady
12 heard.

13 THE COURT: And do you think you could still be fair
14 and impartial this trial of this case? I believe you had
15 some other issues?

16 JUROR: Yes, sir.

17 THE COURT: And do you want to express those at this
18 time?

19 JUROR: If you would like, I will, sir. With all due
20 respect, I ---

21 THE COURT: And your name and number? First of all,
22 your name and number?

23 JUROR: Thomas Anthony, Number 9. With all due respect
24 for my beliefs, I can't. We cannot say whether these
25 individuals are guilty or not guilty.

1 THE COURT: Is that based on your religious beliefs?

2 JUROR: Yes, sir.

3 THE COURT: All right. And could you be fair and
4 impartial in a trial of this case?

5 JUROR: No, sir.

6 THE COURT: Well, I'll excuse you from the trial this
7 case. If you just stay seated and I'll give you an
8 additional...

9 JUROR: Yes, sir.

10 THE COURT: Any member of the jury panel, member of
11 your immediate family, employed by the Solicitor's Office
12 for the Thirteenth Circuit, or will be soon?

13 JUROR: Amanda Mullen, 162. I start as a paralegal for
14 the Greenville County Solicitor's Office on June 12.

15 THE COURT: I'm going to go ahead and excuse her from
16 trial of this case. Thank you. Is there any member of jury
17 panel a member of any political, religious, social,
18 industrial, fraternal, law enforcement, or other
19 organizations whose beliefs or teachings would prejudice him
20 or her against either the State or the defendant in this
21 matter? If so, please stand.

22 (WHEREUPON, no member of the jury panel stands.)

23 THE COURT: No response. Is there any member of the
24 jury panel aware of any mental or physical or emotional
25 condition which would keep them from being fair and

1 impartial in a trial of this case? If so, please stand.

2 (WHEREUPON, no member of the jury panel stands.)

3 THE COURT: This case involves the allegations of drug
4 possession. Does any member of the jury panel have any
5 political or religious belief that would prevent them from
6 holding the government to its burden to prove these crimes
7 beyond a reasonable doubt? Other than one that has already
8 indicated. If so, please stand.

9 (WHEREUPON, no member of the jury panel stands.)

10 THE COURT: Is there any member of the jury panel
11 contribute any money to any law enforcement organization?
12 If so, please stand.

13 (WHEREUPON, no member of the jury panel stands.)

14 THE COURT: No response. And this may require us to
15 stand up here just so you can be a little more private about
16 it. Has any member of the jury panel or member of your
17 immediate family or close personal friend ever been charged,
18 not necessarily convicted, of a drug-related crime? If so,
19 please stand.

20 (WHEREUPON, several members of the jury panel stand.)

21 THE COURT: We're going to come up here. I'm going come
22 up. The attorneys will get to hear you, but we need to also
23 put it in front of the court reporter. So, if you will come
24 up.

25 Your name and number?

1 JUROR: Reanna Howard, Number 108. My brothers were
2 both incarcerated.

3 THE COURT: Could you still be fair and impartial to
4 both the State and the defendants?

5 Juror: Yes.

6 THE COURT: Thank you. Yes?

7 JUROR: Haden Gravely, Number 75. My uncle.

8 THE COURT: Can you still be fair and impartial in the
9 trial of this case?

10 JUROR: Yes, sir.

11 THE COURT: Thank you. Your name and number?

12 JUROR: Kristen Gallant, 67.

13 THE COURT: Can you still be fair and impartial in the
14 trial of this case?

15 JUROR: Yes.

16 THE COURT: All right. Thank you. Yes, can I have your
17 name and number?

18 JUROR:

19 THE COURT: Okay. Can you still be fair and impartial
20 in the trial of this case?

21 JUROR: Yes.

22 THE COURT: Okay.

23 JUROR: Joan Acree, Number 2.

24 THE COURT: Can you still be fair and impartial in the
25 trial of this case?

1 JUROR: Yes.

2 THE COURT: Thank you. Name and number?

3 JUROR: 187

4 THE COURT: Can you still be fair and impartial in the
5 trial of this case?

6 JUROR: Yes.

7 THE COURT: Thank you. Your name and number?

8 JUROR: 18, Alastair Boulding.

9 THE COURT: You cannot be impartial? I'm going to
10 excuse you from this case. I'll excuse you. Has any member
11 of the jury panel, member of your family close personal
12 friend, ever been the victim of a crime or drugs were
13 allegedly involved? If so, please stand. Anybody that's
14 been a victim of a crime where drugs were allegedly
15 involved. If so, please stand.

16 (WHEREUPON, no jury panel member stands.)

17 I've already asked number 5 and number 6. Have you or any
18 member of your family close personal friend ever had
19 involvement with the Solicitors Office or Clemson City
20 police as a victim in a criminal case? If so, please stand.

21 (WHEREUPON, no member of the jury panel stands.)

22 No response. Is any member of the jury panel aware of
23 any reason whatsoever that you could not be fair to both the
24 State and the defendant in this matter? If so, please
25 stand.

1 (WHEREUPON, no member of the jury panel stands.)

2 Is any member of the jury panel aware of any bias
3 whatsoever that they'd have against the State or the
4 defendants in this matter. If so, please stand.

5 (WHEREUPON, no member of the jury panel stands.)

6 I believe -- I think I protected a couple of people for
7 Thursday morning. Who were those people? I think you were
8 one of them. Yes, your name and number?

9 JUROR: 54, Morgan Dowd.

10 THE COURT: All right. I think we're -- it looks like
11 we're going to be finishing this case, it should be by
12 Wednesday, but anybody else?

13 CLERK OF COURT: I show Brandon Watson.

14 THE COURT: Brandon Watson. I think I protected you as
15 well.

16 JUROR: Yes, sir. Thursday and Friday.

17 THE COURT: Anything else from the State?

18 MR. HOFFERTH: No, Your Honor.

19 THE COURT: Anything else from Defendant Riggins?

20 MR. CRANE: Nothing, Your Honor.

21 THE COURT: Anything else from Defendant Tippins?

22 MS. NEWTON: No, Your Honor.

23 THE COURT: All right. Counsel approach for just...

24 (WHEREUPON, there was a brief discussion off the
25 record.)

1 THE COURT: Out of an abundance of caution, Mr. Watson
2 and Ms. Dowd, I'm going to since you're protected for
3 Thursday morning. I don't think it's going to go into then,
4 but just to be safe I'm going to go ahead and release you
5 for this case. Just hang tight for a second. Anything else
6 from the State then before we proceed?

7 MR. HOFFERTH: Nothing, Your Honor.

8 THE COURT: From Defendant Riggins?

9 MR. CRANE: No, Your Honor.

10 THE COURT: And from -- how do y'all. Okay, we've got
11 two alternates, so it will be five and five. Do y'all
12 agree? Y'all approach.

13 (WHEREUPON, bench conference.)

14 CLERK OF COURT: As I call your name, please stand and
15 turn so the attorneys can see you. Juror Number 167, Andrea
16 Owens. What says the State?

17 MR. HOFFERTH: Please seat this juror.

18 CLERK OF COURT: And the defense for Riggins?

19 MR. CRANE: Please excuse the juror.

20 CLERK OF COURT: Please return to your seat. Juror
21 Number 188, Susan Reeves. What says the State?

22 MR. HOFFERTH: Please excuse the juror.

23 CLERK OF COURT: Please return to your seat. Juror
24 Number 221, Lorie Steveson. What says the State?

25 MR. HOFFERTH: Please present the juror.

1 CLERK OF COURT: And the defense for Riggins?

2 MR. CRANE: Please seat the juror.

3 CLERK OF COURT: And the defense for Tippins?

4 MS. NEWTON: Please excuse the juror.

5 CLERK OF COURT: Please return to your seat. Juror

6 Number 75, Haden Gravely. What says the State?

7 MR. HOFFERTH: Please seat the juror.

8 CLERK OF COURT: Defense for Riggins?

9 MR. CRANE: Please seat the juror.

10 CLERK OF COURT: And defense for Tippins?

11 MS. NEWTON: Please seat the juror.

12 CLERK OF COURT: Please come forward and have a seat in
13 the jury box. Juror number 14, Ethan Black. What says the
14 State?

15 MR. HOFFERTH: Please seat this juror.

16 CLERK OF COURT: And the defense for Riggins?

17 MR. CRANE: Please excuse the juror.

18 CLERK OF COURT: Please return to your seat. Juror

19 number 187, Jon Reese. What says the State?

20 MR. HOFFERTH: Please excuse this juror.

21 CLERK OF COURT: Please return to your seat. Juror

22 Number 2, Joan Acree. What says the State?

23 MR. HOFFERTH: Please seat the juror.

24 CLERK OF COURT: And the defense for Riggins?

25 MR. CRANE: Please seat the juror.

1 CLERK OF COURT: And the defense for Tippins?

2 MS. NEWTON: Please excuse the juror.

3 CLERK OF COURT: Please return to your seat. Juror

4 Number 56, Amanda Dunn-Simmons. What says the State?

5 MR. HOFFERTH: Please seat the juror.

6 CLERK OF COURT: And the defense for Riggins?

7 MR. CRANE: Please seat the juror.

8 CLERK OF COURT: And the defense for Tippins?

9 MS. NEWTON: Please seat the juror.

10 CLERK OF COURT: Please come forward and have a seat in
11 the jury box. Juror number 57, Jon Durant. What says the
12 State?

13 MR. HOFFERTH: Please seat the juror.

14 CLERK OF COURT: And the defense for Riggins?

15 MR. CRANE: Please seat the juror.

16 CLERK OF COURT: And the defense for Tippins?

17 MS. NEWTON: Please seat the juror.

18 CLERK OF COURT: Please come forward and have a seat in
19 the jury box. Juror Number 169, Rebecca Owens. What says
20 the State?

21 MR. HOFFERTH: Please seat the juror.

22 CLERK OF COURT: And the defense for Riggins?

23 MR. CRANE: Please seat the juror.

24 CLERK OF COURT: And the defense for Tippins?

25 MS. NEWTON: Please seat the juror.

1 CLERK OF COURT: Please come forward and have a seat in
2 the jury box. Juror number 242, Makala Wheeler. What says
3 the State?

4 MR. HOFFERTH: Please excuse this juror.

5 CLERK OF COURT: Please return to your seat. Juror
6 number 42, Justin Cheeks. What says the State?

7 MR. HOFFERTH: Please seat this juror.

8 CLERK OF COURT: And defense for Riggins?

9 MR. CRANE: Please seat the juror.

10 CLERK OF COURT: And defense for Tippins?

11 MS. NEWTON: Please excuse the juror.

12 CLERK OF COURT: Please return to your seat. Juror
13 number 218, Donna Stephens. What says the State?

14 MR. HOFFERTH: Please seat this juror.

15 CLERK OF COURT: And the defense for Riggins?

16 MR. CRANE: Please seat the juror.

17 CLERK OF COURT: And the defense for Tippins?

18 MS. NEWTON: Please seat the juror.

19 CLERK OF COURT: Please come forward and have a seat in
20 the jury box. Juror number 69, Banner Garren. What says
21 the State?

22 MR. HOFFERTH: Please seat the juror.

23 CLERK OF COURT: And the defense for Riggins?

24 MR. CRANE: Please seat the juror.

25 CLERK OF COURT: And the defense for Tippins?

1 MS. NEWTON: Please seat the juror.

2 CLERK OF COURT: Please come forward and have a seat in
3 the jury box. Juror number 38, Harpreet Chahal. What says
4 the State?

5 MR. HOFFERTH: Please seat the juror.

6 CLERK OF COURT: And the defense for Riggins?

7 MR. CRANE: Please excuse the juror.

8 CLERK OF COURT: Please return to your seat. Juror
9 number 172, Emily Parrish. What says the State?

10 MR. HOFFERTH: Please seat this juror.

11 CLERK OF COURT: And the defense for Riggins?

12 MR. CRANE: Please seat the juror.

13 CLERK OF COURT: And the defense for Tippins?

14 MS. NEWTON: Please seat the juror.

15 CLERK OF COURT: Please come forward and have a seat in
16 the jury box. Juror number 40, Vicky Chappell. What says
17 the State?

18 MR. HOFFERTH: Please seat this juror.

19 CLERK OF COURT: And the defense for Riggins?

20 MR. CRANE: Please excuse this juror.

21 CLERK OF COURT: Please return to your seat. Juror
22 number 46, Ryan Crowe. What says the State?

23 MR. HOFFERTH: Please seat this juror.

24 CLERK OF COURT: And the defense for Riggins?

25 MR. CRANE: Please seat the juror.

1 CLERK OF COURT: And the defense for Tippins?

2 MS. NEWTON: Please seat the juror.

3 CLERK OF COURT: Please come forward and have a seat in
4 the jury box. Juror number 237, Noel Vazquez. What says
5 the State?

6 MR. HOFFERTH: Please seat the juror.

7 CLERK OF COURT: And the defense for Riggins?

8 MR. CRANE: Please seat the juror.

9 CLERK OF COURT: And the defense for Tippins?

10 MS. NEWTON: Please seat the juror.

11 CLERK OF COURT: Please come forward and have a seat in
12 the jury box. Juror number 152, Gary Miller. What says the
13 State?

14 MR. HOFFERTH: Please excuse this juror.

15 CLERK OF COURT: Please return to your seat. Juror
16 number 28, Jordan Burns-Walensky. What says the State?

17 MR. HOFFERTH: Please seat this juror.

18 CLERK OF COURT: And the defense for Riggins?

19 MR. CRANE: Please seat the juror.

20 CLERK OF COURT: And the defense for Tippins?

21 MS. NEWTON: Please seat the juror.

22 CLERK OF COURT: Please come forward and have a seat in
23 the jury box. Juror number 190, Leslie Rhinehart. What
24 says the State?

25 MR. HOFFERTH: Please seat this juror.

1 CLERK OF COURT: And the defense for Riggins?

2 MR. CRANE: Please seat the juror.

3 CLERK OF COURT: And the defense for Tippins?

4 MS. NEWTON: Please seat the juror.

5 CLERK OF COURT: Please come forward and have a seat in
6 the jury box. Juror number 138, Joan Marler. What says the
7 State?

8 MR. HOFFERTH: Please seat this juror.

9 CLERK OF COURT: And the defense for Riggins?

10 MR. CRANE: Please seat the juror.

11 CLERK OF COURT: And the defense for Tippins?

12 MS. NEWTON: Please seat the juror.

13 CLERK OF COURT: Please come forward and have a seat in
14 the jury box.

15 THE COURT: First alternate.

16 CLERK OF COURT: Juror number 6, Matthew Andary. What
17 says the State?

18 MR. HOFFERTH: Please seat this juror.

19 CLERK OF COURT: And the defense for Riggins?

20 MR. CRANE: Please seat the juror.

21 CLERK OF COURT: And the defense for Tippins?

22 MS. NEWTON: Please seat the juror.

23 CLERK OF COURT: Please come forward and have a seat in
24 the jury box.

25 THE COURT: Second alternate.

1 CLERK OF COURT: Juror number 12, Brett Baumgarten.

2 What says the State?

3 MR. HOFFERTH: Please seat this juror.

4 CLERK OF COURT: And the defense for Riggins?

5 MR. CRANE: Please seat the juror.

6 CLERK OF COURT: And the defense for Tippins?

7 MS. NEWTON: Please seat the juror.

8 CLERK OF COURT: Please come forward and have a seat in
9 the jury box.

10 THE COURT: Any exception or objection to the selection
11 process from the State?

12 MR. HOFFERTH: None from the State, Your Honor.

13 THE COURT: From Defendant Riggins?

14 MR. CRANE: No, Your Honor.

15 THE COURT: And from Defendant Tippins?

16 MS. NEWTON: No, Your Honor.

17 THE COURT: All right, ladies and gentlemen, I'm going
18 to send you back to your jury room because there's some
19 matters we have to go over before we can start the trial of
20 this case. Now, don't discuss the case. I know you don't
21 know anything really about it other than the preliminary
22 information I've given you. It is very important that you
23 not discuss the case among yourselves until you've had all
24 of the facts and evidence and the law of the case. So, at
25 this time, if you'll step back into your jury room and we'll

1 bring you back out as just as soon as we're ready for you.

2 (WHEREUPON, the jury exited the courtroom at 3:10 p.m.)

3 THE COURT: Ladies and gentlemen, for the balance of the
4 panel, it's my understanding I think we just have maybe one
5 other short case left on the roster, which we hope to get to
6 this week, so you'll need to call back the number that
7 should be on your card after 6:00. Call back after 6:00 and
8 they'll give you further instructions about what you need to
9 do, whether you need to report back tomorrow. It may,
10 depending on how the other case is going, it may tell you
11 that you have to call back after another time. So just
12 whatever it tells you to do, make sure you do it. Have a
13 good evening and make sure you call back after 6:00.

14 (WHEREUPON, remaining jury panel exits the courtroom at
15 3:15. The jury entered the courtroom at 3:16 p.m.)

16 THE COURT: We realize that there are a couple of
17 matters before we actually can start the case and it's 3:15.
18 We realize then we would be probably looking at after 4:00
19 to start the case, which is kind of pushing it since we like
20 to have you all out of here by 5:00. So, what we're going
21 to do is have you -- we'll go ahead and break as far as
22 y'all are concerned. We're not breaking, but just be back
23 in your jury room at 9:30 in the morning.

24 Let me give you a couple of rules that are very
25 important. Don't discuss, again, I know you don't have any

1 information, but don't discuss the case among yourselves or
2 family members. And that's very important because you do
3 not need to be getting information from outside people. And
4 once you start discussing the case, you're kind of making up
5 your mind at that point. Also, do not do any type of
6 research. I know in this day of Google it's hard not to
7 Google everything under the sun. Do not do any type of
8 research about the law, the parties, the attorneys,
9 anything. Nothing whatsoever related to this case. That's
10 totally impermissible. Third, don't pay any attention to
11 any media coverage. I'm not aware of any media coverage,
12 but that also includes social media. Do not pay any
13 attention to any of that do not look at and that kind of
14 stuff. And finally, if anybody should contact you other
15 than somebody from the Clerk's office, please let the
16 bailiffs know when you get here in the morning.

17 So, with that being said, you'll be free to go this
18 afternoon. Do not call the little number on the thing. That
19 is not -- that does not relate to you all. So, we'll see
20 you back in your jury room at 9:30 in the morning. Y'all
21 have a good evening.

22 (WHEREUPON, the jury exited for the day at 3:19 p.m.
23 and a break was held from 3:19-3:42 p.m.)

24 THE COURT: Mr. Hofferth.

25 MR. HOFFERTH: Thank you, Your Honor. The State would

Noah Millspaugh: Direct Examination by Mr. Hofferth

73

1 call Officer Noah Millspaugh to the stand.

2 NOAH MILLSPAUGH, having first been
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION (IN CAMERA)

5 BY MR. HOFFERTH:

6 Q Officer Millspaugh, first of all, where do you
7 currently work?

8 A For the City of Clemson Police Department.

9 Q Were you working in that capacity on June 7, 2020?

10 A Yes, sir. I was.

11 Q Were you on patrol in the City of Clemson that night?

12 A I was.

13 Q Did you conduct a traffic stop on a white Nissan that
14 evening?

15 A I did.

16 Q For that traffic stop, were you incorporating your dash
17 cameras and body cameras?

18 A Yes, sir. They were.

19 Q I'm showing Officer Millspaugh what has been pre-marked
20 as States Exhibit 1. Specifically in-car video. Is this
21 your in-car video from that night?

22 A Yes, sir. It is.

23 Q Officer Millspaugh, can you tell me what's going on
24 with this white Nissan right here?

25 A Yes, sir. As we take a right turn, it's actually a

1 yield lane into an oncoming highway. The vehicle in the
2 picture is making a very wide right turn. It crosses the
3 center dividing line between the two lanes.

4 Q Can you tell me anything about the vehicle's activity
5 before your dash cam was activated?

6 A Yes, sir. So, the vehicle in question in the video did
7 have its right turn signal on for approximately a quarter
8 mile before actually completing this turn in question.

9 Q What highway was this vehicle on? Do you remember?

10 A It is currently on Tiger Boulevard or Calhoun Memorial
11 Highway, US 123. We had just turned right off of US 76.

12 Q And just to clarify, can you see specifically, on this
13 shot right here, if this vehicle is veering into the left
14 lane?

15 A Yes, sir. It is currently crossed both lanes in the
16 center line.

17 (WHEREUPON, video with audio is played.)

18 Q Is this around the time when you hit your siren and
19 your lights?

20 A Yes, sir.

21 Q Was it because of that traffic violation?

22 A Correct.

23 Q I'm not sure if you heard that. Was that dispatch?

24 A Correct.

25 Q Talking to you?

Noah Millspaugh: Direct Examination by Mr. Hofferth

75

1 A Yes, sir. It was.

2 Q Did you catch what they were notifying you as to the
3 vehicle?

4 A I had called out the license plate that was displayed
5 on the vehicle and they were giving me the return to the
6 registration.

7 Q Did you hear the name that she just said?

8 A I believe the last name was a Beauchamp, if I'm
9 pronouncing that correctly.

10 Q Did you catch that turn right there as well?

11 A Yes, sir. The vehicle again taking a right onto now SC
12 93 made another very wide right turn, crossing into the
13 other lane of travel.

14 Q Officer Millspaugh, just to recap here. How many
15 traffic violations did we see on this two minute and sixteen
16 second clip.

17 A Approximately four by my count.

18 Q Can you expound on that a little bit?

19 A Yes, sir. So the initial violation that I observed
20 with the turn signal being on for approximately a quarter
21 mile without making any kind of turns. The first right turn
22 from US 76 onto US 123 with the wide turn. The improper
23 display of the vehicle license plate. And then also the
24 very last turns we made our right onto SC 93.

25 Q What was wrong with the license plate?

1 A It was improperly displayed. It came back to a truck
2 and it was displayed on a van.

3 MR. HOFFERTH: Your Honor, at this time I don't know if
4 you want to make a ruling on just the stop or if we want to
5 do it all together or?

6 THE COURT: I think probably go a full proffer from
7 your side.

8 MR. HOFFERTH: I'm going to switch to body cam. I'm
9 stopping the dash cam at 2 minutes and 34 seconds.

10 THE COURT: What is this exhibit number?

11 MR. HOFFERTH: This is -- it's Exhibit 1. They're on
12 the same flash drive, but I was just going to clarify that
13 this is specifically titled body cam Millspaugh, whereas we
14 were just watching it in-car dash camera.

15 THE COURT: Are you going to have them as separate
16 exhibits?

17 MR. HOFFERTH: I certainly can. The way I've done it
18 in the past is to have them on the same USB and submitted
19 as the same.

20 THE COURT: All right. Just make sure. Okay.

21 Q First of all, Officer Millspaugh, is this your body cam
22 from that night?

23 A Yes, sir. It is.

24 Q Officer Millspaugh, why did you ask him those
25 questions?

Noah Millspaugh: Direct Examination by Mr. Hofferth

77

1 A Well, when I approached the vehicle, I could
2 immediately tell that the driver in question is visibly
3 nervous and he was shaking.

4 Q What did Mr. Riggins just offer to you at that ---

5 A He stated that he did not have a valid driver's
6 license.

7 Q Why is that?

8 A It's under suspension.

9 Q Why did you ask Mr. Riggins to step out of the car?

10 A Well, one, to further investigate his demeanor based
11 off the vehicle tracking, suspicion of DUI, possible
12 impairment. Also, some of the statements that I'd been
13 given from Mr. Riggins could become further officer safety
14 issues, so I'd rather have him out of the vehicle in a
15 position for my advantage.

16 Q What did Mr. Riggins just indicate about the contents
17 of the car?

18 A He stated they had some clothes and some camping
19 equipment that he'd been camping for about a week or two.
20 Just saying that he had some personal effects that are in
21 the vehicle.

22 Q Was it his car?

23 A He stated that it was not his car, but his personal
24 effects are in the car.

25 Q What was Mr. Riggins just saying there about the owner

1 of the vehicle or who he thinks the owner of the vehicle may
2 be?

3 A He says that he doesn't know the owner's real name, but
4 that they call her by the name, Pink.

5 Q So not a full name.

6 A No, sir.

7 Q Correct me if I heard this wrong, but had you asked him
8 anything about searching the vehicle at this point?

9 A No, I had not.

10 Q And what was he saying?

11 A He's saying that I -- if I heard it correctly --
12 forgive me if I'm wrong, but I believe that he stated that I
13 could search it if I wanted to.

14 Q Let me play it again.

15 A It's a little hard to hear.

16 Q Officer Millspaugh, on this talk you're having with him
17 here. What is he saying regarding searching that vehicle?

18 A He stated that I need to talk to the owner of the
19 vehicle in order to search the vehicle.

20 Q What is -- I suppose, what are you relaying to him
21 regarding the status of searching the vehicle? I suppose
22 your -- the procedure regarding the right to search the
23 vehicle or granting consent to search the vehicle?

24 A So, since he is the operator of said vehicle and he
25 said that his personal effects are in the vehicle, then he

Noah Millspaugh: Direct Examination by Mr. Hofferth

79

1 is the one who needs to give me permission whether or not to
2 search the vehicle.

3 Q What did you just hear from Mr. Riggins right there?

4 A He, there, gave me permission to search the vehicle.

5 Q How much -- what's the time marker on -- if you can
6 read it, the time marker on the body camera? I know it's
7 small.

8 A In the bottom left corner?

9 Q Bottom left corner.

10 A I believe it's 5 minutes and 56 seconds.

11 Q Okay. From you approaching the vehicle, when the body
12 camera turns on, how long is it until Mr. Riggins grants you
13 consent to search the vehicle?

14 A Five minutes and 56 seconds.

15 Q With this conversation you're having with her right
16 here, when you relay to her that he's given consent to
17 search, what does she say?

18 A She's saying that there's nothing of her knowledge
19 that's in the vehicle.

20 Q Officer Millspaugh, how long have you been a police
21 officer in Clemson?

22 A Almost four years.

23 Q Do you know what Columbus is?

24 A I do.

25 Q What is it?

- 1 A It's a pizza place. It's a restaurant.
- 2 Q What's the time marker right here on the body camera?
- 3 About what time is it right here?
- 4 A 2312, which is 11:12 in the in the evening.
- 5 Q To your knowledge, is Columbus open at 2312?
- 6 A It is not.
- 7 Q Who is that officer you're speaking with there?
- 8 A It's currently Detective Owens. He was assigned to the
- 9 road patrol at the time.
- 10 Q Why did he show up?
- 11 A He came at my assistance. I called for his assistance.
- 12 Q So, what's going on here?
- 13 A I'm beginning my vehicle search.
- 14 Q Can you -- what's the time marker there?
- 15 A It's 9 minutes and 27 seconds.
- 16 Q What do you find right there?
- 17 A It's a very large knife.
- 18 Q Did he indicate to you early on in the stop that his
- 19 knives were in the vehicle?
- 20 A He did.
- 21 Q Officer Millspaugh, what do you mean right there when
- 22 you're saying he's acting weird? I know we've gone into it
- 23 a little bit, but at this point in your search, what's going
- 24 through your head?
- 25 A So, my statement there is my belief that there was

Noah Millspaugh: Direct Examination by Mr. Hofferth

81

1 something illegal in the vehicle. As to what it was, I was
2 not sure at the time, but based off his demeanor and his
3 statements and our conversation, I just believing that he
4 was not telling me the truth about whether there was
5 anything illegal in the vehicle. And that there was
6 something that was in the vehicle that he did not want me to
7 find.

8 Q What can you tell me about -- and we talked about what
9 roads this car took. What can you tell me about this area
10 in your experience regarding -- is it a place you frequently
11 patrolled? The time frame? Tell me a little bit more.

12 A It is. So, in the statement that Ms. Tippins made
13 about looking for Colombos, that area is known for possible
14 drug activity and a high profile area for criminal activity,
15 especially in the late night hours in the city of Clemson.
16 So, I do patrol those areas a little more frequently at this
17 time of night just for that said reason.

18 Q Officer Millspaugh, what is that you just found?

19 A That would be a needle or syringe.

20 Q Can you tell me what's your time stamp right here at
21 this point in?

22 A Yes, 10 minutes and 59 seconds.

23 Q So we're looking at maybe 2 minutes since you started
24 the search you found the syringe?

25 A Correct.

1 Q Are you in the front of the car or the back of the car
2 right there?

3 A I am currently in the front passenger seat.

4 Q So that is the center, I guess you'd say, ashtray?

5 A Center ashtray underneath the main center console.

6 Q So proximity wise, where is that among Mr. Riggins and
7 Ms. Tippins?

8 A It's directly between the two.

9 Q Did you hear what now Detective Owens just said right
10 there?

11 A I did.

12 Q What did he say?

13 A He said -- I believe he said it kind of smells like
14 meth in here.

15 Q I mean -- I know this might be difficult, but can you
16 speak to what that smell is?

17 A I can. So, in my experience and in some of our
18 training, one of the reasons I will say that I had Detective
19 Owens at time now come out there was he had much more prior
20 experience than I had in this realm of work, so I was basing
21 my work off of him at the time and kind of learning from his
22 experience while gaining my own. But in my experience odors
23 play a lot into criminal activity. So, certain narcotics
24 have an odor to them, such as marijuana. It's very strong.
25 Other odors, such as methamphetamine, can smell like cat

1 urine, and with that cigarettes, any other type of odor
2 plays a part into that, and we can recognize that when we
3 smell it.

4 Q Officer Millspaugh, what is that?

5 A That would be a torch lighter.

6 Q Now, what distinguishes the torch lighter between any
7 average lighter that you might have?

8 A So, a torch lighter is very commonly used in narcotics.
9 It can sustain a higher level of heat and can be used to
10 cook certain materials, ie a bowl. If someone were using
11 illegal narcotics, they could cook a substance inside of
12 that device.

13 Q And so at this point, this is 1319. So, say about four
14 minutes into the search? Is that right?

15 A Correct.

16 Q Four or five minutes?

17 A Yes, sir.

18 Q And in that time, you found the syringe and a
19 torchlight?

20 A Yes, sir.

21 Q Officer Millspaugh, what would you say -- when you're
22 conducting this search, what would you say -- what was your
23 observation about the amount of things in the car?

24 A There was a wide range of kind of everything. I mean,
25 you'd have personal effects and trash, clothes, food. It

1 was very apparent that someone had been in there for an
2 extensive period of time.

3 Q What happened here?

4 A This is where Detective Owens now is notifying me of a
5 sack that he's located.

6 Q What's the time stamp right here?

7 A It is 19 minutes 4 seconds.

8 Q If I remember right, the search started on this video
9 about 9 minutes and 26 seconds.

10 A I believe so.

11 Q So, this is within 10 minutes of starting the search.

12 A Correct.

13 Q What do you notice about the location that Detective
14 Owens is saying he found the drugs?

15 A So, as you can see the dials for the air conditioning
16 and volume buttons on the dashboard has been raised from its
17 proper space. In that area is where he said that he located
18 the bag containing the illegal substances.

19 Q Where's that in proximity to where you found that
20 syringe?

21 A It was directly above it.

22 MR. HOFFERTH: Officer Millspaugh, I have no further
23 questions for you.

24 THE COURT: Cross examination from Riggins.

25 CROSS EXAMINATION

Noah Millspaugh: Cross Examination by Mr. Crane

85

1 BY MR. CRANE:

2 Q Officer Millspaugh, early in your testimony, you said
3 that Mr. Riggins left his turn signal on for about a quarter
4 of a mile. Is that correct?

5 A Yes, sir?

6 Q What's illegal about leaving your turn signal on for a
7 quarter of a mile?

8 A It's suspicion of a possible impairment.

9 Q Is it also suspicion if someone was pulling into a gas
10 station that was then closed and they continued up the road
11 and just turned right, could they continue to have their
12 their traffic signal on?

13 A I suppose that is possible.

14 Q Now, you said that he made a -- that Mr. Riggins made a
15 wide right turn from 76 on 123. Is that correct?

16 A Yes, sir.

17 Q Did he -- was he crossed over the line? His left
18 tires when -- did he immediately correct himself into his
19 lane?

20 A It wasn't a jolting action for immediate correction.
21 It was more of a smooth wide turn that ended up back in the
22 correct lane.

23 Q Is there a correct way to correct your lane? Do you
24 have to jolt back over or can you just get back over into
25 your lane?

1 A You should never cross that lane in the first place.

2 Q That's not what I asked you. Is there a specific way
3 that, in your mind, you're supposed to switch lanes?

4 A As long as it is safe -- that it's a safe action that's
5 the correct way.

6 Q In this case, were there any other cars coming at that
7 time. On that video do you see any other cars coming?

8 A In the video in question, no, sir.

9 Q You told us that he had four violations. His signal --
10 leaving his signal on, for whatever that's worth. A wide
11 turn. A plate. The plate violation. And the wide turn
12 again. Is that correct?

13 A Yes, sir.

14 Q When you pulled him over, you only mentioned he failed
15 to maintain his lane and that his tag was bad. You didn't
16 mention the signal. Why was that?

17 A The -- I gave it a quick synopsis of why I was pulling
18 him over.

19 Q Right. So, I think pretty much immediately you said
20 that Mr. Riggins looked nervous. Is that correct?

21 A Correct.

22 Q What exactly does nervous look like?

23 A I deal with nervousness on a very regular basis, and I
24 can tell a difference when someone is abnormally nervous
25 compared to when someone is just in contact with law

Noah Millspaugh: Cross Examination by Mr. Crane

87

1 enforcement. Mr. Riggins was visibly sweating. It was
2 nighttime. The sun was not out. It was apparent that there
3 was something going on with Mr. Riggins himself that was
4 giving me that suspicion.

5 Q What was the date? If you can tell us what the date
6 was when this happened?

7 A It is -- according to the stamp, it's August 6, 2020.

8 Q Would it actually be correct that this happened on June
9 6, 2020?

10 A Sir?

11 Q Would this be correct that it actually happened on June
12 6, 2020?

13 A I believe that's correct. According to the stamp up
14 there is what I was reading off of.

15 Q Is it usually hot in June in South Carolina?

16 A It can be.

17 Q Do people sweat when it's hot in South Carolina?

18 A They can.

19 Q You said that on -- you said you pulled Mr. Riggins out
20 of the car for officer safety issues. What were these
21 officer safety issues?

22 A Well, Mr. Riggins had stated that he had several knives
23 in the vehicle and that, being in itself, I would rather
24 separate him from those potential weapons.

25 Q But having knives in the car is not illegal, correct?

- 1 A It's not illegal, no.
- 2 Q You pulled Mr. Riggins out of the car and you pat him
3 down. Is that correct?
- 4 A Correct.
- 5 Q Why?
- 6 A For weapons.
- 7 Q For weapons?
- 8 A Yes, sir.
- 9 Q Don't you need a reason to believe that he has weapons?
- 10 A He stated that he had weapons in the vehicle.
- 11 Q He said he had weapons in the vehicle, but did he say
12 he had any weapons on his person?
- 13 A Well, that's -- I'm ensuring that he does not have
14 weapons on his person.
- 15 Q There were some question as to what time Columbus
16 closes. If you're from Greenwood, like Ms. Tippins said,
17 how are you going to know what time Columbus closes?
- 18 A I believe that she has access to the internet and can -
19 --
- 20 Q But you don't know for sure.
- 21 A --- research that.
- 22 Q Correct?
- 23 A Sir?
- 24 Q You don't know for sure though, correct?
- 25 A I can't say one hundred percent. No, sir.

Noah Millspaugh: Cross Examination by Mr. Crane

89

1 Q You said that Columbus is a kind of a hot spot for
2 crime in Clemson. Is that correct?

3 A Well, that area. Yes, sir.

4 Q Right. But Columbus itself, is it a hotspot for crime?

5 A That's not what I said.

6 Q Or is that just where people who are out in town want
7 to go eat dinner?

8 A Well, the area in which Columbus is is a high crime
9 area.

10 Q Later, you said that Mr. Riggins was, quote, acting
11 weird. Is that correct?

12 A Yes, sir.

13 Q You said that essentially that meant that with him
14 acting weird you thought there was something in the car;
15 correct?

16 A Correct.

17 Q But you don't have any evidence there was anything in
18 the car that time, correct?

19 A At what time are you ---

20 Q When you said that he's acting weird.

21 A I believe I made that statement several times. I just
22 want to make sure I answer your question correctly in the
23 time that you're asking.

24 Q It's hard to tell on this video and that's why I'm
25 asking you. You said you found a needle. Was it a needle,

1 or was it a syringe?

2 A Well, the syringe is the portion of the plastic. The
3 needle is the actual point to it.

4 Q And I'm asking for my own purpose, because I couldn't
5 see it. Was there an actual needle on the end of that
6 syringe?

7 A To the best of my knowledge, there was.

8 Q Is that syringe in evidence anywhere?

9 A I don't believe so.

10 Q There were some mention with the other officer smelled
11 meth. When you pulled Mr. Riggins over, did you smell meth?

12 A At first initial contact, no, sir.

13 Q But you were probably close enough to have smelled meth
14 in that car, correct?

15 A During the search I was.

16 Q You found a torch lighter in the center console?

17 A I did.

18 Q Did you happen to click it to see if it even lit?

19 A To my knowledge, no, sir. I did not.

20 Q Okay, so you just assumed that it was for smoking
21 methamphetamines?

22 A Correct.

23 Q But you didn't even know if it would light actually,
24 right?

25 A I never tested it. No, sir.

Noah Millspaugh: Cross Examination by Mr. Crane

91

1 Q Are torch lighters used for, I don't know, doing things
2 like starting campfires?

3 A I believe you can use it for just about anything.

4 Q So, other things other than smoking meth, correct?

5 A Correct.

6 Q You mentioned due to all the things in the car that
7 someone had been in that van for an extensive period of
8 time. Is that what you said a few minutes ago?

9 A It is.

10 Q Who's the someone?

11 A Well, according to Mr. Riggins' statements, it was him.

12 Q And you said you found a bunch of random things in the
13 car. Are you trying to tell us that you think they all
14 belong to Mr. Riggins?

15 A Considering Mr. Riggins is the operator of the vehicle
16 he is in possession of all those things.

17 Q You told the other officer that, quote, I thought he
18 was drunk. Is that correct?

19 A It is.

20 Q So, the reason you pulled him over is because you
21 thought he was drunk.

22 A Correct.

23 Q And then you immediately moved into asking him about
24 drugs in the car.

25 A Correct.

1 MR. CRANE: Nothing further. Thank you.

2 THE COURT: Cross examination from Tippins.

3 CROSS EXAMINATION

4 BY MS. NEWTON:

5 Q Officer Millspaugh, when did you first join the Clemson
6 Police Department?

7 A I was hired on July 8, 2019.

8 Q So we're coming up on about a year in June; is that
9 correct?

10 A Correct.

11 Q At the time this happened. So, the written report --
12 you did a written report; is that correct?

13 A Yes, ma'am. I did.

14 Q And in the written report it says failure to maintain
15 lane and wide turn. You also, I believe, mentioned the tag.
16 Is that correct?

17 A Yes, ma'am.

18 Q And failing to maintain lane and a wide turn. You can
19 write two tickets for those individually. Is that correct?

20 A I believe so. I believe you can write an improper turn
21 and a failure to maintain lane.

22 Q And so, when you -- it was, I guess, about two minutes
23 16 seconds into the clip when we paused earlier and you said
24 you had observed four traffic violations; correct?

25 A Correct.

1 Q Two separate wide turns and then still sort of waiting
2 on the license plate. Is that right?

3 A At the time of the video. Yes, ma'am.

4 Q And then the turn signal being on for a quarter mile;
5 correct?

6 A Correct.

7 Q When -- but in your report, like I said, you only
8 summarize two. Is that -- would you agree with that?

9 A To the best of my knowledge.

10 Q Your body cam picks up and you let them know why you
11 stopped him, is that right?

12 A Yes, ma'am.

13 Q And then you're starting to gather information;
14 correct?

15 A Correct.

16 Q And he's answering you about the registration and
17 insurance.

18 A Yes, ma'am.

19 Q And that's when I believe we stopped the video and you
20 stated that you could immediately tell that the driver was
21 visibly nervous and shaking. Is that correct?

22 A Correct.

23 Q But you didn't put anything about that in your report,
24 is that right?

25 A I cannot recall.

1 Q Well, might have changed that. Immediately got the
2 impression that he was very nervous. He was sweaty and
3 shaking. So you did say that, OK?

4 A Yes, ma'am.

5 Q But could you smell any alcohol?

6 A I could not.

7 Q Okay, but you did ask him about drinking.

8 A Correct.

9 Q At that time, he's getting you some paperwork because
10 I'll have a conversation. Is that correct?

11 A Yes, ma'am.

12 Q And talks about the internet. Do you know what time
13 you requested an additional unit to arrive?

14 A Not specifically. No, ma'am. I don't.

15 Q And then if you were to see the CAD report would that
16 tell you what time?

17 A Assuming it was properly notated. Yes, ma'am. I
18 would.

19 Q Let me hold off on that just a second. If the CAD --
20 assuming that the CAD report is correct and you arrived at
21 10:43 and Officer Owens arrives at 10:48, there's about 5
22 minutes in between; is that correct?

23 A I believe so.

24 Q When Officer Owens arrived, had you gotten -- is that
25 about when you'd asked Riggins to step out of the vehicle?

Noah Millspaugh: Cross Examination by Ms. Newton

95

1 A I believe I asked him to step out prior to Detective
2 Owens arriving on scene.

3 Q So when he got there you were already out with Riggins?

4 A Correct.

5 Q And my client was seated, when you approached, with a
6 seat belt on; is that correct?

7 A I cannot recall.

8 Q And then she asked you about rolling down the window
9 because she was smoking a cigarette? Is that correct?

10 A I believe so.

11 Q About the two minute mark, we stopped earlier, where
12 you had mentioned and brought up is there anything illegal
13 in this vehicle and talked about going to jail. Is that
14 correct?

15 A Yes, ma'am.

16 Q Is that before you asked them to step out of the car?

17 A Correct.

18 Q And then Officer Owens arrived and that -- about when
19 Officer Owens arrived, because he's talking with Riggins to
20 you when you state that that's when he gave you the consent.
21 Is that correct? Both of you were there?

22 A I believe another officer was on scene that was talking
23 to Mr. Riggins with me prior to Detective Owens arriving on
24 scene. I believe I have notated in my report that Patrolman
25 Dempsey was on scene.

1 Q That he was on scene first, okay. So, if the dispatch
2 times are that Dempsey arrived two minutes after Owens, that
3 would be just dispatch error?

4 A I believe so.

5 Q But when you obtained Riggins' consent, according to --
6 for the search, it was two of you, correct?

7 A Correct.

8 Q And at that point, it was -- and you had -- had you
9 started any DUI tests on him?

10 A No, ma'am.

11 Q And he was answering your questions about the car and
12 everything fine. Is that correct, at that time?

13 A Correct.

14 Q And he brought up to you about it's not his car?

15 A Yes, ma'am.

16 Q And then we go to get my client out of the car so you
17 can search the car. Is that correct?

18 A Correct.

19 Q So the moment that Riggins says it's okay, you pull her
20 out and then start to start the search, right?

21 A Yes, ma'am.

22 Q And so, while we talked about high crime and the
23 mention of Columbos, that happened after you've been
24 allegedly given consent, correct?

25 A Correct.

Noah Millspaugh: Cross Examination by Ms. Newton

97

1 Q And you -- in the search of the -- in the alleged
2 location of the syringe, that was after you started your
3 search? You didn't see that in plain view.

4 A No, ma'am, I could not.

5 Q And we we stopped and talked about the smell of meth.
6 But that was after the search began, correct?

7 A Correct.

8 Q And then, you didn't locate the torch lighter until
9 after the search began, correct?

10 A Correct.

11 Q That wasn't in plain view either?

12 A No, ma'am. It was not.

13 Q And then right before he got out of the car, he's
14 advised you of weapons and the knives being there.

15 A Correct.

16 Q But he -- you hadn't located any weapons until after
17 you started your consent search, is that right?

18 A Correct.

19 Q The amount of, I guess, things in the vehicle. All of
20 that, in your opinion, you attributed to Mr. Riggins; is
21 that correct? All the items belonging to him in the
22 vehicle.

23 A More specifically, "somebody". There was a wide
24 variety of random items. I mean, as I stated before, it
25 could be "someone".

1 Q And during your search you were in the -- you searched
2 my client's purse, is that correct?

3 A Correct.

4 Q You had her put it back in the seat. She complied for
5 that, right?

6 A Yes, ma'am.

7 Q And nothing was located in her purse. Is that right?

8 A Correct.

9 Q And that was the only indicated item of hers in the
10 vehicle; is that right?

11 A Can you...

12 Q Belonging wise. Things you, like -- she didn't claim
13 anything else that was -- just her purse that you attributed
14 to her.

15 A I don't recall her making any statements of ownership
16 to any items.

17 Q Okay. Okay. All right. And then officer Owens is
18 helping you search the car, that's when you tell him, like,
19 and I think y'all stopped -- Mr. Hofferth stopped the video
20 to emphasize you knew something was in there. You just
21 didn't know what it was; is that correct?

22 A Correct.

23 Q While you're searching, before you can locate anything.

24 A Can you say that one more time?

25 Q While you're searching, before you've located anything;

1 is that correct?

2 A Correct. Yes, ma'am.

3 MS. NEWTON: Those are all the questions I have.

4 THE COURT: Mr. Hofferth, any redirect?

5 MR. HOFFERTH: I have nothing further.

6 THE COURT: You may step down. Anything else from the
7 State?

8 MR. HOFFERTH: I have nothing further.

9 THE COURT: I'll be glad to hear from you.

10 MR. HOFFERTH: Your Honor, I think the video footage
11 will clear up any questions as far as the substance that
12 was, I guess, led up to the stop of the vehicle. I think we
13 got into the weeds a little bit there on the specific number
14 of traffic violations, or potential traffic violations there
15 may have been. I think it's clear within that first two
16 minutes of the video you see on that turn the car over the
17 line. In fact, when he hits his lights he does the same
18 thing again on another right turn. That, in and of itself,
19 is sufficient for him to stop that vehicle.

20 Now, on stopping that vehicle, when I was speaking with
21 Officer Millspaugh, he's informed immediately by dispatch
22 that that vehicle registers to an individual out of Texas
23 with the last name Beauchamp. So, upon speaking to Mr.
24 Riggins, he knows immediately it's not his vehicle.

1 Obviously, he follows this up and states, of course, it's
2 not my vehicle. Shortly after speaking to Mr. Riggins, he
3 learns not only is it not his vehicle, that his license is
4 suspended. I think in the course of normal questioning when
5 Officer Millspaugh is talking to Mr. Riggins, he's asking
6 him if he had anything to drink. If there's anything
7 illegal in the car, which is routine when he makes a stop
8 and asking individuals if there's anything that he needs to
9 know about.

10 When he asked Mr. Riggins out of the car after learning
11 that, yes, he has knives in the vehicle, he does proper
12 procedure, ask him out of the vehicle. And begins speaking
13 with him. I think a very important point here that just
14 adds to the circumstances surrounding this, is without even
15 asking Mr. Riggins about searching the vehicle, Mr. Riggins
16 states his understanding of the law or procedure being that
17 if he wants to search the car, he needs to ask the owner.
18 Without him asking. So, you know, in speaking with Officer
19 Millspaugh with him on the stand, you know, he's just adding
20 to a basis for him to have some, you know, cause to search
21 that vehicle.

22 As far as the prolongation of the stop, starting from
23 this initial traffic violation he asked Mr. Riggins where he
24 eventually does give consent within 10 minutes of the stop.
25 I mean, this is not a situation where this is drawn out. The

1 entirety of the video, at least on the body cam, is 25
2 minutes, and that's from him approaching the vehicle through
3 the search to arrest. Twenty-five. So, I don't think
4 there's a question of unnecessary prolongation as far as
5 when he's actually conducting the search. Within two
6 minutes, he's finding a syringe in the ashtray. Within just
7 a few more minutes, he's finding a torch lighter in the
8 vehicle, you know. And I certainly understand the point
9 that these things, in and of themselves, are not illegal,
10 but neither are spoons. Neither are baggies. You know, but
11 this is just him building a basis for when to continue a
12 search. Talked about smelling meth in the vehicle, you
13 know. But this is an instance where we have -- we can take
14 Officer Millspaugh's training and experience into account
15 and see, before our very eyes, this search unfold.

16 I don't think there's any question that he was
17 developing further reasonable suspicion. Suspicion in the
18 course of looking through this car after, mind you, he was
19 given consent. Your Honor, I just think there's no basis
20 for any suppression. This was a good stop. And I'd ask
21 that these motions be denied.

22 THE COURT: Mr. Crane.

23 MR. CRANE: On this video, we see Mr. Riggins make a
24 wide right turn. He immediately goes back into his lane.
25 This officer said that he failed to maintain his lane. He

1 drives for half a mile or more straight down the middle of
2 123 and goes up the ramp, doesn't hit a curve. And then
3 makes another wide right wide right-hand turn. Yes, he does
4 cross over the line when he makes his right turn, but in the
5 totality of everything, he stayed in his lane from the time
6 that he got on the 123 to the time that he got off of 123.

7 My argument is going to be a little bit different than
8 Ms. Newton's. Officer Millspaugh said that when he pulled
9 Mr. Riggins over that he was nervous. He said that he can
10 apparently tell the difference between someone who's real
11 nervous and someone who's kind of nervous. So, I don't know
12 what sort of magical power he has, but, State v Frazier.
13 We've already discussed it earlier today, 437 SC 625. It
14 specifically says that the Court cautioned law enforcement
15 that all the nervous behavior is a pertinent factor in
16 determining reasonable suspicion. And we, like many
17 appellate courts, have become weary with the many creative
18 ways law enforcement attempts to parlay the single element
19 of nervousness into a myriad of factors supporting
20 reasonable suspicion.

21 That's exactly what he did. He said this man is
22 sweating. I have magical powers. I can tell he's nervous.
23 And that's going to give me reasonable suspicion to get into
24 the car. I'm not even going to argue about the, you know,
25 the legalities of the consent. This officer went up to the

1 window in this video at 23:04:52. Forty-eight seconds
2 later, before he knows anything about anything in that car,
3 before he knows that he's DUS, before he knows any of that,
4 he's already asking him about drugs. And the only reason
5 he's asking him about drugs is because Mr. Riggins was
6 nervous. State v Frazier says that nervousness is not
7 enough. He had to have some other reason to believe that
8 there were drugs in that car to ask Mr. Riggins about the
9 drugs.

10 THE COURT: Well, no. That's not -- Frazier says that
11 you can't use that as a basis for prolonging the stop.

12 MR. CRANE: In Frazier -- I have it right here. In
13 order to prolong or exceed the scope beyond the initial
14 traffic violation. That's exactly what he did. He exceeded
15 the scope beyond his initial traffic violation. He said he
16 thought he was drunk. He even said that on his testimony a
17 few minutes ago. So, he pulled him over for four different
18 traffic violations, as well as a possible DUI. For him to
19 then move that beyond the scope of a traffic violation, he
20 has to have something more. And he didn't have anything
21 more. He also said that in the car he had the feeling that
22 something was in there. That's called a hunch, and that's
23 exactly what Frasier says is not enough.

24 THE COURT: What about him saying that he was driving
25 under driving without a license, under suspension?

1 MR. CRANE: He did not know that prior to asking him if
2 there were drugs in the car. So, my argument is that as
3 soon as he has gone from a traffic violation to a drug
4 investigation, without anything other than this man being
5 sweaty and nervous, it exceeds the scope and he started a
6 new investigation. He started a new investigation. He
7 started a new drug investigation without any reasonable
8 suspicion, much less probable cause to do so. So, my
9 argument is based on Frasier that he exceeded the scope
10 beyond the initial traffic violation and turned it into a
11 drug investigation without any reasonable suspicion or
12 probable cause.

13 THE COURT: Ms. Newton?

14 MS. NEWTON: Thank you, Your Honor. The one minute -- I
15 have one minute, 5 seconds into the video, I believe. Once
16 the talking starts, it's probably closer to the 48 seconds.
17 But either way, at one minute and five seconds into the
18 video, "Otherwise I might take you to jail." He's been
19 threatened with jail based on a suspicion of DUI for failure
20 to maintain lane. It's hot out on June 7. Again, nerves
21 are what they are. That's the point that he's threatened
22 with that and there's no -- he -- once the search starts, he
23 then continues to build his reasonable, articulable
24 suspicion. Once he's gotten the alleged consent, he builds
25 the reasonable, articulable suspicion and up to probable

1 cause. But at the moment that he jumps there, tells him
2 he's going to potentially go to jail -- and I would submit
3 to the Court that that's what -- the State wants you to say
4 that he's offering this once he's out of the vehicle and
5 says it without being asked regarding it, but he's already
6 been threatened to go to jail before he's even removed from
7 the car. So, he's still answering the officer's questions
8 and so it isn't just unprovoked trying to talk about
9 consent. He's answering these questions continuously.
10 State v Giovanni from the Fourth Circuit says the officer
11 definitely abandoned the prosecution of the traffic stop and
12 embarked in another sustained course of investigation. When
13 he tells him, I mean, "Otherwise, you could end up in
14 handcuffs", and that's the threat, at a minute 5 or 48
15 seconds, whatever. At that point, he had not even learned
16 he's driving under suspension. He is not doing that. He is
17 altering the traffic stop, and that's where there's no
18 reasonable articulable suspicion.

19 They did a great job pausing once the search started,
20 and continued, and we build whatever from there. But at the
21 point that he's not been able to testify to reasonable
22 articulable suspicion of drug activity, at that point
23 continues on with believing something illegal. He's sure of
24 it, but there's nothing based on the traffic violation that
25 would support that. Two minutes in he's asking for the

1 other officer. An additional unit is on scene. They're
2 answering, and that's where I moved to the consent search
3 being an issue. But I agree that it's not stated there
4 beforehand.

5 And I did a lengthy argument this morning with all the
6 case law, so I don't really want to repeat that -- or
7 earlier this afternoon. But, yes, the Frazier case is
8 there. The Rodriguez v United States. The officer's
9 mission includes to address the traffic violation that
10 warranted the stop, checking the driver's license,
11 inspecting the registration and proof of insurance, and
12 potentially had he gone into a driving under suspension
13 inquiry -- or driving under the influence inquiry, then
14 maybe, but we immediately jumped to, OK, I got him out.
15 Here he is. This is what we're doing, and then continued to
16 build the case from there.

17 I mean, he's already gotten consent before this high
18 crime Columbo area comes into play, and that's never
19 mentioned or discussed. And it's convenient to say now that
20 it's no where in the very talkative discussion with officers
21 throughout the search of trying to find something and no
22 where in the report about that.

23 THE COURT: Well, the way I read Frazier, and the whole
24 crux of the matter is whether the officer had reasonable
25 suspicion to prolong a traffic stop. He has, I think my

1 review -- my view of that video was he had a reason to stop
2 it. He had a reason to pull him over. At the moment he
3 goes up and he's, I mean, he has the reason. Can I see your
4 driver's license. Can I see your insurance information. I
5 don't think there's any question about that. And while
6 waiting on that, he has some discussions and asks some
7 additional questions, but that's not prolonging because he's
8 still waiting on him to get the information. And about the
9 time he hands him the paperwork, which clearly, is not being
10 prolonged. Oh, by the way, I don't have a driver's license.
11 Why is that? Well, I'm -- they have been suspended. So, at
12 that point, there's been no pro -- there's been these
13 questions. They've not prolonged it. He was having
14 conversations during that and he had some suspicions, he
15 said, from the beginning. So, at that point, it becomes you
16 have another, you know, offence. You have driving under
17 suspension. He also indicates he has a knife in the car, so
18 I think it's totally appropriate at that time for him to ask
19 him to step out of the car. And very shortly, I mean, at
20 that point he has, I guess, he has a ability to arrest him
21 right then. But before then he says can I search the car.
22 He says yes. The passenger basically says yes. So, I think
23 that I'm going to deny your motion to suppress, both for
24 Riggins and Tippins. I believe it falls within, I think,
25 Frazier, to support that decision and also the State v

1 Proffit case also allows them to build once they get started
2 and have a reason. I find that it was proper and I will
3 deny your motion.

4 MS. NEWTON: Judge, just for clarification purposes.
5 And then you -- are you making a ruling with respect to the
6 probable cause for the warrantless search was the -- it's
7 your understanding that that is -- that he granted consent?
8 Is that how you're reading that?

9 THE COURT: Yes.

10 MS. NEWTON: Thank you.

11 THE COURT: He said, "I consent" on there. That's the
12 way I heard it. So, anything else from the State at this
13 point?

14 MR. HOFFERTH: Nothing from the State.

15 THE COURT: Riggins?

16 MR. CRANE: No, Your Honor.

17 THE COURT: And Tippins?

18 MS. NEWTON: No, Your Honor.

19 THE COURT: I guess the jury is coming back at 9:30.
20 Since we obviously have a few things to discuss, the lawyers
21 will be back in here at 9:00 so we can discuss the other
22 open issue and how we are going to proceed forward.

23 (WHEREUPON, off the record at 4:45 p.m.)

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

25

1

2

Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, held in the Circuit Court for Pickens County, South Carolina, on the 30th day of May, 2023.

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

Tara T. Scott, CVR

Circuit Court Reporter

October 6, 2023

STATE OF SOUTH CAROLINA)	IN THE CIRCUIT COURT OF THE
)	TENTH JUDICIAL CIRCUIT
COUNTY OF PICKENS)	CASE NO: 2023-GS-39-00604
)	2023-GS-39-00839
)	
The State of South Carolina,)	
)	
PLAINTIFF,)	
)	
-vs-)	TRANSCRIPT OF RECORD
)	
Rodney David Riggins &)	
Jodi Spearman Tippins)	
)	
DEFENDANTS.)	
)	
)	

MAY 31, 2023
PICKENS, SOUTH CAROLINA

B E F O R E:

THE HONORABLE PERRY H. GRAVLEY

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

Jacob Hofferth, Esquire
Attorney for Plaintiff

Caroline Newton, Esquire
Attorney for Defendant Tippins

Maxwell Gravlee, Esquire
Attorney for Defendant Tippins

Jeremy Crane, Esquire
Attorney for Defendant Riggins

LESA D. TAYLOR
Court Reporter

I N D E X

		Direct	Cross	Redirect
Colloquy	4			
Opening Statement				
by Mr. Hofferth	14			
by Mr. Crane	19			
by Mrs. Newton	23			
Officer Noah Millspaugh				
by Mr. Hofferth		25		80
by Mr. Crane			52	
by Mrs. Newton			74	
Detective David Owens				
by Mr. Hofferth		86		110
by Mr. Crane			91	
by Mrs. Newton			100	
Jonathan Duncan				
by Mr. Hofferth		124		
by Mrs. Newton			129	
Directed Verdict				
by Mr. Crane	130			
by Mrs. Newton	136			
Rodney Riggins				
by the Court		143		
Closing Argument				
by Mr. Hofferth	150			
by Mr. Crane	161			
Charge of the Court	169			
Verdict	181			
Sentencing	187			
Certificate of Reporter	195			

EXHIBITS

	<u>Page</u>
State's 1 - in-car video	27
State's 1 - dash cam video	30
State's 2 - chain of custody	125
State's 3 - affidavit	127
State's 4 - drugs in evidence pouch	125

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right, we're back on the continuation on the argument -- the motions we kind of addressed yesterday on the -- whether this is the second or third. And I think we're -- I mean, we can address it now, but isn't it really a sentencing issue?

MR. HOFFERTH: It is, Your Honor. I'm happy to address it now, if that's how the Court wants to ---

THE COURT: What's your position? I mean, isn't it a sentencing issue?

MR. CRANE: It could be a sentencing issue, but we also -- I could also make an argument that he used -- whoever testified to the Grand Jury -- used two priors to essentially bolster this charge, so the charge that's on this indictment, I move to be fatally defective, because it essentially used -- to make this a third offense, that's what he was indicted for, was a third offense, so I feel like he was brought here on an indictment that was obtained by telling the Grand Jury that Mr. Riggins has two prior convictions for drugs, which, when we're looking at statute, does not. So, I believe that the indictment is fatally defective, and I believe that since it is, then that charge should be dismissed moving forward. If Mr. Hofferth wants to go back and indict him again on second offense, then he's certainly more than welcome to do that.

MR. HOFFERTH: Judge, if I may?

1 THE COURT: Yeah.

2 MR. HOFFERTH: The language on that indictment has not
3 changed, whether it's a first, second, or third. Sentencing
4 and the elements of the charge are two different analysis.
5 When you're reading the indictment, we're looking at, did he
6 possess quantity methamphetamine. The language, as I said,
7 remains the same. I could show you the indictment from the
8 trafficking first ---

9 THE COURT: I mean, I've got them both here.

10 MR. HOFFERTH: Yeah. The jury has no knowledge whether
11 it's a third, second, or a first. It makes no difference as
12 to the events that happened on June 7th. I mean, it's like you
13 said, this is something that we could discuss after the trial
14 as a sentencing issue, which it is.

15 MR. CRANE: Well, Your Honor, my question would be then,
16 why did he go get a new indictment if it's the same thing, if
17 this first indictment he got for trafficking meth back in
18 whenever the first one was, then why did he go get a second
19 one? The first one was fine. And then he decided to go
20 bolster his testimony and get one for third. And if it's for
21 sentencing, why did he need another indictment?

22 MR. HOFFERTH: Judge, because when it comes to sentencing
23 and you want to up the exposure on a charge, you have to have
24 that reflected in the indictment ultimately when it comes to
25 sentencing. As to -- like -- as I said, as to the substance

1 of the indictment, it remains the same. The language of the
2 indictment that is read to the Grand Jury remains the same.
3 There's no difference. We're talking about the exposure that
4 the Defendant faces if found guilty of the charge. That's a
5 step after the jury comes back and renders a decision. It
6 only makes a difference to the Defendant upon being found
7 guilty and upon facing sentencing. Makes no difference to a
8 Grand Jury. Makes no difference to this jury that's here
9 today.

10 MR. CRANE: Then why bring it before the Grand Jury if
11 this is the third offense. I mean, what's the point?

12 THE COURT: Okay, well, I'm going to go ahead and let it
13 go to the jury, and we'll address it at sentencing if we need
14 it, how about that?

15 MR. CRANE: That sounds good.

16 THE COURT: All right.

17 MR. HOFFERTH: Are we still addressing whether the second
18 or the third -- I know -- or do we want to do that at
19 sentencing?

20 THE COURT: I'll do that at sentencing.

21 MR. HOFFERTH: Excellent.

22 THE COURT: I'm not going to do anything until I have to.
23 All right, is the State ready?

24 MR. HOFFERTH: Ready.

25 THE COURT: Riggins ready?

1 MR. CRANE: Yes, Your Honor.

2 THE COURT: And Tippins ready?

3 MRS. NEWTON: Judge, I am. I do have a brief motion in
4 limine.

5 THE COURT: Okay.

6 MRS. NEWTON: I spoke with the prosecutor about this this
7 morning, but just wanted to put on the record, there was a lot
8 of discussion yesterday in regards to the subpoena for the
9 solicitor, and your ruling on that. And just wanted to make
10 it clear that the solicitor is limited from mentioning
11 anything of substance of the conversation my client had with
12 him on November 10th during direct with the officers, anything
13 that was gained during that conversation wouldn't be
14 admissible.

15 In that, of course, should she, at the appropriate time,
16 end up testifying, there may be a little bit of a different
17 scenario, and I'm not sure she's going to be doing that, but
18 in this case, nothing of substance based on your ruling would
19 be ---

20 THE COURT: Well, I understood that they were going to
21 call you as a witness for that same statement.

22 MRS. NEWTON: Right. So yeah -- so that's just what we
23 wanted to make sure.

24 THE COURT: Now, wait a minute ---

25 MRS. NEWTON: And I believe he is agreeing to that, but I

1 just wanted to put that on the record.

2 MR. HOFFERTH: She did bring this to my attention, Judge,
3 and it's my understanding that anything from that meeting
4 would be otherwise inadmissible. I mean, the witnesses have
5 not changed. If it's something that she believes to be
6 inadmissible or from that meeting, which I don't even know how
7 it would get in through these two officers, it would just be a
8 question of whether it's inadmissible on its face. It's not
9 my intention to speak of anything on that meeting, although, I
10 don't know at this point if Ms. Tippins is going to testify,
11 which would probably change the ---

12 THE COURT: Well, let's just -- you want to address it in
13 the event Ms. Tippins gets ready to testify?

14 MRS. NEWTON: That's fine.

15 THE COURT: Let's visit it then. All right.

16 MR. CRANE: Your Honor, one last thing.

17 THE COURT: Yes.

18 MR. CRANE: I forgot about it. I just wanted to put on
19 the record that Mr. Hofferth and I discussed this morning, I
20 have not turned in a witness list. I asked him if essentially
21 my witnesses would be the same as Mrs. Newton's, and he agreed
22 that mine -- Mr. Riggins' witnesses will be the same as their
23 own ---

24 THE COURT: Right. I don't think we need a witness list,
25 except -- as long -- you know, just for jury purposes, and as

1 long as everybody has been vetted in front of the jury, that's
2 all as far as I know, so. All right, so are we ready for the
3 jury? Bring them in.

4 [Whereupon, the jury enters the courtroom.]

5 THE COURT: Good morning, ladies and gentlemen. I hope
6 everybody had a good evening. We're now getting ready to
7 start the trial in the case, but before I give you any further
8 information, I will ask the Clerk of Court to administer the
9 oath. Mr. Welborn?

10 CLERK: If you would please stand, and again, after the
11 oath is administered, answer by saying I will. Raise your
12 right hand.

13 [Whereupon, the jury panel is duly sworn by the Clerk of
14 Court.]

15 CLERK: If you agree with that, please have a seat.

16 [All jurors are seated.]

17 THE COURT: All right, I'm just going to give you some
18 preliminary information, more kind of procedural, and I always
19 call it my road map for the trial. And then I'm going to turn
20 it over to the attorneys for their opening statement. I
21 usually like to start off by telling you to make sure you know
22 some other people in the courtroom that are -- you have
23 already met the attorneys and parties, but seated right in
24 front of you is the court reporter. She takes down all of the
25 record. Of course, you've already met the Clerk of Court.

1 Seated behind me is my law clerk, he's actually a law school
2 graduate and assists me with any research or anything I need
3 for trial.

4 But for your purposes, the most important people are the
5 gentlemen in the jackets and the badges, the bailiffs of
6 Pickens. We are very proud of the excellent bailiffs that we
7 have. They do an excellent job looking after you. And if you
8 have any questions or comments, just make sure you direct that
9 to them. If there's something I need to get involved in,
10 they'll let me know.

11 Now, what is your role as the jury? Your role as the
12 jury is to determine what the facts of this case are, okay.
13 And what that means is at the end of the trial, you'll be
14 asked to render a verdict, and that is answering a question as
15 to the charges that are presented to you as to each Defendant,
16 Rodney Riggins and Ms. Tippins, are they guilty or are they
17 not guilty? That's the question that will be asked of you as
18 to the charges presented.

19 Now, how do you do that? That as you look, you will
20 decide -- make that decision based on the evidence that's
21 presented. The evidence could be in several forms. It could
22 be a way of testimony from the stand here. It could be video
23 evidence. It could be maybe stipulations of the parties. It
24 may be exhibits and so forth. And each piece of evidence,
25 you're to give that evidence the weight and value which you

1 feel is appropriate. What convinces you of the fact trying to
2 be proven?

3 Now, in this case, the Defendant comes in not guilty.
4 The Defendants have plead not guilty. They have no burden
5 whatsoever in this case. The burden solely lies with the
6 State. And as I mentioned to you, as when I read to you the
7 indictment, the fact that somebody's indicted, charged, or
8 arrested is not evidence. That's merely the formal process
9 that brings this matter to court.

10 And at this point, the State has the sole burden of
11 proving each element of the charge. And that burden is beyond
12 a reasonable doubt. I don't know if any of you have ever been
13 involved in a civil matter, but that's a much lesser burden,
14 that's a more likely than not, but this is a criminal matter,
15 and the burden is beyond a reasonable doubt as to each element
16 that the State must prove.

17 Now -- and again, I repeat that the Defendant has no
18 burden whatsoever. They come in with the presumption of
19 innocence, and that's a very important presumption. And that
20 stays with them throughout the trial and stays with them until
21 a jury has found otherwise, that the State has met its burden.
22 So, your role, again, is to determine what the facts are.
23 After the trial, another tool that you'll have, is I will
24 charge you on the law. That's my job. My job is to determine
25 what the law that applies to this case is, and that's called

1 the jury charge. And after all the evidence has been
2 presented, and closing arguments, I will then charge you on
3 the law and tell you what the law is.

4 All right, my other job is to preside over the trial and
5 rule on objections. Now, we have very specific and very
6 strict rules of evidence and courtroom rules that apply. And
7 sometimes when you hear objections, that is based on those
8 rules. And sometimes interpreting those, you can interpret
9 them several different -- we have entire classes at law school
10 on these rules of evidence, so they're not as cut and dry as
11 everybody likes to think they are. Sometimes it makes sense
12 for me to address those questions outside your presence, and I
13 will from time to time have to send you back to your jury room
14 so we can address those outside your presence.

15 As I said, your job is to determine the facts. If you --
16 if there's anything that I say or do makes you think I have an
17 opinion of the facts, you are to disregard that, because
18 that's not my job. That's your job, and your job only. This
19 is -- should be a relatively short trial, so therefore, I
20 don't think it's a -- I'm going to ask that you not take
21 notes. And even though it may be a short trial, it is a very
22 important trial for both the State and both Defendants.

23 We will take -- we try to take breaks every hour, hour
24 and a half. It kind of depends on where we are with the
25 witnesses. If anybody needs to take a break prior to that,

1 you know, just indicate and we'll take a break as soon as
2 possible. We try to break -- you know, we have to be a little
3 flexible, because where -- depends on where -- you know, where
4 we are with the witness, but we try to break somewhere for
5 lunch somewhere between 12:30 and 1:00. Sometimes it's a
6 little bit earlier.

7 As far as the end of the day, we'll try to break as soon
8 -- as close to before 5:00 as possible. Again, sometimes that
9 -- we may have a witness -- I don't expect that in this case,
10 but I always like to let you know, sometimes we may have a
11 witness that may go a little bit longer. But if it looks like
12 we're going past 5:00, I will consult with y'all to make sure
13 that's okay and to make any arrangements, so -- because I know
14 I told one of y'all that we should be through by 5:00.

15 Like I said, we possibly could go into the morning.
16 Sometimes, as we get going, we're not sure exactly how long a
17 case will last until we kind of get into it, so -- and we may
18 finish it today, but we may go into tomorrow, we just kind of
19 have to see how that goes.

20 Now, the trial process is, we'll have opening statements
21 by the attorneys. And there's -- and as you know, the State
22 -- there will be one opening argument, and you'll have
23 Defendant Riggins, and you'll have Defendant Tippins, so we
24 have basically three parties, so to speak, in this case.
25 Opening statements, that's not evidence. That's their summary

1 of what the case is going to be about. Then we have the
2 evidentiary state, where evidence is presented. After all of
3 the evidence is presented, then we'll have closing arguments
4 by the attorneys, and then we'll have -- I'll charge you on
5 the law, okay.

6 And at that point, you can go back and deliberate. Now,
7 it's really very, very important that you not discuss the
8 case, and I'll tell you this every time you break, I'll remind
9 you of this. I told you this yesterday. And the reason is,
10 once you start discussing the case, you're starting to make up
11 your mind. And you don't need -- you need to keep an open
12 mind until you've heard all of the evidence and you've heard
13 the law that applies to this.

14 The other thing that I insist on, and it is strictly
15 prohibited, and that is doing any type of research. And I
16 know sometimes you may have a question that's like so easy,
17 why don't I just Google it right quick when I get home
18 tonight. That is totally impermissible, because again, you're
19 getting information that is not governed by our court rules,
20 and that's very important that everything that you get to make
21 your decision is gotten from this courtroom under our rules.

22 Again, also it's important not to pay any attention to
23 any media coverage, whether it's social media, traditional
24 media -- I'm not aware of any, but I always say that. So,
25 with that being said, I will now turn it over to the attorneys

OPENING STATEMENT BY MR. HOFFERTH

1 for their opening statements. Mr. Hofferth?

2 MR. HOFFERTH: Thank you, Your Honor. May it please the
3 court?

OPENING STATEMENT BY MR. HOFFERTH

4
5 MR. HOFFERTH: Members of the jury, good morning. Why
6 are we here? Members of the jury, on the late evening of June
7 7th, 2020, Officer Noah Millspaugh of the Clemson Police
8 Department was on what would be his routine patrol. He's on
9 U.S. Highway 123, simply perusing around Clemson, looking for
10 signs of criminal activity. On 123, he notices a white Nissan
11 van. It's in the very right lane. It's going extremely
12 slowly, and has its right turn signal on for about a quarter
13 mile. He gets up closer to the Nissan to investigate further.

14 The Nissan takes a right turn, and clearly crosses the
15 left line in making that right turn. Officer Millspaugh
16 initiates a traffic stop on what he suspected to be initially
17 a DUI. On stopping the vehicle, he identifies the driver,
18 which is Mr. Riggins, and the passenger in the front seat,
19 which is Ms. Tippins. And he quickly learns multiple things
20 in this discourse. He notices, first and foremost, Mr.
21 Riggins is sweating, and he's nervous. He notices that Mr.
22 Riggins does not have a license. His license is, in fact,
23 suspended. And he learns that this car is not actually his
24 car.

25 So, upon learning these things, he talks to them further.

OPENING STATEMENT BY MR. HOFFERTH

1 He asks them out of the car. And immediately, Mr. Riggins
2 denies giving Officer Millspaugh the ability to search the
3 car, without even being asked. But upon talking with him
4 further, Mr. Riggins eventually grants consent for him to
5 search that car. Now, in searching that car, which is
6 something that you're going to be able to actually see today,
7 Officer Millspaugh, and Officer Owens, who arrived shortly
8 after, notices many things.

9 He notices, almost initially -- or almost immediately,
10 that there's a needle in what is -- what would be the ash tray
11 in the center console in the front part of the car. They
12 continue their search. He notices a torch lighter in the back
13 seat. They continue their search. Now, this is among an
14 array of personal belongings that they have to sift through
15 over the course of about 10, 15 minutes.

16 Now, in about 15 minutes, Officer Owens notices something
17 peculiar. Right above where that needle is found, in what
18 would be the radio compartment of the van, he notices that
19 it's almost about to come off. And upon fiddling with it a
20 little bit, it does, in fact, come off. And in that
21 compartment, members of the jury, he finds around 14 grams of
22 methamphetamine, and just under three grams of heroin. Now,
23 members of the jury, in South Carolina, those quantities of
24 those drugs are considered trafficking levels of
25 methamphetamine and distribution levels of heroin.

OPENING STATEMENT BY MR. HOFFERTH

1 Now, what do we have to prove to you here today? What
2 does the State need to prove to you? The law regarding drug
3 possession is extremely straightforward, and it pretty much
4 aligns with what your common sense would be. You see, when
5 you're in possession of illegal drugs, you're guilty of
6 possession of illegal drugs. But, of course, there's nuance
7 to it like there are all things.

8 Now, there are two different types of possession, right.
9 There's actual possession, which simply means that it's
10 something on your physical body. My phone is in my actual
11 possession. It's on my body, right. And there's something
12 called constructive possession. Now, this is where the crux
13 of this case lies, right. So, constructive possession is
14 defined as where the drugs would be within your dominion or
15 control, or where you have a right to be in your dominion or
16 in your control.

17 So, what is your dominion or control? Your dominion or
18 control simply means that you have a level -- you have --
19 excuse me, you have a level of control sufficient to give you
20 the right to dispose of those drugs as you wish, right. So,
21 if it's in your vicinity, if it's somewhere in this courtroom,
22 I can go up to this water bottle and dispose of it as I wish,
23 even though it's not on my physical person, right. Now,
24 there's a second prong to this, okay. So, if it's within your
25 dominion or control, or where you have a right to be in your

OPENING STATEMENT BY MR. HOFFERTH

1 dominion or control, you have to -- we have to prove as the
2 State that the Defendants had knowledge of the existence of
3 the drugs, and the intent to dispose of them or use them as
4 they wish, right.

5 Now, there's going to be a lot of focus on this prong
6 throughout the course of today's trial, and when I circle back
7 to you in closing argument, it's going to be something that we
8 all focus on very, very intensely. You see, the knowledge
9 prong and the intent prong of this charge does not need to be
10 proved with direct evidence. You are going to be able, in
11 your determinations, to look at the circumstances surrounding
12 this stop, the circumstances surrounding what was in the car,
13 the circumstances surrounding their behavior, their acts,
14 their declarations, what they say, if it winds up, if it makes
15 sense, and ultimately, if it leads them to be in possession of
16 these drugs. That's the determination you're going to have to
17 make today.

18 Now, how are we going to prove it to you? As I've said,
19 it's 2023. You walk outside, you're on camera, right. You're
20 always on camera. And you're going to see it. Thankfully, we
21 have the body camera footage, and we have the dash camera
22 footage from that stop on that day. You're going to get to
23 see the stop. You're going to get to see Office Millspaugh
24 approach the vehicle, speak to Mr. Riggins, speak to Ms.
25 Tippins, conduct the search, and you're going to see them

OPENING STATEMENT BY MR. CRANE

1 finding those drugs. You're going to get to see it all.

2 And when you see that footage, members of the jury, you
3 -- I am firmly convinced, you are going to see there is only
4 one logical, consistent, rational explanation for why we're
5 here today. Now, we're going to show you the lab results to
6 show you that this was methamphetamine, this was heroin. I
7 don't think is going to be a question that we really have to
8 broach today. You're going to see it. You're going to hear
9 from the officers who were on the scene that day. They're
10 going to be able to go through these videos with you, and pick
11 apart every aspect of this case.

12 Now, I'm convinced, members of the jury, when you see it
13 all, when you see this case in its totality and you see all
14 the evidence, when you hear all the facts, when you hear all
15 the testimony, there's only one outcome that you can come to,
16 and that is finding the Defendants, Jody Tippins and Rodney
17 Riggins guilty of trafficking methamphetamine and possession
18 with intent to distribute heroin. Thank you.

19 THE COURT: Mr. Crane?

20 MR. CRANE: Thank you, Your Honor. May it please the
21 Court?

22 OPENING STATEMENT BY MR. CRANE

23 MR. CRANE: All right, ladies and gentlemen of the jury,
24 thank you for being here today. My name is Jeremy Crane. I
25 have the distinct honor of representing Mr. Rodney Riggins.

OPENING STATEMENT BY MR. CRANE

1 I'm sure everyone on this jury has seen an episode of Law &
2 Order or some kind of other show similar to that. I hate to
3 burst your bubble, but today we're not going to be banging on
4 any tables. We're probably not going to be yelling at each
5 other. The judge isn't going to bang his gavel asking for
6 order. There's probably not going to be a crazy plot twist at
7 the end.

8 But, however, just like those shows, you're going to hear
9 evidence and testimony from the officers today. The evidence
10 is the most important ingredient in this recipe that we call a
11 trial. You're going to hear evidence from a couple of law
12 enforcement officers, and it's going to be up to you to
13 determine what to do with that testimony regarding the
14 evidence.

15 I will tell you, most of the time -- actually, excuse me,
16 some of the time, what you don't hear in evidence is more
17 important than what you do. And I'll explain that in just a
18 short time. And what you are going to hear today is, as the
19 State said -- that Mr. Riggins was driving a van that day.
20 That's not up for debate. You'll hear that he gave them
21 permission to search the van. That's not up for debate,
22 either. You're going to find -- you're going to hear that
23 there were drugs found in a hidden compartment in that van.
24 That's not up for debate.

25 You're going to hear evidence that the van did not belong

OPENING STATEMENT BY MR. CRANE

1 to Mr. Riggins and that he had borrowed it from a friend that
2 morning. You're also going to hear that.

3 I can tell you what you're not going to hear is any
4 evidence that anyone in the van that night said that those
5 drugs were theirs, that they belonged to them. You're also
6 not going to be able to hear anyone be able to tell you that
7 the other person in the van said that those drugs belonged to
8 the other person in the van. You're not going to hear any
9 evidence presented that either of the occupants of that van
10 had any idea that those drugs were in that van. There is not
11 one single piece of evidence that you're going to hear that's
12 going to tie these drugs from that van to Mr. Riggins or Ms.
13 Tippins.

14 At the end of the trial, the judge has told you he's
15 going to instruct you on the law. He's going to tell you that
16 mere presence in this van is not going to be enough to convict
17 him of the charge that he's charged with. You're going to
18 have to be convinced that Mr. Riggins had the right to
19 exercise control over these drugs, and as the State said, they
20 are going to have to prove that he had knowledge that the
21 drugs were in the van that night.

22 The judge has also mentioned to you reasonable doubt.
23 This means that the State has to prove all the elements of
24 this charge beyond a reasonable doubt. This means the State
25 has to convince you there's no other reasonable explanation as

OPENING STATEMENT BY MR. CRANE

1 for the evidence presented in this trial. In other words, you
2 must be virtually certain that Mr. Riggins is guilty in order
3 to render a guilty verdict. You can't sort of believe that
4 the drugs belonged to him. You can't say, well, maybe they
5 belonged to him. You can't even say, well, I think they might
6 have belonged to him. You have to be 100 percent convinced
7 beyond a reasonable doubt that the drugs found in the van that
8 day belonged to Mr. Riggins.

9 As the judge stated also, Mr. Riggins doesn't have to
10 convince you that the drugs did not belong to him. The burden
11 lays squarely on the State. One of the main tenants of our
12 legal system is that the person accused of a crime is presumed
13 to be innocent until proven guilty. Mr. Riggins sits at that
14 table today as an innocent man. He sits there draped in a
15 cloak of innocence, and the only ones who can remove that
16 cloak from him is you, the jury.

17 You have to be convinced beyond a reasonable doubt the
18 drugs found in the van that night belonged to Mr. Riggins to
19 remove that cloak. The State is simply not going to be able
20 to prove that to you guys. At the end of the evidence and all
21 of the testimony that you're going to hear, the evidence
22 simply will not prove the prosecution's case, and the only
23 fair verdict in this criminal trial will be not guilty. Thank
24 you.

25 THE COURT: All right, Mrs. Newton.

OPENING STATEMENT BY MRS. NEWTON

1 MRS. NEWTON: Thank you, Your Honor. May it please the
2 Court?

3 OPENING STATEMENT BY MRS. NEWTON

4 MRS. NEWTON: Ladies and gentlemen of the jury, it's been
5 almost 1,100 days. Basically, just a week shy of three years,
6 since my client, Jody Tippins, and her friend, Rodney Riggins
7 -- since my client, Jody Tippins, asked her friend, Rodney
8 Riggins to give her a ride in his van. Give her a ride to
9 drop off her grandchildren. It was late on a Sunday evening,
10 June 7th, of 2020. They'd spent the summer -- that summer day
11 at the lake in Greenwood with her grandchildren and her
12 husband, and Rodney was there camping, showed up. It was time
13 for them to go back home to her daughter's house in Central,
14 and my client doesn't drive. She needed a ride, and so she
15 asked Rodney to drop them off and bring them back to the lake.

16 Today, you're going to hear from the officers and you're
17 going to see the drugs and everything that was found in the
18 van. But it's not just that meth and heroin were found in the
19 van. It's -- they were stuck up behind this a/c vent unit.
20 You know, she asked for a ride, and she thought it would just
21 be there and back. But unfortunately, what she got was a ride
22 to jail that night. So, we acknowledge that the meth was
23 there, and that's, like the State said, not going to be the
24 issue in this case. This is independent, completely separate,
25 a determination from Rodney that you have to decide for Jodi.

OPENING STATEMENT BY MRS. NEWTON

1 And the issue in this case is whether or not Jodi Tippins knew
2 that they were there.

3 The State liked to group them together, but your -- and
4 like the judge told you earlier, your decision will be based
5 on Rodney Riggins separate from Jodi Tippins. You're going to
6 hear later in this trial that being a passenger, merely
7 present, buckled in your seat, minding your own business, is
8 not enough for a conviction. You're going to get to watch,
9 like he said, it's 2023, although this was in 2020, there is
10 camera footage, but you'll get to see -- but what you don't
11 see, there's also some missing potentially camera footage.

12 And you get to decide what they were doing. You're not
13 going to see, did they collect any DNA evidence on these
14 baggies, did she have any control over the meth or the heroin?
15 And I submit to you that she had no idea. And that's because,
16 it's not reasonable for someone who hops in a car asking for a
17 ride to search up under an a/c vent. She had just gotten in
18 there, dropped her grandkids off. No one asking for a ride
19 looks in all the crevices and all around before getting in
20 that car. It doesn't make sense.

21 And so, you heard the judge state it earlier, but -- and
22 he's going to instruct you on the law, but at the end of this
23 case, that's the point. We're going to use common sense and
24 decide this one thing. Are you firmly convinced that Jodi
25 Tippins knew beyond a reasonable doubt that those drugs were

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 there and that she had the ability to control them? And once
2 you do that, and when we come back and talk again, I believe
3 that the results will be obvious for Ms. Tippins of not
4 guilty. Thank you.

5 THE COURT: All right, Mr. Hofferth, you can call your
6 first witness.

7 MR. HOFFERTH: Thank you, Your Honor. The State would
8 call Officer Noah Millspaugh.

9 [Whereupon, Officer Millspaugh is duly sworn by the Clerk
10 of Court.]

11 CLERK: Thank you, sir. Have a seat, and state your name
12 for the record, please, sir.

13 MR. MILLSPAUGH: My name is Master Patrol Officer Noah
14 Millspaugh.

15 MR. HOFFERTH: Officer Millspaugh, good morning.

16 MR. MILLSPAUGH: Good morning.

17 NOAH MILLSPAUGH,

18 Having First Been Duly Sworn,

19 was Examined and Testified as Follows:

20 DIRECT EXAMINATION

21 BY MR. HOFFERTH:

22 Q How are you doing?

23 A Doing well, how are you?

24 Q Good. First of all, can we start by giving the jury a
25 background as to your position today and how you got there as

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 far as employment?

2 A Sure. So, I began with the city of Clemson on July 8th,
3 2019. I've been assigned to the road patrol ever since. I am
4 currently assigned as a night-shift Sergeant, a supervising
5 shift on night-shift. In my time there, I've gained lots of
6 experience in traffic stops, narcotics, drug and alcohol
7 impairment, that type of thing.

8 Q Now, were you working in this capacity on June 7th, 2020?

9 A I was.

10 Q Specifically working in the evening?

11 A Yes, sir, I was.

12 Q Can you tell me about any -- a stop you made that day
13 relating to Mr. Riggins and Ms. Tippins?

14 A Yeah. So, on that evening, I was patrolling in the area
15 of Clemson. So, I did perform a traffic stop on a white
16 Nissan Quest, a van, which I did identify the driver as Mr.
17 Rodney Riggins, here in the courtroom with us today.

18 Q Now, in the course of making that stop, were you
19 utilizing your dashcam that was implemented on your vehicle at
20 that time?

21 A I was.

22 Q If I showed you some footage of that dashcam, would you
23 recognize it?

24 A Yes, sir, I would.

25 MR. HOFFERTH: I'm showing Officer Millspaugh what's been

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 pre-marked as State's Exhibit 1, specifically in-car video.

2 THE COURT: Any objection from ---

3 MR. CRANE: No, Your Honor.

4 THE COURT: --- Riggins? Tippins?

5 MRS. NEWTON: No, Your Honor.

6 THE COURT: All right.

7 BY MR. HOFFERTH:

8 Q Officer Millspaugh, do you recognize this video?

9 A I do.

10 Q Is this the video footage of you making the stop that
11 night?

12 A It is.

13 MR. HOFFERTH: Your Honor, at this time, the State would
14 move into evidence State's Exhibit 1, specifically in-car
15 video.

16 THE COURT: All right, I think that's without objection,
17 so.

18 [Whereupon, State's Exhibit 1 In-Car Video is admitted
19 into evidence.]

20 MR. HOFFERTH: Thank you.

21 [Whereupon, video is played.]

22 BY MR. HOFFERTH:

23 Q Officer Millspaugh, what do you notice right here?

24 A So, the vehicle in question is taking a right-hand turn
25 and crossing over the center line that divides the two lanes

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 there of traffic.

2 Q Now, I think we covered this, but where is this specific
3 location?

4 A We currently just turned off of U.S. 76, which is
5 Anderson Highway, in the city limits of Clemson, turning right
6 onto Tiger Boulevard, which is 123, also just in the city
7 limits.

8 Q Pickens County?

9 A Yes, sir.

10 [Whereupon, video is played.]

11 BY MR. HOFFERTH:

12 Q Officer Millspaugh, who is that speaking to you right
13 there?

14 A That is my dispatcher.

15 Q What were they informing you?

16 A Whenever I call out a traffic stop or inquire to a
17 vehicle license registration that's displayed on the vehicle,
18 they give me a read back of the registration, that type of
19 information. So, that's what I was getting back from her.

20 Q Did they say anything regarding the details of that car?

21 A She did.

22 Q What was that?

23 A It came back to a passenger truck instead of the van that
24 it is displayed on. Also, that it came back to a, I believe,
25 Leslie Beauchamp, and the tag is out of Texas.

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 [Whereupon, video is played.]

2 BY MR. HOFFERTH:

3 Q Officer Millspaugh, what do you notice right here?

4 A So again, we are taking a right from a yield lane, off an
5 on-ramp to S.C. 93, which is, again, in the city limits of
6 Clemson. The vehicle once again travels over the center line
7 --- two lanes, so it is again making another wide right turn.

8 Q This is after you hit your lights?

9 A It is.

10 [Whereupon, video is played.]

11 BY MR. HOFFERTH:

12 Q So, do you know approximately whereabouts this is, where
13 this ultimate stop is?

14 A I do.

15 Q Where is it?

16 A It's the Habaneros parking lot, it's just off of Old
17 Greenville Highway off of S.C. 93.

18 Q Okay. Now, this is obviously after the stop here, but do
19 you -- at the time, June 7th of 2020, did your department
20 utilize body cameras?

21 A We do.

22 Q Did you have one on this night?

23 A I did.

24 Q Okay. If I showed it to you, would you recognize it?

25 A I would.

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 MR. HOFFERTH: I'm showing Officer Millspaugh, it's
2 State's Exhibit 1, Body Cam Millspaugh R.

3 THE COURT: Any objection?

4 MR. CRANE: No, Your Honor.

5 THE COURT: Riggins? Tippins?

6 MRS. NEWTON: No, Your Honor.

7 THE COURT: All right.

8 MR. HOFFERTH: The State would just ask that this is
9 moved into evidence.

10 THE COURT: All right.

11 [Whereupon, State's Exhibit 1 Body Cam Millspaugh R, is
12 admitted into evidence.]

13 [Whereupon, video is played.]

14 BY MR. HOFFERTH:

15 Q So, what is Mr. Riggins indicating to you right here?

16 A He stated that the vehicle is not his.

17 Q Okay. What are your initial observations on approaching
18 the vehicle and speaking with Mr. Riggins?

19 A Well, when I first made contact with Mr. Riggins, I
20 noticed that he was overtly nervous. And he was shaking
21 profusely, and he was sweating.

22 Q Now, is it uncommon for an individual to be nervous when
23 police approach their vehicle on a stop?

24 A We take into account that speaking to us in person can be
25 a little nerve-racking, so we take that into account to an

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 extent.

2 Q Okay. Now, I know there's a date on this body camera
3 footage. Is that the correct date for that night?

4 A I do not believe so.

5 Q Okay. But around what time was this stop if you
6 remember?

7 A I believe the time is correct, around 11:00 in the
8 evening.

9 MR. HOFFERTH: Okay.

10 [Whereupon, video is played.]

11 BY MR. HOFFERTH:

12 Q What did Mr. Riggins just relay to you right there?

13 A He advised me that he did not have a valid driver's
14 license because it was suspended.

15 Q Now, what would -- now, in the course of speaking to an
16 individual, when they offer you this information, what are
17 your -- what's your impression when you're going through the
18 process of the stop?

19 A So, a lot of things come into my head. First thing is
20 always officer safety, potential issues in the vehicle,
21 anything like that. Someone who does know that they are under
22 suspension, I'm trying to dig into what kind of history they
23 have, whether it be criminal history or anything like that
24 that I may want to be aware of.

25 [Whereupon, video is played.]

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 BY MR. HOFFERTH:

2 Q What was Mr. Riggins offering to you there?

3 A He was stating that he has several knives in the vehicle.

4 MR. HOFFERTH: Okay.

5 [Whereupon, video is played.]

6 BY MR. HOFFERTH:

7 Q Can you identify who that is in the passenger seat?

8 A It's Ms. Jodi Tippins.

9 Q Okay. Now, do you see Mr. Riggins here in the courtroom
10 today?

11 A I do.

12 Q Can you identify him by an article of clothing?

13 A He's wearing the tan and brown striped shirt, sitting
14 next to your right.

15 Q How about Ms. Tippins?

16 A Ms. Tippins is over here to my left.

17 MR. HOFFERTH: Okay, thank you.

18 [Whereupon, video is played.]

19 BY MR. HOFFERTH:

20 Q What was Mr. Riggins just saying there?

21 A He said that he has a lot of personal effects in the
22 vehicle, clothes, camping items, such things like that.

23 Q He's saying it's his items?

24 A Yes, sir, he was.

25 [Whereupon, video is played.]

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 BY MR. HOFFERTH:

2 Q What's Mr. Riggins saying regarding the ownership of the
3 vehicle?

4 A He says that it belongs to a female that he calls Pink.
5 He never gave me a full name, and said the owner of the
6 vehicle was the name on the title.

7 Q So, he doesn't know the full name of who he borrowed the
8 car from?

9 A He did not offer it to me, no, sir.

10 [Whereupon, video is played.]

11 BY MR. HOFFERTH:

12 Q Officer Millspaugh, at this point, had you asked to
13 search the vehicle?

14 A No, sir, I did not.

15 Q What was he offering to you?

16 A He was saying that if I wanted to search his vehicle,
17 that I needed to gain consent from the owner.

18 Q What is -- him saying that to you, what's your impression
19 of him offering -- of him saying that to you when you hadn't
20 even asked to search the vehicle?

21 A So, it says to me that there's something that he's either
22 trying to hide or there's something in there that I might need
23 to be aware of, whether, again, like I say, it may be an
24 officer safety issue, whether it may be anything illegal in
25 the vehicle, stolen items, alcohol, drugs. He's stating to me

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 without my questioning that he knows there's something in the
2 car.

3 [Whereupon, video is played.]

4 BY MR. HOFFERTH:

5 Q What did Mr. Riggins just do there?

6 A He gave me verbal consent to search the vehicle.

7 Q And is it the driver who is the operative individual to
8 give consent to search the vehicle?

9 A It is.

10 [Whereupon, video is played.]

11 BY MR. HOFFERTH:

12 Q She smoking a cigarette there?

13 A She is.

14 Q Is that uncommon?

15 A It's a sign of anxiety or nervousness.

16 [Whereupon, video is played.]

17 BY MR. HOFFERTH:

18 Q Officer Millspaugh, do you know how far Greenwood is from
19 approximately this location?

20 A I believe it's about an hour or hour and a half away.

21 MR. HOFFERTH: Okay.

22 [Whereupon, video is played.]

23 BY MR. HOFFERTH:

24 Q What's the time on this body cam right here?

25 A It says 23:12, which is 11:12 in the evening.

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 Q What's Columbo's?

2 A It is a pizza restaurant.

3 Q Okay. Are you familiar with it?

4 A I am.

5 Q Do you know if it's open at 11:23?

6 A It is not open at 11:00.

7 [Whereupon, video is played.]

8 BY MR. HOFFERTH:

9 Q Who is that? Who has arrived?

10 A That's Officer Owens. He is now Detective Owens with our
11 department.

12 Q Okay. Why did he come out?

13 A He came to the scene at my request. I asked for
14 additional assistance.

15 Q Is that uncommon?

16 A No, sir.

17 [Whereupon, video is played.]

18 BY MR. HOFFERTH:

19 Q So what are y'all doing here?

20 A I am beginning to search the vehicle.

21 [Whereupon, video is played.]

22 BY MR. HOFFERTH:

23 Q What'd you find there?

24 A That's a very large knife.

25 Q Now, did Mr. Riggins tell you that there was a knife in

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 the vehicle?

2 A He did.

3 Q Okay. And he identified where it was?

4 A That knife I just pulled out was on the floorboard of the
5 passenger seat.

6 Q Is it among other things?

7 A It is.

8 [Whereupon, video is played.]

9 MR. HOFFERTH: Mr. Millspaugh, do you see -- I'm not sure
10 if you ---

11 [Whereupon, video is played.]

12 BY MR. HOFFERTH:

13 Q Do you see what that is?

14 A In reference to what I have in my hand?

15 Q Yeah.

16 A Yes, sir, I do.

17 Q What is it?

18 A That's a large stick. It appeared to be wrapped up in
19 some kind of tape as if it had a handle on it.

20 [Whereupon, video is played.]

21 BY MR. HOFFERTH:

22 Q What is that?

23 A It was another knife.

24 [Whereupon, video is played.]

25 BY MR. HOFFERTH:

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 Q What is that, Officer Millspaugh?

2 A That would be a syringe or a needle.

3 Q What part of the car are you looking at right here?

4 A That is the center console area that is underneath the
5 radio area that has the air control turns on.

6 Q Okay. What can a syringe be used for?

7 A I mean, most commonly, it's used for diabetics, injecting
8 medicine, that style of things. But it is my belief at this
9 time that it is being used for some type of illegal narcotics.

10 [Whereupon, video is played.]

11 THE COURT: Let's hold up -- break for just a second.

12 Ladies and gentlemen, I just wanted to kind of let you all
13 know that there's some part of the audio that y'all realize
14 has been muted, and those are matters that are totally
15 irrelevant to this case and things that are not to be
16 considered by y'all. That's just under the agreement in our
17 rules of evidence. That's why some of that is like that.
18 It's not to keep anything from you, it's just not relevant to
19 the case before you. Go ahead.

20 [Whereupon, video is played.]

21 MR. HOFFERTH: What did Officer Owens just say right
22 there?

23 OFFICER MILLSPAUGH: He stated that it ---

24 MR. CRANE: Objection, Your Honor.

25 OFFICER MILLSPAUGH: --- smells like meth in the vehicle.

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 THE COURT: Hold on, we've got an objection.

2 MR. CRANE: He's here today. What the officer said is
3 hearsay.

4 MR. HOFFERTH: It's present sense impression, Your Honor.

5 THE COURT: I mean, it was on the video, so overruled.

6 BY MR. HOFFERTH:

7 Q Go on.

8 A So, Detective Owens stated that it smells like meth in
9 the vehicle. Certain narcotics, as marijuana, is more
10 commonly known -- certain odors, we can pick up on it and
11 recognize.

12 Q Okay. What does burnt meth smell like, if you know?

13 A Burnt meth smells like cat urine. It's more chemically -
14 - it's just very potent, and you're going to recognize it when
15 you smell it.

16 [Whereupon, video is played.]

17 BY MR. HOFFERTH:

18 Q Officer Millspaugh, just thus far as you're conducting
19 this search, what would you say about the general condition of
20 the car and what's inside it?

21 A Well, it's in great disarray. I mean, as you can see in
22 the video, there's kind of bags and items kind of strung out
23 everywhere. It appears as if somebody or some people have
24 been in the vehicle for quite some time. There's trash, food,
25 personal effects and items that normally would necessarily be

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 inside of a home, but they are inside the vehicle.

2 [Whereupon, video is played.]

3 BY MR. HOFFERTH:

4 Q Officer Millspaugh, what's that?

5 A That would be a torch lighter.

6 Q Now, what distinguishes a torch lighter from any other
7 lighter?

8 A So, a torch lighter specifically can hold and sustain a
9 larger amount of heat. It can be used to heat a substance or
10 heat items where it can become malleable. It just creates a
11 larger amount of heat for a longer, sustained period of time.

12 Q Is it associated with meth use?

13 A It is. Most commonly, meth users use a glass pipe or
14 bulb. They put it in the bottom, and thus using a torch
15 lighter, can cook that substance using this lighter. A normal
16 lighter, you won't have the same effect.

17 [Whereupon, video is played.]

18 BY MR. HOFFERTH:

19 Q So, if my math's right here, you're under five minutes
20 into this search and you've found a syringe and a torch
21 lighter?

22 A Correct.

23 [Whereupon, video is played.]

24 BY MR. HOFFERTH:

25 Q What were you saying regarding the contents of that bag?

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 A I was saying that there was a lot of hygiene items, some
2 personal effects, as I stated earlier. It appeared that
3 someone had been staying in the vehicle for quite some time.

4 Q Do you remember if they were for male or female?

5 A I can't recall specifically to that bag which -- but they
6 were for -- some type of hygiene products.

7 [Whereupon, video is played.]

8 BY MR. HOFFERTH:

9 Q What's happening here?

10 A So, Detective Owens is making me aware of an item that he
11 had located. The item is a black sack containing some type of
12 substance. At this point, we had not identified it yet. But
13 he's just making me aware of the item that he had found.

14 [Whereupon, video is played.]

15 BY MR. HOFFERTH:

16 Q Where is he pointing to here on the car?

17 A So, the original center console area I described earlier
18 with the radio and the a/c controls, that area is actually --
19 as you can see, lifts off and pops off. And this item that
20 Officer Owens had located and was showing me was stashed in
21 behind that panel there.

22 Q Now, with regard to that syringe you found, where was
23 that in relation to that panel?

24 A So, the panel is directly above where I found the
25 syringe. And the syringe was in a drawer or a pop-out panel

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 just directly underneath that.

2 Q So is that generally an area in the car you would search
3 more after finding that syringe?

4 A Absolutely.

5 [Whereupon, video is played.]

6 BY MR. HOFFERTH:

7 Q Is he showing you -- that's a bad shot. So, he's showing
8 you further here the area where he found the bag?

9 A Correct.

10 [Whereupon, video is played.]

11 BY MR. HOFFERTH:

12 Q So, then you can see, probably both here, can you
13 describe a little further the area where the bag was found and
14 what's pulled out below it?

15 A Absolutely. I believe you see my left hand is holding up
16 the exterior cap there. There's a small, little, wider,
17 yellowish protrusion shooting down, it's like a wiring harness
18 to those controls. That sack was actually located in that
19 compartment there where that sticks out.

20 [Whereupon, video is played.]

21 BY MR. HOFFERTH:

22 Q What are you doing here?

23 A I am placing Mr. Riggins under arrest.

24 [Whereupon, video is played.]

25 BY MR. HOFFERTH:

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 Q Now, when you're having this conversation with Mr.
2 Riggins here regarding the possession of the drugs, now, you
3 made a statement saying maybe he should have picked better
4 friends. Was it your impression that this -- these drugs were
5 a different individual's or an individual's that he borrowed
6 the car from?

7 A No, sir.

8 Q Why is that?

9 A As I said before, they were very -- there was a very
10 large amount of personal effects that were in the vehicle.
11 Mr. Riggins had already stated to me that they were his items.
12 He had been in the vehicle with those belongings for about a
13 week or two. He had been given the vehicle from a friend that
14 he called Pink, and he couldn't even tell me the personal name
15 of the person, so that doesn't imply to me that he knows the
16 person very well. So, any items in the vehicle are his, to my
17 knowledge.

18 Q In your experience, is it common when you're, you know,
19 doing these investigations, potentially finding drugs, is it
20 common for individuals to, I guess, forget about drugs in
21 their vehicle, or, I guess, leave them inadvertently in a
22 vehicle?

23 A No, sir. If there's anybody, in my experience, that has
24 any kind of illegal narcotic or substance use, they're going
25 to know it's there, and they know exactly where it's at.

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 [Whereupon, video is played.]

2 BY MR. HOFFERTH:

3 Q What's Detective Owens doing right there?

4 A He's just going over the fact of how he discovered where
5 the bag was and explained to me just sort of the process that
6 we take in searching vehicles as a partnership.

7 [Whereupon, video is played.]

8 BY MR. HOFFERTH:

9 Q What are y'all discussing there?

10 A We were discussing the weight of the substance we found
11 and the grounds for certain charges based off the weight of
12 that substance.

13 Q Why is that relevant?

14 A So, in charges for narcotics, depending on the weight, it
15 depends on the charge. So, the higher the weight of the
16 substance, the higher the charge is for that substance.

17 Q What is the weight necessary for a trafficking charge?

18 A At least 10 grams.

19 Q Of methamphetamine, let me clarify.

20 A At least 10 grams of methamphetamine.

21 Q Okay. How about heroin?

22 A So, heroin is converted to grains, but you need at least,
23 I believe, it's two grains' worth of heroin.

24 Q Did you say grains?

25 A Correct, yeah. I'm sorry.

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 Q Do you know how much a grain equates to a gram?

2 A Not enough for me to recall specifically.

3 Q Would over a gram of heroin be distribution level?

4 A I believe so, yes.

5 [Whereupon, video is played.]

6 BY MR. HOFFERTH:

7 Q What are you looking at there?

8 A That would be part of the substance we found. I believe
9 that is the heroin in question.

10 Q Officer Millspaugh, if I showed you the substances from
11 that night, would you recognize them?

12 A I would.

13 MR. HOFFERTH: I'm showing Officer Millspaugh what has
14 been pre-marked as State's Exhibit 4.

15 THE COURT: All right, any objection from Riggins?

16 MR. CRANE: No, Your Honor.

17 THE COURT: Any objections from Tippins?

18 MRS. NEWTON: No, Judge, but can he just open that? Can
19 we look at the inside first?

20 THE COURT: Okay. All right, are there any objection?

21 MRS. NEWTON: No, Your Honor.

22 THE COURT: All right. That's exhibit what?

23 MR. HOFFERTH: Four.

24 THE COURT: All right. In without objection.

25 BY MR. HOFFERTH:

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 Q Officer Millspaugh, if you want to examine the contents
2 of that bag, and let me know if those are the baggies of what
3 you believed to be drugs at that time that you found in the
4 vehicle.

5 A Yes, sir, they are.

6 Q They are?

7 A Yes, sir.

8 Q Now, approximately how many separate bags are there?

9 A There are four separate bags.

10 Q Okay. What does that indicate to you?

11 A Well, there are multiple different individual wrapped
12 bags of narcotics. So, being different substances
13 individually wrapped, it shows that there's some type of
14 intent to sell or distribute them as individually wrapped
15 packages.

16 [Whereupon, video is played.]

17 BY MR. HOFFERTH:

18 Q Officer Millspaugh, once you find that bag, what's the
19 process as far as submitting into evidence, next steps as far
20 as the process of your case?

21 A So, once we seize a substance that we found that we
22 believe to be illegal or recognize it to already be illegal,
23 we seize that evidence. I secure it in my vehicle. Once I
24 get back to my police department, I go to our evidence
25 station, and I weigh the substance. We possibly test the

DIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 substance. We have initial test kits that can give us an idea
2 of what we're looking at. As you've probably heard us state,
3 it could be possible fentanyl, so we're don't know exactly
4 what we're dealing with, so we try to be cautious when we
5 don't know exactly what a substance is for the most part. But
6 at that point, we seize it, weigh it, bag it, seal it, and I
7 have to sign it over the seal to establish that I am the one
8 who that made that log. And I place it into our evidence
9 locker.

10 Q Did you do that?

11 A I did.

12 Q Okay. Now, did you conduct a field weight of those drugs
13 when you found them?

14 A I did.

15 Q Do you remember by chance what the field weights were?

16 A I believe the methamphetamine was approximately over 13
17 grams, and the heroin was approximately over 2 grams, 2.8
18 grams.

19 Q Okay. So, what charges would those reach as far as the
20 drug levels?

21 A Both charges with -- at that time, hit trafficking
22 weight.

23 Q For -- what about -- I mean, what about the heroin?

24 A The heroin would also be trafficking.

25 Q Okay, but that's just off field weight?

1 A Correct.

2 MR. HOFFERTH: Okay. Officer Millspaugh, I have no
3 further questions for you. Thank you.

4 THE COURT: All right, ladies and gentlemen, we're going
5 to take a short break. We've been at it an hour and a half
6 now. So, I'm going to send you back to the jury room. As
7 I've said, though, don't discuss the case. And I have an
8 assignment for you. I need for the original 12 -- the
9 alternates -- y'all don't get to participate in this -- but I
10 need you to select your foreperson.

11 And that's just one of you -- that's just the person that
12 will lead you in discussions when you begin your deliberations
13 and will do any communications with the Court. So, it's not
14 -- I mean, it's not much more than what the rest of you will
15 be doing, but there needs to be kind of a point person. So,
16 if you'll select your foreperson, and if you would put that --
17 write that on a piece of paper and give that to the bailiff
18 when that has been selected. So, we'll take a few minutes'
19 break, and I'll call you back out. All right. Select a
20 foreperson and don't discuss the case.

21 [Whereupon, the jury exits the courtroom for a brief
22 recess.]

23 MRS. NEWTON: I'd like to put something on the record ---

24 THE COURT: All right.

25 MRS. NEWTON: --- if that's okay. All right. Judge, I

1 wanted to clarify briefly, because when Mr. Hofferth was
2 showing Officer Millspaugh the evidence -- I can't remember
3 what item it was.

4 THE COURT: Four.

5 MRS. NEWTON: He asked for permission to show it to him,
6 and you asked us if we objected to that. He never moved it
7 into evidence, and you, I believe, said admitted. I thought
8 it was -- you were just saying it was okay. I ultimately am
9 not -- to that piece of evidence and I'm not going to have an
10 objection to it coming in, but, I mean, he did acknowledge
11 that he did never move it into evidence and just was showing
12 it to him. He later talked about it and identified it some
13 more, and it's actually my position that Officer Millspaugh is
14 not the appropriate one to move it through ---

15 THE COURT: Yeah.

16 MRS. NEWTON: --- but I just wanted to clarify what that
17 was about.

18 MR. HOFFERTH: I mean, Judge, it's my understanding, you
19 did move it -- I didn't move it, because it was my
20 understanding you did move it. I think Officer Millspaugh ---

21 THE COURT: I may have -- I guess in my no objection was
22 was was there an objection to the ---

23 MRS. NEWTON: I was answering to showing it, because he
24 never moved it.

25 THE COURT: Right, and I just -- and when you didn't

1 object, I said in without objection.

2 MRS. NEWTON: Yeah.

3 THE COURT: And then I looked at y'all, and nobody said
4 any -- I looked to the right, and --- right, and nobody said
5 anything, but if you -- we'll go -- I mean ---

6 MRS. NEWTON: Yeah, I mean, the piece of evidence is
7 there, but it was just that you were saying no objection,
8 right, to the showing was the question, and that's what I
9 thought I was answering.

10 THE COURT: All right. Well, I'll -- I mean, does that
11 present any problems for you?

12 MR. HOFFERTH: I mean, I can introduce it again. I don't
13 see why Officer Millspaugh is not ---

14 THE COURT: I mean -- I guess, you know, what is your --
15 what do -- did you have an objection to it?

16 MRS. NEWTON: Well, I mean, at that point he hadn't even
17 identified it.

18 THE COURT: Well, I mean, do you have an objection, is my
19 question to you?

20 MRS. NEWTON: To the ultimate piece of evidence coming
21 in, I do not have an objection.

22 THE COURT: Then why do we need to do all this?

23 MRS. NEWTON: Well, I just think that -- I just want to
24 make sure when I'm being asked about it, that I'm not -- you
25 know, I'm not objecting to him showing it and what that ---

1 THE COURT: I mean, I realize that. Do you have a
2 problem -- I mean, do you have an objection to it, and if so,
3 what?

4 MRS. NEWTON: For -- to it being in currently?

5 THE COURT: To it being admitted?

6 MRS. NEWTON: I don't think State versus Hatcher has
7 completely been abided by with the appropriate chain of
8 custody.

9 THE COURT: Well, I mean, that's why I asked if y'all had
10 any objections to see if there was a chain of custody.

11 MRS. NEWTON: And ---

12 THE COURT: And I said admitted, right, and nobody -- you
13 know, that's -- I mean, I thought that y'all -- all right ---

14 MR. HOFFERTH: I mean, Judge, he did testify that he did
15 submit it into evidence, that it was the drugs that he found
16 on scene. He personally saw them at that time. He identified
17 them in front of ---

18 THE COURT: I'll ---

19 MRS. NEWTON: He did that afterwards. And I agree that
20 eventually it will come in, I just -- at that point, in what
21 we were answering, there wasn't -- and I didn't have an
22 objection to the question.

23 THE COURT: So, you're -- when I ask this again, you're
24 going to say no objection, I'm going to throw something at
25 you.

1 MRS. NEWTON: Okay.

2 THE COURT: No, I know.

3 MRS. NEWTON: Well, he didn't mean to admit it, so.

4 THE COURT: But usually, I mean -- I guess every time I
5 do that, it's like, if I say no objection, then they don't
6 have to do anything else. It just kind of moves things along.

7 MRS. NEWTON: I just ---

8 THE COURT: But you need to ask any -- all right, so if
9 it's not into evidence, do you need to ask this individual any
10 additional questions along those lines?

11 MR. HOFFERTH: Okay. So, it's not into evidence?

12 THE COURT: No, I will withdraw my admission of it into
13 evidence.

14 MR. HOFFERTH: I can admit it on the next witness if ---

15 THE COURT: I guess, if they're just not consenting to
16 it, all right. But do you need to ask him any more questions
17 to -- for your chain of custody or whatever?

18 MR. HOFFERTH: No. I mean, he testified that he
19 submitted it into evidence.

20 THE COURT: Okay.

21 MR. HOFFERTH: The custodian is here and willing to
22 testify, so we can do it now or we can do it later, it doesn't
23 really make a difference.

24 THE COURT: Okay. All right, so. All right, you're
25 standing, so are you just ready to go or -- okay. And the

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 foreperson is John Durant, number 57.

2 MR. CRANE: Your Honor, what number witness is that?

3 THE COURT: 57, Durant. All right, is the State ready?

4 MR. HOFFERTH: Yes, Your Honor.

5 THE COURT: Is Riggins ready?

6 MR. CRANE: Yes, Your Honor.

7 THE COURT: Tippins ready?

8 MRS. NEWTON: Yes, Your Honor.

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

10 [Whereupon, the jury enters the courtroom.]

11 THE COURT: Mr. Durant, I understand you have been
12 selected as the person that gets special seating, so thank you
13 for serving in that role, so. All right, if you will recall
14 the state had finished their direct testimony, and at this
15 point, cross examination from Riggins.

16 MR. CRANE: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MR. CRANE:

19 Q Officer Millspaugh, on the original stop, it stated that
20 that plate on that car did not belong on the van, is that
21 correct?

22 A Correct.

23 Q Did you later find out that that plate actually did
24 belong to that van?

25 A To my knowledge on scene, no.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 Q That's not what I asked. Eventually, did you find out
2 that that plate did belong to that car -- to that van?

3 A Yes.

4 Q So, by having that plate on that van, Mr. Riggins was not
5 doing anything illegal, correct? If the plate belonged to
6 that van, that's not illegal, correct?

7 A Correct.

8 Q All right. You later get out Mr. Riggins and you say
9 that he appears nervous, is that correct?

10 A Correct.

11 Q All right. You said he was sweating?

12 A He was.

13 Q All right. Was this in June in South Carolina?

14 A It was.

15 Q Is it generally warm, sweaty weather in June in South
16 Carolina?

17 A It can be.

18 Q All right. You said that he appeared more nervous than
19 usual, correct?

20 A Yes.

21 Q And you said that you thought that it might be because
22 there were drugs in the car, is that correct?

23 A Potentially something illegal.

24 Q You found out that he was driving under suspension that
25 night, correct?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 A I did.

2 Q Would that make him nervous?

3 A It could be.

4 Q So there's a possibility the reason that Mr. Riggins was
5 nervous -- or more nervous that night, was because you had
6 pulled him over and he had a suspended license, is that
7 correct?

8 A I suppose.

9 Q All right. There was some mention of these knives in the
10 car that Mr. Riggins had. Is it illegal to have knives in the
11 car?

12 A No, sir.

13 Q All right. So, what happened to those knives in this car
14 -- this van, excuse me, if he wasn't doing anything illegal,
15 correct?

16 A No, sir.

17 Q So, you went up to the window with Mr. Riggins and the
18 first thing you asked him is for his registration and
19 insurance, correct?

20 A And his license, yes, sir.

21 Q Okay. At that point, did you smell burnt meth in the
22 car?

23 A Not at the time, no.

24 Q About how close to the car were you at that time?

25 A I was just outside the driver's window ---

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 Q Okay.

2 A --- about ---.

3 Q All right. Had there been marijuana smoked in that car,

4 you think you would have been able to smell it from there?

5 A Potentially.

6 Q Okay. So then why wouldn't you have been able to smell

7 burnt meth at that point?

8 A Well, there's a difference between the two substances.

9 One is much more aromatic than the other.

10 Q Right, but they still have distinct smells, correct?

11 A Each one has a distinct smell, yes.

12 Q And at that point, you did not smell meth in that van,

13 even though you were standing right next to it?

14 A From the outside of the van, I did not.

15 Q All right. After you asked Mr. Riggins for the

16 registration and insurance, does he immediately tell you the

17 van is not his?

18 A He did.

19 Q So then, soon thereafter, you asked Mr. Riggins if there

20 was anything in the vehicle that was not supposed to be,

21 correct?

22 A I did.

23 Q And what was his answer to that?

24 A He said not that he knows of.

25 Q I believe at that point he answered no. The first time

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 you asked him, I believe he answered no. And then you asked
2 him a second time, and I believe he answered no pretty
3 quickly. I mean, we can go back and look at the video if
4 you'd like. You then asked Ms. Tippins if there's anything in
5 the van. What was her answer?
- 6 A I believe she said no, not that she was aware of.
- 7 Q All right. Mr. Riggins then finds the registration and
8 insurance. Does he then say that she said everything was in
9 the dash when I borrowed it from her?
- 10 A Mr. Riggins did say that.
- 11 Q Okay. And what was he referring to?
- 12 A To the registration and insurance.
- 13 Q Okay. So, at that point, you knew that -- and also by
14 the plate not coming back, you also knew at that point that
15 this was not Mr. Riggins' -- Mr. Riggins did not own this van,
16 correct?
- 17 A Correct, based off of his statements.
- 18 Q All right. So, there's a possibility and likelihood that
19 somebody else owned that van, correct?
- 20 A Correct.
- 21 Q All right. Did you ask Mr. Riggins to get out of the
22 car?
- 23 A I did.
- 24 Q All right. Did you ask him to empty his pockets out?
- 25 A I did.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 Q Were there any drugs in his pocket?
- 2 A No, sir.
- 3 Q All right. Did you then get him out of the car and pat
4 him down?
- 5 A I did.
- 6 Q All right. Did you find drugs on him anywhere?
- 7 A I did not.
- 8 Q You walk him back to your car, and you asked Mr. Riggins
9 who the car belonged to. Do you remember what his answer was?
- 10 A I believe he stated the owner was the name on the title.
- 11 Q Okay, what was that name he gave you?
- 12 A The Beauchamps, I believe.
- 13 Q Is that the name he gave you, or did he tell you ---
- 14 A I'm sorry, I misread your question.
- 15 Q Okay.
- 16 A He stated the name of Pink.
- 17 Q Okay. Did you ever find out Pink's name?
- 18 A I did not.
- 19 Q Okay. Did you ever run her record?
- 20 A I could not.
- 21 Q Okay, so then you wouldn't know if she was involved in
22 drugs?
- 23 A Not at that time, no.
- 24 Q Okay. He mentioned that the person who owned the car's
25 name was Pink. Did you then ask if he lived with her?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 A I believe so.
- 2 Q Okay. Do you remember what his answer was?
- 3 A I believe he said he did not.
- 4 Q Okay. So then, by process of elimination, you know at
5 that point Mr. Riggins does not live with the person who he
6 said owned that van.
- 7 A Correct.
- 8 Q Okay. I believe you said there was a different name on
9 the registration. Do you remember what that name was -- or
10 what the last name was?
- 11 A Beauchamp.
- 12 Q Okay.
- 13 A If I'm pronouncing it correctly.
- 14 Q All right. Did you ever run the Beauchamp's -- either of
15 the people on the title, did you run their name?
- 16 A No, sir, I did not.
- 17 Q So you don't know if they were involved in drugs, either?
- 18 A I do not.
- 19 Q You don't know if they have drug records?
- 20 A Not at the time.
- 21 Q Okay. And once again, about 10 minutes into the video,
22 you -- Mr. Riggins, does he again tell you that he's not the
23 owner of that van?
- 24 A He did.
- 25 Q At that point, then, did you ask Mr. Riggins for consent

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 to search the van?

2 A I did.

3 Q And did he give you consent?

4 A Initially, no, he did not.

5 Q Right, initially. And then another officer came up and
6 both of you started convincing him you're going to get into
7 the van anyway, so, does Mr. Riggins eventually give you
8 consent to search the van?

9 A I believe it was under different circumstances, but he
10 did give verbal consent.

11 Q In your experience as a law enforcement officer, do
12 people who are carrying large amounts of drugs in their car
13 generally give consent for you to search their car?

14 A In my experience, there have been instances in the past
15 where I do gain consent and still find substances in the
16 vehicle.

17 Q Would it be normal of a person to consent to a search of
18 a car that's not theirs?

19 A I believe it depends on that person.

20 Q Okay. So, when Mr. Riggins said that he didn't consent
21 on her -- on Pink's part, but he did consent on his part,
22 correct?

23 A I believe that's what he said.

24 Q All right. After Mr. Riggins gives you consent to search
25 the van, do you go to talk -- to speak with Ms. Tippins?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 A I did.

2 Q Okay. And you took her to the front of the van, is that
3 correct?

4 A Correct.

5 Q Did you take her to the front of the van so that she --
6 so that Mr. Riggins could not overhear what she was saying?

7 A No, sir.

8 Q Okay, why did you move her to the front of the van
9 instead of just where she was standing?

10 A I wanted to get her individual testimony as well as pat
11 her down for any potential threats or weapons or anything like
12 that as well.

13 Q But didn't you pat her down at the van?

14 A I did.

15 Q Okay, then why did you need to move her away from the van
16 if it wasn't to get out of Mr. Riggins' earshot?

17 A So, prior to having Mr. Riggins step out of the vehicle,
18 he had told me that there were knives in the vehicle. So,
19 with that being said, the passenger door and the driver's door
20 opened, I'd rather not stand in that threshold for that
21 availability to reach a weapon if someone so desired. So, I
22 stepped to the front to take that threat out of the question.

23 Q So you're trying to convince us the reason you moved her
24 was because this lady right here was outside the van -- on the
25 side of the van and there were knives in the middle of the

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 van, and you were worried she was going to grab one of those?

2 A It's potential.

3 Q Okay. Did you ask Ms. Tippins if there was anything in

4 the car?

5 A I did.

6 Q And what was her answer?

7 A She said no, not that she was aware of.

8 Q Not that she was aware of. Does she then tell you that

9 she knows that it's not his car, that it's not Mr. Riggins'

10 car?

11 A I cannot recall.

12 Q You then asked Ms. Tippins a second time if there was

13 anything in car. What did she say a second time?

14 A I believe she reiterated that not that she was aware of.

15 Q All right. At that point, did you -- was Officer Owens

16 already doing a search of the vehicle kind of around the time

17 you were speaking to Ms. Tippins?

18 A He did arrive on scene, but I don't believe he had

19 started the search yet.

20 Q Okay. But eventually, he did start a search of the

21 vehicle, correct?

22 A Correct. And we began to search together.

23 Q And you joined with the search?

24 A I did.

25 Q Did you find any drugs in the car?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 A Personally, I did not. Detective Owens is the one that
2 found the substances.
- 3 Q So you personally did not find any drugs in the car?
- 4 A Correct.
- 5 Q All right. In the middle console -- you say that you
6 found a syringe, correct?
- 7 A Yes, sir.
- 8 Q Is it illegal to possess a syringe?
- 9 A Not in and of itself, no.
- 10 Q Okay. Do you need a prescription or some sort of special
11 referral to purchase them?
- 12 A No, you do not.
- 13 Q So, pretty much anybody can have a syringe?
- 14 A Potentially, yes.
- 15 Q What -- and this is an -- from the --- because you can't
16 really see on the video, was the cap on that syringe?
- 17 A There was no cap on the syringe.
- 18 Q Okay. I know that you stated this earlier, but do
19 diabetics use syringes?
- 20 A They do.
- 21 Q All right. Do women who are going through fertility
22 treatments use syringes?
- 23 A I can't answer that question. I'm not aware.
- 24 Q Okay. How about people with bad arthritis, do they use
25 syringes for medication?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 A Again, I don't know the answer to that question.

2 Q All right. But you would say there is more than one
3 reason to use a syringe, correct?

4 A Potentially.

5 Q All right. Did you happen to ask either of the people in
6 the car that day if they were diabetic?

7 A I don't believe so.

8 Q Did you contact the owner of the vehicle to see if it
9 might be their syringe?

10 A No, I did not.

11 Q Were there any sort of fingerprints taken from this
12 syringe?

13 A No, sir.

14 Q All right. Was the syringe just kind of out in plain
15 view?

16 A No, sir.

17 Q All right. And so it was in a closed compartment,
18 correct?

19 A It was in that drawer that you can pull out from the
20 center console.

21 Q Approximately how much meth was in that syringe?

22 A I cannot recall.

23 Q Was there any meth in that syringe?

24 A I cannot recall.

25 Q Okay, so it's your testimony that there's a syringe that

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 you believe is being used for injecting drugs, but yet there
2 are no drugs in the syringe, is that correct?

3 A I cannot recall if there were any narcotics in the actual
4 syringe at the time.

5 Q You don't think that would be important to remember if
6 there were narcotics in the syringe?

7 A Potentially.

8 Q Where's that syringe today?

9 A I cannot recall. I don't ---

10 Q Okay. But it's not in evidence, correct?

11 A No, sir.

12 Q All right. So that syringe is the first sign that you
13 found that day that would lead you to believe there are drugs
14 in that car, but yet we don't have the syringe, and you can't
15 testify to whether or not there were actually drugs inside
16 that syringe, correct?

17 A Correct.

18 Q As we mentioned before, it was June, correct?

19 A It was.

20 Q It was hot outside? Or warm?

21 A I can't recall that specific night in question.

22 Q Okay. You've seen the video. Were Mr. Riggins and Ms.
23 Tippins both wearing short sleeves that day? That night?

24 A I believe so. I believe Mr. Riggins was wearing a cut
25 off sleeve.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 Q All right. Could you see both of their arms?
- 2 A I believe so.
- 3 Q Did you happen to check either of their arms to see if
- 4 they might have injection sites, track marks, anything like
- 5 that on them?
- 6 A I did not inspect their arms closely, no.
- 7 Q So you found a -- to recap, you found a syringe you
- 8 believe might have been used to inject methamphetamines, but
- 9 yet you don't look at either of their arms to see if that was
- 10 a possibility?
- 11 A No, sir.
- 12 Q Were any drugs found anywhere in that van that was easily
- 13 accessible?
- 14 A Not from first glance, no, sir.
- 15 Q I'm sorry, what was your answer?
- 16 A At first glance, no, sir.
- 17 Q Not at first glance, okay. Let me fix my question here.
- 18 We know that there were drugs found in the hidden compartment.
- 19 A Correct.
- 20 Q Were there any other drugs that were found anywhere else
- 21 in that car?
- 22 A No, sir.
- 23 Q Okay. So, there weren't any drugs found either in the
- 24 seat or under the seat or where Mr. Riggins was sitting?
- 25 A No, sir.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 Q No drugs in the glove box?
- 2 A No, sir.
- 3 Q No drugs in the console?
- 4 A No, sir.
- 5 Q All right, but you did find a torch lighter in the
6 console, correct?
- 7 A I did.
- 8 Q All right. Did you even -- happen to click that torch
9 light to see if it even worked?
- 10 A I did not.
- 11 Q So to your knowledge, you don't know if that lighter
12 worked or not?
- 13 A I didn't click it to actually produce a flame, no.
- 14 Q After you pulled Mr. Riggins out of the car -- rewinding
15 a little bit -- after you pulled him out, before he gave
16 consent, didn't he tell you that he had been camping, that
17 there was a bunch of stuff in the van?
- 18 A He said that they had been camping and they had clothes
19 and had been staying in the vehicle for one to two weeks.
- 20 Q Can a torch lighter also be used for lighting campfires?
- 21 A Potentially.
- 22 Q Would lighting a campfire with a torch lighter be a
23 little bit easier than using matches or a regular lighter,
24 wouldn't it?
- 25 A I suppose.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 MR. CRANE: I'd like to go to the video here of when you
2 find that lighter. I know it's probably going to be hard to
3 see, and I can move the video ---

4 CLERK: There's a laser pointer up there.

5 BY MR. CRANE:

6 Q Can you tell me what this is right here on the lighter?
7 I'll ask you another question. Does that it appear that it
8 could be a long strand of female hair?

9 A I mean, I believe it could be a string or a hair, I mean,
10 I can't make it out well enough to say what it is.

11 Q I don't know if I can get a better view of it, but let's
12 see if we can try. So -- but there is definitely something
13 hanging off of the end of that, correct?

14 A It appears there's something hanging off of it, yes.

15 Q And is it a possibility it could be a long, female hair
16 that's hanging off there?

17 A I guess potentially.

18 Q That night, did Mr. Riggins have long hair like that? I
19 know he has a ponytail today, but on that night did he have
20 long hair that would be as long as that?

21 A I don't know if I would say that long, but.

22 Q All right. Did Mr. Riggins tell you he borrowed the van
23 from a female named Pink?

24 A He did.

25 Q All right, you alluded to there was a syringe found and

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 also a torch lighter, correct?

2 A Correct.

3 Q If a person is going to inject or shoot up meth, does it
4 need to be cooked down first before -- into a liquid form
5 before you can inject it?

6 A It does.

7 Q Is it usually heated up in a spoon or a foil or some sort
8 of hand-held cooker?

9 A Potentially. There's very -- there's a large amount of
10 forms that people can melt down the substance.

11 Q Did you find anything in the van that would support --
12 anything in that van that appeared to be used for cooking meth
13 to inject?

14 A During the search, I did not locate anything specifically
15 that stood out to me as a cooking utensil.

16 Q How about after the search?

17 A No, sir.

18 Q Earlier, you alluded to you would either need a glass
19 pipe or a bowl to smoke meth. You hadn't said they were
20 smoking meth, but did you find a glass bowl in the car
21 anywhere?

22 A I did not.

23 Q Did you find anything that would be used for smoking meth
24 in that car?

25 A Not that I found, no.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 Q How about that anybody else found?

2 A No, sir.

3 Q So hypothetically, if you have a syringe and a lighter
4 and meth, are you going be able to shoot up meth, or do you
5 need a third thing to be able to do that?

6 A Most commonly you'll need another item.

7 Q All right, and you didn't find -- you nor Officer Owens
8 found anything that showed that there had been any meth cooked
9 in that van that night, correct?

10 A Not that we had located, no.

11 Q You said that the van was in sort of a disarray, correct?

12 A Correct.

13 Q You said that somebody -- I believe your statement was
14 somebody or some people had been in that van for an amount of
15 time, correct?

16 A Correct.

17 Q Why do you believe that it was Mr. Riggins who was in
18 that van for an extended amount of time?

19 A Well, going back to the beginning of my stop, he had
20 stated that he had personal items, he had been camping, or I
21 believe he stated they had been camping for approximately one
22 to two weeks, thus indicating that he's been in there for at
23 least a minimum of two weeks. But also, the vehicle
24 registration was out of Texas. That vehicle had to get here
25 somehow. So, I mean, I know the drive from Texas is

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 extensive. I mean, if you're going to be in the vehicle for
2 that time, I'm assuming that the items in that vehicle are
3 yours.

4 Q So, going by what you just said, Mr. Riggins said he had
5 been camping for one to two weeks.

6 A Correct.

7 Q Did he say he had been using that van to camp in for one
8 to two weeks?

9 A Not specifically, no.

10 Q Okay. Is there a possibility that he had been camping
11 for one to two weeks and then put all of his stuff in a
12 borrowed van that morning?

13 A It's a possibility.

14 Q Okay, but I feel like you might be jumping to conclusions
15 by assuming that him saying he was camping for one to two
16 weeks means that he had been in possession of that van for one
17 to two weeks. And one doesn't get you to the other, does it?

18 A Not necessarily.

19 Q You said in the back you found hygiene products.

20 A I did.

21 Q And you said you weren't sure if they were male or
22 female, correct?

23 A I could not recall.

24 Q All right, well, let's say somebody is out camping for
25 one to two weeks. Are they going to have hygiene products

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 with them?

2 A Possibly.

3 Q All right. So, Officer Owens eventually finds drugs

4 hidden in a compartment behind the radio?

5 A Yes, sir.

6 Q Are there any fingerprints taken from the drugs that were

7 found?

8 A No, sir.

9 Q Any sort of DNA taken from the drugs that were found?

10 A No, sir.

11 Q Okay. At that point, you went and placed Mr. Riggins and

12 Ms. Tippins under arrest, correct?

13 A We did.

14 Q Did -- at that point, did either of them claim the drugs?

15 A They both stated that they did not belong to either one

16 of them.

17 Q Okay, did either of them get angry at the other one for

18 not claiming the drugs?

19 A Not to my knowledge, no.

20 Q Is Mr. -- as you're putting him -- as you're handcuffing

21 Mr. Riggins, does he once again tell you that the car is not

22 his and that he borrowed it from somebody?

23 A He did.

24 Q I believe while you're handcuffing him you say -- you

25 told him you were going to give him a chance to tell you about

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 the drugs, correct?

2 A Can you restate your question, please?

3 Q While you're handcuffing Mr. Riggins, I believe you say
4 something to the effect of, I gave you a chance to tell me
5 about the drugs.

6 A Correct.

7 Q Okay. And at that point, they still both say they don't
8 know anything about the drugs.

9 A Correct.

10 Q Okay, so they are already in handcuffs. Somebody is
11 going to jail. One of them could say those are not my drugs,
12 or those are not his or her drugs, they're mine. But neither
13 of them did that, correct?

14 A Correct.

15 Q You then split them up, and take Mr. Riggins to your car,
16 correct?

17 A Correct.

18 Q All right. He's not really close to Ms. Tippins at that
19 point.

20 A To my knowledge, no.

21 Q Okay. At that point, does he claim the drugs to keep Ms.
22 Tippins out of jail?

23 A No, sir.

24 Q But he did, once again, as you're putting him in, he
25 says, that's not our stuff?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 A Correct.

2 Q So, just to summarize, did Mr. Riggins tell you from the
3 very beginning that that van did not belong to him?

4 A He did.

5 Q In fact, the first time he mentions that is within the
6 first 30 seconds of your interaction with him, when he's
7 getting the registration, he said it's not mine.

8 A Correct.

9 Q And he told you the van belonged to a woman named Pink?

10 A Yes.

11 Q Did you find any other documentation in the van that
12 belonged to Mr. Riggins? Any receipts, mail, anything with
13 Mr. Riggins' name on it?

14 A Not that I can recall, no.

15 Q And he did -- going back, he did give you consent to
16 search the van, correct?

17 A He did.

18 Q And you didn't find any drugs on Mr. Riggins?

19 A Not on his person, no.

20 Q And you didn't find any drugs in and around where he was
21 sitting in the van besides in the radio, correct?

22 A Other than the center console, yes.

23 Q So, the only place where drugs were found is in a hidden
24 compartment in a van that Mr. Riggins was borrowing from a
25 friend, is that correct?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 A Correct.
- 2 MR. CRANE: Nothing further, Your Honor.
- 3 THE COURT: All right. Cross examination on behalf of
- 4 Tippins.
- 5 BY MRS. NEWTON:
- 6 Q Officer Millspaugh, when my client was approached -- or
- 7 when you approached my client, she was respectful, right?
- 8 A She was.
- 9 Q Okay. And she was wearing her seat belt?
- 10 A I believe so.
- 11 Q Okay. She asked you if you could -- or if she could
- 12 crack her window?
- 13 A Yes, ma'am, she did.
- 14 Q Okay. She gave you her name?
- 15 A She did.
- 16 Q She gave you her ID?
- 17 A Yes, ma'am.
- 18 Q And you initially were talking to her from the driver's
- 19 side, and she was on the passenger side, right?
- 20 A Right.
- 21 Q So looking through the car?
- 22 A Yes, ma'am.
- 23 Q But you didn't see the syringe then, right?
- 24 A I could not, no.
- 25 Q Okay. When you -- a little bit of time in between, but

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 when you came around to her side, she got out when you asked?
- 2 A She did.
- 3 Q She put her purse back in the seat like you asked?
- 4 A She did.
- 5 Q Okay. She -- when she got out, she unbuckled herself,
- 6 and that's where you could clearly see the seatbelt, correct?
- 7 A Correct.
- 8 Q Okay. You patted her down?
- 9 A I did.
- 10 Q With the back of your hand?
- 11 A Correct?
- 12 Q Because she's a female?
- 13 A Yes.
- 14 Q Okay. And she didn't have any weapons on her?
- 15 A No, she did not.
- 16 Q Okay. She didn't have any knives on her?
- 17 A She did not.
- 18 Q Okay. She didn't have any weapons in her purse?
- 19 A Not to my knowledge, no.
- 20 Q Okay. Well, you searched her purse, right?
- 21 A At the time, no, I was patting her down. Not to my
- 22 knowledge.
- 23 Q Okay. But then when you did search the purse, there
- 24 wasn't weapons in there, right?
- 25 A No, there wasn't.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 Q Okay. And she told you she was getting a ride?
- 2 A She did.
- 3 Q Okay. And that they had dropped off her grandkids, is
- 4 that correct?
- 5 A Correct.
- 6 Q Okay. And that she couldn't drive?
- 7 A Correct.
- 8 Q Okay. And that they were on the way back to the lake, is
- 9 that correct?
- 10 A I believe so.
- 11 Q And she also told you nothing was illegal in there, is
- 12 that right?
- 13 A To her knowledge is what she said.
- 14 Q Okay. And back to kind of searching her purse, you
- 15 already said no weapons were in there, is that right?
- 16 A Correct.
- 17 Q Okay. No drugs were in there?
- 18 A No, ma'am.
- 19 Q Okay. No baggies?
- 20 A No, ma'am.
- 21 Q No needles?
- 22 A Not in her purse, no.
- 23 Q Okay. No glass pipe in her purse?
- 24 A No, ma'am.
- 25 Q No glass bowl in her purse?

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 A No, ma'am.
- 2 Q No torch lighter in her purse?
- 3 A No, ma'am.
- 4 Q Okay. She was honest about the cigarette lighter that
5 she had in her pocket, right?
- 6 A Yes.
- 7 Q Okay. When you were searching the compartment in the
8 car, and Officer Owens came up, y'all were talking while you
9 were searching, is that correct?
- 10 A Correct.
- 11 Q Okay. And you told Owens that he was being weird?
- 12 A Speaking about Mr. Riggins?
- 13 Q Being Riggins?
- 14 A Correct.
- 15 Q He, being Riggins, was being weird?
- 16 A Yes.
- 17 Q Okay. And speaking about Riggins, I don't know if he's
18 tweaking or something or what, is that correct?
- 19 A Correct.
- 20 Q Okay. And you stated earlier that the items in the
21 vehicle were his, correct?
- 22 A Correct.
- 23 Q Okay. And the only item that she had in that vehicle was
24 the purse, correct?
- 25 A To my knowledge, yes.

CROSS EXAMINATION OF OFFICER MILLSPAUGH

1 Q Okay. And you searched in and around the front of the
2 vehicle first, right?

3 A Yes, ma'am.

4 Q Okay. But you didn't, like, look in the radio or pull
5 anything, correct?

6 A Not initially, no.

7 Q Okay. And then you asked Officer Owens if it was meth,
8 is that right?

9 A Correct.

10 Q That he found? Okay. And you responded with sweet, is
11 that correct?

12 A Yes.

13 Q Okay. And you handcuffed Rodney Riggins, right?

14 A I did.

15 Q Okay. And you directed Officer Owens to handcuff my
16 client, is that right?

17 A I cannot recall.

18 Q Well, you didn't handcuff my client, correct?

19 A I did not handcuff Ms. Riggins, no.

20 Q Okay. And then from what we reviewed on the video, she
21 was handcuffed, correct?

22 A Correct.

23 Q And you believe it was by Owens?

24 A Yes.

25 Q Okay. And at that time, she immediately told you she

CROSS EXAMINATION OF OFFICER MILLSPAUGH

- 1 didn't have anything, right?
- 2 A Correct.
- 3 Q Okay. She got upset?
- 4 A I believe she -- her demeanor was elevated.
- 5 Q Okay. Saying it wasn't hers?
- 6 A Correct.
- 7 Q All that? Okay. The drugs in evidence, you put them in
- 8 the bag for testing, correct?
- 9 A To be sent off for further testing, correct, yes.
- 10 Q And you filled out the proper paperwork to do that,
- 11 right?
- 12 A Correct. I logged them into evidence per our policy.
- 13 Q Okay. And did you request any fingerprints on them?
- 14 A I did not.
- 15 Q Okay. And you did write a report in this case, right?
- 16 A I did.
- 17 Q Okay. And we've seen it, but you had your body cam,
- 18 correct?
- 19 A I did.
- 20 Q And your dash cam?
- 21 A I did.
- 22 Q Okay. And your dash cam was on the van the entire time,
- 23 is that right?
- 24 A I believe so.
- 25 Q Okay. Until it was time to transport to the jail?

REDIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 A Correct. Once I left the scene it was no longer ---

2 Q It went with you, right?

3 A Correct.

4 Q Okay. And you did not transport my client, correct?

5 A Correct.

6 Q Okay. All right. And at this point and time, you had
7 been working for the police department almost a year, is that
8 right?

9 A Correct.

10 Q Okay. And was Clemson city the first police department
11 you'd worked for?

12 A It is.

13 MRS. NEWTON: Okay. No further questions. Thank you.

14 THE COURT: Redirect?

15 MR. HOFFERTH: Thank you, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. HOFFERTH:

18 Q Officer Millspaugh, I just want to clear a few things up
19 that were brought up in cross examination. When you initially
20 ran the information on this vehicle, did it come back reported
21 as stolen?

22 A It did not.

23 Q No. So, in the process of learning the information about
24 the vehicle, learning the information about the individuals in
25 the vehicle, do you run something called a CAD report?

REDIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 A I do.

2 Q What is that?

3 A It's basically a -- it shows up on my computer that is
4 inside my vehicle. It's a printout or a copy that has been
5 pasted into my call sheet. Dispatch is in charge of all the
6 notes that are on my call, so if anything is relayed to me,
7 they put it in there so I can read it at my disposal. Thus
8 being the information of the vehicle, I was able to read what
9 that registration comes back to.

10 Q Okay. So, you were able to learn who, at least, the car
11 was registered to?

12 A Correct.

13 Q And that was out of Texas?

14 A It was.

15 Q The individual?

16 A Yes.

17 Q Okay. And Mr. Riggins didn't actually know the name of
18 that individual. He just pointed to whoever was on the
19 registration?

20 A Correct.

21 Q Okay. Now, there was some questions regarding when
22 you're initially talking to him and what leads to your search,
23 but just to be clear, when you first talk to Mr. Riggins
24 outside the vehicle, do you ask him to search before he starts
25 talking about it?

REDIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 A I did not.

2 Q Okay. He initiates that?

3 A Correct.

4 Q Okay. There was also some questioning regarding, I guess
5 the positioning of where Mr. Riggins and Ms. Tippins were in
6 the process of this stop. Why do you separate individuals in
7 a car after a stop like this?

8 A For many reasons. One, to get both sides of the story.
9 Two, officer safety issues. If I have two people out of the
10 vehicle, I would hope that I have two officers on the scene.
11 Not all the time do I have that luxury, so if I need to
12 separate them, that's just for my safety. Again, he did state
13 that there were knives in the vehicle, so if I have both doors
14 to that compartment open where the knives are, I don't want to
15 have two suspects in that same area for potential -- a threat
16 there.

17 Q Okay. Now, I think it's important we touch on this,
18 because it was talked about a lot in Mr. Crane's cross
19 examination regarding the contents of the vehicle, and I guess
20 the significance of them and the scope of it. Officer
21 Millspaugh, is a spoon in and of itself illegal?

22 A No, sir.

23 Q How about tin foil?

24 A No, sir.

25 Q How about a lighter?

REDIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 A No.

2 Q How about a syringe?

3 A No, sir.

4 Q So why does it matter when you're going through a car and
5 you find things like this, when in and of themselves they
6 aren't illegal, they have separate uses, I assume, right?

7 A Yes, sir.

8 Q But why are they important, then?

9 A So, we use a phrase in law enforcement called the
10 totality of the circumstances. So, when you have individual
11 not important items in and of themselves, they kind of seem
12 unimportant, but when you put them all together and you have
13 the body language that I observed off of Mr. Riggins, the
14 possible impaired driving is the reason I stopped him -- when
15 you put all these things together, you build reasonable
16 suspicion that there is some kind of other activity going on.
17 So that is why it's important.

18 Q Okay. Now, there's also some mention of what could, I
19 suppose, be determined to be a hair that was found on that
20 torch?

21 A Potentially.

22 Q Okay. How much hair do you think was probably in that
23 car?

24 A A lot.

25 Q How much disarray, dirt, whatever you may call it ---

REDIRECT EXAMINATION OF OFFICER MILLSPAUGH

1 A There was quite a bit.

2 Q Okay. So, is it a surprise that there's probably some
3 hair sticking to some things in that car?

4 A Potentially.

5 Q All right. Now, speaking on what Mr. Riggins' story he
6 gave to you, as far as what lead up to that stop and him being
7 in that car, what was he saying he was doing the last few
8 weeks?

9 A He said he was camping.

10 Q And that's when you were asking him about the car
11 specifically, what he was doing driving it?

12 A Correct.

13 Q Okay. Now, talking on the -- in looking at the things we
14 saw in the video that you were finding in the car, does that
15 kind of fall in line -- does that fall in line with that
16 story, or at least that somebody had been using the car for
17 about two weeks?

18 A Absolutely. There were items that I located, personal
19 effects, clothing, the trash, the food, the other
20 miscellaneous items. I mean, all that stuff indicates that
21 someone had been in that vehicle for a while.

22 Q Okay. And those things that you found, that syringe, the
23 torch lighter, they were in and amongst those things, correct?

24 A Correct.

25 MR. HOFFERTH: Okay. I have no further questions for

1 you, Officer Millspaugh, thank you.

2 THE COURT: All right, you may step down.

3 MR. CRANE: Your Honor, I'd like to redirect please? I
4 mean, recross.

5 THE COURT: All right, just briefly.

6 MR. HOFFERTH: Your Honor, I would object to that. I
7 think the rules are clear. There is direct, there is cross,
8 and there is redirect.

9 THE COURT: Well, he's already stepped down, so. All
10 right, call your next witness.

11 MR. HOFFERTH: I would ask that Officer Millspaugh be
12 excused.

13 MR. CRANE: No objection.

14 MRS. NEWTON: No objection.

15 THE COURT: All right.

16 MR. HOFFERTH: I would call Detective Owens from Clemson
17 Police Department.

18 MR. CRANE: Your Honor, I would just like to bring
19 exception to your rule about not being allowed to recross.

20 THE COURT: Okay.

21 [Whereupon, Detective Owens is duly sworn by the Clerk of
22 Court.]

23 CLERK: Thank you, sir. If you would have a seat, and
24 state your name for the record.

25 DETECTIVE OWENS: I'm David Owens, Clemson Police

DIRECT EXAMINATION OF DETECTIVE OWENS

1 Department.

2 DAVID OWENS,

3 Having First Been Duly Sworn,

4 was Examined and Testified as Follows:

5 DIRECT EXAMINATION

6 BY MR. HOFFERTH:

7 Q Officer Owens, how are you doing?

8 A Good.

9 Q Could you explain to the jury what your current role is
10 at the Clemson Police Department, and what kind of lead up
11 there as far as your experience?

12 A So, currently, I'm a, I guess a jack of all trades,
13 really. I'm a detective now, primarily in narcotics, but I do
14 work general crimes.

15 Q Okay. So, what was your role on June 7th of 2020?

16 A June 7th, 2020, I was a patrol officer assigned to uniform
17 patrol.

18 Q Okay. Did you respond to a call with Officer Millspaugh
19 on that evening?

20 A Yes.

21 Q Okay. Can you describe to the jury what occurred as far
22 as when you arrived on scene, your participation in what
23 transpired?

24 A So, from what I recall, Officer Millspaugh had called for
25 a secondary unit to search a vehicle, which is common

DIRECT EXAMINATION OF DETECTIVE OWENS

1 practice. From what I recall, when I got there, I just stood
2 by. He needed help searching the vehicle, so I searched the
3 vehicle with him, and that was pretty much the extent of my
4 role.

5 Q Okay. So, you arrived only when the search had begun?

6 A It had not begun yet.

7 Q Okay. But you were there when it started?

8 A Yes.

9 MR. HOFFERTH: Okay. I'm going to show you what's been
10 pre-marked as State's Exhibit 1. This is Noah Millspaugh's
11 body camera.

12 [Whereupon, video is played.]

13 BY MR. HOFFERTH:

14 Q Can you tell me what's happened here? Or tell the jury
15 what's happened here specifically? I can go a little further
16 if it will help you kind of get some context.

17 A So, it looks like we were just searching the vehicle. Is
18 that the moment when the ---

19 MR. HOFFERTH: Here, I'll play it a little more so you
20 can get a little ---

21 [Whereupon, video is played.]

22 DETECTIVE OWENS: Yeah, we're good. So, basically, I was
23 just searching the front part of the vehicle. From what I
24 recall, I believe I picked up on something that looked
25 abnormal in the dash, so I just happened to feel it and

DIRECT EXAMINATION OF DETECTIVE OWENS

1 noticed that it was loose, so I just kind of grabbed it and it
2 lifted up and down inside of one of the factory compartments
3 was a little bag.

4 BY MR. HOFFERTH:

5 Q Now, in the search that you had conducted up until that
6 point -- or, I suppose even after the fact, for that matter,
7 is it common for you to, I guess, remove that compartment of a
8 car?

9 A Yeah, anything that looks abnormal, definitely take a
10 look at it. I mean ---

11 Q Right.

12 A Because vehicles naturally have voids in them in those
13 types of areas, so absolutely.

14 Q All right. So, I know you touched on it, but what
15 specifically, when you're going through the car -- I'm just
16 trying to give the jury a clear picture here -- when you're
17 going through the car and you see that compartment, can you
18 explain to them kind of your process of discovering that it
19 came up -- came apart, or came out? And I can play a little
20 more of the video, it might ---

21 A No, that's okay. I -- you know, I don't really -- it's
22 nothing more than, like -- so, when you're searching a car,
23 you're searching for, you know, whatever you're -- you know,
24 illegal things, contraband, whatever. So, you know, doing a
25 thorough search is looking over it and if something appears

DIRECT EXAMINATION OF DETECTIVE OWENS

1 out of place, then you would just naturally -- I would --
2 check and see, you know, why is this loose or why is this not
3 sitting properly, or, you know, why does this look funny? And
4 then just investigate.

5 [Whereupon, video is played.]

6 BY MR. HOFFERTH:

7 Q Now, Detective Owens, would you recognize the drugs that
8 you found that day if I showed them to you?

9 A Sure.

10 Q I'm showing the witness the pre-marked State's Exhibit 4.
11 Detective Owens, take a look at those. See if you recognize
12 those as the items you found in that bag.

13 A Yeah, I remember the methamphetamine. It looks right to
14 me.

15 [Whereupon, video is played.]

16 MR. HOFFERTH: So, you can probably see it a little bit
17 better there. I'm going to stop it a little.

18 [Whereupon, video is played.]

19 BY MR. HOFFERTH:

20 Q So that is the compartment you found that bag in?

21 A Correct.

22 [Whereupon, video is played.]

23 BY MR. HOFFERTH:

24 Q Okay. Now, Detective Owens, you said now you work in
25 narcotics, correct?

DIRECT EXAMINATION OF DETECTIVE OWENS

- 1 A Correct.
- 2 Q Primarily in narcotics?
- 3 A Correct.
- 4 Q Okay, so you're familiar with the weights as to charges
5 and that matter?
- 6 A Correct.
- 7 Q Would you know the weight threshold for distribution on
8 heroin?
- 9 A Yeah, I believe it's greater than two grains.
- 10 Q Now, is it grains and grams distinction there?
- 11 A There is.
- 12 Q Let me put it this way. Would over two grains be
13 distribution?
- 14 A Yes. Yeah.
- 15 Q Okay. And I don't know if you can recall approximately
16 how much a grain weighs?
- 17 A It's like six-tenths of a gram.
- 18 Q Okay.
- 19 A So.
- 20 Q Now, when you found these drugs with Officer Millspaugh,
21 did you, or did Officer Millspaugh send them off to evidence
22 to be tested?
- 23 A Correct.
- 24 Q Okay. They were submitted that night?
- 25 A Correct.

CROSS EXAMINATION OF DETECTIVE OWENS

1 MR. HOFFERTH: Okay. Detective Owens, I have no further
2 questions for you. Thank you.

3 THE COURT: Cross examination on behalf of Riggins.

4 CROSS EXAMINATION

5 BY MR. CRANE:

6 Q Detective Owens, I just have a few questions. When you
7 arrived at the van, was Mr. Riggins already outside of the
8 van?

9 A From what I recall, yes, sir.

10 Q Okay, so as far as you know, Mr. Riggins was with Officer
11 Millspaugh the entire stop?

12 A From what I recall, yes, sir.

13 Q And when you arrived, was Ms. Tippins in the van?

14 A I can't accurately recall that.

15 Q So, you started searching the van before Officer
16 Millspaugh, correct?

17 A It would have been a joint effort.

18 Q But you were the one that found the drugs that evening?

19 A Correct.

20 Q All right, and you said you found these -- could you
21 classify it as like a secret compartment in this car?

22 A I wouldn't say it's a secret compartment, but you know,
23 as I stated before, all vehicles have natural factory voids in
24 them, and the duct work to the a/c unit being one of those.

25 Q So, if you don't own a car -- even if you do own a car,

CROSS EXAMINATION OF DETECTIVE OWENS

1 you wouldn't necessarily know where all of the natural voids
2 are in that car, would you?

3 A I don't have an answer.

4 Q Okay. Would you know if there's a natural void your
5 radio in your personal car?

6 A I would assume there is.

7 Q Would you assume there is because of your -- because
8 you're a law enforcement officer?

9 A You know, I would think that it's common knowledge for a
10 ventilation system to have ducts, you know, for that system to
11 operate accurately.

12 Q Okay. Is there a possibility that somebody who is
13 borrowing a car might not know there is a void behind the
14 radio?

15 A Is that possible? You know, I guess anything's possible.

16 Q You said that the radio looked out of place. It was a
17 little bit wiggly, is that correct?

18 A From what I recall, yes, sir.

19 Q All right. Did the actual radio -- did it come off
20 pretty easily or did you kind of have to ---

21 A No, from what I recall, it was just -- I just grabbed it
22 and it just lifted right up.

23 Q Did you find drugs anywhere else in that car?

24 A I did not.

25 Q Did anybody find any other drugs in the car?

CROSS EXAMINATION OF DETECTIVE OWENS

1 A I believe there was paraphernalia. I do not know if they
2 contained narcotics. That being the syringe.

3 Q And you didn't -- so you didn't find any drugs under or
4 in Mr. Riggins' seat?

5 A I don't believe I did. I believe I just found the bag.

6 Q I believe at the end of the video you said that you found
7 them -- your words were you found them in a general area, does
8 that sound correct?

9 A Yes. The radio would be the general -- in the general
10 area.

11 Q So a general area would essentially be accessible to
12 either passenger or a driver of a car, correct?

13 A Correct.

14 Q Is there any evidence that ties those drugs in that car
15 to Mr. Riggins?

16 A He was in possession of the vehicle. It was in his
17 control.

18 Q The vehicle was in his control, correct?

19 A Correct.

20 Q Was there anything that you saw that leads you to believe
21 that Mr. Riggins knew that there were drugs in that car?

22 A From what I recall, both parties had personal belongings
23 in the vehicle. And from what I recall, they had borrowed the
24 vehicle. And to me, if you borrow something, you have
25 possession of it for an extended period of time. And in my

CROSS EXAMINATION OF DETECTIVE OWENS

1 experience, people who are dealing with drugs -- that amount
2 of drugs -- don't let friends borrow or secretly hide that
3 amount of drugs.

4 Q But you just said anything is possible a few minutes ago,
5 correct?

6 A That is a fact.

7 Q Those drugs, did you run any fingerprints, DNA on them?

8 A We don't do that.

9 Q During your search of that van, did you find any other
10 paperwork that belonged to Mr. Riggins? Any sort of mail,
11 receipts, anything with his name on it?

12 A I think I was on a mission looking for drugs and nothing
13 else. That is my role as a secondary officer.

14 Q Was there anything to show that Mr. Riggins regularly
15 drove that van?

16 A I don't know what would indicate that other than him
17 driving it when he was pulled over.

18 Q Was the search of the van captured on body cam?

19 A I don't recall. Can I look in my report?

20 Q Sure.

21 A So the report doesn't indicate the status of my body
22 camera.

23 Q It's already admitted.

24 A Oh. You want me to --

25 Q No, go ahead.

CROSS EXAMINATION OF DETECTIVE OWENS

1 A Yeah, so it doesn't indicate the status of my body
2 camera. I can say that I would have had one on, but I can say
3 that during that time, we had very cheap body cameras, so it
4 was not abnormal for footage to not record correctly. And
5 then, in turn, when you put it in the system, you have a
6 corrupted file or no file at all.

7 Q Okay. And what were you just looking at up there?

8 A Incident report.

9 Q Is that your incident report?

10 A It is this incident report, yes.

11 Q Is that an incident report that you did?

12 A No, Officer Millspaugh done this.

13 Q So when you said you were referring to your report, it's
14 actually not your report, it's Officer Millspaugh's report,
15 correct?

16 A Fair enough.

17 Q So, since you didn't have the camera on that day, we
18 don't really get to see exactly where you did find these
19 drugs, correct?

20 A I wouldn't say that.

21 Q Well, what would you say?

22 A I mean, the -- Officer Millspaugh's camera was recording
23 the whole time. He was in the vicinity, and you can see where
24 they come from.

25 Q Well, that's not true. Where was Officer Millspaugh when

CROSS EXAMINATION OF DETECTIVE OWENS

1 you found the drugs?

2 A He was behind me.

3 Q He was in the back seat, wasn't he?

4 A Correct, but that is in the vicinity.

5 Q It's in the vicinity, but it wasn't pointed straight at
6 where you found the drugs, is that correct?

7 A Fair enough.

8 Q All right, so you're saying you didn't write any sort of
9 report for this stop, is that correct?

10 A That is correct. There is no supplemental to this
11 report.

12 Q Why not?

13 A You know, that's just something we weren't required at
14 the time. We didn't do it.

15 Q You were the lone officer who found trafficking level
16 amounts of methamphetamine and distribution level amounts of
17 heroin inside a hidden compartment in a car, and you didn't
18 feel like that was worthy of a supplemental report? Is that
19 correct?

20 A It wasn't required, so therefore, I did not do it.

21 Q I understand it might not have been required, but you
22 don't think it would be important, as you being the person who
23 found the drugs to write a report of where you found them and
24 what else you found in the car?

25 A You could say that.

CROSS EXAMINATION OF DETECTIVE OWENS

1 Q In the video we see you attempt to put the drugs back
2 where you found them and take a picture with your phone, is
3 that correct?

4 A I believe so.

5 Q Is that common practice?

6 A To take photos?

7 Q To take photos after you found something, and then put
8 the evidence back and act like that's where you found it?

9 A I don't think that -- so yeah, to take photos of where we
10 found it, correct, and how we found it, yes. We do take
11 photos.

12 Q But you did not -- so when you pulled off the cover of
13 this hidden compartment and saw the drugs, you didn't take a
14 photo at that time, correct?

15 A No, I don't believe I did.

16 Q All right. You removed them, rifled through the bag,
17 pulled the drugs out, and then you put it back in to then take
18 a picture of it, correct?

19 A Yeah, if that's what the video shows, then that's what
20 happened.

21 Q All right. Where is that photo today?

22 A I couldn't tell you.

23 Q So that also was not important enough to put into
24 evidence?

25 A We wouldn't have put it into evidence back then. We

CROSS EXAMINATION OF DETECTIVE OWENS

1 wouldn't have had a way to do so. Typically, we were like
2 emailing them to whatever officer was working the case, but I
3 would assume that's what happened, but I don't have that for
4 you today.

5 Q You would've emailed it to the officer that was working
6 the case? He was standing right next to you, so why didn't he
7 just come and take a picture?

8 A I don't have an answer for that.

9 Q Did you then transport Ms. Tippins to the Clemson Police
10 Department?

11 A I don't recall.

12 Q You don't recall if Ms. Tippins got into your car that
13 night or not?

14 A I believe I transported someone, but I don't know who I
15 transported.

16 Q Well, there were only two people there, correct?

17 A That's correct.

18 Q All right, Officer Millspaugh was transporting Mr.
19 Riggins, correct?

20 A If that's what the report says. Yes, if he transported
21 Riggins, then I would have had Ms. Tippins.

22 Q Okay. And was your -- do you normally have a dash cam in
23 your car?

24 A I believe that car had one.

25 Q Okay. Would that have recorded anything Ms. Tippins said

CROSS EXAMINATION OF DETECTIVE OWENS

1 on your way to the station that night?

2 A If it would have been on.

3 Q Okay. That's what I was getting to. Why wasn't it on?

4 A So, typically, on a secondary unit, we wouldn't put our
5 camera on. You know, when we activate our blue lights, the
6 front lights trigger the camera, and a lot of times a
7 secondary vehicle would be staged back at a distance for just
8 the rear blues, just so people know to watch out for us or
9 whatever, but it just may have not triggered. It wasn't
10 malice.

11 Q You don't think it would have been important to have that
12 camera on in case Ms. Tippins made any statements that night?

13 A I guess so, but I mean ---

14 Q So, we'll never know what Ms. Tippins said to you that
15 night while you were transporting her, if anything, correct?

16 A That's correct.

17 Q So if she had told you over and over again that those
18 drugs were not hers and told you over and over again that they
19 were not Mr. Riggins, we wouldn't have heard it, correct?

20 A I mean, that's correct.

21 Q So, just to summarize. You didn't find any other drugs
22 that were accessible to either passenger in the van besides
23 the ones in the hidden compartment, is that correct?

24 A Correct.

25 Q And you didn't find any other evidence of ownership from

CROSS EXAMINATION OF DETECTIVE OWENS

1 either passenger to that van, correct?

2 A I did not.

3 Q And you mentioned earlier, but did you find any evidence
4 of ownership of those drugs by Mr. Riggins?

5 A I don't know what you would say is ownership. I mean, he
6 didn't write his name on the bag if that's what you're asking.

7 Q That's what I'm asking. You don't have anything that
8 says that they were his drugs, correct? You just said you
9 don't have anything -- you don't even have his name on
10 anything that points to him owning those drugs.

11 A You can say that.

12 MR. CRANE: All right. No further questions.

13 THE COURT: Mrs. Newton, cross examination.

14 BY MRS. NEWTON:

15 Q Officer Owens---

16 A Good morning.

17 Q --- how long have you been with the Clemson City Police
18 Department?

19 A About five years collectively -- four years.

20 Q Do you remember your start date?

21 A It was 2019, but I had some time before that.

22 Q In law enforcement?

23 A Oh yeah. Yeah. I've been in law enforcement for 7
24 years.

25 Q Okay. The -- but you started Clemson City in 2019?

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 A Correct. Correct.
- 2 Q Did you start before Officer Millspaugh?
- 3 A Yes, I believe so. Maybe around the same time.
- 4 Q Okay. And Officer Dempsey also arrived on the scene, is
- 5 that right?
- 6 A I believe so.
- 7 Q You've been there longer than him?
- 8 A I think that we kind of all started around the same time
- 9 in '19. Maybe they were a little before.
- 10 Q Okay.
- 11 A They were not certified. I was.
- 12 Q Okay. So, would you consider yourself, amongst the three
- 13 of y'all that night, the more senior patrol officer?
- 14 A You could say that.
- 15 Q Okay. And the Clemson Police Department does have
- 16 written policies and procedures, correct?
- 17 A Correct.
- 18 Q Okay. The rules basically for the officers to follow?
- 19 A Guidelines.
- 20 Q Okay. And you've been trained on those department
- 21 policies?
- 22 A For the most part.
- 23 Q Okay, and they regularly update them?
- 24 A Oh yeah.
- 25 Q Okay. So, there's policies on when to write reports?

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 A I would imagine so.
- 2 Q And when to write supplemental reports?
- 3 A I would imagine so.
- 4 Q Okay. You stated earlier that that wasn't a requirement
5 at the time. Do you know the date that that became a
6 requirement?
- 7 A I -- no, I do not.
- 8 Q But you're certain you didn't have to write a
9 supplemental at that time?
- 10 A Yeah, I believe our supervisor at that time wasn't
11 requiring it.
- 12 Q Okay. Do the policies also tell you about who wears body
13 cameras?
- 14 A Yeah, everybody wears a body camera.
- 15 Q Okay. You've always worn a body camera?
- 16 A Correct. And I would have had one on that night.
- 17 Q Okay. Does policy tell you when to activate the body
18 camera?
- 19 A So -- yes. Whenever we're doing an enforcement action,
20 we activate cameras.
- 21 Q Okay. And then how to download ---
- 22 A Correct.
- 23 Q --- it after the shift, is that right?
- 24 A Yes.
- 25 Q And you'd agree one of the purposes of body cameras is to

CROSS EXAMINATION OF DETECTIVE OWENS

1 accurately document the police to public contact, is that
2 right?

3 A Absolutely.

4 Q Okay. And then, body cameras help enhance written
5 reports?

6 A Correct.

7 Q Okay. And they help enhance testimony in court?

8 A Correct.

9 Q Okay. You said earlier you arrived on scene to assist
10 Millspaugh with the search, is that right?

11 A Correct.

12 Q Okay. So, you helped him search that van, right?

13 A Correct.

14 Q Okay. And you're the one who actually did find the drugs
15 behind that vent system, right?

16 A Correct.

17 Q Okay. And have you had a chance to review Officer
18 Millspaugh's body camera prior to court today?

19 A I have seen the footage, yes, ma'am.

20 Q Okay. And you'd agree that you were excited that you
21 found the methamphetamine, is that right?

22 A As always.

23 Q Okay. You agree you said it's trafficking. I guarantee
24 it's trafficking. Right?

25 A Correct.

CROSS EXAMINATION OF DETECTIVE OWENS

1 Q Okay. And you asked if you could confront Riggins about
2 it?

3 A I believe so.

4 Q Okay. And you remember that you didn't have your body
5 camera recording at that time, right?

6 A I would have thought that it would have been recording.
7 Again, it was no malice, it was just the cheap product that we
8 were given.

9 Q Okay.

10 A It was outside of my control.

11 Q Okay. Well, you specifically told him on the camera that
12 you didn't have it on.

13 A Is that right?

14 Q Yeah.

15 A Okay.

16 Q But you would have had it on, correct?

17 A I would assume that I would have cut it on. There would
18 have been no reason not to turn on my body camera.

19 Q Okay. And obviously, that's department policy for body
20 cameras, is that right?

21 A Absolutely.

22 Q Okay. Particularly when searching for drugs right?

23 A Correct.

24 Q Okay. But we don't have body camera from you, is that
25 right?

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 A No, ma'am.
- 2 Q Okay. Do you -- you were the one who handcuffed my
3 client, is that right?
- 4 A Ms. Riggins ---
- 5 Q Yeah ---
- 6 A --- or Ms. Tippins?
- 7 Q Ms. Tippins.
- 8 A I believe so.
- 9 Q Okay. And you were there when y'all confronted about the
10 drugs?
- 11 A Yes.
- 12 Q Okay. And you'd agree that she denied knowing anything
13 about the drugs, correct?
- 14 A I don't recall what she said.
- 15 Q Okay. Do you remember the testimony or the video -- what
16 you said on video and what you just said now it was
17 trafficking weight, right?
- 18 A I believe I heard that, yeah.
- 19 Q Okay. You estimated the meth to be even maybe half an
20 ounce, is that right?
- 21 A Correct.
- 22 Q And what's half an ounce?
- 23 A Half an ounce would be 14 grams.
- 24 Q You were pretty spot on, right?
- 25 A Correct.

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 Q Okay. Do you remember -- you referred -- good stuff, it
2 was good stuff several times, is that right?
- 3 A Correct.
- 4 Q Okay. You specifically pulled the vent system up or
5 down? How did that work exactly?
- 6 A I believe I just lifted it right up.
- 7 Q Okay. Okay. And then definitely wanted to take a
8 picture of it, do you remember that?
- 9 A Right.
- 10 Q Okay. But you have the phone out taking the photo, you
11 remember getting that?
- 12 A Right.
- 13 Q I know you weren't in here when that was played ---
- 14 A I saw it.
- 15 Q --- but you did earlier, right?
- 16 A Yeah, I saw the footage.
- 17 Q Okay. And the policy also at the time had information
18 about how to attach certain things to reports, is that
19 correct?
- 20 A It may have. I don't recall.
- 21 Q And -- but you didn't do that.
- 22 A Clearly, I did not.
- 23 Q Okay. Okay. And you didn't write any report that we
24 know of, right?
- 25 A I did not.

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 Q I believe you mentioned this earlier, but if I were to
2 tell you that you transported my client, would you take that
3 for its value? It may be in Millspaugh's report as well.
- 4 A I wouldn't argue it.
- 5 Q Okay. And she's a female, is that correct?
- 6 A That's correct.
- 7 Q Okay. And when you transport females, you have to log
8 mileage, is that right?
- 9 A Correct.
- 10 Q Okay. And you believe you did that in this case?
- 11 A I would be positive that I did do that.
- 12 Q Okay. And the purpose of that is to protect you?
- 13 A Correct.
- 14 Q Protect her?
- 15 A Correct.
- 16 Q Protect the police department, right?
- 17 A That's right.
- 18 Q How far is Habaneros to the Clemson Police Department?
- 19 A You know, if you're wanting an accurate ---
- 20 Q Approximate.
- 21 A You know, I don't even know how to approximate that.
22 Maybe a mile and a half. Maybe a mile and a quarter. I don't
23 know exactly.
- 24 Q Okay. And your car that night, June 7th, 2020, had a
25 dashcam, is that right?

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 A It should have.
- 2 Q Okay. But we don't have that either, right.
- 3 A I don't believe so.
- 4 Q Okay. So, you don't know what you and my client talked
5 about?
- 6 A I probably didn't talk to your client.
- 7 Q Okay.
- 8 A That's generally what I do. I don't talk to them.
- 9 Q Okay. But transporting a female, you would agree that it
10 would be helpful if you had the dashcam on?
- 11 A Oh, for sure, yeah.
- 12 Q Okay, okay. Prior to the transport, did my client answer
13 any questions of all officers politely?
- 14 A I don't recall.
- 15 Q Okay. You don't remember talking to her at all?
- 16 A It's three years ago.
- 17 Q Okay. When you confronted her about the drugs, would you
18 agree that she was upset?
- 19 A Couldn't tell you.
- 20 Q Okay. Do you want to watch that portion of the body
21 camera again?
- 22 A I mean, I'd rather not, but I'm sure she was not happy.
- 23 Q Okay.
- 24 A If that's what you're asking me.
- 25 Q Did she continue to deny that?

CROSS EXAMINATION OF DETECTIVE OWENS

- 1 A If that's what she said.
- 2 Q That the drugs were hers?
- 3 A Yeah.
- 4 Q But you for sure didn't talk -- you rode silently
5 apparently?
- 6 A Probably. I maybe would have had the radio on. That's
7 normal behavior.
- 8 Q Okay. But no body camera, is that right?
- 9 A There would have been a body camera on my chest, but as
10 I've stated before, whoever was in charge at the time of
11 buying our equipment was rather cheap ---
- 12 Q Okay.
- 13 A --- and we had these \$99 Amazon body cameras that were
14 not reliable. They are nothing compared to what we use now.
15 You know, so it's no fault of my own. It was the equipment
16 that I was issued. So, if I tell it to turn on, and it
17 doesn't turn on, I'm sorry, that's what they give me. My dash
18 camera, there was issues with that. There was a period of
19 time where it didn't work for months. So, if I hit the lights
20 and the camera didn't cut on, it's no fault of my own. I'm
21 still going to do my job.
- 22 Q But you didn't write the report, right, so we don't even
23 know -- you're speculating about ---
- 24 A Right.
- 25 Q --- all of the videos, correct?

REDIRECT EXAMINATION OF DETECTIVE OWENS

1 A Correct. That's correct.

2 Q And you do have -- you do remember telling Officer
3 Millspaugh that your body camera wasn't on?

4 A I don't remember saying that, but if the video reflects
5 that, then that's the fact.

6 MRS. NEWTON: Okay. All right. No further questions.

7 THE COURT: Redirect?

8 MR. HOFFERTH: Thank you, Your Honor.

9 MR. CRANE: Your Honor, I object, and may I approach --
10 may we approach?

11 THE COURT: Yes.

12 [Whereupon, a bench conference was held off the record.]

13 THE COURT: All right. You may proceed.

14 REDIRECT EXAMINATION

15 BY MR. HOFFERTH:

16 Q Detective Owens, I think we've covered it, but just to be
17 clear, what was your extent of this, I guess, investigation
18 from when you arrived to when you left that scene?

19 A My role would have been just to arrive and help search a
20 car.

21 Q Okay.

22 A That was it.

23 Q Did you find that drugs that were on the scene in the
24 car?

25 A I did.

REDIRECT EXAMINATION OF DETECTIVE OWENS

1 Q Okay. Is the finding of the drugs, including the
2 location, included in Officer Millspaugh's report?

3 A Yes.

4 Q Okay. So, if you were to create a report, about how much
5 information would you add to that report?

6 A I mean, it would just reiterate what's already stated.

7 Q Thank you. Now, as to the actual position that the drugs
8 were in in the car when you found them, now, there was some
9 questions asked about you placing the bag back and taking
10 pictures. When you first spot the bag after the lift the
11 compartment, did you know what was in the bag?

12 A No.

13 Q Okay, so you had to remove the bag and look what was in
14 it?

15 A Correct.

16 Q So at that point you found out there were drugs in the
17 bag?

18 A Correct.

19 Q Okay. So, then you decide to place the bag back in the
20 compartment, correct?

21 A Correct.

22 Q And take pictures to show its location?

23 A Well, yes. But also, on the flip side of that, that
24 would have been for education to other patrol guys, not that
25 we were trying to backtrack. If I'm thinking correctly, it

REDIRECT EXAMINATION OF DETECTIVE OWENS

1 would have been just so it could be shown to other officers so
2 they can, you know, recall these things in the future when
3 they're dealing with certain things, not necessarily us
4 backtracking per se.

5 Q Right. And as to the questions regarding, I guess what
6 you would call a personal identifier for these drugs, in your
7 experience, whenever you found a quantity of drugs, is there
8 usually a name tag on them?

9 A In eight years, I have not seen someone do that.

10 MR. HOFFERTH: I didn't think so. I have no further
11 questions.

12 THE COURT: You may step down. Y'all want to approach
13 for a scheduling discussion?

14 [Whereupon, a bench conference was held off the record.]

15 THE COURT: All right, ladies and gentlemen, we have to
16 take a short break and address a matter, and then we'll bring
17 you out and my understanding is the next witness is fairly
18 short, and we should break for lunch after that. So, at this
19 time, if you could go back to your jury room. Do not discuss
20 the case and I'll have you out in just a few minutes.

21 [Whereupon, the jury exits the courtroom.]

22 THE COURT: All right, Mr. Gravlee --- said to the jury?

23 MR. GRAVLEE: Yes, sir, Your Honor, I just want to make a
24 motion to dismiss based on due process violations on
25 spoliation grounds. After that officer's testimony, we heard

1 that there was no body cam. He had it on, failed to activate
2 it, failed to do so with -- either he had -- I mean, he
3 couldn't really testify whether he thought he had turned it on
4 or it didn't work, but he couldn't testify to it. He didn't
5 preserve any of the evidence or his findings -- or he took a
6 photo of where he had found it, too, to try to be able to use
7 that on cross as well.

8 He did not have that here today to use in cross
9 examination and in defense of Ms. Tippins, and I imagine that
10 Mr. Crane would want to join in as well. But the fact is they
11 also found a syringe that was in a center compartment that
12 they said lead them to believe that the drugs were right
13 there, too. They couldn't testify -- well, it's not in
14 evidence. They didn't preserve it. It's either lost or
15 destroyed. And whether that syringe had, you know, insulin,
16 heroin, meth, whatever it might have been in there, due to the
17 nature of the syringes being smooth, you can even test those
18 for prints. We don't always test for baggies, but we could
19 have them independently tested. We were not able to do so
20 because that was not preserved.

21 And then, you know, and the fact that he didn't have his
22 dash camera. It would have been able to record -- we don't
23 know whether it was turned on or not. He wasn't able to
24 testify hardly to anything of any -- with any certain
25 reliability today because of his failure to preserve any

1 evidence, and I think because of those reasons, Judge, under
2 the 14th Amendment --- here, and under our state's Constitution
3 as well, under Article 1, Section 10, I think it's a due
4 process violation that we're not able to sufficiently defend
5 Ms. Tippins.

6 When they start losing evidence and not keeping track of
7 it, and I know the standard, Judge, under ---, it's either bad
8 faith, which is almost impossible to prove other than, you
9 know, a flip in attitude, but I don't know that that arises to
10 bad faith, but otherwise, it's that the evidence possessed and
11 exculpatory value apparent before was destroyed and we can't
12 obtain it by any other means, and you know, any other evidence
13 of comparable value by other means.

14 I mean, specifically with the syringe, too. If that was
15 what piqued their interest to go on this fishing expedition
16 into the car, into all these cavities and whatnot, and don't
17 save the -- that missing link and you can't test it, I think
18 that has the exculpatory value, which would show, presumably,
19 if the State is saying it was Mr. Riggins or that it was Ms.
20 Tippins. But that syringe you can test and determine through
21 that, through the circumstantial evidence that that was used
22 by one or the other and could be exculpatory -- would be
23 exculpatory as to Ms. Tippins or I believe to Mr. Riggins, but
24 specifically to Ms. Tippins, because we vehemently deny the
25 allegations here. And Your Honor, we'd ask to dismiss based

1 on those grounds.

2 THE COURT: Well, don't you -- okay, let's talk about the
3 videos of the dash cam and the body cam. I mean, don't you
4 have to show, one, that it was taken and that it was destroyed
5 for a spoliation argument?

6 MR. GRAVLEE: Your Honor, it discusses it either being
7 lost or destroyed. I mean, I think ---

8 THE COURT: And he's saying he didn't do it or didn't
9 know -- I mean, you'd have to show that it was actually taken
10 before it can be lost or stolen, which is definitely not in
11 the record.

12 MR. GRAVLEE: And I mean, I think he might have said that
13 ---

14 THE COURT: Might have said.

15 MR. GRAVLEE: I think he, at one point, said that I did,
16 and then another time, I think, when Mrs. Newton was crossing
17 him, he said he wasn't sure or if you say so.

18 THE COURT: Well, you still don't have evidence that
19 either video was ever taken.

20 MR. GRAVLEE: I suppose nothing concrete. He says ---

21 THE COURT: What do you have un-concrete that the video
22 was taken?

23 MR. GRAVLEE: As far as the video goes?

24 THE COURT: Yes.

25 MR. GRAVLEE: I mean, it just -- it wasn't entirely

1 sure, Judge, and I'll concede that. It wasn't a certain thing
2 whether that video was turned on or not.

3 THE COURT: So, you can't show that it was destroyed or
4 lost, it just wasn't turned on.

5 MR. GRAVLEE: I can't -- but I mean, we established
6 through the policies that he's supposed to turn that on, and I
7 think that failure to do so also compromises the trial and the
8 integrity of the preservation of that evidence.

9 THE COURT: Okay. Let's talk about the video, then we'll
10 talk about the syringe.

11 MR. HOFFERTH: Judge, I think the reasoning that's put
12 forth by Mr. Gravlee is an extremely tenuous string of
13 inferences, most of which were not testified to and most of
14 which don't adhere to the level that's needed for a spoliation
15 argument. I think clearly there's no evidence that you can
16 put forth a bad faith -- a destruction of evidence argument in
17 bad faith here.

18 I think what he testified to was that he wasn't sure if
19 he turned it on and if you actually want to pull up the body
20 camera footage of Officer Millspaugh at 24 minutes and 20
21 seconds, he states at the time my body camera wasn't on. So,
22 this isn't a matter of it being lost or destroyed, it simply
23 wasn't on. I don't understand how it could even possibly be
24 exculpatory other than the fact that the exact moment that he
25 found the -- or allegedly found the drugs in the compartment

1 would have been shown with more clarity.

2 But again, that's just a matter of -- that's just a
3 matter of, you know, perspective, or I guess the perspective
4 that the jury can see. He testified to finding them. He
5 testified to lifting the compartment. And again, he didn't
6 say that his body camera was on. We're not in a position here
7 where we're required to show every angle of every single case.
8 We'd be a little bit hamstrung there, so I just don't see the
9 substance behind this motion at all.

10 THE COURT: All right, and how about the syringe?

11 MR. HOFFERTH: As to the syringe, you know, he's not
12 being charged with drug paraphernalia. And again, I think I
13 talked to -- or I -- on Office Millspaugh's testimony, we went
14 back and forth at length, there's nothing inherently illegal
15 about a spoon, about tin foil, about a syringe, about a torch
16 lighter. They're simply just things they find that lead them
17 forward in their search. Not illegal in and of themselves.
18 And I guess his argument is if the syringe were kept into
19 evidence and tested, it could potentially show -- I'm not even
20 sure that the string of inferences he said as far as linking
21 it to one defendant or another or a separate person -- again,
22 he's not charged -- nobody's charged with paraphernalia here.
23 We're talking about possession of drugs. And even -- no
24 matter what DNA, what fingerprints, whatever may be found on
25 that syringe, it ultimately doesn't have a bearing on

1 possession of these drugs.

2 THE COURT: All right, Mr. Crane, do you want to ---

3 MR. CRANE: Your Honor, Mr. Hofferth made a -- in the ---

4 THE COURT: I guess, first, do you want to join in the
5 motion?

6 MR. CRANE: Oh, sorry, yes.

7 THE COURT: Okay. All right. And I'll be glad to hear
8 from you, too.

9 MR. CRANE: Mr. Hofferth made a -- essentially a chain
10 where the syringe leads to the lighter which then leads to the
11 drugs, which then leads to totality of the circumstances.
12 Well, one of those links is missing. Actually, two of those
13 links is missing. We don't have the lighter in evidence,
14 either. We don't know where that lighter is. We have no idea
15 if there might be fingerprints on that.

16 It is exculpatory, because if there are fingerprints of
17 one person on it, and not the other, then it is exculpatory.
18 It also goes -- if we did have that syringe here, we would
19 know if there were any drugs in it. So, if he's using the
20 syringe to then get to the lighter to get to the drugs, and we
21 don't have the lighter to say there were or were not drugs in
22 it, then it is a spoliation argument, because we need that
23 here. We would have been able to test it and they would have
24 been able to test it, and I just think that he's using it as a
25 beginning of his road leading from the console -- or excuse

1 me, from the middle console to the other console to the drugs,
2 and I think it's step one of his journey to the drugs and I
3 think we need it here along with the lighter.

4 THE COURT: All right. Anything further, Mr. Gravlee?

5 MR. GRAVLEE: Your Honor, just as far as that video goes,
6 it seems kind of counterintuitive to say that if you don't
7 turn it on, then it's fine. It's not lost or destroyed. The
8 evidence is ongoing at the time. It is activated to preserve
9 what is observational evidence that is fleeting and otherwise
10 not preserved, whether it's an incident report, which he
11 didn't do, and not following policy there, and with the body
12 cam, which he didn't do or didn't activate at the time.

13 But as far as -- I wanted to mention the other two. I
14 appreciate Mr. Crane mentioning the lighter as well, because
15 that wasn't saved. It was lost, destroyed, or otherwise not
16 here. But we also have the dash cam footage that
17 automatically turns on in their car during transport. We do
18 not have that. It was not placed into evidence. And I'm --
19 and Judge, it would be pretty shocking to not have some kind
20 of conversation involving dash cam footage I've watched over
21 the years. There's always a conversation.

22 And finally, Judge, the photo. It was taken. He
23 admitted that a photo was taken of where it was, how the setup
24 was, how secure it was, how not secure it was, to be able to
25 get into that to figure out how they did -- Mr. Crane

1 mentioned the stepping stone jumping from the syringe up to
2 the console up to just pulling out air vents, and without
3 either his body cam showing the actually pulling of that, we
4 can't see -- it's just some grainy shot from Officer
5 Millspaugh, and he's -- you heard he was in the backseat.

6 Officer Owens, you know, admitted that, that he was just
7 in the back, and he tried to argued that was in the vicinity,
8 but it definitively does not show him pulling that. So, for
9 those reasons, Judge, that's why I move to dismiss based on
10 those grounds for due process violation and spoliation.

11 THE COURT: Well, as to the photo, I believe he said it
12 was not the photo of how he initially found -- he kind of
13 reconstructed it and then took a photo, which I think that the
14 location of it was clearly covered on the video after he was
15 notified that he found the meth. As to the syringe, one, he's
16 not being charged with paraphernalia. The -- we still go down
17 to whether that syringe had drugs in it or not. I mean, there
18 was no really indication that he was using at that particular
19 moment.

20 It is a possession -- constructive possession case, which
21 would be the drugs themselves. The syringe, the lighter, all
22 went to the, I guess, the continued search, but at that point
23 they actually had consent, but they had a basis for continuing
24 that based on these other items. So, I don't believe that
25 that is a basis for spoliation, and I'm going to deny your --

1 deny both Riggins' and Tippins' motion for spoliation or any
2 type of charge for that.

3 MR. GRAVLEE: Thank you, Your Honor.

4 THE COURT: All right. All right, now, let's take a
5 short break.

6 [Brief recess.]

7 THE COURT: Anything from the State before we bring the
8 jury in?

9 MR. HOFFERTH: No, Your Honor.

10 THE COURT: Anything from Defendant Riggins?

11 MR. CRANE: No, Your Honor.

12 THE COURT: And Tippins?

13 MRS. NEWTON: No, Your Honor.

14 THE COURT: All right. Bring them in.

15 [Whereupon, the jury enters the courtroom.]

16 THE COURT: All right, so our break took a little longer
17 than we anticipated, and since it's 1:00, I don't want to put
18 another witness up before lunch, so we're going to go ahead
19 and break for lunch. Do not discuss the case. Do not do any
20 type of research about the case. Do not pay any attention to
21 media coverage, including social media. And if anybody
22 contacts you other than somebody from the clerk's office,
23 please let the bailiffs know. Be back in your jury room at
24 2:30. All right, see y'all then.

25 [Whereupon, the jury exits the courtroom.]

1 THE COURT: All right, is the State ready?

2 MR. HOFFERTH: Ready, Judge.

3 THE COURT: And Mr. Riggins, first of all, I'm not
4 accusing you of anything whatsoever improper. I just was
5 pointing out what was indicated, so. Yeah, I'm just -- it's
6 just one of those things we had to cover, so. All right,
7 Tippins ready?

8 MRS. NEWTON: We are, Your Honor.

9 THE COURT: All right, bring the jury in.

10 [Whereupon, the jury enters the courtroom.]

11 THE COURT: All right, ladies and gentlemen, I hope
12 everybody had a good lunch. I did want to address something
13 before we continue with the testimony. This is kind of a
14 small courthouse, and I -- sometimes I say something about
15 this in my little opening comments -- I know it's very
16 difficult to maneuver around the courthouse without running
17 into the lawyers, some of the defendants, some of the
18 witnesses. I understand that may have happened during lunch.
19 I have not heard that anything was -- improper happened, I was
20 just -- kind of point that out that sometimes that happens,
21 and I would ask if anybody feels that anything improper
22 occurred or that there were any issues with that, just to
23 please let the Court know, so.

24 But otherwise, I just wanted to bring you out --
25 sometimes you bump into each other, and like I said, what I

1 heard, nothing happened, but I just wanted to bring that to
2 attention, so at your next break if there -- if anything
3 improper did happen or you felt like you could not be fair and
4 impartial, then please indicate so after the next break by --
5 with a note, so. All right, with that being said, State, call
6 your next witness.

7 MR. HOFFERTH: Thank you, Your Honor. The State would
8 call Jonathan Duncan.

9 THE COURT: Officer Duncan, if you would come forward to
10 be sworn.

11 [Whereupon, Office Duncan is duly sworn by the Clerk of
12 Court.]

13 CLERK: Thank you, sir. If you would have a seat, and
14 state your name for the record.

15 OFFICER DUNCAN: My name is Jonathan Duncan.

16 MR. HOFFERTH: Thank you, Officer Duncan. And before we
17 go forward, I do want to make the Court aware that it's
18 through this witness that the parties have agreed to -- prior
19 to trial, regarding the affidavit of the chemist -- that
20 information will come through. As I said, this has been made
21 a Court's exhibit. I just wanted to put the Court on notice.

22 THE COURT: All right.

23 JONATHAN DUNCAN,

24 Having First Been Duly Sworn,

25 was Examined and Testified as Follows:

DIRECT EXAMINATION OF JONATHAN DUNCAN

- 1 DIRECT EXAMINATION
- 2 BY MR. HOFFERTH:
- 3 Q Officer Duncan, what's your current role with Clemson
4 Police Department?
- 5 A I'm the evidence technician and forensics officer with
6 Clemson City.
- 7 Q Okay, so could you explain a little more about in the
8 process of any case, what part do you play, I guess, as it
9 progresses along?
- 10 A So, evidence is turned over to me, either in a locker at
11 our police department or brought directly to me. I log that
12 evidence in to our report writing system, and if, in the case
13 of like, drugs, I make sure that it's taken down to SLED or up
14 to Greenville County for testing, and I keep track of the
15 chain of custody.
- 16 Q How long have you been in that role?
- 17 A I started February 20th.
- 18 Q Okay. Is there documentation produced regarding chain of
19 custody by your department?
- 20 A Yes, sir.
- 21 Q Okay. Now, if I showed you a chain of custody document
22 from 2020, would you be able to recognize it?
- 23 A Yes, sir.
- 24 MR. HOFFERTH: Okay. I'm showing Officer Duncan what's
25 been pre-marked as State's Exhibit 2.

DIRECT EXAMINATION OF JONATHAN DUNCAN

1 BY MR. HOFFERTH:

2 Q Officer Duncan, what is this?

3 A This is a Clemson Police Department chain of custody log.

4 Q Okay. Does it identify specifically what it relates to?

5 A Yes, sir.

6 Q Okay. And what is that?

7 A Methamphetamines and heroin.

8 Q Okay.

9 A For case number 2020-003062.

10 Q Okay. Officer Duncan, I'm going to show you what's been
11 pre-marked as State's Exhibit 4. Can you identify what I just
12 handed you?

13 A Yes, sir, this is the evidence that's referred to in this
14 log.

15 Q Okay. Does it correspond to that log?

16 A Yes, sir.

17 MR. HOFFERTH: Okay. Your Honor, at this time, I would
18 move into evidence State's Exhibit 2 and State's Exhibit 4.

19 THE COURT: All right, any objection from Riggins?

20 MR. CRANE: No objection.

21 THE COURT: Any objection from Tippins?

22 MRS. NEWTON: No, Your Honor.

23 THE COURT: Entered without objection.

24 [Whereupon, State's Exhibit 2 chain of custody and
25 State's Exhibit 4 drugs in evidence pouch are admitted into

DIRECT EXAMINATION OF JONATHAN DUNCAN

1 evidence.]

2 BY MR. HOFFERTH:

3 Q Officer Duncan, would you please read to the jury, I
4 guess, the trip that State's Exhibit 4 has taken reflected in
5 that chain of custody document?

6 A Yes, sir. So, it says that on June 8th, 2020, at 1:12 in
7 the morning, these drugs came in to evidence. They were moved
8 at 9:00 on June 8th, at 9:00 in the morning, from the drop box,
9 which is where we used to drop our narcotics -- they were
10 moved from there by John Brown.

11 And then it says that on August 12th, they were taken to
12 Greenville County for analysis. And on -- that's August 12th
13 of 2020. And on September 16th, 2020, they were brought back
14 from Greenville County.

15 Q Okay, so they were sent to Greenville County for lab ---

16 A For analysis, yes, sir.

17 MR. HOFFERTH: I'm showing defense counsel what's been
18 pre-marked as State's Exhibit 3.

19 BY MR. HOFFERTH:

20 Q Officer Duncan, what did I just hand you?

21 A This is a drug analysis report from Greenville County.

22 Q Okay. So, this is the lab report that would reflect --
23 that's what you receive after you send drugs for testing in
24 Greenville County?

25 A Yes, sir, and this for the case number 2020-003062.

DIRECT EXAMINATION OF JONATHAN DUNCAN

1 Q That matches the ---

2 A Yes, sir.

3 Q --- State's Exhibit 4 that I gave you?

4 A Yes, sir.

5 MR. HOFFERTH: Okay. Would you please read for me the
6 results of those lab findings? Or excuse me, before you do
7 so, pursuant to the affidavit and the parties' agreement prior
8 to trial, I would now move into evidence State's Exhibit 2 --
9 State's Exhibit 3, excuse me. State's Exhibit 3.

10 THE COURT: Any objection from Riggins?

11 MR. CRANE: No, Your Honor.

12 THE COURT: Any objection from Tippins?

13 MRS. NEWTON: No, Your Honor.

14 THE COURT: All right. In without objection.

15 [Whereupon, State's Exhibit 3 affidavit is admitted into
16 evidence.]

17 OFFICER DUNCAN: Yes, sir. So, what you have, is it says
18 item number -- it's a long item number -- and it says it's a
19 bag containing a rock substance. The results on that bag
20 containing the rock substance are methamphetamine.
21 Parenthesis C-22 found at 13.20 grams.

22 For the second item, it's a bag containing a powder
23 substance. The results on that are heroin C-1, .48 grams are
24 found. Bag containing powder substance is the third item.
25 The result is heroin C-1 found, and fentanyl C-2 found, and

CROSS EXAMINATION OF JONATHAN DUNCAN

1 that was .29 grams.

2 You have your fourth item, a piece of plastic containing
3 powder substance. Result is heroin, C-1 found, .14 grams.

4 And the fifth item is a piece of plastic containing candy-like
5 substance. The results of that were methamphetamine C-2
6 found, .73 grams.

7 Q Okay. And is that signed off on by the chemist who
8 conducted that report?

9 A Yes, sir.

10 MR. HOFFERTH: Okay. Your Honor, at this time I would
11 ask to publish those exhibits to the jury.

12 THE COURT: All right.

13 MR. HOFFERTH: Presumably just Exhibit 3 and Exhibit 4.
14 Officer Duncan, I have no further questions for you.

15 THE COURT: Cross examination from Riggins?

16 MR. CRANE: I have no questions from Mr. Riggins.

17 THE COURT: Any from Tippins?

18 MRS. NEWTON: Judge, just briefly on -- I'm just going to
19 stand right here.

20 CROSS EXAMINATION

21 BY MRS. NEWTON:

22 Q You mentioned that on the chain of custody that John
23 Brown was the one who logged all that. Was he the Clemson
24 City evidence custodian before you?

25 A There was another one after John Brown, before me.

CROSS EXAMINATION OF JONATHAN DUNCAN

1 Q But everything that you testified to is the same
2 procedure that he followed, is that correct?

3 A That's correct, yes, ma'am.

4 MRS. NEWTON: Okay, thanks.

5 THE COURT: Any redirect?

6 MR. HOFFERTH: No redirect, Judge.

7 THE COURT: All right, you may step down. All right.

8 MR. HOFFERTH: Judge, at this time, the State would rest
9 its case in chief.

10 THE COURT: All right, ladies and gentlemen, the State
11 has rested its case in chief, and now there are some things I
12 have to go over with the attorneys. One of the things that I
13 need for you to talk about -- you can talk about this when you
14 break -- not anything about the case, because I haven't given
15 you the -- you know, we haven't completely gotten to that
16 stage yet -- is, it's five till 3:00 now. It may be that it
17 would be close to 4:00 before I can present the case to you
18 for you to begin your deliberations.

19 So, therefore, it may be after 5:00 before you can
20 conclude your deliberations. So, what I want y'all to do is
21 give me some indication -- we're not sure exactly the timing
22 yet, it may be quicker than that, but give me your -- discuss
23 and decide whether you would rather come back in the morning
24 -- and like I said, we could get through the case and may run
25 past 5:00, or if you'd just rather come back first thing in

MOTION FOR DIRECTED VERDICT BY MR. CRANE

1 the morning and finish up then. So, talk among yourselves and
2 let me know, Mr. Foreman, and we'll kind of go by what y'all
3 tell us. All right? All right, at this time, go back to your
4 jury room, but don't discuss anything else in the jury room.

5 [Whereupon, the jury exits the courtroom.]

6 THE COURT: All right, anything from the State?

7 MR. HOFFERTH: Nothing, Judge.

8 THE COURT: All right. Defendant Riggins?

9 MOTION FOR DIRECTED VERDICT BY MR. CRANE

10 MR. CRANE: Thank you, Your Honor. At this time, we
11 would move for a directed verdict in this case. We're going
12 to base this -- our argument on the State v. Stewart ---

13 THE COURT: Okay.

14 MR. CRANE: --- the legal principle of constructive
15 possession requires two separate elements. First, the State
16 must prove the Defendant had direct power, control, and
17 disposition in use of the drugs. For a constructive
18 possession case, the State must prove by other evidence the
19 Defendant had the rights and power to exercise control over
20 the drugs. Secondly, the State must prove the Defendant had
21 knowledge of the drugs and the intent to control the
22 disposition or the use of the drugs. The mere existence of
23 evidence the Defendant had control over the property, a.k.a.,
24 the van, does not equate a finding of constructive possession.
25 It still remains a burden of the State to convince the jury

MOTION FOR DIRECTED VERDICT BY MR. CRANE

1 that the Defendant had the requisite knowledge and intent.

2 To prove trafficking based on possession, the State must
3 prove two elements. First, they must prove the Defendant had
4 either actual, physical custody of the drugs, or the right or
5 power to exercise over the drugs. Mr. Riggins had neither the
6 custody of the drugs, nor the power to exercise control over
7 the drugs. There is no evidence that either of the officers
8 gave that Mr. Riggins knew that those drugs were there.

9 The second is the State must prove the Defendant had
10 knowledge of the presence of the drugs. There is no knowledge
11 whatsoever that Mr. Riggins knew the drugs were there. We
12 even had the second officer, Owens, who, I specifically asked
13 him, was there anything that lead you to have concrete
14 evidence that these drugs belonged to Mr. Riggins, and his
15 answer was no.

16 The Defendant is entitled to a directed verdict when the
17 State fails to produce their evidence of the offense charged.
18 There were drugs in the van. That's not up for debate.
19 However, there is absolutely no evidence that shows that
20 either of these two Defendants, including Mr. Riggins, had the
21 right of power or exercise control over the drugs.
22 Additionally, neither knew that there were drugs in the van.
23 This van was borrowed by -- borrowed from someone else. Mr.
24 Riggins told them he had been camping. He didn't say he'd
25 been in that van for two weeks. He said he'd been camping for

MOTION FOR DIRECTED VERDICT BY MR. CRANE

1 two weeks.

2 In ruling on a directed verdict, you as the Judge shall
3 consider only the existence or the non-existence of evidence
4 and not its weight. Here, there is simply non-existence of
5 evidence that either of these two Defendants, including Mr.
6 Riggins, had dominion or control or had any knowledge that
7 there were drugs in that car.

8 Also, I would steer the Court to State v. Brown, just one
9 quick snippet from there. A motion for a directed verdict
10 should be granted where evidence merely raises suspicion of
11 guilt or such as to permit the jury to merely conjecture or to
12 speculate as the accused guilt. That's all they can do is
13 speculate. It's pure speculation that, you know, you go from
14 the evidence in the car to it belonging to Mr. Riggins.
15 There's nothing other than conjecture and speculation and I
16 believe on State v. Brown, that Mr. Riggins should be granted
17 a directed verdict.

18 Rule 19 of South Carolina Rules and Procedure states that
19 on the motion of the Defendant or its own motion, the Court
20 shall direct a verdict in the Defendant's favor any offense
21 charged in the indictment after the evidence on either side is
22 closed. If there is a failure of competent evidence tending
23 to prove the charge in the indictment, then the trial judge
24 shall consider it only the existence or non-existence of the
25 evidence. So, I would point out to the evidence -- or excuse

MOTION FOR DIRECTED VERDICT BY MR. CRANE

1 me, to the wording failure of competent evidence tending to
2 prove the charge. I would argue that there is no competent
3 evidence here, no -- you know, no evidence at all proving that
4 Mr. Riggins would be guilty of trafficking via constructive
5 possession, because he didn't have dominion over the drugs and
6 he had no knowledge that the drugs were in that van.

7 THE COURT: All right, now, I will point out that I agree
8 with you that I think, as you've properly stated, that the
9 elements in what a charge would be and it's clearly set out in
10 State v. Stewart what that charge should be. But just above
11 it, it says if the State presents evidence that the Defendant
12 had control over the property in which the drugs were located,
13 then the trial court should deny a directed verdict motion.

14 MR. CRANE: Your Honor, maybe I'm reading it wrong, but I
15 believe in Stewart the issue with the case was that the
16 original trial judge said that if you can prove that he had
17 dominion over the property where the drugs were found, then
18 you have to find him guilty. What Stewart did was correct
19 that, saying that that is not the case. If you prove that he
20 has dominion over the property, that is not enough.

21 THE COURT: Well, no, it says but the mere existence of
22 evidence the Defendant had control over the property does not
23 equate to the finding of constructive possession, and it still
24 remains the burden of the State to convince the jury that the
25 Defendant had the requisite knowledge. Because right now, I'm

MOTION FOR DIRECTED VERDICT BY MR. CRANE

1 supposed to accept, no matter how slight the evidence -- I
2 mean, I think it clearly says that -- you've got the charge
3 here, but it says that if there's -- at the directed verdict
4 stage, the State presents evidence that they had control over
5 the property, then that's a basis for denying directed
6 verdict. That's it's finding and discussion. And then it
7 goes on to say, but that is not appropriate to charge the jury
8 that, and then it has -- it sets out the jury charge. So,
9 anyway.

10 MR. HOFFERTH: Judge, I'll be brief, because I think you
11 hit the nail on the head, and the precedent is long, and I can
12 just name a few cases that establish that where contraband
13 materials are found in the premises under the control of the
14 Defendant, it is sufficient to survive a directed verdict
15 motion. That is State v Muhammad, which is a Court of Appeals
16 case from 1999. You can also see that in State v. Jackson,
17 which is 395 S.C. 250, Court of Appeals from 2011; State v.
18 Hernandez, 382 S.C. 620, a Supreme Court case from 2009.

19 I think what we're getting caught up in here is a
20 conflation between the dominion and control element and the
21 knowledge element. The dominion and control element is
22 absolutely met as he is the driver of the car, the drugs are
23 found in the car. He was in possession of the car. The drugs
24 are found in the car. That's established. Knowledge and
25 intent, of course, is something that I am under -- I have the

MOTION FOR DIRECTED VERDICT BY MR. CRANE

1 burden of arguing to the jury. State v. Stewart provides that
2 the Court -- it is improper for the Court to instruct the jury
3 they may make the inference of knowledge -- of intent and
4 knowledge, but it is the State's duty to argue as such.
5 Therefore, I think the factual basis is amply supported to
6 survive a directed verdict motion as to Defendant Riggins.

7 THE COURT: Yes.

8 MR. CRANE: Your Honor, I'll go back and I'll concede
9 that the first element as far as having custody and control of
10 the drugs could be proven by him driving the van that night.
11 The second prong is the Defendant has to have knowledge of the
12 presence of the drugs. Knowledges means the accused must have
13 an intent to control the disposition or use of the drugs. And
14 where is the evidence of that? There is no evidence that he
15 knew those drugs were there. There's no evidence that he had
16 any intent to get rid of them or to use them. There's just
17 simply no evidence that leans itself to showing that he had
18 knowledge that the drugs were present.

19 Sure, they can get in the first prong stating that he had
20 physical custody of the drugs or power -- excuse me, power to
21 exercise control over the drugs, but they can't prove that he
22 knew they were there. There's simply no evidence that shows
23 that.

24 THE COURT: All right, and I believe on -- I mean, I --
25 you know, I reviewed this very carefully during lunch because

MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

1 I knew that this issue would come up. I believe in the
2 language of State v. Stewart, that it supports the denial of
3 the motion to the directed verdict, so I deny your motion on
4 that. Anything else?

5 MR. CRANE: Nothing further.

6 THE COURT: Be glad to hear from Tippins.

7 MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

8 MRS. NEWTON: Thank you, Your Honor. Judge, I would
9 respectfully request that the Court grant a directed verdict
10 due to the failure of competent evidence entered in this case
11 tending to prove the charge against Ms. Tippins. I have two
12 cases that I'd like to pass up, State versus Brown, 267 South
13 Carolina 311. And State versus Jackson, 395 -- okay -- 395
14 South Carolina 250.

15 When there's an absence of evidence, it's the duty of the
16 judge to direct a directed verdict. Evidence must constitute
17 positive proof of facts and circumstances which reasonably
18 tend to prove guilt. A suspicion of guilt is not enough.
19 State v Bostick, 392 South Carolina 134, that's a 2011 case.
20 Obviously, I don't think there's any question we're here on a
21 circumstantial evidence case.

22 But the State -- or the circumstantial evidence gaining
23 its strength from the combination with other evidence and all
24 the circumstantial evidence presented in the case must be
25 considered together to determine whether it's sufficient to

MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

1 submit to the jury. That's State v. Rogers, 405 South
2 Carolina 554 and State v. Frasier, 386 South Carolina 526.

3 I would submit at this point we have no circumstantial
4 evidence sufficient enough in this case due to the fact that
5 she is a passenger in the van. There's nothing -- State
6 versus Frasier, I believe the only evidence that could
7 possibly have been construed as circumstantial for her today
8 under State v. Frasier is not enough. It's a suspicion of
9 guilt, because the only thing that was testified to was the
10 officer stating that she was smoking a cigarette and that
11 shows nervousness and that alone is not sufficient.

12 And testimony today were all about the items in the
13 vehicle -- his, he, his, he, his, all morning long. The body
14 language that Riggins -- Officer Millspaugh testified that was
15 it, the totality of the circumstances. Smoking cigarettes and
16 one point of nervousness is not sufficient.

17 The factual summations in State v. Brown and then again
18 State v. Jackson, the directed verdict should be granted where
19 evidence merely raises a suspicion of guilt or is such as to
20 permit the jury to merely conjecture or to speculate as the
21 accused guilt. The Jackson case cites, of course, Brown, and
22 two more where the car didn't belong to the passenger. The
23 factual summation was that, obviously, possession was more
24 than mere presence.

25 The -- similar to Jackson, the evidence against Jackson

MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

1 is even less than in either Brown or Blue, which is mentioned
2 in the Jackson case. The drugs were more out of sight and the
3 State presented no evidence that Jackson was nervous or made
4 any suspicious movements.

5 Of course, we have no suspicious movements. The very
6 limitation of smoking a cigarette, which is not legal -- or
7 not illegal, I'm sorry, and that is the only -- I don't
8 believe there's any circumstantial evidence that the State has
9 shown. I'm very interested in comparison for nothing like
10 this to even be sent to the jury to consider.

11 THE COURT: All right. Mr. Hofferth?

12 MR. HOFFERTH: Thank you, Your Honor. I believe that
13 Mrs. Newton is entirely right, that the states that are most
14 on point here in evaluating this case as far as directed
15 verdict through Ms. Tippins' standard are State v. Brown and
16 State v. Jackson. But it's also important to point out what
17 distinguishes this case from the factual circumstances in that
18 case. And of course, I need to remind the Court -- or I do
19 not need to remind the Court that all we're looking for is the
20 existence of evidence that can present a fact to the jury. We
21 have to do this in the light most favorable to the State.

22 But, in both State v. Brown and State v. Jackson, the
23 passenger in the car knew -- or I should say knew the driver
24 of the car to the extent where they knew the driver's name.
25 There was no evidence of nervousness in State v. Brown. But

MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

1 most importantly here, we have multiple factors that at least
2 present a question to the jury. We know, at least -- well, we
3 can take the existence of the fact that Ms. Tippins offers
4 that she had ridden with Mr. Riggins at least as far as
5 Greenville. That's 60 miles, Judge. That's an hour and 20
6 minutes. That's not a quick pickup and ride down the road.

7 And let's look at the relationship between the two
8 parties. She, A, has stated that, you know, he's a friend of
9 mine enough to take her this extended trip. And we can look
10 at her conduct at the time of the stop. We can look at the
11 fact that she was smoking a cigarette, and we can take the
12 testimony that Officer Millspaugh noted about her nervousness.

13 But, I do think it's critical to point out that in both
14 State v. Brown and State v. Jackson, there was not evidence
15 that there was not at least some kind of past relationship
16 between the passenger and the driver, and that's absolutely
17 established here today. The Court notes in both cases that
18 there was no evidence that the Brown -- or in Brown -- excuse
19 me, there's no evidence that Brown is a seller, user of drugs,
20 or that he even recognized the odor of marijuana, or that he
21 was a close friend of the driver. We have that here. This is
22 not an and, and, and. It's an or. We have that here.

23 Same thing in State v. Jackson. The passenger did not
24 own or rent the car. The passenger had only met the driver
25 once previously at his grandchild's birthday party, and there

MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

1 was no evidence that the passenger was nervous or made any
2 suspicious movements to conceal what was in that case
3 marijuana. That's not the case here. We know that we have
4 testimony at least regarding her nervousness, and most
5 critically, we have testimony regarding the relationship
6 between Ms. Tippins and Mr. Riggins, and we have testimony
7 regarding at least a question of fact for how long she was in
8 the car with him.

9 We know that she was getting picked up purportedly from a
10 camping trip, so there were belongings in the car that a jury
11 could deduce to belong to Ms. Tippins or Mr. Riggins, but it
12 is a question of fact, and it should be presented to the jury.

13 THE COURT: All right. Response?

14 MRS. NEWTON: Judge, I think the entire point of Frasier
15 with respect to the nervousness, as well as the cases in front
16 of you is that this is leading to speculate as to the accused
17 skill. And that's what's improper. And that's when a
18 directed verdict should be granted.

19 THE COURT: All right, I'm going to look at these two
20 cases. But anything else you want to present at this time?

21 MRS. NEWTON: Judge, I would also move, based on the fact
22 that my client was not properly identified in court -- a
23 clothing description was given against co-defendant Riggins,
24 and then I believe the description language was something to
25 the effect of the girl to the left. And there are two of us

MOTION FOR DIRECTED VERDICT BY MRS. NEWTON

1 sitting here. No clothing descriptions, nothing of that
2 nature.

3 THE COURT: Should we take you into custody just to be
4 safe?

5 MRS. NEWTON: And then, I would just, of course, renew
6 all my prior ---

7 THE COURT: Sorry. I'm going to deny your motion as to
8 identification. So let me review these two cases right quick
9 and ---. We'll be at ease until further notice.

10 MRS. NEWTON: Well, Judge -- sorry, can I ask a question?

11 THE COURT: Yes.

12 MRS. NEWTON: Do you want the other cases that I didn't
13 pass up? The State versus Frasier, that I referenced the cite
14 to as well?

15 THE COURT: Do you have it?

16 MRS. NEWTON: I don't have it printed.

17 THE COURT: We can print it.

18 MRS. NEWTON: Okay.

19 [Brief recess.]

20 THE COURT: All right, I've reviewed the case, considered
21 the arguments. I agree with Mrs. Newton. I just believe that
22 there's no evidence -- and I think this is distinguishable
23 from Defendant Riggins in that there were drugs found in the
24 car. He -- you know, there's no evidence that she had any
25 really control over the vehicle, driving, and she wasn't the

1 one that borrowed it. There was no indication that any other
2 -- that her items were in the car. There's testimony that --
3 I just want to make it so there's a distinction.

4 You know, there's clear testimony that there were knives
5 in the car that were his. There's just no evidence that
6 incriminates or in any way casts even really any suspicion on
7 Ms. Tippins, and looking at the Jackson case and the Brown
8 case, I think they're directly on point. The only evidence
9 against her is that she had Mr. Riggins drive her to Clemson
10 to drop off her grandkids. But there's really no other
11 evidence whatsoever to implicate her.

12 And I think even the -- either the Brown case or the --
13 one of these cases actually had -- they actually had the drugs
14 were in the center console just like here or very similar to
15 here. So, I believe that there -- even considering all the --
16 whether there's any evidence presented or in the light most
17 favorable to the State, but there's just none presented as to
18 Ms. Tippins, and I'm going to grant a directed verdict as to
19 both charges.

20 MRS. NEWTON: Thank you, Your Honor.

21 THE COURT: All right. I did -- the jury did indicate
22 that they would want to stay late so that they can go ahead
23 and finish the case today. I know we've got some things now
24 -- I know that changes some things, and -- do you want to take
25 a few minutes and then discuss with your client on what we

DIRECT EXAMINATION OF RODNEY RIGGINS

1 need to do next?

2 MR. CRANE: That would be fantastic.

3 THE COURT: All right. Let's take ten minutes.

4 MR. CRANE: That's fine.

5 THE COURT: All right.

6 [Brief recess.]

7 THE COURT: All right, let me just ask you generally,
8 what -- are you planning on presenting any testimony?

9 MR. CRANE: I do not, Your Honor.

10 THE COURT: All right. Mr. Riggins, I'm going to -- at
11 this time I'm going to discuss with you your Fifth Amendment
12 rights, so if you'll stand at this time. Raise your right
13 hand.

14 [Whereupon, Rodney Riggins is duly sworn by the Court.]

15 RODNEY RIGGINS,

16 Having First Been Duly Sworn,

17 was Examined and Testified as Follows:

18 DIRECT EXAMINATION

19 BY THE COURT:

20 Q All right, first of all, how old are you?

21 A 70.

22 Q Okay. And how far did you go in school?

23 A Ninth grade.

24 Q Are you under the influence of any alcohol, drugs, or
25 medication today?

DIRECT EXAMINATION OF RODNEY RIGGINS

1 A No.

2 Q Do you have any health or mental issues which would keep
3 you from understanding what's going on?

4 A No, sir.

5 THE COURT: All right. The purpose of our discussion
6 here is we're at the stage of the trial, the State has rested.
7 It is now up to the -- you have the opportunity to present
8 testimony. You can either testify yourself or you can present
9 evidence through other witnesses. All right, and as I'm sure
10 your attorney has discussed with you, strategic reasons to not
11 present any evidence is that he would get the last argument on
12 the closing arguments.

13 Ultimately, this decision is up to you after consultation
14 with your attorney in what you want to do. Now, you have a
15 right -- first of you, as you personally, you have a right to
16 testify. And if you testify, you'd be subject to the same
17 cross examination as anyone else. What, if any, criminal
18 record could be used against him?

19 MR. HOFFERTH: He has a -- I believe it's a 2018
20 conviction for possession of methamphetamine that could
21 potentially come up.

22 THE COURT: All right. But that's the only one that ---

23 MR. HOFFERTH: I mean, the prior PWID is from 2006, so I
24 don't think.

25 THE COURT: Oh, okay. But you'd be subject to cross

DIRECT EXAMINATION OF RODNEY RIGGINS

1 examination just like any other witnesses. But you also have
2 the right not to testify, and that is your constitutional
3 right, and if you decide not to testify, I will advise the
4 jury that they are not even going to consider that in their
5 deliberations, that you are merely exercising your
6 constitutional right. So, ultimately the decision is yours.
7 I'll give you an opportunity to talk with your attorney. If
8 you need any further ---

9 MR. RIGGINS: I've talked to him.

10 BY THE COURT:

11 Q Well, do you know what you wish to do?

12 A Yes.

13 Q Okay, and what is that? Do you wish to ---

14 A ---

15 Q All right. Do you wish to testify?

16 A No, sir.

17 Q All right, you understand you have a right to testify and
18 it's also your constitutional right not to testify.

19 A Yes, I understand.

20 Q All right. And you don't need any time to discuss this
21 with anyone else?

22 A No, sir.

23 Q Or any additional time to think about it?

24 A No, sir.

25 Q And is this your decision?

DIRECT EXAMINATION OF RODNEY RIGGINS

1 A It is.

2 Q Has anybody coerced you or ---

3 A No, sir.

4 Q --- promised you anything to make this decision?

5 A No.

6 Q Okay, and this decision is made by you freely and
7 voluntarily?

8 A Yes, sir.

9 THE COURT: All right. Then I find that he has been
10 advised of his rights and that he waived his rights to
11 testify. So, thank you. You may be seated. Yes?

12 MR. CRANE: One thing, Your Honor. I was just going to
13 ask, how are we going to handle Ms. Tippins not being here?
14 What are we going to tell the jury?

15 THE COURT: Usually what I do on that point is just say
16 that I have -- as a matter of law, dismissed the charges
17 against her.

18 MR. CRANE: Well, she can't just disappear.

19 MR. HOFFERTH: Right. I mean ---

20 THE COURT: Or, as a matter of law, she's no longer in
21 the case.

22 MR. HOFFERTH: I think I would prefer that language as
23 opposed to dismissed.

24 THE COURT: Okay. That probably ---

25 MR. CRANE: Well, Your Honor ---

1 THE COURT: --- would be -- I'm not sure you want to ---

2 MR. CRANE: But her charges were dismissed, were they
3 not?

4 THE COURT: Well, do you want that?

5 MR. CRANE: I would love for you to say that her charges
6 have been dismissed and she's no longer part of this case.

7 THE COURT: All right, let me think about that. But I'll
8 -- my thought is that as a matter of law, that she's no longer
9 in the case. So. All right, do y'all need a few minutes?
10 Well, I guess we need to go over the charge.

11 MR. HOFFERTH: Yes. And I can go first, or ---

12 THE COURT: Well, let's just -- usually what I do -- I
13 like for y'all to go through -- let me go through what I've
14 done.

15 MR. HOFFERTH: Right.

16 THE COURT: Yeah, y'all just step back here for a minute.
17 Because it should be pretty basic, so. Come on back here, and
18 y'all can put anything on the record you need to tell me.

19 [Whereupon, a conference was held in chambers off the
20 record.]

21 THE COURT: All right, in chambers we have gone over the
22 charge. Any objections or exceptions from the State?

23 MR. HOFFERTH: None, Your Honor.

24 THE COURT: And from Defendant?

25 MR. CRANE: No, Your Honor.

1 THE COURT: All right, I've also looked at the verdict
2 form. Any issues with the verdict form from the State?

3 MR. HOFFERTH: None.

4 THE COURT: From the Defendant?

5 MR. CRANE: No, Your Honor.

6 THE COURT: All right. What I will advise the jury when
7 they come out, first I will tell them, based on my rulings,
8 that Ms. Tippins is no longer in the case. And I'm going to
9 say since it's now after 4:00, I'm going to say, it may be
10 close to 5:00 before -- are you okay with that, too, by the
11 way?

12 COURT REPORTER: I'm good with it either way.

13 THE COURT: I'm going to tell them it'll be close to 5:00
14 before I can put it to them, and if they say that they really
15 would rather come back in the morning -- because I think
16 before we thought it would be a little bit earlier than this,
17 so. All right. Bring the jury in.

18 [Whereupon, the jury enters the courtroom.]

19 THE COURT: All right, sometimes things take longer than
20 I anticipate. So, with that being said, it is now five after
21 4:00, and we've been at this -- first of all, I'd like to say,
22 based on rulings by the Court, Ms. Tippins is no longer in the
23 case, all right. So, therefore, the verdict that you'll be
24 presented with will only be as to the two charges as to Mr.
25 Riggins. Now, with it five after 4:00, like I said, we have

1 closing arguments by the attorneys and then I will charge you
2 on the law. That will probably take 45 minutes at a minimum.
3 So, the earliest I could put it to you is just before 5:00.

4 Now, I know that's a little bit different than kind of
5 what I asked y'all to think about, and do you feel like in
6 light of that little bit of change, a little bit later in the
7 day, do you need to -- feel like you need to have further
8 discussions with the jury about what they want to do?

9 FOREMAN: Yes.

10 THE COURT: All right, let me ask you to step back. And
11 I think that's important, because I realize this is an
12 inconvenience. I don't want to overburden anybody, so if you
13 could just step back there, have a quick vote or however you
14 want to do it, and just let me know what y'all want to do.

15 [Whereupon, the jury exits the courtroom for a brief
16 recess and re-enters the courtroom.]

17 THE COURT: All right, it's my understanding y'all are
18 willing to stay?

19 FOREMAN: Correct, yes, sir.

20 THE COURT: All right, thank you very much. All right,
21 as I said at this time, then, we're down to the final innings,
22 so to speak. So, we'll have closing arguments by the
23 attorneys. This is not evidence, this is their summary of the
24 case -- and their argument, and then the State will present
25 their argument first. The Defendant will have the right to

CLOSING ARGUMENT BY MR. HOFFERTH

1 close. And then I will charge you on the law. So, at this
2 time, Mr. Hofferth, you may proceed.

3 MR. HOFFERTH: Thank you, Your Honor. If I may just set
4 up the well ---

5 THE COURT: Yes.

6 MR. HOFFERTH: --- right quick.

CLOSING ARGUMENT BY MR. HOFFERTH

7
8 MR. HOFFERTH: Members of the jury, thank you for your
9 energy, your participation over the last two days. I know
10 it's a draining process, but it's not a cliché to say your
11 service is one that this system would not be able to go
12 without you. So, truthfully and sincerely, thank you for
13 being here.

14 So, what did we see over the course of today? Well, I
15 iterated it for you at the beginning of this trial, and I
16 think it panned out that exact same way. So, Officer
17 Millspaugh is on patrol that night, and he sees Mr. Riggins'
18 vehicle. It commits a traffic violation and he conducts a
19 stop, all right. And that's where this case really begins.
20 So, he's speaking to Mr. Riggins. Mr. Riggins eventually
21 tells him that it's not my car, right.

22 But Officer Millspaugh didn't know that. Dispatch had
23 called in, and told him this was a car registered out of
24 Texas, somebody with the last name of somebody named
25 Beauchamp. So, he speaks to Mr. Riggins and he learns not

CLOSING ARGUMENT BY MR. HOFFERTH

1 only is this not his car, but I don't have a license. I'm
2 suspended, right. He asked Mr. Riggins outside the car. Mr.
3 Riggins indicates that he has some personal belongings in the
4 car, specifically a knife or some knives throughout the car.

5 So, he exits the car. And before he even asked him the
6 next question, it's now if I have my understanding right, you
7 have to call the owner of the vehicle if you want to search
8 it. Members of the jury, I think that statement speaks
9 volumes as to the backdrop of what Mr. Riggins was doing that
10 night. The backdrop of his knowledge or lack of knowledge of
11 what was in the car, his backdrop of what he was trying to do.
12 Now, we learn, of course, that Officer Millspaugh does
13 eventually get consent to search that vehicle.

14 And what does he find? Three minutes into looking
15 through that vehicle, which I think we can all agree looks
16 lived in, looks trashed, and if the story is straight that Mr.
17 Riggins presented that he was camping or picking somebody up
18 from camping or picking Ms. Tippins up from camping or they
19 had been in it for two weeks or an hour or however many days
20 -- the car was trashed. There were a lot of personal
21 belongings in it, and one would think that would take a long
22 time to get sifted through. But within three minutes in the
23 ash tray, he finds a syringe, right. It piques his interest,
24 as it would. I need to keep looking.

25 And so he does, continuing to go through the items in the

CLOSING ARGUMENT BY MR. HOFFERTH

1 car, and what does he find? A torch lighter in the back seat.
2 I think we all have the wherewithal to know what this trail is
3 amounting to, right. It's 11:30 at night, in a vehicle that's
4 not his. He's driving suspended, right. His first impression
5 is, I can't grant you consent to search it. They keep going.
6 Right above where that syringe was found, Detective Owens
7 tells you he lifts that compartment. He lifts it. He didn't
8 take a crowbar to the car. He didn't rip it out. He pulls it
9 up. What does he find?

10 He finds the subject of why we are here today, a
11 trafficking level of methamphetamine and distribution levels
12 of heroin. That's an important point. Besides the gravity of
13 what predicates those drugs, trafficking level and
14 distribution level -- I want you to keep those words in mind
15 as we circle back here.

16 So, I talked to you about the law and what the State has
17 to prove to you here today, and how it is common sense, right.
18 You find a bag of methamphetamine, a bag of heroin in my coat
19 pocket, of course I'm in possession of it. But that's not the
20 real issue here today, right? Because from the very
21 beginning, Mr. Riggins had stated, well, it's not my -- I
22 don't know anything about that. I don't know anything about
23 that. Which is why the law provides for an instruction on
24 constructive possession.

25 What is constructive possession? Well, there's multiple

CLOSING ARGUMENT BY MR. HOFFERTH

1 parts, and we talked about those, right. The first one, power
2 and control. The drugs have to be in an area that is within
3 the power and control of the Defendant. I used the words
4 dominion and control in the beginning of today's trial. I
5 think power and control is a little bit more straightforward.
6 What does that mean? It means when I'm driving around in my
7 car, and I have to reach for my phone in the backseat, I have
8 to reach for my wallet in the backseat, those items in my car
9 are within my power and control, right.

10 In this courtroom, I can go and pour myself a glass of
11 water or I can go and grab something from the other end of the
12 courtroom because I am in this room and I can possess those
13 things that are within this room, right. So, I offer to you
14 this element is very straightforward. He's driving the car.
15 The drugs are found about a foot away from him in the center
16 console of the car. They are within proximity-wise and within
17 his rights, within his power and control, right.

18 But, let's get to the crux of this charge. It's a part
19 that Mr. Crane is going to speak at length about, and
20 rightfully so, and that needs to be addressed. It's the
21 knowledge element, right. This whole time we're at this
22 friction, this standpoint where Mr. Riggins is saying I didn't
23 know about those, right. I didn't know that was in my car.
24 It's a hidden compartment. How would I have known? Well,
25 members of the jury, thankfully, the law provides for

CLOSING ARGUMENT BY MR. HOFFERTH

1 situations just like this. It provides for situations of
2 constructive possession and of course it provides for
3 situations where an individual is going to use ignorance as
4 bliss, right. Not mine, how would I have known?

5 Well, let's talk about exactly why Mr. Riggins knew those
6 drugs were in his car. And I think, in evaluating this, we
7 just follow the trail. Follow what he did that night. What
8 do we know as absolute fact? Well, one, he's driving
9 suspended. He's committing a crime when he gets in a car and
10 drives. You know you're not supposed to drive suspended.
11 That's, I think, very straightforward, right.

12 But let's take it -- again, let's just take this for his
13 benefit, okay. Let's say he's being a good Samaritan and
14 going to pick up his friend in Greenwood. Greenwood. He's
15 not driving down to CVS, I need a quick jump. Going to get my
16 friend and bring him back, all right. I'm going to drive 60
17 miles, an hour and 20 minutes, and pick up Ms. Tippins.

18 Let's think about that. And I'm not going to use my car.
19 No, no, no. I'm going to use my friend's car, who I don't
20 know their name. It's probably on the registration. We call
21 her Pink. Does that make sense? Is that rational? Is it
22 logical? Does it align with any notion, even if he is the
23 most unfortunate individual in the world that, I was just
24 trying to do a good thing, and you know, take this car and
25 pick up my friend. I knew I was suspended and I know I don't

CLOSING ARGUMENT BY MR. HOFFERTH

1 really know whose car it is, but I think it's the right thing
2 to do. Does that make sense?

3 Well, let's just go further, because what else do we
4 know? So, Mr. Riggins goes at length that, you know, so we
5 were camping, or somebody was camping. She was camping. Now,
6 again, whether it be a day, whether it be two weeks, what does
7 it look like in that car? How long do you think he was in
8 that car? Using that car? I would offer to you we're looking
9 at the two weeks plus mark, right.

10 And then as we go through the contents of it, it's just
11 selective, right? It's -- I know about this or this is mine,
12 but how could I have known about the drugs. I know about my
13 knives that are in the bags in the car, right. There's a
14 walking stick in the car that could be used for camping that
15 could be his, but we're going to draw the line, you know, this
16 syringe could be used for other purposes. The torch could be
17 used for other purposes. I don't know about the drugs, how
18 could I?

19 Members of the jury, it simply makes no sense. Now, I
20 want to dive into this dynamic further here regarding the
21 status of this car, him using it, and what this relationship
22 could be between him and the person he's borrowing it from.
23 Well, right off the bat, I would offer you, members of the
24 jury, most likely story is he wasn't borrowing it from
25 anybody. I think it was his car -- he believed it was his car

CLOSING ARGUMENT BY MR. HOFFERTH

1 for all intents and purposes. The registration wasn't
2 changed, and he was driving in it for the last few weeks. I
3 think that's the most likely explanation. And I think the
4 camera footage of the inside of the car reflects that.

5 Now -- but let's take a step towards giving him the
6 benefit of the doubt. Let's say Pink is his friend, right.
7 He borrows this car from her, and he's taking it to do this
8 good Samaritan deed to go pick up Ms. Tippins in Greenwood,
9 and driving her back. That's his friend, right? That's a
10 good friend. Don't know her name, but it's a good friend to
11 let me use her car and do that, right.

12 Now, when he gets that search conducted and they find a
13 trafficking level of methamphetamine and a distribution level
14 of heroin in the car, what does that say to you about that
15 potential dynamic? I think Officer Millspaugh said what
16 should resonate with you when you go back in that jury room,
17 and something you can always come back to when you're trying
18 to figure out actually what happened in this case.

19 You can start with a drug user and then go to a drug
20 dealer. And I will tell you this right now, just like Officer
21 Millspaugh told you. A drug dealer and especially -- I'm
22 sorry, a drug user and especially a drug dealer, they may lose
23 their phone. They may lose their wallet. They may lose their
24 keys. They may lose their kid. They may lose their wife.
25 They are not losing 14 grams of methamphetamine, and they are

CLOSING ARGUMENT BY MR. HOFFERTH

1 not losing two -- over two grams of heroin. That does not
2 happen.

3 This is not a situation where somebody hands the keys off
4 and -- left my meth in there. Left my heroin. Oh well, you
5 know. It's in a hidden compartment, I'm sure it won't amount
6 to anything. But, let's go a step further. Let's keep giving
7 him the benefit of the doubt. I think that's important. So,
8 let's assume what, that these were intentionally left in
9 there? That he was given this car by Pink, that he doesn't
10 know her name, but she wanted the drugs to be in the car?
11 Does that make any more sense? Does that make any sense?

12 And if that were the case, and this is his friend, don't
13 you think that some kind of light bulb would go off as soon as
14 those drugs are found? You've got to be kidding me. I got
15 this car from Pink, and you know what, this has got to be some
16 kind of set up. This has got to be something. That didn't
17 happen. That didn't happen. I think as far as you go, as
18 much length, as much leeway, as much as you want to give him
19 and his purported story, it makes less and less sense. It
20 makes less and less sense, members of the jury.

21 Now, I want to talk more about this knowledge element,
22 because I can guarantee you the theme of Mr. Crane's argument
23 when he gets up before you is that you can't hold the man
24 accountable for ignorance, when he doesn't know what's in his
25 car. How could he know the contents in his car? Members of

CLOSING ARGUMENT BY MR. HOFFERTH

1 the jury, I need to remind you that this element right here
2 does not require, and how could it require, an individual to
3 ultimately say, well, yeah, these are my drugs. To say -- or
4 as I talked with Detective Owens, there's not going to be a
5 name tag on these drugs. People are not inclined to take
6 ownership of drugs. You have to think critically. You have
7 to put the circumstances together of what you saw on that
8 video with what you saw on that search and make the natural
9 conclusion, right.

10 I think most all of us when we were growing up, just
11 starting to drive, our mom or whoever it may be has a
12 discussion with you and says, you better be careful who you
13 let in your car, you better be careful of what comes in your
14 car, because it's on you. It's on you. When you're driving
15 the car, you better be careful, and you better take
16 responsibility for what comes in it. Is there not truth to
17 that?

18 Now, I want to touch also on some things that came up in
19 examination of these witnesses and some points that I think
20 were trying to be made regarding the contents of that car and
21 what they mean and their significance. Members of the jury, a
22 syringe I believe is used sometimes in cases of diabetes.
23 It's used in medical practice. It's used for wholly
24 legitimate purposes. A torch lighter may be used to light a
25 fire at a campsite. It may be used for totally legitimate

CLOSING ARGUMENT BY MR. HOFFERTH

1 purposes, although I know of few other than drugs.

2 Put them together, you have the baseball bat, you have
3 the baseballs, but the defense would have you believe that no,
4 well, I don't know what sport that is. I'm not sure, it's not
5 enough. They're innocuous. It doesn't make sense, members of
6 the jury. Now, what the spirit of this trial and what all
7 criminal trials come down to is reasonable doubt, all right.
8 The buzz word, the Law and Order, the big discussion that's
9 said a million different times. You're going to hear a
10 definition that the judge gives you of reasonable doubt. I
11 can give you a definition of reasonable doubt. Mr. Crane will
12 give you a definition of reasonable doubt, and they'll be
13 three different things.

14 Well, let me let you in on a little secret. There is no
15 unanimous definition of reasonable doubt. I would offer to
16 you that the most effective way to think of it, the most
17 useful way to think of it is just in the plain language.
18 What's reasonable? I have a million doubts that are not
19 reasonable. We all do. There's a reason we don't put cases
20 in front of one juror or two jurors or three. Reasonable
21 doubt is something you can sift through when you're in a group
22 of 12 people and you can discuss a case, right. And
23 ultimately, when you come to a decision that leaves you firmly
24 convinced of the Defendant's guilt or innocence, that's one of
25 those definitions. I won't hold you to it. But it's just

CLOSING ARGUMENT BY MR. HOFFERTH

1 one.

2 Now, I think when you end up going through the evidence
3 of today's trial, all right, when you think of all the things
4 that you've seen, what really did the defense have to buck
5 back on? Well, Detective Owens didn't have his camera on. We
6 don't see those pictures. We don't have this angle. We
7 didn't see him go in. In fact, he pulled the thing out, even
8 though he was before you and testified to it. Members of the
9 jury, unfortunately, these occasions, these instances where
10 police arrive, thankfully, and conduct their investigations,
11 they are not directed by Steven Spielberg. You're not going
12 to have five different angles. You're not going to have the
13 action shot. You're not going to have nine different angles
14 of what's going on.

15 But thankfully, what we have before you today shows you
16 the entire sequence of events from when he comes up to that
17 car, from when they go through the search, and to when they
18 find the drugs. I offer to you that there's no holes in what
19 you saw. Now, members of the jury, I want you to stay focused
20 when you go back in that jury deliberation room, and really
21 think about the sequence of events that occurred when Officer
22 Millspaugh came up to the car. I think, of all things that we
23 individuals are good at, and most especially what we are good
24 at in groups, is determining the motivations and the
25 inclinations of an individual by being able to look at them

CLOSING ARGUMENT BY MR. CRANE

1 and see them. That's what we're good at.

2 You are able to see his conduct throughout the course of
3 that night. You are able to see the conduct of the officers
4 when they are going through the car. You can put the story
5 together. And I'm firmly convinced that when you do so, that
6 you will not let ignorance be bliss for Mr. Riggins. You will
7 not let him spin the fact that he was driving that car, in
8 possession of it, with the entire backdrop that you saw, and
9 let him at the last minute when he's caught red-handed to say
10 well, how could I have known. How could I have known? That's
11 not reasonable. It's not logical. It's not common-sensical.
12 It doesn't add up.

13 I implore you, members of the jury, use your common
14 sense. Use your shared wisdom. Use logic. Use reason. And
15 I am convinced that you will come to one outcome, and that's
16 holding Mr. Riggins accountable for his actions, holding him
17 accountable for possessing trafficking levels of
18 methamphetamine and distribution levels of heroin. Again,
19 thank you all for your participation today.

20 THE COURT: Mr. Crane?

21 MR. CRANE: Thank you, Your Honor.

CLOSING ARGUMENT BY MR. CRANE

22 MR. CRANE: Ladies and gentlemen, thank you for being
23 here today. We know it's kind of an arduous thing we do here,
24 but we appreciate your service to us. In my opening
25

CLOSING ARGUMENT BY MR. CRANE

1 statement, I asked you all to pay the most -- to pay close
2 attention to the evidence that is the most important part of
3 the jury trial. It tells you the important -- and what you do
4 with that evidence and how you interpret it. Now, first we
5 heard from Officer Owens, who found the drugs in the van. The
6 evidence he presented is that he searched the van and found
7 the drugs.

8 From the very beginning, we have not denied that there
9 were drugs found in that van. What you didn't hear from
10 Officer Owens was any evidence that tied those drugs to Mr.
11 Riggins. Detective Owens testified he didn't find any
12 receipts, he didn't find any papers, he didn't find anything
13 that would show Mr. Riggins having any ownership of that house
14 -- excuse me, of that van. The van was completely devoid of
15 any evidence that Mr. Riggins was a regular driver or a
16 regular user of that van.

17 You then heard from Officer Millspaugh, who initiated a
18 traffic stop on Mr. Riggins and was the main investigator in
19 this case. You can hear him ask Mr. Riggins more than once,
20 was there anything in the van. You hear Mr. Riggins tell him
21 time and time again, no, there's not. He gets Mr. Riggins out
22 of the van, empties his pockets, and no drugs are found. He
23 pats Mr. Riggins down, no drugs are found. He then again asks
24 him if there's anything illegal in the van. Mr. Riggins
25 replies not that I know of.

CLOSING ARGUMENT BY MR. CRANE

1 Now, the State would have you say that's kind of a
2 strange answer, but he had already told Officer Millspaugh at
3 least three times by then there were no drugs in that van.
4 So, his answer of not that sort of fits the situation here.
5 It's not his van, so if he says no, maybe he's not sure of no,
6 but saying not that I know of, certainly fits someone asking
7 about a van that doesn't belong to you. It wasn't his van,
8 but he knew what he had in that van, and he knew that he
9 didn't have any drugs in there.

10 Mr. Riggins eventually gives Millspaugh consent to search
11 the van. Now, I want you to ask yourselves something and I
12 want you to think about it while you're back there
13 deliberating. If you know that there's a trafficking weight
14 of methamphetamine and a distribution weight amount of heroin
15 in your vehicle, are you just going to go ahead and let an
16 officer search that van? I know I'm not, and I'm going to try
17 my best to keep that officer as far away from that van as
18 possible.

19 There's one more example that Mr. Riggins had no idea
20 there were drugs in that -- why would he just let the officers
21 go ahead and search it? I also want you to ask yourself that
22 whenever -- I'm sure we've all borrowed a car at some point in
23 our lives. I want you to ask if the last time you borrowed a
24 van -- or a car, did you check the whole thing to see what was
25 in there? Detective Owens said that most cars have voids in

CLOSING ARGUMENT BY MR. CRANE

1 them. Does anybody here know where all the voids are in your
2 own car? Or if you know where all the voids are on the car
3 that you borrowed?

4 Mr. Hofferth said that drug users don't just leave drugs
5 in a car. Mr. Hofferth would have you -- just try to convince
6 you that Mr. Riggins left here -- or Pickens County, and drove
7 all the way down to Greenwood, and then drove all the way back
8 here. That was not in testimony anywhere. What actually
9 happened is Mr. Riggins was already in Greenwood. He was with
10 Ms. Tippins in Greenwood, and he was taking her, as she said,
11 to bring her up here to drop her children off -- her
12 grandchildren off. The owner of that car, her name was Pink.

13 Now, Mr. Hofferth would have you say that drug users just
14 don't leave their drugs in the car, but if you know that
15 someone is borrowing your car and just running up to Clemson
16 and coming back to Greenwood, then maybe it's a good place to
17 keep your drugs, because again, they were in a hidden
18 compartment and nobody should be able to find those.

19 We see Millspaugh search the car. The first item that he
20 finds is a syringe. He and the State both would want you to
21 believe that the syringe was used for drugs. But, we've never
22 seen this syringe. We don't know if there was drugs in it.
23 We don't know what it was used for. It was found in a closed
24 compartment, under the radio, and again, there's no evidence
25 to point that it belonged to Mr. Riggins.

CLOSING ARGUMENT BY MR. CRANE

1 There was also testimony that Mr. Riggins' arms weren't
2 ever checked. That would have been a pretty easy thing to do,
3 to look and see if he had track marks on his arms, to see if
4 he had been using drugs that day. And wouldn't it be nice to
5 have that syringe here? Wouldn't it be great to know if that
6 syringe actually was used for drugs, or if there were drugs in
7 it? We don't know.

8 In conjunction with the syringe, Millspaugh wants you to
9 believe -- excuse me, Officer Millspaugh wants you to believe
10 the torch lighter found in the console was for drug use.
11 However, we don't even know if that lighter worked. It was
12 never tested. There is testimony that Mr. Riggins had been
13 camping. There was testimony from Officer Millspaugh that
14 those lighters can be used to start campfires. Again,
15 wouldn't it be great to have that lighter here where we could
16 see if it works and see if, you know, if there were any
17 fingerprints or anything?

18 Mr. Hofferth is trying to get you to connect the dots.
19 First, he says we have a syringe. Then he says that we have
20 -- first we have the syringe, and then we have the lighter.
21 He says we have a baseball and we have the bat. Well, in
22 order to do drugs as Officer Millspaugh testified to, you need
23 something else. You can't just cook -- you can't inject drugs
24 without cooking them in some sort of fashion, so I would argue
25 with Mr. Hofferth that we have the bat, we have the ball, but

CLOSING ARGUMENT BY MR. CRANE

1 we don't have the bases, so we still can't play baseball.
2 There's never any sort of cooking apparatus, nothing like that
3 found in that car.

4 Now, if Mr. Riggins was in that car and was actively
5 using the drugs in that car and actively doing drugs, there
6 would have been something found in that car to cook the drugs
7 with. During the search, there were no drugs found in or
8 under Mr. Riggins' seat. They weren't found in the console.
9 They weren't found in the door. They weren't found in the
10 visor, not in the glove box, or under the door mat, et cetera,
11 et cetera -- excuse me, under the floor mat. The only place
12 drugs were found in that car -- excuse me, in that van, is in
13 the hidden compartment behind the radio in the van that Mr.
14 Riggins did not own, did not regularly use, and had only
15 borrowed the day earlier.

16 Mr. Riggins said that he had been camping for a week or
17 two. There's no testimony that he had been using that van for
18 a week or two. It's true there were his belongings in the
19 car, but isn't it possible that you can go camping for a week
20 or two, put your stuff in a van, and then drive to Clemson?
21 It's not that far-fetched to believe that -- I don't
22 understand why these officers would believe that because Mr.
23 Riggins said that he had been camping for a week, that that
24 had meant that he had possession of that van for a week.

25 Mr. Hofferth also says that there was stuff in the van,

CLOSING ARGUMENT BY MR. CRANE

1 it was a mess. What of that belonged to Mr. Riggins? If
2 there's all this mess in the van, and Mr. Riggins has told
3 them that he has knives in there, what else is there? They
4 haven't said, oh, this is a fill-in-the-blank, it obviously
5 belongs to Mr. Riggins. I told you at the end of this trial
6 the judge is going to instruct you on the law. He's going to
7 tell you that mere presence by Mr. Riggins being in that van
8 along with the drugs is simply not enough. You must have more
9 than mere presence. The evidence presented needed to convince
10 you that Mr. Riggins had the right and power to exercise
11 control over those drugs, and that's step one.

12 That hasn't happened. There has been absolutely zero
13 testimony that Mr. Riggins had any control over those drugs.
14 They were in the car, and Mr. Riggins -- they were in the van,
15 and Mr. Riggins was driving the van, but it's up to you to
16 decide if there's a connection between those two. Even if
17 you're convinced that Mr. Riggins did have control over the
18 drugs, that's still not enough.

19 The State must also prove that Mr. Riggins had knowledge
20 that there were drugs in the van that night. But where is our
21 proof that he had knowledge that night? There's no testimony
22 that was given by either of the officers whatsoever that
23 showed Mr. Riggins had any knowledge of the drugs being in
24 that car. Even Ms. Tippins, who was here earlier, when she
25 was taken to the front of the van by Officer Millspaugh, she

CLOSING ARGUMENT BY MR. CRANE

1 was given the chance to kind of save herself a little bit, and
2 she still said it was not Mr. Riggins' van, and that there
3 were no drugs in the vehicle. So again, why would she lie?
4 What reason does she have to lie to that officer? She had
5 just gotten in the car an hour earlier with Mr. Riggins, so
6 what is her -- what is her reason to lie to them about Mr.
7 Riggins not having drugs in that car?

8 I also told you at the end of this trial the judge was
9 going to instruct you on reasonable doubt. Mr. Hofferth went
10 over it. We all have slightly different definitions of
11 reasonable doubt. If you have any reasonable doubt Mr.
12 Riggins didn't know the drugs were in there, then you must
13 return a verdict of not guilty. This means that there is no
14 other reasonable explanation that can come from the evidence
15 presented during this trial. Well, there was a reason --
16 there was another reasonable explanation, and it's that
17 someone else put the drugs there, that those drugs belonged to
18 someone else, because there's no evidence that would show that
19 Mr. Riggins had any idea that those drugs were there or that
20 they belonged to him. He was in a borrowed van that had a van
21 load of things in it, none of which belonged to him.

22 As I said before, you can't sort of believe the drugs
23 belonged to him. You can't say, well, maybe they belonged to
24 him. You can't even say, well, I think they might have
25 belonged to him. The standard that the judge is going to read

CHARGE OF THE COURT

1 to you is you have to be firmly convinced beyond a reasonable
2 doubt, meaning that there is no other explanation that the
3 drugs belonged to Mr. Riggins.

4 Again, Mr. Riggins does not have to convince you that the
5 drugs didn't belong to him. The State has the burden to prove
6 that they did. I don't believe that they've proven that.
7 They've proved that the drugs were found in the van, that's
8 all they've proven. They haven't presented any evidence or
9 testimony that shows that the drugs found that night belonged
10 to Mr. Riggins. I know that Mr. Hofferth has said ignorance
11 is bliss, but who are we to decide what is ignorance and what
12 is a true lack of knowledge. They can probably look the same.

13 After hearing all of the evidence that's been presented
14 today and all the testimony that was given, the State simply
15 has not proven their case. They have not satisfied their
16 burden of proof in this case, and the only fair verdict that
17 you as the jury can return is one of not guilty. Again, thank
18 you for your time and your service.

19 THE COURT: All right, ladies and gentlemen. Now, you're
20 going to hear from me.

CHARGE OF THE COURT

22 THE COURT: All right, ladies and gentlemen, now you get
23 to -- as I said, one of my duties in this case is to charge
24 you on the law, and that's what this is. This is the law that
25 you will use. You will take the evidence, you will take the

CHARGE OF THE COURT

1 law, and you will -- that's what you will use to make your
2 decision. As I told you in the very beginning, the fact that
3 somebody was indicted, that you heard the referenced
4 indictments, somebody was charged, somebody was arrested, is
5 not evidence. That's merely the formal process that brings
6 this matter to the courthouse.

7 Those are the charges -- those are the allegations made
8 by the State, which establishes the burden of proof that the
9 State has. And I repeat, and I will tell you this probably
10 several times, and that is the Defendant has no burden in this
11 proof -- in this case. So, what are the different duties? As
12 I told you, my duty is to charge you on the law. And if you
13 came into this court and you thought you may have had an
14 opinion about what the law should be or maybe you thought what
15 it was, if it contradicts what I'm telling you, you've taken
16 an oath that says I will apply the law as discussed by the
17 judge.

18 What are your -- as I said, your role is to give the
19 weight and value to each piece of evidence and decide what
20 convinces you of what the verdict should be. And that is,
21 there is no rhyme or reason -- or no particular rules on that,
22 it's the collective process between the 12 of you in
23 determining what convinces you of the answer to the questions
24 that you have to ask.

25 The -- and as I said also, if there's anything that I

CHARGE OF THE COURT

1 said or did throughout this process that makes you think I
2 have an opinion of the facts, you're to disregard that,
3 because that is not my role. That is your role.

4 Now, we have two separate charges that you'll be
5 considering. We have trafficking methamphetamine between 10
6 and 28 grams, and possession of heroin with intent to
7 distribute. Those are two separate charges, and they are to
8 be considered separately by you. And as you will see when you
9 get back in your jury room, you will have a jury -- you'll
10 have the verdict form. And it will first ask you the question
11 regarding trafficking methamphetamine. And you're to consider
12 that, and you're to consider the evidence, and you're to make
13 a decision. And that's a decision that all 12 of you must
14 agree on.

15 And regardless of your decision on that one, then you --
16 once you've made that decision, then you will go to the next
17 charge, the possession of heroin with intent to distribute.
18 Your decision on the first one should have no bearing on the
19 second one. You consider that independently and make your
20 decision on that charge based on the elements that I'm giving
21 you and based on the evidence.

22 You can find -- you know, your options -- I guess there
23 would be three. You can find the Defendant guilty of both,
24 you can the Defendant not guilty of both, or you can find the
25 Defendant guilty of one and not guilty of the other. It's

CHARGE OF THE COURT

1 your decision based on what you find the evidence established.

2 Now also, as I told you in the beginning, and this is a
3 very important kind of foundation of our judicial -- or
4 criminal justice system, and that is the presumption of
5 innocence. That's a very important part of our system. And
6 that is, the Defendant is presumed innocent, no matter what
7 stage of the trial, when a person is charged, when a person is
8 indicted, when a person comes to court, they have the
9 presumption of innocence. And that stays with him throughout
10 the whole trial. It stays with him up until now. It is only
11 -- it only goes away when the jury has found the State has met
12 its burden beyond a reasonable doubt. Up to that point, they
13 are presumed innocent, and any benefit of the doubt that you
14 should have goes in favor of the Defendant, because, again,
15 they have no burden whatsoever in any criminal case, no matter
16 what level.

17 Now, what is reasonable doubt? You know, there's nothing
18 in this world that we can prove with absolute certainty, and
19 the law does not require that. The law in a criminal case is
20 different than a civil case. A civil case is much less of a
21 burden. In a criminal case, it's beyond a reasonable doubt.
22 Reasonable doubt is the kind of doubt that would make a
23 reasonable person hesitate to act. Proof beyond a reasonable
24 doubt is proof that leaves you firmly convinced of the
25 Defendant's guilt.

CHARGE OF THE COURT

1 So, that's the tools, and it's each element of the charge
2 that I will talk with you about in just a minute. The State
3 has that burden beyond a reasonable doubt. In basing your
4 consideration, you are firmly convinced the Defendant is
5 guilty of the charge you are considering, then you are to find
6 the Defendant guilty. On the other hand, you think there is a
7 possibility that he's not guilty, then you must give him the
8 benefit of that doubt. Facts and circumstances that merely
9 place upon a Defendant a suspicion of the crime, charge that
10 merely raises speculation or conjecture of his guilt is not
11 sufficient to find him guilty. So that's your reasonable
12 doubt. That's the burden of proof.

13 Now, what kind of evidence can be considered? There's
14 two types of evidence. There's direct evidence and there's
15 circumstantial evidence. Direct evidence is when a piece of
16 evidence specifically proves a particular point.
17 Circumstantial evidence is when you may have to have a series
18 of facts to prove a particular point. The law makes no
19 distinction whether the State can use direct or circumstantial
20 evidence for their burden. They can use direct. They can use
21 circumstantial. Or they can use a combination of the two.
22 Still the burden is the same, it's beyond a reasonable doubt.
23 And however to the extent the State relies on circumstantial
24 evidence, all of the circumstances must be consistent with
25 each other and when taken together, point conclusively to the

CHARGE OF THE COURT

1 guilt of the accused beyond a reasonable doubt.

2 If the circumstances merely betray the Defendant's
3 behavior as suspicious, the proof has failed. Now, let me
4 talk another thing about what you may consider, is credibility
5 of witnesses. Credibility merely means believability. You
6 must judge a person's credibility based on your own -- your
7 collective common sense and experiences. You may judge a
8 person -- you may consider any bias that a person had on the
9 stand, whether -- how they acted, how they were dressed, how
10 they reacted to questions. All of those can be factored in
11 when they determine their believability.

12 Now, you may accept all of a person's testimony, you may
13 accept a portion of it and reject the remaining portion. You
14 may accept one witness over another witness. You may accept
15 all of the testimony of the witnesses or reject it. So, it's
16 up to you to determine what part to believe and what part not
17 to believe. And all that goes into the credibility of
18 witnesses.

19 Now, let me talk with you about another very important
20 part of our criminal justice system, and it's kind of one of
21 the foundations of our system. And that is, a person's right
22 -- Constitutional right not to testify. As I said, the
23 Defendant has no burden in this proof, so therefore, they are
24 not required to present any evidence or testify. They have a
25 Constitutional right not to testify, and that's important, and

CHARGE OF THE COURT

1 I will tell you that you're not even to consider that in your
2 deliberations. That is not even something for you to even
3 think about, because that is not what is before you. The
4 State has the burden, and you're to look at the burden that
5 the evidence presented by the State.

6 All right, those are your general rules that you will
7 have to make your decision. And again, when I say, you
8 determine the facts, you will go down to, as to each charge --
9 and I'll go through this verdict form in a minute. Is the
10 Defendant guilty or the Defendant not guilty as to each
11 question. So, you have the general rules that you can use to
12 apply.

13 Now I'm going to talk with you about the specific charges
14 and the elements of those. First, I will talk about
15 trafficking methamphetamine. In order to prove trafficking --
16 and there's a list of things under our statute which
17 constitutes trafficking of methamphetamine. In order to prove
18 trafficking of methamphetamine, the State must prove beyond a
19 reasonable doubt any of the following: that a person
20 knowingly sold, manufactured, delivered, purchased, or brought
21 into the State, or who provided financial assistance or
22 otherwise aided, abetted or attempted, or conspired to sell,
23 manufacture, deliver, purchase, or bring into this State more
24 than 10 grams, but less than 20 grams of methamphetamine, or
25 who knowingly -- or who was knowingly in actual or

CHARGE OF THE COURT

1 constructive possession or who knowingly attempted to become
2 in actual or constructive possession of 10 grams but less than
3 28 grams of methamphetamine. So therefore, you have to -- you
4 have the action of -- and the amount is 10 grams but less than
5 28 grams of methamphetamine.

6 So, that is the elements of that charge. Now, you heard
7 me mention the words actual and constructive possession. Now,
8 let me -- at this point, I'm going to define that, because in
9 order to prove possession, the State must prove two elements
10 beyond a reasonable doubt. The first element is that the
11 Defendant had the right and power to control the disposition
12 or use of the drugs. And then for actual possession, the
13 State must prove that the Defendant had physical custody of
14 the drugs. For constructive possession, the State must prove
15 by other evidence that the Defendant had the right and power
16 to exercise control over the drugs.

17 And the second part -- so your first part is that the
18 Defendant had the right and power to control the disposition
19 and use of the drugs, and you can use actual -- the
20 definitions of actual and constructive possession there. And
21 the second element is the Defendant had knowledge of the drugs
22 and the intent to control the disposition or use of the drugs.
23 So those are your -- that is your trafficking methamphetamine,
24 either actual or constructive possession.

25 Now, the second charge, which you will consider

CHARGE OF THE COURT

1 separately, is possession with the intent to distribute
2 heroin. And the elements of this, also beyond a reasonable
3 doubt, is that the Defendant possessed heroin with the intent
4 to distribute it. To prove possession, the State must prove
5 actual or constructive possession, using the definitions that
6 I've already given you.

7 The State must also prove beyond a reasonable doubt that
8 the Defendant intended to distribute the heroin. Distribute
9 means to deliver, other than by administering or dispensing a
10 drug. Intent may be shown by acts and conduct of the
11 Defendant, and other circumstances from which he may naturally
12 and reasonably infer intent. In determining whether the
13 Defendant had the intent to distribute the heroin, you may
14 consider the circumstances surrounding the Defendant's alleged
15 possession. You may consider the amount of the substance
16 alleged to have been possessed, the manner in which it was
17 allegedly possessed, the place where it was allegedly
18 possessed, and other factors which you can consider to be
19 important.

20 You must find that the Defendant did not intend to have
21 the heroin solely for his own use. Possession of more than
22 two grains or .13 grams of heroin is prima facia evidence of
23 possession with intent to distribute. Prima facia evidence is
24 evidence sufficient in law to raise a presumption of fact or
25 establish the fact in question unless rebutted. So, again,

CHARGE OF THE COURT

1 there's a prima facia evidence is, under our law, is that if a
2 possession of more than two grains, or .13 grams of heroin is
3 prima facia evidence.

4 Now, a conviction -- so that's the elements of possession
5 with intent to distribute heroin. A conviction based on
6 possession of a drug requires proof of possession with the
7 additional requirements that we've discussed. Mere proof of
8 presence of a Defendant in a location where drugs are found is
9 not sufficient in and of itself to convict a Defendant of the
10 crime of possession.

11 Now, let me go through the verdict form with you, and Mr.
12 Foreman, I'm going to give you this form at this time. This
13 is the form you'll have back in your jury room. The top part
14 of this is merely the caption of the case and the number. So,
15 you'll answer each of these questions. The first question is
16 as to the charge of trafficking methamphetamine, indictment,
17 and it has the number, we the jury unanimously find the
18 Defendant Rodney David Riggins, and you check one. If you
19 find the State has met its burden on this charge beyond a
20 reasonable doubt, you would check guilty. If you find the
21 State has not met its burden, then you would check not guilty.

22 At that point, you would then go to the next question.
23 It's the same analysis, with the possession of heroin with the
24 intent to distribute. We the jury unanimously find the
25 Defendant Rodney David Riggins -- again, if you find the State

CHARGE OF THE COURT

1 has met its burden beyond a reasonable doubt as to that
2 charge, you would check guilty. If you have found they have
3 not met their burden, then not guilty. Once you have reached
4 a verdict that all 12 of you agree on, you would sign and
5 date, and you would let the bailiff know.

6 Now, a couple of things, too, that I'd like to point out.
7 One, if you have any questions -- that's what your role as
8 foreperson is is to write those questions on a piece of paper,
9 sign and date them, and present them to the bailiff. The
10 bailiff will bring them to me. I can either respond on that
11 piece of paper with a response, or I can bring you back in and
12 have additional charges -- give you additional information.

13 As to the -- but I can't answer factual questions. If
14 there is a reference to something and you want to know, oh,
15 what did that report say or what did that person see, we can't
16 answer that. All the evidence is before you for you to
17 consider. There was a video played. We're not set up to be
18 able to send that up -- back in to the jury room. In the
19 event that you wanted to see the video, you just need to send
20 me a note and we'll queue it up. And let me know what
21 portions you want to see. We'll queue it up, and you'd have
22 to come in here and watch it. But your evidence -- you know,
23 your verdict should be based on the evidence that was
24 presented. It shouldn't be based on any passion, any
25 prejudice, any bias, anything other than the evidence and the

CHARGE OF THE COURT

1 law.

2 Now, I want to talk to my alternates. I know y'all have
3 worked just as hard as the rest of this crowd. But under our
4 law, you're not allowed participate in the deliberations. But
5 it's important that you were here, because very regularly for
6 some reason or other, one of the jurors may not be able to
7 complete the case, and then if we didn't have an alternate to
8 step in, then we would have to call a mistrial or not be able
9 to complete the case, so it's very important that y'all are
10 here ready to stand in. And the fact that we have to cut you
11 loose at this point, I don't want you to think that your role
12 is not just as important as everyone else's.

13 Now, at this point -- if you'll put that verdict form
14 right there on the ledge there, I'm going to have to just make
15 sure that I haven't left anything out or misspoken anything,
16 so I'm going to send you back to your jury room. I'll discuss
17 with the lawyers. If you -- if it is sufficient for you to
18 start your deliberations, then the bailiff will let you know.
19 He'll bring back the verdict form and he'll bring back the
20 evidence, and he'll ask the alternates to step out and then
21 you can begin your deliberations. If there's -- if I've
22 missed something, then I'll just bring you back and just give
23 you the whatever I missed or misspoke. So, at this point, go
24 back to your jury room. Don't discuss the case until you get
25 the signal.

VERDICT

1 [Whereupon, the jury exits the courtroom.]

2 THE COURT: All right, any exceptions from the State?

3 MR. HOFFERTH: No, Your Honor.

4 THE COURT: Any exceptions from the Defendant?

5 MR. CRANE: No, Your Honor.

6 THE COURT: All right, make sure we have all of the

7 exhibits and ---

8 MR. HOFFERTH: With the exception of the USB ---

9 THE COURT: Right.

10 COURT REPORTER: Everything should be here except for
11 that.

12 [Whereupon, exhibits and verdict form go out to the jury
13 at 5:03 pm.]

14 [Whereupon, a recess was taken from 5:03 pm to 6:15 pm.]

15 [Whereupon, the jury enters the courtroom.]

16 VERDICT

17 THE COURT: All right, Mr. Foreman, I understand that you
18 all have reached a verdict?

19 MR. FOREMAN: Yes, we have, Your Honor.

20 THE COURT: Okay. Hand that to the Clerk. All right, it
21 looks like it's in proper form. If you'll publish the
22 verdict.

23 CLERK: Yes, sir. This is State of South Carolina versus
24 Rodney David Riggins, indictment number 2023-GS-39-604 and
25 indictment number 2023-GS-39-839. It says as to the charge of

VERDICT

1 trafficking methamphetamine, indictment number 2023-604, we
2 the jury unanimously find the Defendant, Rodney David Riggins,
3 guilty. As to the charge of possession of heroin with intent
4 to distribute, indictment number 2023-GS-39-839, we the jury
5 unanimously find the Defendant, Rodney David Riggins, guilty.
6 Is this your verdict and still your verdict, so say you all by
7 raising your right hand.

8 [Whereupon, all jurors comply.]

9 CLERK: Thank you very much.

10 THE COURT: All right, anything else for the jury from
11 the State before we release them?

12 MR. HOFFERTH: Nothing, Judge.

13 THE COURT: Anything else from the Defendant?

14 MR. CRANE: No, Your Honor.

15 THE COURT: All right. Ladies and gentlemen, thank you.
16 I know it's been a long day, but I appreciate your service and
17 your working this week. I know it's been a short week, but it
18 seems like it's been more than two days, so thank you for your
19 attention and your diligence and work here. At this point,
20 you are free to go. I'll step back there in a minute if
21 anybody does have any questions and you need to wait around,
22 but otherwise you're free to go, so. Good luck to you.

23 [Whereupon, the jury exits the courtroom.]

24 THE COURT: All right, anything from the State as to
25 motions?

1 MR. HOFFERTH: Nothing, Judge.

2 THE COURT: All right. Any motions from the Defense?

3 MR. CRANE: I don't believe so, Your Honor. No. Well, I
4 mean, are we going to ---

5 THE COURT: No, I'm not talking about sentencing. Do you
6 want to renew any motions?

7 MR. CRANE: Yeah, I'd like to renew my motions, sorry.

8 THE COURT: Okay. All right. I think that -- I find
9 that it was based on the previous analysis. I find that it
10 was proper to submit to the jury, so I'll deny your motion,
11 so. Do y'all want to take a minute, then? Do you have
12 sentencing sheets?

13 MR. HOFFERTH: I do, Judge. I -- depending on where we
14 land, which I think I know where we'll land as to the status
15 ---

16 THE COURT: As I told the defense attorneys earlier, you
17 never assume anything.

18 MR. HOFFERTH: That's absolutely accurate.

19 THE COURT: I guess, y'all want to -- let me step back
20 here, get your thoughts together, all that, and then let me
21 just thank the jury right quick and then I'll be right back
22 out.

23 [Brief recess.]

24 THE COURT: All right, I'm glad to hear from the State.
25 I think one of the issues that we have is whether, I think,

1 this is a second or a third. I'll be glad to hear from the
2 State on that.

3 MR. HOFFERTH: That's correct. And I think -- I guess,
4 just to make the record clear, where we landed pre-trial was
5 the Court ruling that it would be a third offense. But
6 obviously, some information came to light that needs to be
7 addressed. Now, I want to start with speaking on -- there's
8 44-53-470, which defines the second or subsequent offenses.
9 Now -- and specifically A3, which states that an offense
10 involving a controlled substance other than marijuana pursuant
11 to this article.

12 I believe it was your law clerk who brought to light
13 that, yes, of course, methamphetamine is a schedule II
14 controlled substance. And therefore, pursuant to the rest of
15 470 would seemingly be subject to the 10-year rule when
16 looking back at prior offenses.

17 Now, here's where I think the distinguisher is, is when
18 you look at 44-53-210, which is the schedule II section, and
19 where methamphetamine is listed, which is D2 -- D,
20 specifically. It says unless specifically accepted or unless
21 listed in another schedule, any material, compound, mixture,
22 or preparation, and it goes on to define methamphetamine.
23 Your Honor, I think right -- what the language of that
24 qualifier, I believe goes to, is we have to look to the
25 legislative intent on when they enumerated methamphetamine in

1 the code. Now, there are probably 300 -- however many -- 300,
2 500, 400, controlled substances that are listed in schedules I
3 through V. Methamphetamine is listed specifically in 375, and
4 it's actually listed on 44-53-375 through 378, specifically
5 enumerated.

6 I think the legislative intent in doing this is to
7 distinguish it among the myriad of controlled substance that
8 are listed on I through V, and essentially give it a
9 designation that would take it outside of that 10-year reach
10 back, when you're looking at prior offenses when you're
11 talking about whether it's a second or a third or a
12 subsequent.

13 That would be the State's position. I certainly
14 understand what the Court put forth and the interpretation of
15 the statutes. Surprisingly, in my research of it, there is --
16 Mr. Crane may have found something different, but I found no
17 case law that really clarified this point, which is surprising
18 dealing on how much it's dealt with on pleas and the course of
19 business. But -- and all that to say, that's the State's
20 positioning. That would render the -- I believe it's the 2006
21 charge as a prior that would be counted.

22 THE COURT: And I think, for the record, just so we can
23 have this, I had been presented with certified copies of a
24 conviction from December 16th, 2004 ---

25 MR. HOFFERTH: 2004, excuse me.

1 THE COURT: Yeah, possession with intent to distribute
2 cocaine, and another conviction for possession of meth, March
3 the 19th, 2018. It was actually in front of me. So, those are
4 the two we have. Mr. Crane, be glad to hear from you on this
5 issue.

6 MR. CRANE: Thank you, Your Honor. I would say that for
7 once I do agree with Mr. Hofferth that there is no case law on
8 this.

9 THE COURT: Yeah. And we looked as well, so.

10 MR. CRANE: It's confusing on this. Your Honor, 44-53-
11 470 specifically defines second or subsequent offense, as Mr.
12 Hofferth went into. Specifically, A3 for an offense involving
13 a controlled substance other than marijuana -- pursuant to
14 this article, the offender had been convicted within the
15 previous 10 years of the first violation. Now, if we go back
16 -- this occurred in 2020 -- if you go back 10 years, that
17 essentially puts the cutoff at 2010. And he had a conviction
18 in 2018. Even if we're going back 10 years from there -- even
19 if we're going back 10 years from 2018 that still puts us at
20 2008, and the 2004 conviction is too far along.

21 It's been -- 44-53-210 shows that methamphetamine is a
22 schedule II drug. 44-53-110 defines a controlled substance as
23 any drug, substance between schedule I and V, so the language
24 of this being a controlled substance does place it in that 10-
25 year reach back, and I believe that any conviction from 2004

SENTENCING

1 would be inappropriate to take into consideration for a
2 conviction -- or for an offense that happened in 2020.

3 THE COURT: I mean, I think this is a poorly written
4 statute. Then when you read 4, then that even kind of I think
5 adds more confusion, because it specifically says that a
6 second or a subsequent offense is -- the offender has at any
7 time has been convicted of second or subsequent violation of a
8 controlled substance, although if there's not a conviction of
9 a second, they're first.

10 I think that the State would have -- I mean, the
11 legislative intent could have very easily said except for
12 methamphetamine or crack, because if they didn't have it --
13 didn't want it to be included in there, it definitely needs
14 some rewriting, but I believe for the information presented to
15 me and reviewing of that -- of 44-53-470, that the proper
16 charge would be -- for sentencing purposes would be second
17 offense. So, that's the ruling of the Court.

18 MR. HOFFERTH: Thank you, Judge.

19 MR. CRANE: Thank you, Your Honor.

20 THE COURT: All right, so do you have the sentencing
21 sheets, then?

22 MR. HOFFERTH: Yes, Judge.

23 SENTENCING

24 THE COURT: All right, y'all want to step forward? All
25 right, what I usually do is I'll hear anything from the State

SENTENCING

1 wants to present, and then I'll be glad to hear from you, Mr.
2 Crane, and Mr. Riggins.

3 MR. HOFFERTH: Judge, I'm in a torn position here.
4 Obviously, this case has gone on for three years. It's one
5 inherited, and it's one I tried for a while with Mr. Crane to
6 work out, and I know he did all he could in moving in that
7 direction. But, you know, the fact is, when an individual
8 claims their innocence throughout the process, you're at an
9 impasse.

10 Obviously, I worked closely with Clemson PD in the course
11 of moving through this case, and I know that they would want
12 me to relay to the Court their stance on the case. From both
13 Detective Owens and from both Officer Millspaugh, is what they
14 have relayed to me is that this is an activity that they know
15 Mr. Riggins to have been partaking in for some time. They
16 have associated him with meth for -- at least since they've
17 started with the Clemson PD. They have -- it's been their
18 belief that he has been in the business of making meth and
19 distributing meth and that has just been a sore for them.

20 On the other hand of that, you know, I understand that
21 Mr. Riggins is 70 years old, that, you know, time is, you
22 know, of great value to him in that regard, moving forward,
23 and that SCDC is not the ideal place for an individual in his
24 position. But, you know, that's counterbalanced from my end
25 on what I've been informed of by Clemson PD, of the fact that

SENTENCING

1 he did not take any accountability for his action in this
2 case, and that the jury's verdict reflects that. So, you
3 know, given the fact that I've informed the Court of where
4 Clemson PD stands on this, I'll leave it at that, but that's
5 all I have to say.

6 THE COURT: All right, is there any other prior record
7 other than the two drug charges that we've discussed in our
8 previous motions?

9 MR. HOFFERTH: I believe it's very minimal. I have a
10 2014 shoplifting and a 2019 failure to appear from Anderson.

11 THE COURT: How many jail days does he have credit for?

12 MR. HOFFERTH: Judge, I believe he bonded out
13 immediately.

14 THE COURT: Do you remember how many?

15 MR. CRANE: He thinks it's around 30 days or so, that he
16 was in.

17 MR. HOFFERTH: That's fine.

18 THE COURT: So, you think it's 30 days, is that what you

19 ---

20 MR. CRANE: He said he was in about 30 days.

21 THE COURT: All right. Anything else from the State,
22 then?

23 MR. HOFFERTH: Nothing, Judge.

24 THE COURT: All right. Mr. Crane?

25 MR. CRANE: Thank you, Your Honor. May it please the

SENTENCING

1 Court? Mr. Riggins, as Mr. Hofferth said, standing before
2 you, he's 70 years old. He collects Social Security, he's
3 been retired for a long time. He's got -- part of the reason
4 we couldn't get in to court is because he's had both of his
5 knees replaced, and still needs to have both of his hips
6 replaced. So, one of the times we were going to come to
7 court, Mr. Hofferth was kind enough to allow us to kind of
8 kick the can down the road so that Mr. Riggins could get his
9 knees fixed.

10 Clemson PD apparently has told Mr. Hofferth that they
11 have been looking at Mr. Riggins for, I believe he said, for
12 some time. Well, it's been three years since this incident
13 happened, and Mr. Riggins hasn't been rearrested for anything.
14 His record is this current charge and the one from 2018, and
15 then we go all the way back to 2004. So, there's a 16-year
16 gap. If he was in the business of cooking, making, selling
17 meth in a town as small as Clemson, I'm pretty sure they
18 probably would have found him, you know, by now.

19 I know that -- and I relayed this to Mr. Riggins, that
20 this is a mandatory minimum sentence on this. You were here
21 for the entire duration. You know that it was a -- I believe
22 it was a close one where we don't know if he knew that there
23 were drugs in that car that day. There were people who had
24 owned that car before, people who -- it didn't come out that
25 there people who had drug records who are in jail in Texas for

SENTENCING

1 drugs that -- that's what Pink -- she's actually in jail in
2 Texas right now. We're not sure what, because she has a hold
3 on the U.S. Marshall, so they won't tell us why she's in jail
4 there, but there was criminal activity.

5 The person he borrowed the van from, she has a criminal
6 record. It couldn't come in here, but she does have a
7 criminal record. Again, he's 70 years old. He takes care of
8 two ladies right now that are around his same age named Elaine
9 and Shelby. He cooks for them. One is full-blown -- what did
10 you say, she has Alzheimer's?

11 MR. RIGGINS: Alzheimer's.

12 MR. CRANE: She has Alzheimer's, so he has ---

13 MR. RIGGINS: And the other one has, too. She can't take
14 care of herself.

15 MR. CRANE: So, neither of them can take care of
16 themselves. He's trying to help them out. It's going to be a
17 real inconvenience to them. I'm asking the Court, and I asked
18 Mr. Hofferth ---

19 MR. RIGGINS: Both of them -- excuse me. Both of them's
20 on Social Security also.

21 MR. CRANE: I was chatting with Mr. Hofferth before the
22 jury came back. I know that this is a not suspendable
23 sentence. But I've seen judges give house arrest for a
24 trafficking conviction. It would hang time over Mr. Riggins'
25 head. If he were to do what he was supposed to do, he could

SENTENCING

1 go do his time at home. He could take care of these two
2 ladies. He could, you know, he could collect his Social
3 Security check.

4 As Mr. Hofferth said, SCDC is not a place for a 70-year
5 old man with bad knees and bad hips. So, I'm just asking you
6 to essentially have mercy on him. He's, you know, an older
7 man. He doesn't have a huge record. This just happens to be
8 a second offense, which bumps it from three years to five
9 years, and you know, I know that technically it's not
10 suspendable, we're just asking that you consider placing him
11 on house arrest and the key to the jail can be his. If he
12 screws it up then he can come and face you again, and you can
13 lock him up as long as you'd like. So, that's our stance.

14 We're just asking that you just give him the minimum.
15 You know, there were some circumstances in this case where the
16 case could have gone either way depending on what we could
17 have gotten in as far as Pink and the owners of the car and
18 things like that, but there was just no way to get that
19 information in and get it in front of the jury, so. We'd like
20 for you to take that into consideration as well, and just --
21 we're asking that you give him the least amount that you can
22 and find it in your heart to let him do it on house arrest.

23 THE COURT: All right, Mr. Riggins, I'll be glad to hear
24 from you as well.

25 MR. RIGGINS: Yes, sir. Main thing I want to say is

SENTENCING

1 everybody in here done their job. I hold no hard feelings to
2 nobody, but I told --- that I did not know the drugs was
3 there. This time they wrong. But they done their job and
4 they -- I don't hold hard feelings about it. But I would
5 appreciate anything you could do to help me.

6 THE COURT: Okay. All right, anything else?

7 MR. CRANE: No, Your Honor.

8 THE COURT: You know, Mr. Riggins, I mean, I really
9 appreciate where you're coming from, and it sounds like you've
10 got people depending on you, and it's -- but the way this
11 statute is written, it doesn't give me a whole bunch of wiggle
12 room to really help you out without any portion of it being
13 suspendable.

14 So, I don't -- I'm not sure that house arrest is
15 appropriate. I mean, it's a good consideration, but I'm not
16 sure that's appropriate under this statute, so. On the
17 trafficking meth, the sentence of the Court is five years in
18 the Department of Corrections. And on the possession with
19 intent to distribute the heroin, that's going to be five
20 years, and these will run concurrent, credit for 30 days. So,
21 good luck to you, Mr. Riggins.

22 MR. CRANE: Your Honor, I have a request for the Court,
23 and I'm pretty sure I know your answer, but Mr. Riggins asked
24 me. He has these two ladies he's taking care of. Would you
25 give him any sort of time to come back and start his sentence?

1 Could you put him on an ankle monitor for a couple of days,
2 have him report back ---

3 MR. RIGGINS: To help get them somebody to help them.

4 MR. CRANE: There's two old ladies in their 70's who have
5 nobody to care for them other than Mr. Riggins. That would
6 give him some time. Mr. Riggins has showed up to court every
7 time he was supposed to be here.

8 THE COURT: I know that. My policy is once I've
9 sentenced, I don't go back, and that's just -- sorry. So.

10 MR. RIGGINS: Can I get ahold of them to come get ---

11 THE COURT: I think they can probably make arrangements
12 for -- I think you probably get a phone call or something.
13 So. Good luck to you, Mr. Riggins.

14 MR. RIGGINS: Thank you, sir.

15 End of Transcript.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED LESA D. TAYLOR, OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF ALL REQUESTED PROCEEDINGS RECORDED AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT OF ANDERSON COUNTY, SOUTH CAROLINA, ON THE 31st DAY OF MAY, 2023.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

July 26, 2023

s/Lesa D. Taylor

LESA D. TAYLOR
 COURT REPORTER

06004

DOCKET NO. 2023-GS-39-JCH

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

MAR 21 2023 TERM 2023

THE STATE

vs.

RODNEY DAVID RIGGINS

Indictment for

0452

TRAFFICKING METHAMPHETAMINE

VIOLATION § 44-53-0375(C)(1)(C)

WITNESSES

Noah B Millsbaugh

Clemson Police Department

6/8/2020

DIRECT PRESENTMENT

DOB: /1953

SSN: [REDACTED]

ACTION OF GRAND JURY

TRUE BILL

21 MAR 2023

Date

[Signature]
Foreperson of Grand Jury

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury
Date: 5/31/2023

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

STATE

VS.

Rodney David Riggins

AKA:
Race: WHITE Sex: M Age: 70
DOB: 53 SS#:
Address: eighteen mile road
City, State, Zip: Central, SC 29630
DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023 - GS - 39 - 00604

A/W#: 2023GS3900604

Date of Offense: 6/7/2020

S.C. Code § 44-53-0375(C)(1)

CDR Code #: 0451

SENTENCE SHEET

S-30 - Non-Suspendable

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Drugs / Trafficking In Methamphetamine 2nd Offense

in violation of § 44-53-0375(C)(1) of the S.C. Code of Laws, bearing CDR Code # 0451

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:

105007
SC Bar # Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,

for a determinate term of 95 days/months/years Time Served Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

The sentence shall run
CONCURRENT or CONSECUTIVE to sentence on: 5/31/23

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
SCDOC. 30 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or
§ 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Rodney David Riggins INDICTMENT/CASE#: 2023 - GS - 39 - 00604

SPECIAL CONDITIONS:

- PTUP after _____ months/years
- And Other Terms Listed Below:**
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5 %)				\$ _____
§14-1-211(A)(1) (Conv. Surcharge)		\$100		\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)		\$100		\$ _____
§56-5-2995 (DUI Assessment)		\$12		\$ _____
§56-1-286 (DUI Breath Test)		\$25		\$ _____
§14-1-212 (Law Enforce. Funding)		\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150		\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41		\$ _____
§50-21-114(BUI Breath Test Fee)		\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea		\$ _____
3% to County (if paid in installments)		TBD		\$ <u>25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500		\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD		\$ _____
		TOTAL		\$ <u>283.25</u>

Clerk of Court/ Deputy Clerk: _____
Court Reporter: _____

Howard P. Wells
Hesa Taylor

Presiding Judge: Wayne
Judge Code: 2755
Sentence Date: 5/31/23

DOCKET NO. 2023-GS-39-0839
JOH

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

MAY 16 2023 TERM 2023

THE STATE

vs.

RODNEY DAVID RIGGINS

Indictment for

0183

POSSESSION OF HEROIN WINTENT TO
DISTRIBUTE

VIOLATION § 44-53-0370(B)(1)

WITNESSES

Clemson Police Department

6/8/2020

Presenting Officer: *David Owens*
Date: *5/16/23*

DIRECT PRESENTMENT

DOB: [REDACTED] /1953

SSN: [REDACTED]

ACTION OF GRAND JURY

TRUE BILL
Date: *16 MAY 2023*

KSR
Foreperson of Grand Jury

VERDICT

Guilty

Jon Swartz
Foreperson of Petit Jury
Date: *5/31/2023*

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

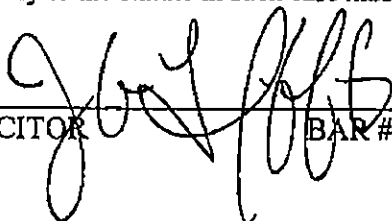
INDICTMENT FOR
POSSESSION OF HEROIN W/INTENT TO DISTRIBUTE

At a Court of General Sessions, convened on **MAY 16 2023** the Grand Jurors of Pickens

County present upon their oath:

That RODNEY DAVID RIGGINS did in Pickens County, on or about the 7th day of June, 2020, possess with intent to distribute or aid, abet, or conspire to possess with the intent to distribute a quantity of a schedule I controlled substance, Heroin, such possession not having been authorized by law. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR BAR # 105007

STATE OF SOUTH CAROLINA

COUNTY OF Pickens

STATE VS.

Rodney David Riggins

AKA: _____
Race: WHITE Sex: M Age: 70
DOB: 53 SS#: _____
Address: eighteen mile road
City, State, Zip: Central, SC 29630
DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023 - GS - 39 - 00839

A/W#: 2023GS3900839
Date of Offense: 6/7/2020
S.C. Code § 44-53-0370(B)(1)
CDR Code #: 0183

SENTENCE SHEET

≤ 15 yr.

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense

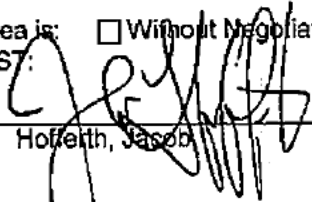
in violation of § 44-53-0370(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0183

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:



105007

Hoffarth, Jason

SC Bar #

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,

for a determinate term of 5 days/months/years Time Served Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: 5/31/23

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. 30 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Rodney David Riggins INDICTMENT/CASE#: 2023 - GS - 39 - 00839

SPECIAL CONDITIONS:

- PTUP after _____ months/years
 - Substance Abuse Counseling
 - Attend Voc. Rehab. or Job Corp
 - Mental Health Counseling
 - Sex Offender Registry pursuant to S.C. Code § 23-3-430
 - Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
 - Other: _____
- And Other Terms Listed Below:**
- Completion of GED
 - No Contact with Victim
 - May serve W/E beginning: _____
 - Random Drug/Alcohol Testing
 - Domestic Violence Intervention Program
 - Public Service Employment _____ days/hours

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5 %)				\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100			\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100			\$ _____
§56-5-2995 (DUI Assessment)	\$12			\$ _____
§56-1-286 (DUI Breath Test)	\$25			\$ _____
§14-1-212 (Law Enforce. Funding)	\$25			\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150			\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41			\$ _____
§50-21-114(BUI Breath Test Fee)	\$50			\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea			\$ _____
3% to County (if paid in installments)	TBD			\$ <u>8.25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500			\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD			\$ _____
TOTAL				\$ <u>283.25</u>

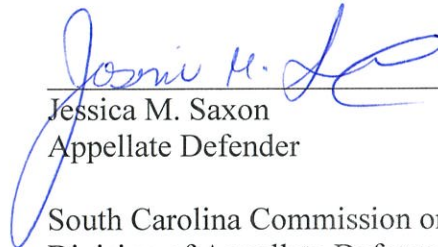
Clerk of Court/ Deputy Clerk: Harold P. Williams
Court Reporter: Kesa Taylor

Presiding Judge: Wally Hunt
Judge Code: 2755
Sentence Date: 5/31/23

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of September, 2024.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

RECEIVED
Sep 26 2024
SC Court of Appeals

THE STATE,

RESPONDENT,

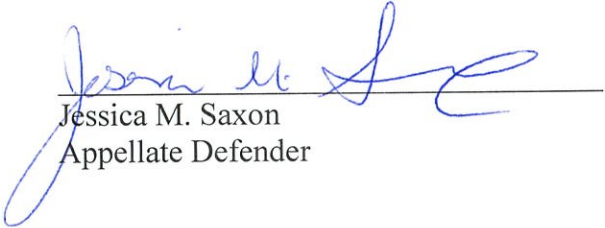
v.

RODNEY DAVID RIGGINS,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon Andrew D. Powell, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 26th day of September, 2024.



Jessica M. Saxon
Appellate Defender