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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Saluda County

Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKEEM JERMILE HICKMAN,

APPELLANT

APPELLATE CASE NO. 2023-001917

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SUMTER) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 AKEEM J. HICKMAN,)
8 DEFENDANT.) 2020-GS-43-725

9
10 December 4th - 5th, 2023

11
12 B E F O R E:

13 THE HONORABLE KRISTI F. CURTIS, Judge; and a jury.
14

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

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17 SOLICITOR and DEPUTY SOLICITOR
Attorney for the State

18 S. ELAINE COOKE
19 ASSISTANT PUBLIC DEFENDER
20 Attorney for the Defendant

21
22
23 Transcribed by Pamela E. Green, from
24 DCRP
25

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P R O C E E D I N G S

THE COURT: Okay. We are gonna move into selection for the first case that's on our trial docket.

If we could have Ms. McElveen and Ms. Cooke approach just for a second?

(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)

THE COURT: Okay. The State wants to call their first, first case.

SOLICITOR MCELVEEN: Yes, Your Honor.

At this time we'd like to call the State of South Carolina versus Akeem Hickman. Indictment 2020-GS-43-0725.

And if I may approach with a witness list and the indictment, Your Honor?

THE COURT: Okay. Ladies and gentlemen, I am holding the indictment from the State. The indictment is simply the allegations that the State is making in this case. It's not evidence in any way, shape, or form.

Again, it's just the allegations being made against the defendant, Mr. Hickman, and the State is alleging that on May 7th, 2020, that the defendant did sell, manufacture, cultivate, deliver, purchase, or bring into this state or did provide financial assistance or

1 otherwise aid, abet, attempt, or conspire to sell,
2 manufacture, cultivate, deliver, purchase, or bring into
3 the state a her -- a controlled substance, heroin, in
4 excess of 28 grams in violation of South Carolina law.
5 That's -- Count 1 is trafficking in heroin.

6 Count 2 is possession with intent to distribute
7 marijuana and the State, again, is alleging that, in
8 Sumter County, on May 7th, 2020, that the defendant did
9 possess, with intent to distribute, dispense or deliver, a
10 quantity of marijuana, a controlled substance, under our
11 laws or did otherwise aid, abet, attempt, or conspire to
12 manufacture, distribute, dispense, or deliver marijuana in
13 violation of South Carolina law.

14 Count 3 alleges trafficking in methamphetamine and
15 alleges that, in Sumter County, on or about May 7th,
16 2020, that the defendant did sell, manufacture, deliver,
17 purchase, or bring into this state, or did provide
18 financial assistance or otherwise aid, abet, attempt, or
19 conspire to sell, manufacture, deliver, purchase, or bring
20 into this state a controlled substance, in this case
21 methamphetamine, in excess of 10 grams but less than
22 28 grams in violation of South Carolina law.

23 The next count, possession of a controlled substance,
24 alleges that, on May 7th, 2020, the defendant did
25 knowingly or intentionally and unlawfully possess a

1 quantity of Tramadol, a Schedule IV controlled substance,
2 in violation of South Carolina law.

3 Count 5 alleges that the defendant did, in Sumter
4 County, on or about May 7th, 2020, possess a firearm or
5 visibly display what appeared to be a fire -- firearm or
6 visibly display a knife during the commission or attempted
7 commission of a violent crime in violation of South
8 Carolina law.

9 And the final count, possession of a stolen pistol,
10 alleges that, in Sumter County, on May 7th, 2020, the
11 defendant did unlawfully possess a stolen Glock 43
12 9-millimeter handgun all in violation of South Carolina
13 law.

14 So, my first question is, ladies and gentlemen, is
15 there any member of the jury panel who as -- has any
16 personal knowledge of the facts of this case?

17 (WHEREUPON, there was no response.)

18 THE COURT: This case is being prosecuted by the
19 Third Circuit solicitor's Office. Stated -- seated here
20 for the State, Mr. Finney and Ms. McElveen.

21 If you'd please introduce yourselves to the jury
22 panel?

23 SOLICITOR MCELVEEN: My name is Bronwyn McElveen. I
24 am deputy solicitor for the Third Circuit. I serve at the
25 pleasure of our elected solicitor, the Honorable Ernest A.

1 "Chip" Finney, III.

2 SOLICITOR FINNEY: Good morning.

3 THE COURT: Ladies and gentlemen, is there any member
4 of the jury panel who is related by blood or marriage or
5 has a close personal or business relationship myth -- with
6 Ms. Bronwyn McElveen with the Solicitor's Office?

7 (WHEREUPON, there was no response.)

8 THE COURT: Is there any member of the jury panel
9 that you or a immediate member of your family has ever
10 worked for the Solicitor's Office for the Third Circuit?

11 (WHEREUPON, there was no response.)

12 THE COURT: The defendant, Mr. Hickman, is in court
13 today represented by his attorney, Ms. Elaine Cooke, of
14 the Subt -- Sumter County Third Circuit Public Defender's
15 office.

16 Ms. Cooke, if you would also introduce yourself and
17 your client to the jury panel?

18 MS. COOKE: I'm Elaine Cooke and I'm a public
19 defender here in Sumter County. I work for Mr. Eddie
20 Donald, who is the circuit public defender, and this is
21 my client, Mr. Akeem Hickman, right here. This is who I'm
22 representing today in this trial.

23 THE COURT: Thank you.

24 Ladies and gentlemen, is there anyone related by
25 blood or marriage or a close personal or business

1 relationship with the defendant, Akeem Hickman?

2 (WHEREUPON, there was no response.)

3 THE COURT: Is there any member of the jury panel
4 with a close personal or business relationship or related
5 by blood or marriage to attorney Elaine Cooke?

6 (WHEREUPON, there was no response.)

7 THE COURT: Is there any member of the jury panel
8 that you, yourself, or a member of your family has ever
9 worked for the Public Defender's Office here in the Third
10 Circuit?

11 (WHEREUPON, there was no response.)

12 THE COURT: Is there any member of the jury panel
13 that you, yourself, or an immediate member of your family
14 has been represented now or in the past by Ms. Cooke?

15 (WHEREUPON, there was no response.)

16 THE COURT: Ladies and gentlemen, there are a number
17 of potential witnesses in this case. I'm gonna read you
18 these names. It may not be that every single one of these
19 people testifies. But these are all potential witnesses.
20 I'm gonna ask you the same question for each of these
21 witnesses. Are you related by blood or marriage to the
22 witness. Do you have a close personal or business
23 relationship with the witness.

24 And those potential witnesses are Senior Corporal
25 Symeon Graham with the Sumter County Sheriff's Office.

1 Lieutenant Justin Yelton.

2 Sergeant Earl Bradley.

3 Lieutenant Robert Reynolds.

4 Sergeant Jeffrey Hofer.

5 Senior Investigator Antonio Artis, A-R-T-I-S.

6 Lieutenant Jason Tassone.

7 Lieutenant Wesley Floyd.

8 Sergeant Matthew Barwick.

9 Senior Investigator Sonya Pruneda.

10 Officer Erin Boland.

11 Mr. Joel Powell who is formerly with the Sumter
12 Sheriff's Office.

13 The rest of those witnesses are all with the Sumter
14 County Sheriff's Office and a Miss Shaquanna Spencer.

15 Again, anyone related by blood or marriage or with a
16 close personal or business relationship with any of those
17 folks?

18 And if that applies to you, if you'll please stand.

19 (WHEREUPON, jurors respond at this time.)

20 THE COURT: Yes, ma'am, if you'll tell me your name?

21 THE JUROR: Stacy Newman.

22 THE COURT: And who are you acquainted with, Ms.
23 Newman?

24 THE JUROR: The name sounds very, very familiar in
25 reference to him. We own an automotive repair business.

1 we also tow for the city, county, and Highway Patrol and I
2 deal with several of those officers on not a daily basis
3 but weekly basis. I still -- I wanted to make you aware
4 that the name sounds unfamiliar. I'm unsure if we towed
5 that vehicle or not that -- when he was --.

6 THE COURT: And you're referring to Mr. Hickman, the
7 defendant?

8 THE JUROR: Yes, ma'am.

9 THE COURT: Do you think that that -- your, your job
10 responsibilities with towing vehicles and your working
11 with these officers on occasion, would that prevent you
12 from being a fair and impartial juror in this case?

13 THE JUROR: No, ma'am, I just want to make you aware
14 that I have those relationships with those individuals.

15 THE COURT: Do you believe that you can listen to the
16 facts, that you can follow my instructions on the law, and
17 that you can give both sides a fair trial?

18 THE JUROR: Yes, ma'am.

19 THE COURT: Thank you so much for giving us that
20 information, ma'am.

21 Anyone else who has anything they need to disclose to
22 us?

23 THE BAILIFF: You got one more on the---

24 THE COURT: Yes, ma'am.

25 THE JUROR: Being an HR manager with Intersisks

1 (phonetic), his name also sounds very familiar to me. I'm
2 not sure if he's applied for a job with me or not. Just
3 wanted to make you aware.

4 THE COURT: And tell me your name, ma'am?

5 THE JUROR: Rhonda Benenhaley.

6 THE COURT: Ms. Benenhaley is Juror Number 12.

7 Ms. Benenhaley, would that -- anything about that
8 make you feel that you can not be a fair and impartial
9 juror?

10 THE JUROR: No, ma'am.

11 THE COURT: Do you believe that you can listen to the
12 facts, that you can follow my instructions on the law, and
13 that you can give both sides a fair trial?

14 THE JUROR: Yes, ma'am.

15 THE COURT: Thank you so much for that information.

16 Is there any member of the jury panel who is a former
17 law enforcement officer or do you have an immediate family
18 member who is currently a law enforcement officer in any
19 jurisdiction?

20 (WHEREUPON, jurors respond at this time.)

21 THE JUROR: My brother is he the -- an officer in New
22 York but -- police officer.

23 THE COURT: And tell me your name, ma'am.

24 THE JUROR: Tiffany Tylutke.

25 THE COURT: And your juror number?

1 THE JUROR: 189.

2 THE COURT: So your brother is currently a law
3 enforcement officer but in New York?

4 THE JUROR: Yes, ma'am.

5 THE COURT: Okay. Thank you so much for that
6 information.

7 And Ms. Benenhaley.

8 THE JUROR: My HR intern's dad is a Sumter County
9 sheriff's officer and my son is also a DOT transportation
10 rules officer.

11 THE COURT: For South Carolina?

12 THE JUROR: Yes, ma'am.

13 THE COURT: Thank you so much for that information.
14 Yes, ma'am.

15 THE JUROR: Victoria Bowman. Mike Evans is my uncle.
16 I believe he's a corporal, officer with Sumter.

17 THE COURT: Mike Evans who -- is he with the Sumter
18 County Sheriff's Office?

19 THE JUROR: Yes, ma'am.

20 THE COURT: And he is your uncle?

21 THE JUROR: Yes, ma'am.

22 THE COURT: You're Juror Number 15?

23 THE JUROR: Yes, ma'am.

24 THE COURT: This case is being prosecuted by the
25 Sumter County Sheriff's Office although it does not

1 involve your uncle.

2 But the fact that it's being prosecuted by the
3 Sheriff's Office, is there any reason that you can not be
4 fair and impartial in this matter?

5 THE JUROR: No, ma'am.

6 THE COURT: Do you believe that you can listen to the
7 facts, you can follow my instructions as to the law, and
8 give both sides a fair trial?

9 THE JUROR: Yes, ma'am.

10 THE COURT: Thank you for that information, ma'am.

11 Is there any member of the jury panel that you have a
12 relative or a close friend who is a prosecutor either with
13 the State or a U.S. Attorney or for the Attorney General's
14 Office?

15 (WHEREUPON, one juror responds at this time.)

16 THE JUROR: I work for a law firm. So, we have a
17 litigation attorney that's with us.

18 THE COURT: But he does not prosecute for any state
19 agency?

20 THE JUROR: No.

21 THE COURT: And you work for Shuler Killen?

22 THE JUROR: Yes, ma'am.

23 THE COURT: Thank you so much.

24 Is there any member of the jury panel employed by any
25 supervisory agency in South Carolina or another state such

1 as the Department of Probation, Pardon & Parole?

2 (WHEREUPON, there was no response.)

3 THE COURT: Anyone who's either a state or federal
4 probation agent?

5 (WHEREUPON, there was no response.)

6 THE COURT: Is there anyone who has a family member
7 or close friend currently employed by the Sumter Lee
8 Regional Detention Center or any other correctional
9 facility?

10 (WHEREUPON, one juror responds at this time.)

11 THE COURT: Yes, ma'am---

12 THE JUROR: My wife---

13 THE COURT: ---or yes, sir. I'm sorry.

14 THE JUROR: My wife works for Wateree.

15 THE COURT: And tell me your name, sir.

16 THE JUROR: Lonzell Thompson. Juror Number 184 I
17 think.

18 THE COURT: She's in -- she is currently employed
19 with Wateree Correctional?

20 THE JUROR: Yes, ma'am.

21 THE COURT: Would that prevent you from being a fair
22 and impartial juror in this case?

23 THE JUROR: No, ma'am.

24 THE COURT: Thank you so much for that information,
25 Mr. Thompson.

1 THE JUROR: All right.

2 THE COURT: Ladies and gentlemen, we're gonna ask you
3 next if you or a member of your family has either been the
4 victim of a violent crime or has been charged, charged
5 with a crime of violence.

6 Now, I know that this may be requiring some personal
7 information from you that you may not want to disclose in
8 open court. If you would like to give me that information
9 up at the bench, we're glad for you to come forward and
10 give us that information a little more privately.

11 Again, if you or an immediate member of your family
12 has been the victim of a violent crime or charged with a
13 violent crime.

14 (WHEREUPON, jurors respond at this time.)

15 THE BAILIFF: Order in Court please.

16 THE CLERK: 136, Your Honor.

17 (WHEREUPON, a bench conference was held with the
18 juror.)

19 THE CLERK: Juror 154.

20 (WHEREUPON, a bench conference was held with the
21 juror.)

22 THE CLERK: Juror Number 65.

23 (WHEREUPON, a bench conference was held with the
24 juror.)

25 THE CLERK: Juror Number 67.

1 (WHEREUPON, a bench conference was held with the
2 juror.)

3 THE CLERK: Juror Number 56.

4 (WHEREUPON, a bench conference was held with the
5 juror.)

6 THE CLERK: Juror Number 104.

7 (WHEREUPON, a bench conference was held with the
8 juror.)

9 THE COURT: Is there any member of the jury panel who
10 is employed with a organization or a program that focuses
11 on recovery from substance abuse either in the medical
12 setting, counseling, employee assistance?

13 Anyone who counsels folks or works in the recovery
14 community?

15 (WHEREUPON, there was no response.)

16 THE COURT: Is there any member of the jury panel who
17 is a financial supporter or a member of a group that
18 advocates for either victim's rights or for law
19 enforcement?

20 So, for example, Mothers Against Drunk Drivers,
21 Students Against Drunk Drivers, or any kind of trooper's
22 association or law enforcement or victim advocacy group?

23 (WHEREUPON, there was no response.)

24 THE COURT: Is there anyone who is a current or
25 former member or financial supporter of a group that

1 promotes stricter enforcement of the laws?

2 (WHEREUPON, there was no response.)

3 THE COURT: Is there any member of the jury, of the
4 jury panel who you yourself or a member of your immediate
5 family is currently employed with either the fire
6 department or EMS?

7 (WHEREUPON, jurors respond at this time.)

8 THE COURT: Okay. Yes, ma'am.

9 THE JUROR: My mom worked for the fire department
10 during the Christmas.

11 THE COURT: Your mothers moan (phonetic) of
12 Christmas?

13 THE JUROR: Uh-huh. (Affirmative).

14 THE COURT: And tell me your name.

15 THE JUROR: Jessica Williams.

16 THE COURT: And Ms. Williams is --?

17 THE JUROR: Thirty-one.

18 THE COURT: Thank you for that information, ma'am.
19 Yes, ma'am.

20 THE JUROR: My son-in-law, Derrick Thomas, works for
21 EMS in Columbia.

22 THE COURT: Columbia?

23 THE JUROR: Yes, ma'am.

24 THE COURT: And tell me your name, ma'am.

25 THE JUROR: Dorotha Davis.

1 THE COURT: And Mrs. Davis is Juror Number 45.

2 Thank you for that information, ma'am.

3 Okay. Any further questions on behalf of the State?

4 SOLICITOR MCELVEEN: None, Your Honor.

5 THE COURT: Anything further from the defendant?

6 MS. COOKE: No, Your Honor.

7 THE COURT: Okay. We're gonna select 12 jurors and
8 two alternate jurors for each side. Both the State and
9 the defense have five strikes for the 12 jurors. For the
10 alternates, the State has one strike and the defendant has
11 two strikes for each alternate juror.

12 Mr. Campbell.

13 (Pause.)

14 THE COURT: Ladies and gentlemen, just a few
15 housekeeping things while we're generating our list of
16 jurors.

17 Our county works the same way as every county across
18 the state. We have a stateside juror management program.

19 So, this will randomly take all of you and put you in
20 pro -- a computer program and it's gonna spit out names in
21 a certain order. Please don't think that we're picking on
22 you if you either get called or you didn't get called.
23 It's truly a random computer program.

24 If you're selected to serve on this jury, we're gonna
25 give you a few instructions before we release you for

1 lunch. If you are not selected on this jury, then we're
2 gonna ask that you call the call back number on your
3 little card after 6:00PM today. And when you call back,
4 you'll be given further instructions about when you should
5 either call back or when you should report back in the
6 event that we move on to another trial.

7 If you are selected on the jury, then, again, after a
8 few instructions from me, we're gonna release you for
9 lunch. So, either way, you're gonna get to eat soon is
10 the, is the bottom line here.

11 THE CLERK: May it please the Court, Your Honor?

12 THE COURT: Yes, sir.

13 THE CLERK: Ladies and gentlemen, if your name is
14 called, please come forward to the podium, turn around,
15 and face the back walls, and please bring with you any of
16 your personal belongings.

17 Juror Number 197, Julie Wilson.

18 what says the State?

19 SOLICITOR McELVEEN: Please present Mrs. Wilson.

20 THE CLERK: what says the defendant?

21 MS. COOKE: Please seat the juror.

22 THE CLERK: Please have a seat in the jury box,
23 ma'am, to my left.

24 Juror Number 113, Sylvia Miles.

25 what says the State?

1 SOLICITOR MCELVEEN: Please present Ms. Miles.

2 THE CLERK: What says the defendant?

3 MS. COOKE: Beg the Court's indulgence one moment
4 please.

5 THE COURT: Sure.

6 (Pause.)

7 MS. COOKE: Please seat the juror.

8 THE CLERK: Please have a seat in the jury box,
9 ma'am.

10 Juror Number 107, Karen MCEwen.

11 What says the State?

12 SOLICITOR MCELVEEN: Please present Ms. MCEwen.

13 THE CLERK: What says the defendant?

14 MS. COOKE: Please excuse the juror from the trial of
15 this case.

16 THE CLERK: Please return to your seat, ma'am.
17 You've been excused from this trial.

18 Juror Number 114, Brandon Miller.

19 Come on back to the podium. There you go.

20 What says the State?

21 SOLICITOR MCELVEEN: Please excuse the juror from the
22 trial of this case.

23 THE CLERK: Please return to your seat, sir. You've
24 been excused from this trial.

25 Juror Number 142, Miranda Pugh.

1 what says the State?

2 SOLICITOR MCELVEEN: Please present Ms. Pugh.

3 THE CLERK: What says the defendant?

4 MS. COOKE: Please seat the juror.

5 THE CLERK: Please have a seat in the jury box,

6 ma'am.

7 Juror Number 106, Vanessa McElveen.

8 what says the State?

9 SOLICITOR MCELVEEN: Please present Ms. McElveen.

10 THE CLERK: What says the defendant?

11 MS. COOKE: Please seat the juror.

12 THE CLERK: Please have a seat in the jury box,

13 ma'am.

14 Juror Number 91, Alexander Leneau.

15 what says the State?

16 SOLICITOR MCELVEEN: Please present Mr. Leneau.

17 THE CLERK: What says the defendant?

18 MS. COOKE: Please seat the juror.

19 THE CLERK: Please have a seat in the jury box, sir.

20 Juror Number 159, Sarah Sandifer.

21 what says the State?

22 SOLICITOR MCELVEEN: Please present Ms. Sandifer.

23 THE CLERK: What says the defendant?

24 MS. COOKE: Please seat the juror.

25 THE CLERK: Please have a seat in the jury box,

1 ma'am.

2 Juror Number 157, Raymond Ruth, Junior.

3 What says the State?

4 SOLICITOR MCELVEEN: Please excuse the juror from the
5 trial of this case.

6 THE CLERK: Please return to your seat, sir. You've
7 been excused from this trial.

8 Juror Number 104, Darryl McElveen, Junior.

9 What says the State?

10 SOLICITOR MCELVEEN: Please excuse this McElveen from
11 the trial of this case please.

12 THE CLERK: Juror Number 189, Tiffany Tylutke.

13 What says the State?

14 SOLICITOR MCELVEEN: Please present Ms. Tylutke.

15 THE CLERK: What says the defendant?

16 MS. COOKE: Please excuse this juror from the trial
17 of this case.

18 THE CLERK: Please return to your seat, ma'am.
19 You've been excused from this trial.

20 Juror Number 173, William Spirles.

21 What says the State?

22 SOLICITOR MCELVEEN: Please present Mr. Spirles.

23 THE CLERK: What says the defendant?

24 Wait, wait one second, sir. Wait one second, sir.

25 MS. COOKE: Please seat the juror.

1 THE CLERK: Please have a seat in the jury box. This
2 way. This way. This way, sir.

3 THE BAILIFF: Sir.

4 THE CLERK: Sir, right here.

5 THE BAILIFF: Sir.

6 THE CLERK: This way.

7 Number 87, Michele Kelly.

8 What says the State?

9 SOLICITOR McELVEEN: Please present Ms. Kelly.

10 THE CLERK: What says the defendant?

11 MS. COOKE: Please seat the juror.

12 THE CLERK: Please have a seat in the jury box,
13 ma'am.

14 Juror Number 138, Jeremiah Perry.

15 What says the State?

16 SOLICITOR McELVEEN: Please present Mr. Perry.

17 THE CLERK: What says the defendant?

18 What says the defendant?

19 MS. COOKE: Please seat the juror.

20 THE CLERK: Please have a seat in the jury box, sir.

21 Juror Number 56, Stephanie Edwards.

22 What says the State?

23 SOLICITOR McELVEEN: Please present Ms. Edwards.

24 THE CLERK: What says the defendant?

25 MS. COOKE: Please excuse this juror from the trial

1 of this case.

2 THE CLERK: Please return to your seat, ma'am.

3 You've been excused from this trial.

4 Juror Number 15, Victoria Bowman.

5 what says the State?

6 SOLICITOR MCELVEEN: Please present Mrs. Bowman.

7 THE CLERK: what says the defendant?

8 MS. COOKE: Please excuse this juror from the trial
9 of this case.

10 THE CLERK: Please return to your seat, ma'am.

11 You've been excused from this trial.

12 Juror Number 12, Rhonda Benenhaley.

13 what says the State?

14 SOLICITOR MCELVEEN: Please present Ms. Benenhaley.

15 THE CLERK: what says the defendant?

16 MS. COOKE: Please seat the juror.

17 THE CLERK: Please have a seat in the jury box,
18 ma'am.

19 Juror Number 53, Whitney Duffy.

20 what says the State?

21 SOLICITOR MCELVEEN: Please present Ms. Duffy.

22 THE CLERK: what says the defendant?

23 MS. COOKE: Please seat the juror.

24 THE CLERK: Please have a seat in the jury box,
25 ma'am.

1 Juror Number 59, John Flowers.
2 what says the State?
3 SOLICITOR MCELVEEN: Please present Mr. Flowers.
4 THE CLERK: what says the defendant?
5 MS. COOKE: Please seat the juror.
6 THE CLERK: Please have a seat in the jury box.
7 This is the first alternate.
8 Juror Number 50, Timmy Dillard.
9 what says the State?
10 SOLICITOR MCELVEEN: Please present Mr. Dillard.
11 THE COURT: what says the defendant?
12 MS. COOKE: Please seat the juror.
13 THE COURT: Please have a seat in the jury box.
14 Juror Number 67, Jonathan Goodwin.
15 THE COURT: And I'm showing this would be for our
16 second alternate?
17 THE CLERK: Second alternate, yes, ma'am.
18 what says the State?
19 SOLICITOR MCELVEEN: Please present Mr. Goodwin.
20 THE CLERK: what says the defendant?
21 MS. COOKE: Please seat the juror.
22 THE CLERK: Please have a seat in the jury box, sir.
23 THE COURT: Okay. Any motions from the State with
24 respect to the impaneling of the jury?
25 SOLICITOR MCELVEEN: None, Your Honor.

1 THE COURT: Ms. Cooke.

2 MS. COOKE: None, Your Honor.

3 THE COURT: Okay. Thank you.

4 (Pause.)

5 THE COURT: Okay. Ladies and gentlemen, just a few
6 things before we release you for lunch.

7 When you come back you'll check in with the folks at
8 the security desk and they will give you your juror badge
9 and they'll send you up to the third floor and then our
10 bailiffs will be on the lookout for you. They will escort
11 you back into the back hallway here into the jury room.

12 You, you can bring your cellphone. But it's very
13 important, during the course of this trial -- now we all
14 have this cellphone that we can get on the Internet and do
15 whatever we want to do with it. We're not gonna
16 confiscate your phone from you. But we are gonna instruct
17 you that you're not to do any research on your phone.
18 You're not to call anybody and ask them for their opinion
19 about anything that you hear during the course of the
20 trial.

21 When you begin your deliberations at the end of this
22 case, you should only be considering what you heard within
23 the walls of this courthouse.

24 So, during the break, in the evenings, don't watch
25 any news reports. Don't listen to any news reports.

1 Don't look at anybody on Facebook that has to do with this
2 case.

3 I don't anticipate a lot of media coverage. But,
4 again, if you did -- you're watching TV and something came
5 on about this, it's your obligation as a juror to turn it
6 off.

7 It's very natural, when you tell your friends and
8 family that you've been selected for jury duty, they're
9 gonna want to know what's this case about, who are the
10 people involved. I'm gonna ask you and instruct not to
11 have any conversation with anyone yet about this case.
12 You have just the slimmest idea of what the case is about
13 and the little barest amount of facts.

14 We don't want you to now inadvertently, just by
15 telling somebody what the case is about, now you
16 inadvertently elicit back a response from them that's
17 gonna keep you from being fair and impartial. We've got
18 through this whole process this morning. Both sides have
19 confidence in you-all's ability to hear this case and be
20 fair and impartial jurors.

21 So, during the course of this trial, we don't want to
22 do anything that's going to mess that up and mean we have
23 to start this process all over again.

24 At the end of the trial, it will be entirely up to
25 you. If you want to talk to people about the case, you

1 can talk to people about the case. If you don't want to
2 discuss it with anyone, you don't have to discuss it with
3 anyone and that will be entirely up to you. But while the
4 case is going on, until the deliberations, we ask that you
5 don't discuss it with anyone including your fellow jurors.

6 I'm gonna ask if you'll be back at 2:30. We have a
7 number of legal matters we may need to take up during the
8 break and I, I need to make sure that we can give
9 everybody a lunch break and take up some legal matters
10 before you get back.

11 So I'm hoping, when you get back at 2:30, we'll go
12 right into close, closing, opening statements from each
13 side. So we'll see you back at 2:30.

14 Thanks.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: Okay. Tell me what you're anticipating
18 as far as motions, Ms. Cooke?

19 How soon do we need to be back?

20 Is there a Bat -- not Batson. A -- are there
21 statements?

22 My mind's drawing a blank.

23 MS. COOKE: If they're statements I have not received
24 them. I know that I'm not technically entitled to them
25 until someone testifies. But I -- when we talked about

1 this with Judge Griffin last week, I, I told him that I
2 would be moving to get statements at the beginning of the
3 case. Otherwise I'm gonna have to ask for a short
4 continuance during the case to read the statements and
5 formulate some sort of cross-examination.

6 So, if there are any statements of, of, of Miss
7 Shaquanna Spencer, then I would ask for them at, at this
8 time, Your Honor.

9 I also have a short Franks v. Delaware motion that I
10 don't think's gonna last very long and motion to
11 sequester, of course, and also a motion that, under 609,
12 that none of -- no prior bad acts of my client will be
13 mentioned and that, that might be the longest one.

14 THE COURT: Okay. Are there statements?

15 SOLICITOR MCELVEEN: Not that I'm a -- I, I hope not,
16 Your Honor, because I'm not aware of any if there are.

17 THE COURT: Okay.

18 SOLICITOR MCELVEEN: Your Honor, we will have updated
19 NCICs run over the lunch break for both Miss Spencer and
20 for Mr. Hickman ready for the Court to analyze.

21 Well, just provide for Miss Spencer. But for Your,
22 Your Honor to analyze in regards to Mr. Hickman.

23 THE COURT: So should we reconvene at 1:30?

24 MS. COOKE: Yes, because I'm -- my NCIC's from 2020,
25 Your Honor.

1 THE COURT: Okay. Let's be back then at 1:30 and be
2 good to hear the motions.

3 SOLICITOR MCELVEEN: Thank you, Your Honor.

4 (WHEREUPON, Court was in recess for the lunch break.)

5 THE COURT: Okay. Ms. Cooke, you have some motions
6 for me?

7 MS. COOKE: Yes, Your Honor.

8 One, one, of course, would be a motion to sequester
9 except for the lead investigator -- investigative,
10 investigative witness and there's no victim in this case.
11 So, I think the lead investigative witness would be the
12 only other person allowed in the room under Rule 615,
13 South Carolina Rules of Evidence.

14 THE COURT: Any objection to the motion to sequester?

15 SOLICITOR MCELVEEN: None, Your Honor.

16 THE COURT: Okay. Granted.

17 MS. COOKE: Your Honor, the other motion I have --
18 and it's my understanding, under Franks v. Delaware
19 motion, that the Court looks at the four corners of the
20 search warrant in the Franks v. Delaware motion. And I
21 have three cases, State v. Thompson, 363 South Carolina
22 192, State v. Winborne, 273 South Carolina 62, and---

23 SOLICITOR MCELVEEN: So sorry.

24 What was that?

25 MS. COOKE: South Carolina -- State v. Winborne,

1 W-I-N-B-O-R-N-E, 273 South Carolina 62, and also State v.
2 Coin Operate Machines, 338 South Carolina 176, that all
3 say that the search warrant must be particular in, in the
4 affidavit and state the time of the occurrence that this
5 happened. And if it does not state the time of the
6 occurrence that this happened, that it is fatal and the
7 warrant is void.

8 And this search warrant is fairly vague in that all
9 it states is that they had been watching the house and
10 seen some drug buys out of the house and some time within
11 the last 72 hours there was, was an occurrence of a drug
12 sale. So they went to a magistrate and got a warrant and
13 there's nothing in the search warrant about the day or
14 time that the last sale occurred. It just said that it
15 occurred some time within the last 72 hours, which I
16 believe fails to meet the criteria in, in, in these cases.

17 Specifically Thompson -- sorry.

18 Specifically Thompson states that probable cause
19 affidavit for issuance of a search warrant which fails
20 altogether to state the time of the occurrence and of the
21 facts alleged is insufficient. It also says that an
22 affidavit which fails altogether to say the time of the
23 occurrence -- well, that -- that's the same quote, Your
24 Honor.

25 It also states that the Court has stated that the

1 length of time between the establishment of probable cause
2 and the execution of the warrant for -- depends on a
3 variety of case specific factors.

4 In this case, Your Honor, Mr. Hickman, my client, is
5 not the reason they got the warrant. They got the warrant
6 from Shaquanna Spencer selling drugs out of the house
7 within 72 hours and Mr. Hickman was not at the house when
8 they executed the warrant.

9 And so I -- wait.

10 I would move to void the search warrant and suppress
11 the drugs found under the search warrant, Your Honor.

12 THE COURT: Do you-all have a copy of the search
13 warrant?

14 SOLICITOR MCELVEEN: Yes, Your Honor. I've got a
15 copy that we can place into evidence if you don't -- and
16 mark it as State's Exhibit 1 for identification purposes
17 only please.

18 (WHEREUPON, the search warrant was marked as State's
19 Exhibit No. 1 for identification purposes only at this
20 time.)

21 SOLICITOR MCELVEEN: Your Honor, may we approach?

22 THE COURT: Uh-huh. (Affirmative).

23 Okay. If I can just put on the record the probable
24 cause statement in the warrant states Sumter County
25 Sheriff's Office Narcotics Unit received information of

1 primary suspect, Akeem Hickman, selling illegal narcotics
2 from [REDACTED] Jerry Street, Sumter S.C. The Sumter County
3 Sheriff's Office Narcotics Unit corroborated the
4 information through a confidential informant who made
5 multiple controlled purchases from Hickman at the address
6 stated above.

7 Voluntary statements have been given to law
8 enforcement stating that the subjects giving the
9 statements had purchased heroin from this residence.
10 Controlled purchases were also made from a black female
11 that has been identified as Shaquanna Spencer. Each
12 controlled purchase was audio and video recorded. Hickman
13 and Spencer were seen on video selling illegal narcotics
14 from this location.

15 The drug analysis from multiple controlled purchases
16 revealed that Fentanyl has -- had been purchased during
17 the control purchases. During surveillance, several
18 vehicles had been seen coming and leaving after only short
19 periods of time being at the residence.

20 Based on my experience, vehicles coming and leaving
21 after short periods of time is indicative of illegal
22 narcotic activity. The last controlled purchase occurring
23 within the past 72 hours. A confidential informant
24 purchased a quantity of heroin from inside the residence.
25 Due to the totality of these circumstances, I believe

1 there may be a large amount of illegal narcotics and
2 firearms in the residence.

3 MS. COOKE: And, and, Your Honor, just, just to make
4 sure everything is on, is on the record, there is one
5 other thing. All of the cases that I found for, you know,
6 there's no specific time limit. It's a case by case basis
7 for -- to do a search warrant and to go into a place and
8 to search a residence.

9 Every case that I found regarding drugs, 72 hours was
10 the max. The search warrant was obtained within 72 hours
11 of narcotics being sold at the residence. However, it
12 wasn't served until the next day. It was obtained on May
13 6th within 72 hours. It wasn't served until May 7th, the
14 next day.

15 THE COURT: Okay. Ms. McElveen.

16 SOLICITOR MCELVEEN: Yes, Your Honor.

17 The last known purchase of narcotics from that home,
18 it happened May 5th, 2020. Officers received a search
19 warrant on May 6th, 2020, obviously with the hopes of
20 executing it as quickly as possible.

21 They were able to execute it the subsequent day, May
22 7th, 2020. The 72 hours I believe is what is given as
23 guidelines to these narcotics officers. They did state
24 that and this affidavit is notarized or signed and --
25 well, it's signed and sworn, sworn in front of Judge -- I

1 believe Judge Keith Griffin, Magistrate Judge Keith
2 Griffin.

3 So, again, Your Honor, it appears that that did --
4 all of this happened within 72 hours. They acted very
5 quickly. They gave a time. There's a date on here. It
6 had happened within the past 72 hours and actually it
7 looks like maybe even 24 hours. But officers were quick
8 to execute and there are references to time throughout the
9 affidavit and through the filing process and execution of
10 the search warrant. The front of the search warrant
11 actually dates what time -- it was created May 6th, 2020,
12 at 8:53AM.

13 THE COURT: And where are you getting the information
14 that the controlled or that the last controlled purchase
15 was on May 5th?

16 SOLICITOR MCELVEEN: I have a indictment for
17 Shaquanna Spencer for selling narcotics out of that home.
18 I have indicted a case against her for that date with
19 Indictment Number 2020-GS-43-723, distribution of heroin
20 from that home. So, that's why---

21 THE COURT: And that's from the Jerry Street address
22 as well?

23 SOLICITOR MCELVEEN: Yes, Your Honor. It was at [REDACTED]
24 Jerry Street.

25 THE COURT: Okay. So, he does say, and this is

1 officer Graham, does say in his affidavit that the last
2 controlled purchase occurred within 72 hours. That
3 doesn't foreclose the fact that it may of been less than
4 72 hours and it looks like there's at least some
5 information that it was much less than 72 hours.

6 I, I don't think that's a magic number. But it does
7 look as though this was obtained on May 6th is when Judge
8 Griffin, Judge Keith Griffin, signed the affidavit. Looks
9 like the return says it was executed on May 7th at 10:34.

10 So, I -- it looks to me like it was done in a timely
11 manner. The affidavit certainly establishes probable
12 cause and that -- so that motion's respectfully denied.

13 MS. COOKE: The other motion that I had, Your Honor,
14 is that there are multiple, multiple places in this
15 discovery, the search warrant, the warrants themselves,
16 the incident reports, that state that my client was seen
17 selling drugs out of this location. This is a search
18 warrant case.

19 Obviously we know why they do those, to protect the
20 C.I. He's not charged with distribution here. He's
21 charged with constructive possession of the drugs in this
22 house.

23 So, I would move that none of those prior, alleged
24 prior bad acts, be admissible in this trial in any way,
25 shape, or form. Whether a form is put in with something

1 like that written on it, it needs to be redacted where the
2 jurors can't see it or any of the police officers or Miss
3 Shaquanna Spencer saying that he was selling drugs out of
4 the house or on surveillance video selling drugs out of
5 the house or any of those sort of things should be
6 inadmissible in this trial since it's based solely on a
7 search warrant and he is not charged with distribution.

8 THE COURT: Okay. Well, he is charged with
9 trafficking, right?

10 MS. COOKE: Yes, ma'am. But that's based solely on
11 weight.

12 THE COURT: And the possession with intent to
13 distribute marijuana.

14 MS. McElveen, do you want to respond?

15 SOLICITOR MCELVEEN: Your Honor, State's position is
16 that the elements of trafficking in PWID would insinuate
17 some sort of distribution, prior distributions. Also the
18 reason that the search warrant was obtained and any
19 challenge to the search warrant can obviously be made.
20 But we would like to ask that, you know, the fact that the
21 officers investigated because surely officers will claim
22 they didn't investigate thoroughly or they'll be some sort
23 of claim that there will be an inadequate investigation
24 that was done.

25 You know, we would ask that the fact that if, you

1 know, why they investigated that house and how they came
2 to get the search warrant. We simply don't want to paint
3 to the jury that people are just getting search warrants
4 on random homes and executing them.

5 So, I guess some of the prior drug activity would
6 come in on both of the witness of frankly of ours and a
7 witness -- and against Mr. Hickman. They did have prior
8 sales from both of them.

9 So, it would go against our own witness as well that
10 there were some drug sales going on. But that is why they
11 got the search warrant.

12 MS. COOKE: Your Honor, I don't -- a search warrant
13 is not admissible -- a search warrant is not admissible in
14 a trial and I don't think that, again, like -- I mean
15 that's Lyle evidence. It's prior bad acts. I don't, I
16 don't think it's admissible.

17 I mean we're, we're fine with them saying we obtained
18 a search warrant for this house and, and went in and found
19 these drugs. They don't have to state that we did that
20 because we saw Mr. Hickman selling, selling drugs or got
21 C.I.s to buy drugs from him on video surveillance. That's
22 getting into the backdoor what you can't get in through
23 the front. That's -- that -- that's putting before the
24 Court crimes that he's not charged with to have their C.I.

25 I mean I -- I been doing this for 23 years. I've

1 never seen a search warrant put into evidence and I --
2 I'm -- I've never seen prior bad acts leading up to the
3 search warrant allowed to be stated to the jury because he
4 is on trial for constructive possession of the drugs in
5 this house, not selling drugs on video, and the jury
6 shouldn't be able to hear that especially since this is a
7 similar crime of selling drugs. And even under, even
8 under an analysis, if he were to be -- if he were to take
9 the stand and be impeached, similar crimes don't come in
10 be -- because of 403 and the prejudice.

11 The more similar the crime is to the crime that he's
12 charged with, and they're both drugs, the more the jury is
13 likely to find him guilty based on the prior event or the
14 uncharged event then they are the evidence in this case.
15 And I just do not feel that any of his prior bad acts,
16 whether it's put in through a warrant, through a search
17 warrant, I don't think, I don't think this -- and, in
18 fact, I believe there's case law stating that search
19 warrants aren't available -- aren't admissible in, in
20 criminal trials probably for that specific reason because
21 the reason they got search warrants is, is because of C.I.
22 buys. And that's why they do search warrant cases instead
23 of distribution cases to, to -- for the safety of the C.I.

24 If they want to try him for distribution, they could
25 try him for distribution. I, I don't think an uncharged

1 alleged distribution, especially one that, that we haven't
2 seen the video of or, or anything like that, should be
3 admissible in a trial where he's charged with allegedly
4 possessing drugs in this house, Your Honor. I, I don't
5 think that those prior bad acts are admissible in this
6 case.

7 THE COURT: So tell me what exactly -- are y'all
8 gonna be trying to get in the, the videos, anything like
9 that?

10 Tell me what --.

11 SOLICITOR MCELVEEN: No, Your Honor, and I, I think
12 I've put in a search warrant before. I've put it in in
13 other cases.

14 But I'm just gonna get the officer's testimony on the
15 execution of a search warrant who was there. We have the
16 actual evidence that was seized. Boland's gonna be
17 there -- they're lots of guns, drugs, currency, people who
18 were present, and then Mr. Hickman and his co -- a
19 codefendant were seen fleeing the scene. So I've got
20 Tassone and/or Wesley Floyd coming up here to talk about
21 how they caught them leaving the scene and he wrecked a
22 truck into a cattle fence to get them to stop and that
23 sort of thing.

24 THE COURT: So, were -- you were not gonna -- you
25 were not going to introduce any video or anything so --

1 for -- from prior controlled purchases?

2 SOLICITOR MCELVEEN: Nothing, Your Honor.

3 THE COURT: You are not having any C.I. from those
4 prior controlled purchases testify?

5 SOLICITOR MCELVEEN: Nothing, Your Honor. No, ma'am.

6 THE COURT: So how do you intend to, I guess, set the
7 stage for what led up to the search warrant?

8 SOLICITOR MCELVEEN: Your Honor, I was just gonna
9 say, after receiving a search warrant, after making
10 controlled purchases from the home from a variety of
11 individuals, a search warrant was executed and the
12 following items were located in these bedrooms.
13 Mr. Hickman's as having the most.

14 THE COURT: So, you did intend to refer to prior
15 controlled purchases from the residence?

16 SOLICITOR MCELVEEN: Yes, Your Honor. But not play
17 them or have -- emphasize them unnecessarily.

18 THE COURT: And were you going to specifically say
19 that Mr. Hickman was the person who --

20 SOLICITOR MCELVEEN: He was a subject---

21 THE COURT: -- sold --?

22 SOLICITOR MCELVEEN: ---of interest. I was gonna ask
23 the officers and say he's a subject of interest in these
24 controlled purchases.

25 MS. COOKE: I just -- I, I don't think that's

1 admissible, Your Honor. He's, he's not -- he's not being
2 tried for distribution. He's being tried for possessing
3 drugs in this house. That's why he's being---

4 SOLICITOR MCELVEEN: Well---

5 THE COURT: Well, he's been tried with trafficking.
6 So I mean there's one of two ways you can establish
7 trafficking, either at the sale or that you possess an
8 amount sufficient to be trafficking weight. But
9 trafficking -- the reason that we presume the intent to
10 distribute from the weight is because it looks like it's
11 more than personal use. I mean you can certainly
12 establish trafficking by the distribution of X amount. I
13 mean it keynotes distribution as opposed to just
14 possession.

15 MS. COOKE: And, Your Honor, it's, it's my
16 understanding that trafficking is based solely on weight.

17 THE COURT: Well, it's -- again, it's an inference,
18 just like possession with intent to distribute, there's an
19 inference based on the weight that you've intended to
20 distribute. But I think that's just an inference.

21 It's not that the State can't prove that you were
22 distributing just because you have a certain amount. I
23 mean, with PWID, you can always argue that it was for
24 personal use and that there was never any intent to
25 distribute. The inference is something the jury can

1 either accept or reject.

2 MS. COOKE: Yes, Your Honor. But I, I don't think
3 there is an inference with trafficking. If, if, if
4 there's a certain weight and, and it makes it trafficking,
5 then you don't get a lesser included of PWID on
6 trafficking because it is solely based on weight.

7 THE COURT: Okay. But trafficking -- I mean the word
8 trafficking keynotes that you are doing something more
9 than just using it for yourself. Trafficking keynotes
10 that you are disbursing it by the word trafficking.

11 SOLICITOR MCELVEEN: And, Your Honor, the
12 indictment -- the factors in the indictment trafficking in
13 heroin, on this indictment they did unlawfully and
14 knowingly did sell, manufacture, cultivate, deliver,
15 purchase, or bring into this state or did provide
16 financial assistance or otherwise aid, abet, attempt, or
17 conspire to sell, manufacture, cultivate, deliver,
18 purchase, or bring into this state a controlled substance.
19 To wit.

20 So, the facts in the -- it, it is a factor, Your
21 Honor. But it -- if they do these things in excess of a
22 certain amount of weight, like Your Honor is saying, that
23 is what makes it trafficking. But there's some sort of
24 element of moving it or possessing it or selling it or
25 distributing it and it could be a mix of those things.

1 But we certainly do plan on showing that he did sell or
2 somehow attempt to sell or possess with intent to sell, in
3 the case of the marijuana, the drugs.

4 THE COURT: So, I would, I would agree that
5 they're -- this has to be very close in time. You can't
6 go back a month. The -- it's got to be very close in time
7 to the date of the execution of the search warrant.

8 SOLICITOR MCELVEEN: And, Your Honor, if I may?

9 44-53-370 Subsection E is the trafficking statute and
10 it starts with any person who knowingly sells is the one,
11 manufactures, cultivates, delivers, purchases, or bring to
12 this state, or who provides financial assistance or
13 basically the same language as presented in our indictment
14 is what starts out that Code Section 44-53-370 Subsection
15 E and heroin is within here as well.

16 But it goes into each drug one by one and there's,
17 you know, marijuana, cocaine, and then morphine, opiates,
18 salt, isomers are right there in Subsection or (e)(3). of
19 course, they have LSD too and they have a, a lot of
20 different drugs. They're MDMA and Ecstasy. But at the
21 same time, Your Honor, they do have that listed as selling
22 as a part of that offense. Selling or moving or, you
23 know, their language states that cultivating, delivering,
24 purchasing, or bringing into the state.

25 MS. COOKE: Your Honor, I --.

1 SOLICITOR MCELVEEN: That is what trafficking is.

2 THE COURT: So, you know, my feeling is that if the
3 defense's theory is that he just was at the residence and,
4 you know, that he didn't have anything to do with this,
5 it -- the state can certainly show the intent by --

6 MS. COOKE: It---

7 THE COURT: -- that got specific facts to show that
8 he was, in fact, distributing. I mean that is to refute
9 the claim that you were just present at the scene and were
10 not part of any --

11 MS. COOKE: Your Honor, he---

12 THE COURT: -- drug selling.

13 MS. COOKE: He wasn't present at the scene and didn't
14 leave the scene. He was coming down the street, and when
15 he saw law enforcement, I don't even -- it doesn't -- the
16 incident report doesn't even say whether he was driving or
17 not, him or his brother was driving. There was a car --
18 there was a car that turned around and left.

19 He, he wasn't at the house. He wasn't at the house
20 when the search warrant was exe -- executed. He did not
21 leave the scene and the Drug Litigation in South Carolina
22 Fourth Edition is where I'm getting threshold amount
23 triggers trafficking, not underlying crime. When the
24 weight of a controlled substance is greater than the
25 threshold amount, the defendant is not entitled to an

1 instruction under -- only under -- on an underlying
2 criminal act.

3 If the evidence was uncontroverted that the weight
4 exceeds trafficking threshold, the trial judge can charge,
5 charge the jury only on trafficking and not on lesser
6 included offenses.

7 Your Honor, to be -- to, to be quite honest with you,
8 I just completely was not expecting this and I, I know you
9 may not grant this, especially since we've only got three
10 days for pleas this week, but every -- everything I've
11 ever practiced and everything I've ever read says that
12 trafficking is based on weight.

13 THE COURT: And I'm not disagreeing with you that
14 trafficking is based on weight. But that doesn't
15 foreclose the State from trying to show that it was
16 because you were -- I mean the reason it's -- we charge
17 trafficking is cause when you have that much, there's the
18 inference that you're selling it or at least the -- and I
19 don't mean inference in the legal sense. But, you know,
20 if you got a brick of cocaine, it's probably not for
21 personal use.

22 So, as -- I'm not disagreeing with you. But I don't
23 think that that prevents the State from trying to show
24 that your relationship to it was -- that you were selling
25 it.

1 I mean how would that not be something that the State
2 would be able to establish?

3 MS. COOKE: And, and I respectfully think that it
4 does foreclose them. He -- he's charged with what was in
5 the house that day. Not with what he sold prior to.

6 THE COURT: I know. But if your argument's gonna be
7 that he just lived at the residence and didn't know
8 anything about it, then I think the State's entitled to
9 show intent and to show knowledge of the fact by showing,
10 within a very narrow timeframe, that he's selling to a
11 C.I.

12 MS. COOKE: I don't think they get to show intent
13 before I bring that up.

14 THE COURT: Well, I guess I will see what the, what
15 the objection is at the time it's made. But I do think
16 that the State's entitled to show, within a, again, a very
17 narrow timeframe, the specific what is leading up to this
18 search warrant and that would be my ruling.

19 MS. COOKE: Your Honor, she also said that Miss
20 Shaquanna Spencer was gonna talk about selling drugs.

21 SOLICITOR MCELVEEN: No, I don't -- Your Honor, I
22 think Miss Shaquanna Spencer herself was selling drugs.
23 But she's able to say that he knew it and he was a part of
24 it too or she was at the house and knew that drugs were
25 being sold. And whatever role she played with him, what

1 she witnessed with him, whatever she did with him selling
2 drugs, she can testify to what she witnessed firsthand.

3 MS. COOKE: But I think she can only testified -- I
4 mean to what this case -- this case is based on what
5 happened on the date the search warrant was executed.
6 They are trying to get the jury to find him guilty on the
7 drugs and guns found in the house during the search
8 warrant. Not --.

9 THE COURT: I do certainly think it's fair to limit
10 them to a very narrow window of time. So, you know,
11 months before, years before, that would not be admissible.
12 I -- I'm really talking the days leading up to it only.

13 MS. COOKE: But that allows -- that allows them to
14 have the jury find him guilty of uncharged crimes that I
15 don't know when they took place and I haven't seen the
16 videos of---

17 SOLICITOR MCELVEEN: Your Honor, we're not---

18 MS. COOKE: ---and that we don't have -- we don't
19 have the weight and the analysis of.

20 THE COURT: I understand that. I'm, I'm not gonna
21 let them go into a lot of detail on that. But they've got
22 to be able to do some laying the foundation for the search
23 warrant. And so I will limit it to specifically laying
24 the foundation for the search warrant that was executed on
25 that day.

1 what other motions do you have?

2 MS. COOKE: I don't have any other motions, Your
3 Honor. I'm -- well, I'm, I'm -- I've already, I've
4 already said that. But Ms., Ms., Ms. Timmons just showed
5 me a case that says that, I believe I've already said
6 that, that where there's an -- undisputed evidence that,
7 that the amount involved exceeds the minimum trafficking
8 amount, only trafficking can be charged. Not any lesser
9 included offenses.

10 And, and I mean it's my understanding -- I, I mean
11 I -- if you would allow me to, I'd be glad to put together
12 a comprehensive motion. But based on everything in, in
13 this, in this book, trafficking, it's solely based on
14 weight.

15 SOLICITOR MCELVEEN: Your Honor, I believe that not
16 charging a lesser included does not have anything --
17 proving the elements of the crime as stated in 44-53-370
18 subsection E, which defines trafficking as any person who
19 knowingly sell, manufactures, cultivates, delivers,
20 purchases, or brings into this state but who -- or who
21 provides financial assistance or otherwise aids, abets,
22 attempts, or conspires to sell, manufacture, cultivate,
23 deliver, purchase, or bring into the state or who is in
24 knowingly and actual or constructive possession attempts
25 to or attempts to become in actual or constructive

1 possession of and then it lists these trafficking amounts
2 and that's what then takes them in the trafficking
3 component.

4 But the fact that -- you still have that first
5 subsection, which is the basic part, and then depending on
6 what drug it is, you jump to different subsections. But
7 44-53-370(e) very clearly lays out that trafficking
8 requires some sort of either sell, manufacture, cultivate,
9 deliver, purchases, or bring into this state. That is a
10 basic -- or attempts to do that or provides financial
11 assistance to -- assistance or conspires to. That is an
12 element of the offense of trafficking.

13 THE COURT: Yeah, I mean I, I don't have any, any
14 beef with the fact that there's no lesser included for the
15 trafficking weight. But I -- I'm -- still don't think
16 that forecloses the State from trying to show that you had
17 that much heroin as a part of selling it, that you're not
18 just using it.

19 Again the---

20 MS. COOKE: But the---

21 THE COURT: Even the word trafficking keynotes some
22 kind of --.

23 MS. COOKE: But I think, I think this book right here
24 says that trafficking can, can, can only be based on
25 possession by weight and inference of weight or in a

1 con -- or in a conspiracy fashion and the statute
2 doesn't---

3 THE COURT: So, I would agree. If the -- the State
4 can show whatever -- how many sales you have made. If
5 they don't equal the trafficking weight, they can't charge
6 trafficking.

7 So, I'd a hundred percent agree with that, that the
8 weight is a determinative factor. As long you have the
9 weight, I think that the State can show that you're -- if
10 they can prove that you're selling drugs, then that is
11 certainly something that's admissible in evidence. It's
12 not that you can't -- the -- all the State can do is just
13 say well, yeah, he possessed X amount of or trafficking
14 weight of the substance and they're prohibited from going
15 any further with it.

16 MS. COOKE: And he, he did possess -- or excuse me.
17 I said, I said that wrong. He wasn't there.

18 There was enough weight or trafficking to be charged
19 in this case on, on the date that this took place. I mean
20 I'm, I'm completely, with all due respect, I'm completely
21 surprised by the fact that they're trying to enter prior
22 sales without revealing the C.I. or showing us the videos
23 --

24 SOLICITOR MCELVEEN: Your Honor, we don't---

25 MS. COOKE: -- and getting in the backdoor what they

1 can't get in through the front door especially when they
2 don't need to because the amount that was in the house on
3 this date that they received in the search warrant equaled
4 a trafficking amount.

5 SOLICITOR MCELVEEN: Your Honor, we don't plan on
6 entering each individual prior controlled purchase. We
7 are simply saying that controlled purchases have occurred
8 from that home and, therefore, officers obtained a search
9 warrant from a magistrate judge to execute on that home on
10 May 7th. That's it.

11 We're not planning on saying that on May 5th, Akeem
12 Hickman sold drugs to a confidential informant. I mean
13 we're not going into details of each separate controlled
14 purchase. We're just saying this home was a -- of
15 interest after controlled purchases. A search warrant was
16 obtained.

17 We do not plan on trying him on any distribution.
18 Only the trafficking and the PWID that are listed on the
19 indictment. And while we have to prove weight, we also
20 have to prove that they -- that he did set -- knowingly
21 sell, manufacture, cultivate, deliver, or purchase, or
22 bring into the state, or provide financial assistance or
23 aid, abet, attempt, or conspire to do those things, or
24 that he was in actual or constructive possession of that
25 weight of drugs.

1 There are two sections. I've got to prove the action
2 and the weight and just because -- if they're -- I
3 understand that we can't charge a lesser included because
4 of the weight. That's great for the State actually. But
5 we can't do a lesser included and then I think we can all
6 agree to that. That's wonderful.

7 But I still have to prove that he did sell,
8 manufacture, cultivate, deliver, purchase. I have to
9 prove the action and the weight and I think Your Honor
10 knows that. And that's what your, your---

11 MS. COOKE: No, you only have to prove the weights.

12 SOLICITOR MCELVEEN: No, I don't have to only prove
13 the weight. I have to prove the elements of the offense
14 in the statute.

15 THE COURT: Okay. So, what -- my ruling is that,
16 that the State can refer to the fact that they had
17 previously made controlled purchases from the home. I
18 understand that you are not going to even name the
19 defendant as the person who made the controlled purchase.

20 SOLICITOR MCELVEEN: Yes, Your Honor. That is
21 wonderful.

22 THE COURT: And, again, that it is limited solely to
23 the I'm gonna say May 5th and subsequent and nothing prior
24 to that day. Anything else that we need to -- and, Ms.
25 Cooke, you are perfectly fine. I will explain to the jury

1 that you may not stand -- be standing through some of or
2 some or all of it and that that is perfectly fine with me.
3 I know it's like habit to always kind of stand up.

4 But you are not gonna hurt my feeling and I will
5 explain to the jury that you're gonna sit through some or
6 all of the proceedings.

7 Do you mind me telling them cause you're having a
8 problem with your knee?

9 MS. COOKE: No, Your -- no, Your Honor. I don't mind
10 at all and I just respectfully, respectfully, with all due
11 respect, I'm -- I'm just, I'm just completely taken
12 offguard and surprised here and I just, I just have to
13 state I guess for the record that I would have the intent
14 to appeal this.

15 THE COURT: And that's your right. Thank you.

16 Okay. We'll be at recess for a few minutes until we
17 bring the jury in.

18 SOLICITOR MCELVEEN: Thank you, Your Honor.

19 And Investigator Boland had a medical appointment
20 that he went a little over. He says he anticipates being
21 here around 2:45 or three o'clock with the items in
22 evidence. I don't expect that being a problem for our
23 opening statements. But I just want to make the Court
24 aware that he had a medical reason that he had to -- that
25 he had to attend and he is working hard on getting here.

1 He just didn't want the Court to think that he was
2 slacking in any way.

3 THE COURT: He's your first witness?

4 SOLICITOR MCELVEEN: No, Your Honor. He just has the
5 actual physical drugs. So I may need him during the first
6 witness. But I just -- he, he had an appointment that --
7 a transfusion, Your Honor, that he -- it did -- it went
8 over more than he thought.

9 THE COURT: I don't think that's gonna be an issue
10 because if we get -- if we have them here at 2:30 and I
11 give them my preliminary instructions and then you guys go
12 into openings, I doubt that's gonna get us before three
13 o'clock anyway.

14 SOLICITOR MCELVEEN: That's what I assume. I just
15 want to let the Court know that. Small hiccup.

16 THE COURT: Thank you.

17 SOLICITOR MCELVEEN: Thank you.

18 THE COURT: Okay. We'll be at ease for 10 minutes or
19 so while the jury's arriving.

20 (WHEREUPON, a short recess was taken at this time.)

21 THE COURT: Okay. Are we ready for the jury?

22 SOLICITOR MCELVEEN: Yes, Your Honor.

23 (WHEREUPON, the following takes place within the
24 presence of the jury.)

25 THE COURT: Thank you. Y'all please have a seat.

1 THE BAILIFF: All jurors are present, Your Honor.

2 THE COURT: Okay. If you want to go ahead and swear
3 the jury panel for us.

4 THE BAILIFF: Yes, ma'am.

5 May it please the Court?

6 THE COURT: Yes.

7 (WHEREUPON, the jury panel was placed under oath at
8 this time.)

9 THE BAILIFF: The jury's been sworn, Your Honor.

10 THE COURT: Thank you.

11 Okay. Ladies and gentlemen, first of all, thank you
12 for being here promptly. I appreciate everybody being
13 prompt and coming back at the right time.

14 The case that we're about to try is the State versus
15 Akeem Hickman. And so we're before -- before we begin the
16 trial, I want to tell you that this trial may be very
17 different from what you might of expected from either
18 television or movies or reading books where trials are
19 always full of high drama and intense action and rivetting
20 circumstances.

21 And while that may be true at, at times, this trial
22 is not for enter -- entertainment. It is a fundamental
23 part of our democracy. The Court process is often slow,
24 deliberate, repetitive, and pretty much the opposite of
25 what you've seen on television.

1 But the courtroom is a place of honor dedicated to
2 the protection and preservation of citizen's rights
3 through what many have called the greatest justice system
4 ever created. The attorneys appearing before you are
5 advocates for the parties that they represent. But first
6 and foremost, they are officers of the Court and they're
7 sworn, sworn to uphold the integrity and fairness of our
8 judicial system.

9 You should expect them to be professional, competent,
10 and ethical in the representation of their client's
11 interest and remember that you have each taken an oath to
12 try this case and reach a verdict based on the testimony
13 and the evidence presented. And you're also expected to
14 be professional, reasonable, and ethical. So, I thank
15 you, first of all, for accepting this very important
16 responsibility.

17 what I'm now gonna tell you is intended to serve as
18 an introduction to the trial of this case. These remarks
19 are not a charge on the law. I will instruct you on the
20 law that's applicable to the case at the end of the trial.
21 This is just an explanation of the procedure that we're
22 gonna follow.

23 The defendant is charged by an indictment filed in
24 this Court with the crimes of trafficking in heroin,
25 possession with intent to distribute marijuana,

1 trafficking in methamphetamine, possession of a Controlled
2 IV substance, possession of a weapon during the commission
3 of a violent crime, and possession of a stolen pistol.
4 And I've referred to the indictment in telling you what
5 those charges are.

6 As we discussed earlier, the indictment is simply the
7 charge by which this case is brought into court. It is
8 not, in any sense, evidence of any of the allegations that
9 it contains.

10 The defendant has pled not guilty to the indictment
11 and the State, therefore, has the burden of proving each
12 of the elements of the indictment beyond a reasonable
13 doubt. It will be your duty to determine whether the
14 State has met that burden.

15 Your purpose, as jurors, is to find and determine the
16 facts of the case. You are the sole judges of the facts.
17 If at any time I make any comment regarding the facts, you
18 must disregard it. That is solely for you to determine.

19 You will determine the facts from the testimony that
20 you hear, that's the sworn testimony from this witness
21 stand, and then any other evidence that's introduced
22 during the course of the trial. It's up to you to
23 determine the inferences that you feel may be properly
24 drawn from the evidence. It's especially important that
25 you perform your duty of determining the facts diligently

1 and conscientiously because, ordinarily, there's no way to
2 correct an erroneous determination of the facts by a jury.

3 The same law that makes you the exclusive judges of
4 the facts makes me the judge of the law and the law as
5 given by the Court is the only law that you may consider.
6 You must accept and follow it even though you may
7 personally disagree with it. I can not tell you what the
8 facts are and you can not disagree with me about what the
9 law is or should be.

10 Your job, as jurors, is to take the law as I give it
11 to you, apply it to the facts as you find them from the
12 testimony of the witnesses, and any other evidence that's
13 introduced. After doing that, you'll be in a position to
14 render your verdict.

15 Until I advise you to begin your deliberations you
16 must not discuss the case with anyone including your
17 fellow jurors, friends, family members, and anyone
18 involved in the case. After the case is submitted to you
19 for deliberations, you must discuss it only in the jury
20 room with all jurors present.

21 The attorneys and the parties in this case know not
22 to have any contact with you at all. So, if you should
23 see anyone involved in the case at the lunch break or
24 coming in and -- or out of the courthouse, and they don't
25 speak to you or say hello, please don't think that they're

1 being rude. They are following my instructions to give
2 you a wide berth and to not have any contact with you at
3 all.

4 During the trial, do not read, listen to, or watch
5 any news reports about the case. This includes anything
6 that may be in the newspapers or on the Internet, radio,
7 radio, or television, or anything on social media. You
8 must not consider anything you may have read or heard
9 about the case outside the courtroom whether before or
10 during the trial.

11 It is important that you keep an open mind and not
12 decide any issue in the case until all of the evidence has
13 been presented, the parties have made their closing
14 arguments, and I've given you the instructions on the law.

15 It is your solemn responsibility to determine the
16 guilt or innocence of the defendant and your verdict must,
17 must be based solely on the evidence as it's presented to
18 you in this trial and on the law as I instruct you during
19 and at the close of the trial.

20 In just a minute the solicitor will make what's
21 called an opening statement in which she will explain to
22 you the issues in the case or what the State contends are
23 the issues in this case. And then Ms. Cooke may also make
24 an opening statement although she's not required to do so.

25 what the tell -- attorneys tell you during their

1 opening statement is not evidence. It is only their
2 contention as to what the issues are. The evidence in
3 this case will be presented to you by the testimony of
4 sworn witnesses from the witness stand, and, again, any
5 exhibits that are introduced during the trial.

6 From time to time during the trial you may hear one
7 or more of the lawyers make an objection or ask to speak
8 with me outside of your presence. They may approach the
9 bench or we may actually send you out of the courtroom in
10 order for us to do some determination outside of your
11 presence.

12 It's not necessarily that we're trying to keep things
13 from you. But sometimes I have to rule on the
14 admissibility of evidence, evidence certainly before it
15 comes in front of you. So, we may excuse you for the
16 purpose of taking up certain matters outside of your
17 presence.

18 Please don't hold any objections against either
19 party. That's just the process by which they bring an
20 issue to my attention that I have to make a ruling on. We
21 live in the south where everyone's very polite. So, don't
22 think that there's anything wrong with anyone interrupting
23 to make an objection. That is the process that we follow.

24 In determining what the facts are in this case, you
25 must determine whether the testimony of the witnesses is

1 believable. It will be my responsibility to rule as a
2 matter of law as to whether certain testimony is
3 admissible. But whether you believe it or not is solely
4 for you to determine.

5 In deciding whether to believe a witnesses testimony,
6 you have the right to consider the interest of any
7 witness, the bias of any witness, the prejudice of any
8 witness, the opportunity that the witness had to see and
9 hear the things the witness is testifying about, and the
10 way the witness acts or what their demeanor is while on
11 the witness stand. You have a right to consider anything
12 that's in the record that will help you evaluate the
13 testimony of the witnesses.

14 That means it's your duty to pay close attention to
15 the witnesses, observe them, listen to them. Pay close
16 attention to the attorneys and to the Court. Please don't
17 let your thoughts wonder but give strict attention to the
18 testimony in this case so that, at the end of all the
19 testimony, after the arguments of counsel and the charge
20 on the law by the Court, you will then be in a position to
21 determine what the facts are, apply the law to those
22 facts, and render your verdict.

23 Any objections from the State or the defense?

24 SOLICITOR MCELVEEN: None from the State, Your Honor.

25 MS. COOKE: None from the defense, Your Honor. I

1 just want to make sure the witnesses are sequestered. I
2 see some witnesses sitting in the audience.

3 SOLICITOR MCELVEEN: Your Honor --

4 THE COURT: Sure.

5 SOLICITOR MCELVEEN: -- they're sequestered.

6 Investigator Bradley's not testifying.

7 THE COURT: Okay. We will then move into opening
8 arguments.

9 Ms. McElveen, if you want to call your first witness.

10 SOLICITOR MCELVEEN: Opening, right?

11 Not --?

12 THE COURT: I'm sorry.

13 SOLICITOR MCELVEEN: Just---

14 THE COURT: Opening statements, yes.

15 SOLICITOR MCELVEEN: Just making sure. I was like I
16 can call too if you'd like.

17 THE COURT: One thing at a time.

18 SOLICITOR MCELVEEN: Good afternoon, ladies and
19 gentlemen.

20 My name is Bronwyn McElveen. I represent the State
21 on the behalf in our community and our police officers and
22 sheriff's deputies and law enforcement.

23 Thank you.

24 You guys play the most important role in this whole
25 process. You are the finders of fact. What you decide is

1 the truth becomes the truth. It is so important that you
2 pay attention and bring your common sense into the
3 scenario.

4 You guys have a brain. We appreciate it. We know
5 you're going to use it and we appreciate the role that you
6 play in this.

7 You're gonna hear testimony that on May 7th, 2020, on
8 a Thursday, at [REDACTED] Jerry Street here in Sumter County,
9 you're gonna hear how sheriff's deputies, after an
10 investigation, had gotten a search warrant. The search
11 warrant was executed and, at the home, they found 60.96
12 grams of heroin and Fentanyl mixed, 11.99 grams of
13 methamphetamine, and 126 grams of marijuana, which is
14 equivalent -- which is the equivalent of 4.4 ounces of
15 marijuana.

16 Ladies and gentlemen, after executing the search
17 warrant, they arrested -- you will hear that arrests were
18 made including this defendant, Mr. Akeem Hickman. You
19 will hear how his bedroom was searched and a large amount
20 of drugs and weapons were found there.

21 Trafficking amounts of drugs were found in the home.
22 Trafficking amounts of methamphetamine, trafficking
23 amounts of heroin, and even with -- mixed in with
24 Fentanyl, it does -- it is considered all heroin or
25 Fentanyl. It's a, a combination. Trafficking amounts of

1 heroin were found at the location and possession with
2 intent to distribute amounts of marijuana.

3 we'll get to you more about the law at the end of the
4 case. First you're gonna hear the facts presented from
5 that stand from officers and other witnesses. You'll hear
6 from a chemist who analyzed the drugs.

7 we ask for your patience. we will be as quick and as
8 mindful of your time as possible. But if we have to take
9 some time, we do ask for your forgiveness and your
10 patience in this process.

11 You guys play the most important role. You are the
12 finders of fact. You will hear the testimony from that
13 stand from officers and from any other witnesses that are
14 put up.

15 we appreciate you using your common sense, knowing
16 what -- right is, right is right and what is -- you think
17 is wrong is wrong and that is your role today.

18 Thank you for your consideration. we'll be mindful
19 of your time and I look forward to addressing you again at
20 the end of the case.

21 THE COURT: Thank you.

22 Ms. Cooke.

23 And, y'all, let me say, Ms. Cooke is having knee
24 problems. I have told her she is welcome to stand or sit
25 and I will tell you the same thing. If -- sometimes we

1 have jurors who need to stand because they have back
2 problems or their knee gets to bothering them. You are
3 more than welcome, if you need to, to stand. If you need
4 a break, if you just give me the high sign, we'll be glad
5 to take a break.

6 But I have let Ms. Cooke know -- attorneys always
7 feel like they have to stand. She does not have to stand
8 and that is perfectly fine with me. She's not being
9 disrespectful. She's just got a knee problem that she's
10 contending with. So, she may sit or she may stand and
11 either way's fine with me.

12 Go right ahead.

13 MS. COOKE: Ladies and gentlemen, Akeem Hickman did
14 not do this. Akeem Hickman is telling you this by sitting
15 in this chair over here and asking for trial. Otherwise
16 he would be pleading guilty to these crimes.

17 Just because you are arrested for something does not
18 mean that you are guilty. Just because you are indicted
19 for something does not mean you are guilty. You may of
20 heard terms on TV all the time that you can indict a ham
21 sandwich.

22 Just because you were put on trial for something does
23 not mean you are guilty. That's why you are here today
24 and that's why we have not guilty verdicts. By sitting in
25 that chair over there and asking for a trial, Akeem

1 Hickman is telling you I did not do what they're accusing
2 me of on May 7th.

3 So I will come back before you at the close of the
4 case and then to ask -- and ask you to find him not guilty
5 of what the indictment that he is charged with in this
6 trial on May 7th he did not do.

7 Thank you.

8 THE COURT: Yes, ma'am.

9 SOLICITOR MCELVEEN: First witness now, Your Honor?

10 THE COURT: Yes. Now you can call your first
11 witness.

12 SOLICITOR MCELVEEN: We'd like for Investigator
13 Graham to come up.

14 THE BAILIFF: Right here. Place your left-hand on
15 the Bible. Raise your right-hand. State your name.

16 THE WITNESS: Symeon Graham.

17 SYMEON GRAHAM, being first duly
18 sworn, testified as follows:

19 THE BAILIFF: Thank you. You may step around, sir.

20 (WHEREUPON, the witness complies.)

21 THE BAILIFF: Okay. State your name for the record
22 and spell your first and last name please.

23 THE WITNESS: My first name's Symeon. S-Y-M-E-O-N.
24 Last name is Graham. G-R-A-H-A-M.

25 DIRECT EXAMINATION

Symeon Graham - Direct examination
By Solicitor McElveen

1 BY SOLICITOR MCELVEEN:

2 Q. Good afternoon. I may have exploded a little bit.

3 But can you tell us a little bit about your role,
4 where you work, and what you do?

5 A. At the time I was a narcotics investigator for the
6 Sumter County Sheriff's Office. I was the lead
7 investigator on this case. I was the officer that
8 obtained a search warrant and led the investigation.

9 Q. What do you do now?

10 A. Back on patrol.

11 Q. And how long have you been with the Sheriff's Office?

12 A. Twelve and a half years.

13 Q. Where are you from?

14 A. Sumter.

15 Q. Were you -- tell us a little bit about yourself.
16 Where'd you grow up---

17 A. Um.

18 Q. ---school?

19 A. I went right here. Graduated Sumter High School
20 right around the corner. I still live -- I live right
21 across the street from Sumter High. My family's all here
22 in Sumter. My parents live right around the corner from
23 me in Twin Lakes. Just a Sumter raised and born guy.

24 Q. And you been at the Sheriff's Office for 12 years?

25 A. About 12 and a half years, yes, ma'am.

Symeon Graham - Direct examination
By Solicitor McElveen

1 Q. Wonderful. Thank you.

2 A. Uh-huh. (Affirmative).

3 Q. So tell us a little bit about what brought you to
4 Jerry Street on May 7th of 2020.

5 A. On May 7th, 2020, I -- we executed a valid search
6 warrant at the residence at [REDACTED] Jerry Street based on an
7 investigation that I, I -- that I did for -- at the
8 residence.

9 Q. Previous investigation?

10 A. Meaning controlled purchases from that residence that
11 led to me obtaining a search warrant.

12 Q. And what -- who was with you when you had that search
13 warrant?

14 A. The whole Narcotic's Division, myself, Sergeant who
15 is now Lieutenant Yelton, Sergeant Reynolds, Senior
16 Investigator Bradley, Investigator Artis, and Investigator
17 McDonnell.

18 Q. What did you guys -- how did you make entry and what
19 did you find?

20 A. We made entry just -- we made dynamic entry through
21 the front door. While searching---

22 Q. Define dynamic for us.

23 A. I'm sorry. We use a ram and knocked the door down
24 pretty much.

25 Q. Okay. And what did you find?

Symeon Graham - Direct examination
By Solicitor McElveen

1 A. Inside the residence we found large amounts of
2 narcotics, several firearms, and we also found several --
3 large amounts of narcotics in the vehicle outside of the
4 residence on the property.

5 Q. So, the search warrant allowed you to enter and
6 search these cars?

7 A. That's correct.

8 Q. What did you personally -- well, where did you search
9 in the home?

10 A. The kitchen.

11 Q. What did you -- what was found in the kitchen during
12 execution of the search warrant?

13 A. In the kitchen there were Tramadol packets found in
14 the kitchen cabinet above the microwave.

15 Q. What is Tramadol?

16 A. Tramadol is a Scheduled IV narcotic --

17 Q. Okay.

18 A. -- which makes it illegal to possess without
19 prescription. It was part of the -- part of the drug that
20 was bought during the controlled purchases from that
21 residence.

22 Q. Okay.

23 A. Also found---

24 MS. COOKE: Your Honor, I'm gonna object to facts not
25 in evidence. These haven't, these haven't been -- there's

Symeon Graham - Direct examination
By Solicitor McElveen

1 been no analysis put in that these are actually Tramadol
2 or any of the controlled substances that they're saying
3 that they are.

4 SOLICITOR MCELVEEN: Your Honor, we're happy to call
5 them suspect, whatever narcotics. We do plan on putting
6 in our chemist at the conclusion of our officers. So we
7 can use the term suspect---

8 THE COURT: Sure.

9 SOLICITOR MCELVEEN: ---narcotics.

10 THE COURT: It's certainly subject to you tying that
11 together with the later witness.

12 SOLICITOR MCELVEEN: Yes, Your Honor. Thank you.

13 A. We found suspect Fentanyl inside of a black pouch in
14 the kitchen cabinet above the microwave as well. Also
15 found Del Monte peaches jar containing suspect marijuana
16 in the kitchen cabinet above the microwave. I also found
17 more suspect marijuana on the kitchen counter in -- also
18 located a .357 magnum revolver with four rounds in it
19 inside of a -- I'm sorry. That was found with someone
20 else. I apologize.

21 Q. So you found suspect marijuana in three locations or
22 two locations and then Tramadol packets and suspect
23 Fentanyl or heroin in a black pouch all in the kitchen---

24 A. Correct.

25 Q. ---correct?

Symeon Graham - Direct examination
By Solicitor McElveen

1 what did you do with that evidence when you found it?

2 A. Oh, that evidence was seized, and once we get
3 evidence from the search warrant, it's given to our
4 chemist.

5 Q. So it's seized and it's -- is it secured somehow?

6 A. It's -- yes, they're all put into sealed evidence
7 bags and I mean we label them, number them, and turn it
8 into the chemist for testing.

9 SOLICITOR MCELVEEN: Your Honor, I know that I'm
10 under sequestration order.

11 But in regards to the evidence technician, could he
12 enter at this time to show he's got the evidence in this
13 case?

14 THE COURT: He's just gonna come and deliver that?

15 SOLICITOR MCELVEEN: Yes, sir, he has to stay with
16 it. He's suppose to be the custodian of that. He has to
17 make sure it stays under security.

18 THE COURT: Do you want to be heard on that, Ms.
19 Cooke?

20 Do you have an objection to the evidence custodian
21 coming in?

22 MS. COOKE: No. No objection, Your Honor.

23 SOLICITOR MCELVEEN: Your Honor, if I may beg the
24 Court's indulgence one moment?

25 THE COURT: Sure.

Symeon Graham - Direct examination
By Solicitor McElveen

1 (Pause.)

2 SOLICITOR MCELVEEN: Beg the Court's indulgence just
3 one second?

4 (Pause.)

5 SOLICITOR MCELVEEN: Like to mark this as State's
6 Exhibit 2 for identification purposes only and then
7 State's Exhibit 3.

8 (WHEREUPON, State's Exhibit Nos. 2 and 3 were marked
9 for identification purposes only at this time.)

10 SOLICITOR MCELVEEN: Thank you.

11 Q. Investigator Graham --

12 A. Yes, ma'am.

13 Q. -- can you identify -- is this the -- what is that
14 item?

15 A. That is the Del Monte peaches jar that contained the
16 suspect marijuana that I located in the kitchen, the
17 kitchen cabinet, above the microwave.

18 Q. And can you identify -- can you tell us a little bit
19 about this package as well, what that would be, and why
20 it's packaged like that?

21 A. Just looking at it, not knowing what's inside it,
22 it's, it's packaged as if it's illegal narcotics that we
23 probably took -- that we would have taken from a search
24 warrant.

25 Q. So, when you said you took drugs into custody, and

Symeon Graham - Direct examination
By Solicitor McElveen

1 you packaged them, is that an example of what that
2 packaging would look like?

3 A. Yes, ma'am.

4 SOLICITOR MCELVEEN: Your Honor, we would like to
5 publish State's Exhibit 2 or enter into evidence at this
6 time. We know we still need to lay a foundation for more
7 of No. 3.

8 THE COURT: So you, you want to enter two and three
9 into evidence?

10 SOLICITOR MCELVEEN: Yes, please, Your Honor.

11 MS. COOKE: No objection, Your Honor.

12 THE COURT: Okay. They are admitted.

13 SOLICITOR MCELVEEN: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit Nos. 2 and 3 were
15 received into evidence at this time.)

16 Q. Okay. So you packaged -- when you collect these
17 items, tell us a little bit about your process for
18 packaging and sealing and where you put -- drop these
19 things off.

20 A. They're packaged into sealed bags that there's only
21 one way to get into it. That's by cutting it. So it's
22 pretty much tamper proof without -- I mean you can't get
23 into it without somebody knowing you got into it. Once we
24 seal it and we label it, it's taken to our evidence
25 technician back at the Sheriff's Office.

Symeon Graham - Direct examination
By Solicitor McElveen

1 Q. Okay. And then what do they usually do?

2 what does an evidence technician do with suspect
3 narcotics?

4 A. They'll, they'll do a -- go through and they'll
5 process it and send it off to a chemist so it can be
6 tested.

7 Q. Thank you.

8 And, Your Honor, if possible, I would like to open
9 State's Exhibit 3 at this point?

10 well, at some -- I guess not to say right now. But,
11 at some point, Your Honor, we are gonna ask to open
12 State's Exhibit 3. We may need to break it down in 3-A,
13 B, C if that's okay.

14 THE COURT: Uh-huh. (Affirmative).

15 SOLICITOR MCELVEEN: Your Honor, I'll wait on that
16 further. Thank you.

17 And on -- based upon -- and were you the only one
18 searching rooms?

19 were there other rooms being searched?

20 A. There were other rooms being searched by other
21 investigators.

22 Q. And so were there other narcotics found at the scene?

23 A. Yes.

24 Q. And did you guys draft warrants for Mr. Hickman based
25 upon what was found at the scene that day?

Symeon Graham - Direct examination
By Solicitor McElveen

1 A. That's correct, yes, ma'am.

2 Q. Were you able to identify Mr. Hickman's bedroom at
3 the scene?

4 A. Yes, we were.

5 Q. How were you able to identify that?

6 A. There was Mr. Hickman's driver's license on a
7 nightstand inside the bedroom.

8 Q. And he had previously been known to be at that scene?

9 A. Yes.

10 Q. And law enforcement knew that he had been at that
11 scene previous to that day?

12 A. Correct.

13 MS. COOKE: Object to leading.

14 THE COURT: That's sustained.

15 Q. How did you know that he had been at that scene
16 before?

17 A. Through surveillance and through video of -- from the
18 controls -- delivery or controlled purchases that were
19 done previous to obtain the search warrant.

20 MS. COOKE: Objection, Your Honor. I have a motion
21 outside the presence of the jury.

22 THE COURT: Okay. Ladies and gentlemen, if I could
23 ask you to step back in the jury room while we -- we're
24 gonna take up a matter of law.

25 Thank you.

Symeon Graham - Direct examination
By Solicitor McElveen

1 (WHEREUPON, the following takes place outside the
2 presence of the jury.)

3 THE COURT: Okay. Yes, ma'am.

4 MS. COOKE: Oh, yes, Your Honor.

5 I know a lot of things were said earlier and, you
6 know, there was a lot of confusion. But if I'm not
7 mistaken, the very last thing he said was -- I mean there
8 were multiple controlled buys. There were controlled buys
9 from -- on Miss Spencer. There were controlled buys from
10 Scottie -- his, his, his brother, Scottie, and Hickman
11 are, are -- Scottie --?

12 SOLICITOR MCELVEEN: Hickson.

13 MS. COOKE: Hickson.

14 And if I'm not mistaken, the last thing you said was
15 that his name would not be used in any of the previous
16 control buys.

17 THE COURT: Yeah, I think what I said was you, you
18 could refer to controlled purchases made in a very close
19 proximity of time like anything after May 5th not naming
20 the defendant as someone who had been part of that. And I
21 think this last thing that he just said was previous
22 controlled purchases and referenced the defendant with
23 respect to that.

24 SOLICITOR MCELVEEN: With surveillance. I think he
25 mentioned surveillance and previous controlled purchases.

Symeon Graham - Direct examination
By Solicitor McElveen

1 I've (sic) had tried a drug case, Your Honor, before
2 where the defendant was not on scene and there's case law
3 that states you have to put them on the scene -- at the
4 scene before that. I actually lost that case against
5 Shaun Kent. I can't remember the defendant's name.

6 It's a 6-foot marijuana tree growing outside the side
7 door and a prescription with the defendant's name on it
8 and all these things inside that he picked up that day.
9 And because the officers did not sit around and wait and
10 have him physically -- ever physically at the scene, they
11 deemed that -- I got a directed verdict motion and lost
12 the case.

13 I do have to put that he's there at the scene at some
14 point in order to survive a directed verdict motion. I've
15 lost that case before quite frankly, Your Honor.

16 THE COURT: Yeah. I mean I think you can absolutely
17 have testimony that he lived there.

18 MS. COOKE: Uh-huh. (Affirmative).

19 THE COURT: You've seen him at the house. But the
20 objection is the comment that he had made or that he had
21 previously sold drugs at the location.

22 THE WITNESS: That---

23 SOLICITOR MCELVEEN: Correct.

24 THE COURT: Is that correct, Ms. --?

25 SOLICITOR MCELVEEN: He said---

Symeon Graham - Direct examination
By Solicitor McElveen

1 MS. COOKE: Yes, Your Honor. And I, and I just --
2 and I mean I'm, I'm not trying to be difficult. I'm just
3 feel, you know, my, my client's charged with mandatory
4 minimum of 20 years here. I feel that I have to do
5 everything I can to protect him. And I feel, at this
6 point, that that bell can't be unrung and that I have to
7 move for a mistrial.

8 SOLICITOR MCELVEEN: Your Honor, I think we mentioned
9 that there was surveillance that was done and
10 investigations and controlled purchases -- and two
11 controlled purchases.

12 I just, I just said how do you know he was there. I
13 think he said investigate -- surveillance and
14 investigations and the controlled purchases. I don't
15 think he necessarily named Akeem Hickman as the target of
16 those controlled purchases. I think he just knew he was
17 there because of surveillance and investigations into
18 control purchases. I don't think he ever said we
19 investigated Akeem Hickman for all of his controlled
20 purchases. I think it was a much more---

21 MS. COOKE: He didn't say it like that.

22 SOLICITOR MCELVEEN: ---general statement.

23 MS. COOKE: But I, I, I do believe that that was a --
24 end, end result of what he said.

25 THE COURT: I, I think he specifically said --

Symeon Graham - Direct examination
By Solicitor McElveen

1 specifically said controlled -- previous controlled
2 purchases from this defendant. But -- from Mr. Hickman or
3 some reference to Mr. Hickman.

4 So, my ruling is that, as, as I previously stated,
5 you can -- and did refer to the reason for the search
6 warrant is that there were previous controlled purchases
7 from that residence. Mr. Graham can testify as to whether
8 or not the defendant was at that residence in the days and
9 weeks leading up to it but not that this defendant had
10 made -- had been part of controlled purchases that he's
11 not on trial for.

12 So I'm gonna instruct the jury to disregard that.
13 But I'm a little hesitant to go into it too much and now
14 highlight it.

15 Ms. Jones, is it possible for you to play back just
16 that little part?

17 THE DIGITAL REPORTER: Yes, ma'am.

18 THE COURT: The last thing right before we broke and
19 let's see what the exact comment was.

20 THE DIGITAL REPORTER: Yes, ma'am.

21 (WHEREUPON, a portion of the testimony was played
22 back for the Court at this time.)

23 THE COURT: Where -- it's from the statement that his
24 driver's license was on a nightstand.

25 THE DIGITAL REPORTER: Okay. Okay. Okay.

Symeon Graham - Direct examination
By Solicitor McElveen

1 THE COURT: It was after that.

2 THE DIGITAL REPORTER: All right.

3 (WHEREUPON, a portion of the testimony was played
4 back for the Court at this time.)

5 THE COURT: Okay. I thought he had specifically
6 said -- but I think saying video of controlled pur --
7 purchases certainly indicates that he's on that video and
8 that's not something that's coming in front of the jury.

9 MS. COOKE: And she had also just asked him how do
10 you know he was there.

11 (Pause.)

12 THE COURT: So, what I would suggest is that I stress
13 to the jury that the defendant is only on trial for the
14 events of May 7th.

15 MS. COOKE: I, I would---

16 THE DIGITAL REPORTER: Just give me one second.

17 THE COURT: I'm sorry. Hang on.

18 SOLICITOR McELVEEN: She needs a second.

19 THE DIGITAL REPORTER: Just give me one second.

20 (Pause.)

21 THE DIGITAL REPORTER: Okay.

22 THE COURT: Okay. All right. So, yes, ma'am, we're
23 back on the record.

24 I think you were talking Ms. Cooke.

25 MS. COOKE: I would not be opposed to that, Your

Symeon Graham - Direct examination
By Solicitor McElveen

1 Honor.

2 THE COURT: So, what I would intend to say is that
3 the defendant's only on trial for the events of May 7th,
4 2020. He's not on trial for anything that occurred prior
5 to that. I don't want to go into too much detail cause I
6 don't want to highlight any statement.

7 So, he's already talked about previous controlled
8 purchases of that location as a means of explaining why
9 the search warrant was issued and I've already said that
10 that was okay. So I guess what I would limit is any --
11 he's seen him at the residence. That's fine. But no
12 other reference to he's been on a video of controlled
13 purchases. It needs to be limited to -- if he's seen him
14 at the residence that's fine. But no reference to
15 criminal activity before that.

16 SOLICITOR MCELVEEN: Thank you, Your Honor.

17 I just have to put him physically at the scene at
18 some point cause I do remember that loss. You always
19 remember the losses much more than the wins.

20 THE COURT: I, I mean it's fine to say he lived
21 there. We saw him coming and going. Just not in
22 reference to previous purchases.

23 SOLICITOR MCELVEEN: Okay. Thank you, Your Honor.

24 THE COURT: Okay. If we can bring the jury back in.

25 (WHEREUPON, the following takes place within the

Symeon Graham - Direct examination
By Solicitor McElveen

1 presence of the jury.)

2 THE COURT: Okay. Ladies and gentlemen, I just want
3 to give you a brief instruction and clarification that you
4 understand that this defendant is only on trial for the
5 events of May 7th and for the items seized from the home
6 on May 7th and nothing else. Nothing prior to that is
7 anything that can come before you or be part of your
8 deliberations.

9 Thank you, Ms. McElveen---

10 SOLICITOR MCELVEEN: Thank you, Your Honor.

11 THE COURT: ---Ms. Cooke.

12 CONTINUED DIRECT EXAMINATION

13 BY SOLICITOR MCELVEEN:

14 Q. Investigator Graham?

15 A. Yes.

16 Q. Did you know the defendant was living there?

17 A. I did.

18 Q. Had you seen the defendant physically present at

19 Jerry Street in the past?

20 A. I can not say that I did.

21 Q. Okay. But you, you knew him to be living there?

22 A. Correct.

23 Q. And at that time you -- tell me again -- you put all
24 this -- all these suspect narcotics into evidence and what
25 charges were brought against Akeem Hickman after the full

Symeon Graham - Direct examination
By Solicitor McElveen

1 search of that home?

2 what charges did you draw up for arrest warrants on
3 Mr. Hickman?

4 A. Possession, possession with intent to distribute
5 marijuana, trafficking in heroin, and trafficking in meth.

6 Q. Were there any charges for a stolen pistol?

7 A. Yes, I do believe there was a stolen pistol found in
8 that bedroom, yes.

9 Q. And were there charges that were linked to the
10 Tramadol that was found?

11 A. Yes, possession of controlled substance. My
12 apologies.

13 Q. Thank you. Please answer any questions defense may
14 have.

15 CROSS-EXAMINATION

16 BY MS. COOKE:

17 Q. So you also found an undisclosed amount of money in
18 Shaquanna Spencer's left and right front pockets?

19 Is that correct?

20 That's what's listed on the --

21 A. An investigator did.

22 Q. -- search warrant.

23 A. I did not but there was money found in her -- yes.

24 Q. Okay. I apologize.

25 A. That's okay.

Symeon Graham - Cross-examination
By Ms. Cooke

- 1 Q. It had your name on it.
- 2 And so Shaquanna Spencer was also charged with these
- 3 crimes?
- 4 A. That's correct.
- 5 Q. And Scottie Hickson was also charged with these
- 6 crimes?
- 7 A. Correct.
- 8 Q. And this is at [REDACTED] Jerry Street?
- 9 A. Right.
- 10 Q. And would it surprise you to know and are you aware
- 11 that Scottie Hickson lives there?
- 12 A. No, it doesn't surprise me.
- 13 Q. Okay. And so you were the lead investigator during
- 14 this time and it's my understanding you're back on patrol
- 15 now.
- 16 Can you explain that?
- 17 A. I'm back on patrol. I just left -- I mean -- just no
- 18 longer in narcotics. That's -- it's not really a whole
- 19 lot to explain.
- 20 Q. And your, your name is on the warrant that you
- 21 obtained for Mr. Akeem Hickman. Did you obtain -- and I
- 22 believe Ms. McElveen asked you if you obtained warrants on
- 23 him.
- 24 You obtained warrants---
- 25 A. I did.

Symeon Graham - Cross-examination
By Ms. Cooke

1 Q. ---on him?

2 A. Yes, ma'am.

3 Q. And the address you put on those warrants is
4 Emma Road, Wedgefield, South Carolina?

5 A. Email, yes.

6 Q. And an email.

7 A. Uh-huh. (Affirmative).

8 MS. COOKE: Okay. No further questions of this
9 officer at this time, Your Honor.

10 THE COURT: Anything further, Ms. McElveen?

11 REDIRECT EXAMINATION

12 BY SOLICITOR MCELVEEN:

13 Q. Did you have reason to believe that Mr. Hickman was
14 living there with Mr. Hickson?

15 A. I did.

16 Q. Are the two related?

17 A. I do believe they are. I think they're cousins,
18 maybe brothers. I'm not a hundred percent sure. I can't
19 remember off the top of my head.

20 Q. But somehow related?

21 A. Yes.

22 Q. And is it normal practice for more than one person to
23 live in a home?

24 A. It is, yeah.

25 Q. Is it common practice for more than one person to

Symeon Graham - Redirect examination
By Solicitor McElveen

1 live in the home with narcotics at the residence?

2 A. Very common.

3 Q. Thank you. No further questions.

4 THE COURT: Anything else for this witness, Ms.

5 Cooke?

6 MS. COOKE: No, Your Honor.

7 THE COURT: Thank you, sir. You can step down.

8 THE WITNESS: Thank you, Your Honor.

9 SOLICITOR MCELVEEN: Your Honor, may I step out and
10 grab the next witness?

11 THE COURT: Okay.

12 (Pause.)

13 SOLICITOR MCELVEEN: At this time the State would
14 call Lieutenant Justin Yelton to the stand.

15 THE BAILIFF: Place your left-hand on the Bible, sir.
16 Raise your right-hand and state your name.

17 THE WITNESS: Justin Yelton.

18 JUSTIN YELTON, being first duly
19 sworn, testified as follows:

20 THE BAILIFF: Thank you, sir. Come around please.
21 spell your first name and your last name for the
22 record please.

23 THE WITNESS: Justin. J-U-S-T-I-N. Yelton.
24 Y-E-L-T-O-N.

25 DIRECT EXAMINATION

Justin Yelton - Direct examination
By Solicitor McElveen

1 BY SOLICITOR MCELVEEN:

2 Q. Again, I think I gave it away with your title.

3 But can you tell us what you do and what your rank is
4 and what's your profession?

5 A. I work for the Sumter County Sheriff's Office. I am
6 currently the commander of the narcotics unit as
7 lieutenant.

8 Q. And how long have you been the commander of the
9 narcotics unit?

10 A. Commander, the last two or three years. I've been in
11 the narcotics unit since 2010. Been with the Sheriff's
12 office since 2006.

13 Q. Where are you from?

14 A. Columbia originally.

15 Q. What brought you to Sumter?

16 A. Moved down here with -- my wife, at the time, was in
17 school. Got hired on with the Sheriff's Office and stayed
18 here. Liked it.

19 Q. Wonderful.

20 So you've been here with the Sheriff's Office since
21 2006?

22 A. Yes, ma'am.

23 Q. Did you have the occasion to work with Investigator
24 Graham on May 7th, 2020, in executing a search warrant?

25 A. Yes.

Justin Yelton - Direct examination
By Solicitor McElveen

- 1 Q. What was the address at that search warrant?
- 2 A. I believe it was [REDACTED] Jerry Street.
- 3 Q. What role did you play in the execution of that
- 4 search warrant?
- 5 A. I was a member of the narcotics unit. Sergeant at
- 6 the time. We worked narcotics cases as an investigative
- 7 unit. So there's multiple people. So we can do entry and
- 8 search.
- 9 Q. So what did you do?
- 10 Did you help with the entry?
- 11 A. Yes.
- 12 Q. Where did you search inside the home?
- 13 A. I searched mainly a codefendant's room. It was
- 14 labeled as room two. It was a bedroom. And then I did
- 15 some searching in some of the common areas.
- 16 Q. Did you find any narcotics in the common areas?
- 17 A. Yes, I believe I found some marijuana in the kitchen.
- 18 Q. Okay. And what kind of package was it in?
- 19 How did you -- what was it inside of?
- 20 A. Can I refer to --
- 21 Q. Yes.
- 22 A. -- the ledger?
- 23 Q. Yes.
- 24 Your Honor, is it okay if I pass up his drug report
- 25 (indiscernible)?

Justin Yelton - Direct examination
By Solicitor McElveen

1 THE COURT: If you'll tell Ms. Cooke what you're
2 passing up to him.

3 SOLICITOR MCELVEEN: I'm sorry.

4 I'm handing up the investigative report, the
5 Sheriff's Office investigative report.

6 MS. COOKE: Your Honor, I just want to note for
7 that -- for the record that I asked for that twice and
8 never received it. So that would---

9 SOLICITOR MCELVEEN: The investigative report?
10 You never got it?

11 MS. COOKE: The ledger.

12 SOLICITOR MCELVEEN: There's no ledger. This is
13 not -- we just call them ledger. He called it a ledger.

14 THE COURT: If you'll hand her what you're -- what
15 you've just handed him---

16 SOLICITOR MCELVEEN: This is just the Sheriff's
17 Office---

18 THE COURT: ---so she can take a look.

19 SOLICITOR MCELVEEN: ---report.

20 Q. Did you have the opportunity to find any suspect
21 narcotics in any common areas?

22 A. Yes, ma'am. So I found suspect marijuana in a black
23 and red Gucci bag in the kitchen.

24 Q. Where else did you search inside the home?

25 A. A bedroom.

Justin Yelton - Direct examination
By Solicitor McElveen

1 Q. Was it Mr. Hickman's bedroom?

2 A. It was not.

3 Q. Was it a codefendant's bedroom?

4 A. It was.

5 Q. Did you find suspect narcotics in that bedroom?

6 A. I did.

7 Q. Was that codefendant charged with those narcotics?

8 A. Yes.

9 Q. What did you do with the narcotics that you found
10 inside of the kitchen in the common area?

11 A. We -- I turned it over to the executing officer.

12 Q. And that would of been --?

13 A. I don't recall.

14 Q. Would it have been Investigator Graham?

15 A. It's, it's possible.

16 Q. And you turned them over to one of the investigator
17 who -- what happens with drugs once they're taken from the
18 scene at --?

19 A. So they're turned into evidence and then submitted to
20 a chemist for analysis.

21 Q. And these drugs were wrapped up and sealed and
22 submitted to a chemist for analysis?

23 A. Yes.

24 MS. COOKE: Leading, Your Honor.

25 THE COURT: That's sustained.

Justin Yelton - Direct examination
By Solicitor McElveen

1 Q. What happened to these drugs?

2 A. They were put into a BEST kit, which is just the
3 evidence kit for drugs specifically. They're sealed in
4 that and then submitted to either, either SLED for
5 analysis or sometimes federal agencies or I believe, at
6 the time, we might have had our own chemist.

7 Q. Sumter County had their own chemist?

8 A. At one time.

9 Q. In 2020?

10 A. I, I don't recall. I don't, I don't want to --.

11 Q. So, what other roles did you play?

12 Was, was that your -- you an -- you searched those
13 two areas and you -- but you were not the primary officer
14 on this case.

15 Is that correct?

16 A. Correct.

17 Q. And, again, in the kitchen, is it the space -- a
18 common area somewhere where any resident could exercise
19 dominion and control over the drugs?

20 Were they in a place where anyone could exercise
21 dominion and control over them?

22 A. Yes, it was, it was opened. It wasn't shut off from
23 the rest of the -- I, I would call it a common area.

24 Q. So any resident could of --

25 A. Yes.

Justin Yelton - Direct examination
By Solicitor McElveen

1 Q. -- exercise dominion and control over those narcotics
2 in the kitchen?

3 A. Yes.

4 Q. Okay. Thank you. I have no further questions for
5 you at this time. Please answer any questions Ms. Cooke
6 may have.

7 MS. COOKE: No questions, Your Honor.

8 THE COURT: Thank you, sir. You can step down.

9 SOLICITOR MCELVEEN: Your Honor, at this time we
10 could call and also if I may step out and get Investigator
11 Reynolds, Your Honor.

12 THE COURT: Okay.

13 SOLICITOR MCELVEEN: And, Your Honor, may Lieutenant
14 Yelton be released from his subpoena and the sequestration
15 order?

16 THE COURT: Any objection, Ms. Cooke?

17 MS. COOKE: No, Your Honor.

18 THE COURT: Sure.

19 SOLICITOR MCELVEEN: Thank you, Your Honor.

20 Lieutenant Reynolds, Your Honor.

21 THE BAILIFF: Place your left hand on the Bible and
22 raise your right-hand and state your name.

23 THE WITNESS: Robert Reynolds.

24 ROBERT REYNOLDS, being first duly
25 sworn, testified as follows:

Robert Reynolds - Direct examination
By Solicitor McElveen

1 THE BAILIFF: Thank you. Please step, step around
2 please.

3 (WHEREUPON, the witness complies.)

4 THE BAILIFF: State your, state your full name and
5 spell your name for the record please.

6 THE WITNESS: It's Robert Reynolds. R-E-Y-N-O-L-D-S.

7 DIRECT EXAMINATION

8 BY SOLICITOR MCELVEEN:

9 Q. Where do you work and what do you do and tell us a
10 little bit about yourself?

11 A. All right. My name is Robert Reynolds. I'm a
12 lieutenant with the Sumter County Sheriff's Office. I've
13 been employed with the Sumter County Sheriff's Office for
14 25 years, six months, and two weeks.

15 Q. Wow.

16 A. I am currently a patrol lieutenant.

17 Q. And so where were you working in May, 2020?

18 What position were you in in May, 2020?

19 A. In May, 2020 I was a senior investigator assigned to
20 the narcotics unit.

21 Q. Did you have the opportunity to work with
22 Investigator or Lieutenant Yelton, Investigator Graham on
23 May 7th, 2020?

24 A. Yes, ma'am.

25 Q. Where did you go?

Robert Reynolds - Direct examination
By Solicitor McElveen

- 1 what did you do at [REDACTED] wright street?
- 2 A. We executed a search warrant on, on the premises.
- 3 Q. Tell us a little bit about that procedure.
- 4 Did you go over some safety protocols---
- 5 A. Yes, ma'am.
- 6 Q. ---first?
- 7 A. Usually before we start our day or a, a search
- 8 warrant, we do what's called a safety and preparedness
- 9 briefing so everybody goes home, comes, comes back safely.
- 10 In the morning we do a safety brief of where we're doing,
- 11 what the location looks like, whose job is -- who's
- 12 driving, who's going in the door, who's point, who's
- 13 searching rooms. So we went over the operational plan.
- 14 Once we done that, everybody was good to go. We was in
- 15 route to the location.
- 16 Q. Tell us -- what did you do when you got there to that
- 17 scene at [REDACTED] wright street that Thursday?
- 18 A. All right. Well, trying to go over memory, I am a
- 19 little older, and it's been a few years ago. So I'm gonna
- 20 give it as much as I can.
- 21 I---
- 22 SOLICITOR MCELVEEN: Your Honor, may, may he refer to
- 23 the investigative report to refresh his recollection?
- 24 THE COURT: Sure.
- 25 THE WITNESS: Yeah.

Robert Reynolds - Direct examination
By Solicitor McElveen

1 Q. Do you want -- do you have, do you have a copy?

2 A. I have a copy.

3 Q. I'm sorry. I meant Jerry Street.

4 Sorry, Your Honor. I meant Jerry Street. Forgive
5 me.

6 A. Yes, it's [REDACTED] Jerry.

7 Q. Not, not Jerry -- not Wright Street. I'm so sorry.

8 A. Okay. All right. I've got it.

9 All right. I'm ready.

10 Q. Yeah, go ahead.

11 Did you---

12 A. Okay.

13 Q. What did you find -- what did you do when you were on
14 scene.

15 A. Okay. I was assigned to ram, which is the person who
16 forces entry if someone doesn't open the door up or if the
17 door's not opened. I was also the entry to go inside of
18 the residence, and once inside of the residence, assigned
19 to search the room.

20 Q. What room did you search?

21 Whose room did you search?

22 A. The room that I searched was -- I'm looking --
23 referring to the return, was Room 10, the number 10
24 given---

25 Q. Whose---

Robert Reynolds - Direct examination
By Solicitor McElveen

1 A. ---and---

2 Q. whose room was that?

3 A. That would be Mr. Hickman's room.

4 Q. And how you -- were you guys able to determine that
5 was Mr. Hickman's room?

6 was there any sort of identification in there?

7 A. well, during the execution of the search warrant
8 while I was searching the room, I found his driver's
9 license in a bowl.

10 Q. what else did you find inside of his room?

11 A. According to the return, a Glock 43 9-millimeter with
12 six rounds in the magazine. It was in the closet of the
13 bedroom.

14 Q. And was that weapon clean or was it -- had it been
15 reported stolen?

16 A. I, I honestly don't, don't remember that at this
17 time. It says also I found some currency in a laundry bag
18 in the closet, a brown powder substance in a plastic bag
19 in the closet, a suspect marijuana and currency in a
20 plastic bag in the closet, blue pills with the marking of
21 M08 in the closet, a black Mossberg 12-gauge shotgun with
22 several rounds in the closet, a black and wood grain Henry
23 rifle, .22 caliber, was found in the closet. A grocery
24 bag with suspect marijuana was found in the closet,
25 suspect marijuana inside a red bowl.

Robert Reynolds - Direct examination
By Solicitor McElveen

1 Then that's the bowl with Mr. Hickman's driver's
2 license in it was found in the room and Amoxicillin
3 prescribed to a Winniford subject was also in the bed bowl
4 in Mr. Hickman's -- with Mr. Hickman's driver's license in
5 the room and that's -- a black camcorder was also found in
6 Mr. Hickman's room and that is the items that I, I had
7 found here, ma'am.

8 Q. Was there also a revolver with four rounds under his
9 mattress located at that time in his room?

10 A. Yes, .357 magnum revolver was found in the room as
11 well. It had four rounds underneath it or in it. I'm
12 sorry.

13 Q. So what would you have done with those weapons and
14 guns as they were located?

15 A. Our procedure is that, as we find items like that, is
16 one, to first document them, and then run them through
17 NCIC to make -- see if they're stolen or have or been
18 or -- yeah, to see if they've been stolen.

19 Q. I'm gonna hand you -- I'd like to mark these please
20 as State's Exhibit 4 and 5.

21 (WHEREUPON, the 9-millimeter handgun was marked as
22 State's Exhibit No. 4 and the .357 handgun was marked as
23 State's Exhibit No. 5. Both items were for identification
24 purposes only at this time.)

25 Q. Can you tell me -- Your Honor, if it please the

Robert Reynolds - Direct examination
By Solicitor McElveen

1 Court, if it's okay we'd like to open this box. But would
2 like for the Court to please take notice that we have
3 secured the weapon and it would not be able to be fired
4 the way it is stored by evidence. So --.

5 THE COURT: Can I get y'all to approach with it just
6 a minute?

7 SOLICITOR MCELVEEN: Yes.

8 (WHEREUPON, a bench conference was held out of the
9 hearing of the jury at this time.)

10 THE COURT: Ladies and gentlemen, we're gonna just
11 take a quick recess while we put a zip tie on the guns
12 just so I can tell y'all that it's not capable of being
13 fired before we open those in the courtroom.

14 So, if you will head on back to the jury room. But
15 please don't begin discussing the case.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: So I'm not a gun person. So, I am
19 probably a little sensitive about the firearms loose in
20 the, in the courtroom. I just would like for us to either
21 have a lock on it or a zip tie or something. And then if
22 we can maybe do a -- the, the -- do the ammunition in a
23 separate bag and call it like State's 5-A or 5-B.

24 THE WITNESS: Okay.

25 SOLICITOR MCELVEEN: Yes, Your Honor. Thank you.

Robert Reynolds - Direct examination
By Solicitor McElveen

1 I've never seen it just unsecured like that with
2 rounds able to --.

3 (WHEREUPON, a short recess was taken at this time.)

4 THE COURT: Ms. McElveen, if I can get you to just
5 stay on the record while we bring the jury back in.

6 Have the witness testify as to the condition of the
7 firearms so that the jury knows that they are not capable
8 of being fired.

9 SOLICITOR MCELVEEN: Perfect. I'll even ask if he
10 boxed them himself. So (indiscernible). I'm just
11 kidding.

12 THE WITNESS: I'm sorry.

13 SOLICITOR MCELVEEN: I'm just kidding. I think that
14 or (indiscernible) at the time. Not necessarily. Boland
15 would of secured it.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE BAILIFF: The jury's all seated.

19 THE COURT: Thank you.

20 Ms. McElveen.

21 SOLICITOR MCELVEEN: Yes, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY SOLICITOR MCELVEEN:

24 Q. Lieutenant Reynolds?

25 A. Yes, ma'am.

Robert Reynolds - Direct examination
By Solicitor McElveen

1 Q. You found two weapons inside Mr. Hickman's room,
2 correct?

3 A. Yes, ma'am.

4 Q. I'm gonna hand you -- well, how -- were you able to
5 confirm that these weapons have been secured now for Court
6 purposes.

7 A. Yes, the weapons are secured. There's a cable going
8 through it where the weapon can not be fired with a lock
9 on it. So you guys are safe.

10 Q. Okay. So there's no way that these weapons can be
11 fired?

12 A. There's no way they can be fired.

13 Q. I'm gonna hand you what's been marked as State's
14 Exhibit 4.

15 Can you identify this item?

16 A. Yes, ma'am. It is a -- there's a label on the front
17 of the box. It says that it was collected by myself. It
18 was Item Number 10, the case number, the date. It is a
19 black in color semiautomatic Glock 43 with a serial number
20 of ZRV223, 9-millimeter caliber.

21 Q. And what would you have done with that weapon at the
22 scene?

23 When you, when you collected it, what happens with
24 weapons at the scene?

25 A. When we get the weapons, it's our protocol to run

Robert Reynolds - Direct examination
By Solicitor McElveen

1 them to make sure they're not in NCIC as stolen. If it's
2 stolen, it's gonna tell us immediately it's, it's stolen
3 and it's gonna be handled at -- so we know that it needs
4 to get back to the owner.

5 Q. And how do you run a weapon through NCIC to
6 determine -- what do you use to run a weapon?

7 A. All right. On the, on the scene we use the radio.
8 We contact dispatch. Dispatch runs it and we give the
9 serial number, which would of been the ZRZ or -- I'm
10 sorry. ZRV2223. And then if it gets a, a match on it,
11 that's gonna ask us for make, model, color, and confirm it
12 in that way.

13 Q. And is that weapon, the CRV, was found in
14 Mr. Hickman's closet, correct?

15 A. Yes, ma'am.

16 Q. Did you run that weapon through NCIC?

17 A. I don't have the NCIC entry in front of me. But it
18 does show on the box that NCIC entry with a number behind,
19 which confirms, to me, that it was, it was stolen at the
20 time.

21 Q. The weapon was stolen --

22 A. Yes, ma'am.

23 Q. -- through NCIC?

24 A. Yes, it has an NCIC number of Golf 034892540.

25 Q. And that would of been confirmation that it had

Robert Reynolds - Direct examination
By Solicitor McElveen

1 been---

2 A. Yes.

3 Q. ---that it had been stolen?

4 A. That's the confirmation number.

5 SOLICITOR MCELVEEN: May -- Your Honor, we'd like to
6 enter State's Exhibit 4 into evidence at this time.

7 THE COURT: Any objection, Ms. Cooke?

8 MS. COOKE: No, Your Honor.

9 Q. And it---

10 THE COURT: Four is admitted.

11 SOLICITOR MCELVEEN: Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit No. 4 was received into
13 evidence at this time.)

14 Q. And if you can please identify item marked as five
15 for identification purposes only?

16 A. All right. This is collected by myself. The -- with
17 the date, time. It's a revolver, black in color. It's a
18 Rockledge Arms with a serial number of 1073572 of .38,
19 .357.

20 Q. Were there any rounds found in that weapon?

21 A. Four rounds were found in it. I've got it initialed
22 on the box.

23 Q. And you packaged that gun?

24 A. Yes, ma'am.

25 Q. And it is also not able to be fired here in --

Robert Reynolds - Direct examination
By Solicitor McElveen

1 A. No.

2 Q. Correct?

3 A. It does not. It also has a cable with the lock
4 through it so it can not be fired.

5 Q. So both these weapons were found in Mr. Hickman's
6 bedroom, correct?

7 A. Yes.

8 SOLICITOR MCELVEEN: And, Your Honor, we'd like to
9 admit State's Exhibit 5 into evidence at this time.

10 THE COURT: Any objection?

11 MS. COOKE: No, Your Honor.

12 THE COURT: Five is admitted.

13 SOLICITOR MCELVEEN: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit No. 5 was received into
15 evidence at this time.)

16 Q. Investigator Reynolds, what did you do with the drugs
17 that were located inside Mr. Heck -- Hickman's bedroom?

18 A. Any item that's found inside the residence is
19 observed and taken to a collection point where the --
20 either the assigned person that is doing the return in the
21 search warrant paperwork itemizes it, puts an initial on
22 it, who found it, where it was found, and then it's taken
23 to our office and we process and actually seize it up and
24 send it into evidence from there.

25 Q. And so the evidence technician handles taking it over

Robert Reynolds - Direct examination
By Solicitor McElveen

1 for analysis?

2 A. Yes. Once we're done, we send it, we send it in for
3 analysis, yes, ma'am.

4 Q. And leaving the Sheriff's office?

5 A. Yes, I say we. Well, as a narcotics unit, we, we
6 perform as a team -- so it has -- yes, ma'am.

7 Q. Thank you. Please answer any questions that Ms.
8 Cooke may have.

9 A. Yes, ma'am.

10 MS. COOKE: Just, just one or two questions.

11 CROSS-EXAMINATION

12 BY MS. COOKE:

13 Q. I see in the incident report that finger --
14 fingerprint -- fingerprinting was done on these weapons.

15 No, no fingerprints were found on any of these
16 weapons?

17 A. I'm not sure of that information, ma'am. I didn't
18 receive the information. That would be the case agent
19 would have that.

20 MS. COOKE: Okay. No other questions.

21 THE COURT: Anything further from the State?

22 SOLICITOR MCELVEEN: Nothing, Your Honor.

23 THE COURT: Okay. You can step down.

24 THE WITNESS: Thank you, ma'am.

25 SOLICITOR MCELVEEN: And if Lieutenant Reynolds can

1 be excused from his subpoena and removed from the
2 sequestration motion we would appreciate it.

3 THE COURT: Any objection, Ms. Cooke?

4 MS. COOKE: No, Your Honor.

5 THE WITNESS: Thank you.

6 SOLICITOR MCELVEEN: Your Honor, may we approach
7 for -- Ms. Cooke and I approach?

8 THE COURT: Sure.

9 SOLICITOR MCELVEEN: I'm sorry.

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 THE COURT: Okay. Ladies and gentlemen, we're gonna
13 go ahead and break for the evening. We have gone through
14 our planned testimony today. So, I'm gonna go ahead and
15 release you for the evening.

16 If you'll please be back in the jury room at 9:15 in
17 the morning. It's -- my goal's we'll start this right at
18 9:30. We may conclude the case tomorrow. It may go into
19 Wednesday. We'll just kind of see how it goes tomorrow.

20 Our plan for tomorrow would be we'll take a break at
21 lunch. Again, we will conclude one way or the other right
22 around 5:00 tomorrow.

23 Have a good evening. Again, please don't begin
24 discussing the case overnight.

25 Thanks.

1 (WHEREUPON, the following takes place outside the
2 presence of the jury.)

3 THE COURT: Okay. We'll be at recess till tomorrow
4 morning.

5 MS. COOKE: Thank you, Your Honor.

6 SOLICITOR MCELVEEN: Thank you, Your Honor.

7

8 (WHEREUPON, Court was in recess for the evening.)

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1 Tuesday, December 5th, 2023

2

3 THE BAILIFF: Good morning, Your Honor.

4 THE COURT: Morning.

5 THE BAILIFF: The jury's all present.

6 THE COURT: Okay.

7 Okay. Anything that we need to address before we
8 bring the jury in?

9 SOLICITOR MCELVEEN: Nothing from the State, Your
10 Honor.

11 MS. COOKE: Nothing from the defense, Your Honor.

12 (WHEREUPON, the following takes place within the
13 presence of the jury.)

14 THE BAILIFF: The jury's all seated, Your Honor.

15 THE COURT: Thank you.

16 Good morning. I want to thank you again for being
17 here on time this morning. Appreciate that very much and
18 we're ready for the State's next witness.

19 SOLICITOR MCELVEEN: Your Honor, at this time the
20 State would call Sergeant Hofer to the stand.

21 THE BAILIFF: Place your left hand on the Bible.
22 Raise your right-hand and state your name please.

23 THE WITNESS: I'm Sergeant Jeffrey Hofer.

24 JEFFREY HOFER, being first duly
25 sworn, testified as follows:

1 THE BAILIFF: Thank you. Please, sir, step around
2 please.

3 (WHEREUPON, the witness complies.)

4 THE BAILIFF: State your name for the record and
5 spell your last name please.

6 THE WITNESS: Sergeant Jeffrey Hofer. H-O-F-E-R.

7 THE COURT: And before you get started, Ms. McElveen,
8 we have the wit -- witnesses sequestered this morning?

9 SOLICITOR MCELVEEN: Yes, Your Honor.

10 Lieutenant Yelton has already testify. He's been
11 released and this is our primary investigating officer.
12 We have the evidence technician who's needed for firearm
13 and narcotics to make sure we keep an eye on that, Your
14 Honor.

15 THE COURT: All right. Thank you.

16 SOLICITOR MCELVEEN: Thank you.

17 DIRECT EXAMINATION

18 BY SOLICITOR MCELVEEN:

19 Q. Sergeant Hofer, tell us a little bit what -- about
20 where you work, how long you've worked there, and what you
21 do.

22 A. I'm with the Sumter County Sheriff's Office and I've
23 been with the Sheriff's Office since about November of
24 2009. I'm now assigned to the CAT team, which is part of
25 the patrol division, and I'm -- I just kind of work the

Jeffrey Hofer - Direct examination
By Solicitor McElveen

1 road and enjoy working in Sumter County.

2 Q. where are you from?

3 A. well, I'm originally from New York, Long Island.

4 Q. what brought you to Sumter?

5 A. I got out of the military. I was stationed in
6 California. A buddy of mine got out and he moved to
7 Wedgefield and he said come on down.

8 Q. But now you've been here the whole time?

9 A. Yes.

10 Q. Is he still here too?

11 A. Yes.

12 Q. Wonderful.

13 were you working with -- did you have the opportunity
14 to work with all these gentlemen on May 7th of 2020 at a
15 incident at [REDACTED] Jerry Street?

16 A. Yes.

17 Q. Can you tell us a little bit about what you found and
18 what you did on the scene?

19 A. what we usually would do is, cause I'm a marked unit
20 and uniform officer, I assist the narcotics units. And
21 when they do the search warrant, once the scene is safe, I
22 assist -- sometimes I assist with helping with searching
23 and the search warrant was for the house and all vehicles
24 and everything in the yard. So, they're inside taking
25 care of that.

Jeffrey Hofer - Direct examination
By Solicitor McElveen

1 I go start to search the vehicles to kind of get the
2 process going a little quicker so we're not stuck out
3 there all day. And so I take care of the vehicles and
4 then, when I find something in the vehicles, I inform them
5 that this is what I found. They come out and they secure
6 it and turn it in.

7 Q. So you did execute a search warrant that day,
8 correct?

9 A. Yes, along with the drug unit.

10 Q. And what vehicles and -- I'm sorry.

11 Are vehicles a part of the search warrant?

12 Are they a signed part of a search warrant?

13 A. Yes, I always confirm that the vehicles and outer
14 buildings, including the residence, that it's, it's
15 written on the search warrant.

16 Q. Wonderful.

17 Did you search any vehicles that day?

18 What vehicles and what did you find?

19 A. There's a, a GMC Jimmy. It was like burgundy,
20 reddish in color located in the front yard at this address
21 in Sumter County. In the center console and inside a Slim
22 Jim box I located a tupper -- suspected like heroin or
23 Fentanyl and it was a large amount. So I just set it
24 there and I informed them, let them know, and they come
25 take care of it.

Jeffrey Hofer - Direct examination
By Solicitor McElveen

1 Q. But you're the one that located that package?

2 You located the suspect narcotics or the suspect
3 heroin --

4 A. Yes.

5 Q. -- in the car?

6 A. In the -- it was a GMC Jimmy --

7 Q. I---

8 A. -- in the front yard.

9 Q. Did you collect it or you said you, you---

10 A. No, I find it and I just leave it right there and I
11 let them do what they have to do.

12 Q. Them being --?

13 A. The drug unit where it was in charge of the evidence.

14 Q. Fantastic.

15 Were there any other items that were found inside of
16 the cars out there?

17 A. There's also another -- a red Dodge Charger in the
18 front yard at the same address where we were doing the
19 search warrant and then there was two plastic bags con --
20 containing a suspected marijuana, a green leafy substance.

21 Q. And did you collect those items?

22 A. No, I did the same thing. I -- here it is. Y'all
23 come take care of it. It's kind of how I do it. It's
24 just so it's clear. That's why they take all the
25 evidence. They take care of it and then it's documented

Jeffrey Hofer - Direct examination
By Solicitor McElveen

1 that way.

2 Q. And you're out of the chain of custody pretty much,
3 correct?

4 A. Pretty much. I'm like here it is. Y'all come get it
5 and they turn it in for chemical analysis.

6 Q. Thank you so much. Please answer any questions that
7 defense may have.

8 MS. COOKE: Your Honor, I don't have any questions.
9 Thank you.

10 THE COURT: Thank you, sir. You can step down.

11 THE WITNESS: Thank you, judge.

12 SOLICITOR McELVEEN: And, Your Honor, if Sergeant
13 Hofer can go back, they are act -- they are actively
14 working right -- if he could be released from his subpoena
15 and go back to work, Your Honor?

16 THE COURT: Any objection, Ms. Cooke?

17 MS. COOKE: No, Your Honor.

18 THE COURT: Sir, that's fine.

19 SOLICITOR McELVEEN: Or he can stay in here in
20 sequester -- whatever you -- thank you, Your Honor.

21 At this time the State would like to recall to the
22 stand Investigator Graham.

23 THE COURT: Swear him back in.

24 THE BAILIFF: Place your left-hand on the Bible.
25 Raise your right-hand and state your name.

Symeon Graham - Direct examination
By Solicitor McElveen

1 THE WITNESS: Symeon Graham.

2 SYMEON GRAHAM, being first duly
3 sworn, testifies as follows:

4 THE BAILIFF: Thank you, sir. Step around please.
5 (WHEREUPON, the witness complies.)

6 THE BAILIFF: State your name for the record and
7 spell your last name please.

8 THE WITNESS: Symeon Graham. G-R-A-H-A-M.

9 DIRECT EXAMINATION

10 BY SOLICITOR MCELVEEN:

11 Q. Investigator Graham, after hearing from all of the
12 officers who found, thank you, who found narcotics, what
13 happens with those narcotics?

14 what happened with those narcotics as you as the
15 primary officer?

16 what happened then once all these narcotics are
17 identified and located?

18 A. Once they're identified and located, they're sealed
19 up, taken to one officer at a collection point that we
20 have at the site, and then that officer will take them.
21 Once we get back to the office, we'll take them and
22 take -- give them to the evidence technician who will then
23 give it to the chemist for testing.

24 Q. So, did you collect the drugs throughout the property
25 and hand them to somebody?

Symeon Graham - Direct examination
By Solicitor McElveen

1 A. I did.

2 Q. Who did you hand them to?

3 A. That would be Senior Investigator Artis.

4 Q. Artis?

5 A. Yes.

6 Q. But you're the one that collected them from around
7 the location---

8 A. Correct.

9 Q. ---correct?

10 A. Correct.

11 Q. And while -- when you amassed the narcotics and
12 weapons and things found at this location, what charges
13 were brought?

14 well, how -- first of all, how did you identify who
15 to charge?

16 A. There were -- there's a driver's license in a
17 bedroom. There were pictures of the -- of people on the
18 walls and there was a lease with several names on the
19 lease.

20 MS. COOKE: Objection, Your Honor. I have a motion
21 outside the presence of the jury.

22 THE COURT: Okay. Ladies and gentlemen, I'm gonna
23 excuse you back to the jury room while we take up a matter
24 of law. Please don't begin discussing the case.

25 (WHEREUPON, the following takes place outside the

Symeon Graham - Direct examination
By Solicitor McElveen

1 presence of the jury.)

2 THE COURT: Yes, ma'am.

3 MS. COOKE: Your Honor, I wasn't given any sort of
4 lease in discovery and Judge Griffin ruled that anything
5 that I wasn't given before the date that we tried to try
6 this case last time was inadmissible.

7 SOLICITOR McELVEEN: Your Honor, we have -- Your
8 Honor, he, he saw the lease. We don't plan on entering it
9 into evidence. He's gonna -- he saw it at the scene and
10 saw the two brothers or---

11 MS. COOKE: Then one's almost hearsay.

12 SOLICITOR McELVEEN: Okay. But he found the lease at
13 the scene with two -- with his name on it.

14 MS. COOKE: It's hearsay.

15 THE COURT: I mean I --.

16 SOLICITOR McELVEEN: We will --.

17 THE COURT: That would be hearsay.

18 SOLICITOR McELVEEN: Yes, we will stand down then on
19 that. But he can testify to his pictures he saw on the
20 wall. I mean pictures of the defendant that he saw at the
21 scene.

22 THE COURT: Do you have any objection to that?

23 MS. COOKE: Just relevance, Your Honor. I, I have
24 picture of lots of people at my house that don't, don't
25 live there, don't rent there, don't, don't own the place.

Symeon Graham - Direct examination
By Solicitor McElveen

1 THE COURT: well then I think that's valid for
2 cross-examination. I don't think it prevents him from
3 testifying about what he saw on the walls.

4 Okay. You can bring the jury back in.

5 SOLICITOR McELVEEN: Thank you, Your Honor.

6 THE COURT: Yes.

7 MS. COOKE: Oh, Your Honor, I'm -- I apologize. I
8 also didn't get any pictures of what was on the wall or
9 --.

10 SOLICITOR McELVEEN: Your Honor---

11 MS. COOKE: -- or --.

12 SOLICITOR McELVEEN: ---we provided that to Ms. Cooke
13 on October 17th of this year. It was in a packet of
14 digital photos. We don't plan on using the photos and
15 putting them into evidence but they were provided to her.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE BAILIFF: The jury's seated, Your Honor.

19 THE COURT: Thank you.

20 CONTINUED DIRECT EXAMINATION

21 BY SOLICITOR McELVEEN:

22 Q. Investigator Graham?

23 A. Yes.

24 Q. Were you able to -- you stated that there was a
25 driver's license, correct, in the bedroom?

Symeon Graham - Direct examination
By Solicitor McElveen

1 A. Correct.

2 Q. whose driver's license was it?

3 A. The defendant, Mr. Hickman's.

4 Q. Were there any other photos of him and, if so, where
5 were they located?

6 A. There were pictures of him and a codefendant on the
7 wall in the living room of the residence.

8 Q. And you saw those with your own eyes?

9 A. I did.

10 Q. And based upon the drugs and weapons at the scene,
11 what charges were brought against Mr. Akeem Hickman?

12 A. I believe the first is trafficking in heroin,
13 trafficking in methamphetamine, possession with intent to
14 distribute marijuana, possession of a controlled
15 substance, possession of a weapon during violent crime,
16 and possession of a stolen firearm.

17 Q. Thank you.

18 And, again, you turned these drugs over to
19 Investigator Artis, correct?

20 A. Correct.

21 Q. Thank you. Please answer any questions defense may
22 have.

23 CROSS-EXAMINATION

24 BY MS. COOKE:

25 Q. There were pictures of a bunch of people partying

Symeon Graham - Cross-examination
By Ms. Cooke

1 together and holding beers up to the camera outside,
2 correct?

3 A. In the residence?

4 Q. Yes.

5 A. If it's not pertaining to the case, I'm, I'm not
6 sure. I can't say that I remember that---

7 Q. So you---

8 A. ---or not.

9 Q. You only remember certain pictures that you saw?

10 A. I remember pictures that had a defendant that I was
11 working a case on, yes.

12 Q. With this brother?

13 A. Correct.

14 Q. With his arm around his brother?

15 A. Correct.

16 Q. In a house where we've already established that his
17 brother lives?

18 A. What's that?

19 Q. In a house where we've already established that his
20 brother lived?

21 SOLICITOR MCELVEEN: Objection. No question.

22 A. Multiple people live---

23 SOLICITOR MCELVEEN: Your Honor, no question in
24 there.

25 THE COURT: I---

Symeon Graham - Cross-examination
By MS. Cooke

1 MS. COOKE: I---

2 THE COURT: I think that was a question. I got the
3 gist---

4 A. I believe multiple---

5 THE COURT: ---that at least you were asking---

6 A. We established---

7 THE COURT: ---confirmation.

8 A. ---multiple people were living at the residence.

9 MS. COOKE: Thank you, Your Honor. No further
10 questions.

11 THE COURT: Any redirect?

12 REDIRECT EXAMINATION

13 BY SOLICITOR MCELVEEN:

14 Q. I'm sorry. You were able to establish that there
15 were multiple people living in the residence?

16 Is that what you said?

17 A. Correct.

18 Q. Not just one person?

19 A. Right.

20 Q. Correct?

21 A. Right.

22 Q. And, again, it's normal policy that multiple people
23 can live in a home?

24 A. Absolutely.

25 Q. Including family members?

Symeon Graham - Redirect examination
By Solicitor McElveen

1 A. That's correct.

2 Q. In narcotics homes?

3 A. Right.

4 Q. Thank you. No other questions.

5 THE COURT: Thank you, sir. You can step down.

6 THE WITNESS: Thank you, Your Honor.

7 SOLICITOR MCELVEEN: Your Honor, at this time the
8 State would call Senior Investigator Antonio Artis to the
9 stand.

10 THE COURT: Come on up, sir.

11 THE BAILIFF: Place your left-hand on the Bible.
12 Raise your right-hand and state your name please.

13 THE WITNESS: Antonio Dwayne Artis.

14 ANTONIO ARTIS, being first duly
15 sworn, testified as follows:

16 THE BAILIFF: Thank you, sir. You may step around
17 please.

18 (WHEREUPON, the witness complies.)

19 THE BAILIFF: State your name for the record and
20 spell your last name please.

21 THE WITNESS: Antonio Dewayne Artis. Last name
22 spelled A-R-T-I-S.

23 DIRECT EXAMINATION

24 BY SOLICITOR MCELVEEN:

25 Q. Good morning.

Antonio Artis - Direct examination
By Solicitor McElveen

1 A. Good morning.

2 Q. Tell us a little bit about what you do, where you
3 work, and what you do.

4 A. So I'm assigned to the narcotics unit at the Sumter
5 County Sheriff's Office. Pretty much we handle C.I.'s,
6 being confidential informants, investigate drug houses in
7 Sumter, South Carolina, and we handle complaints received
8 about drug houses in Sumter.

9 Q. How long have you been there?

10 A. I've been in narcotics for approximately four years.

11 Q. Where are you---

12 A. Pri---

13 Q. Where are you from?

14 A. North Carolina.

15 Q. What brought you to Sumter?

16 A. My wife. Military.

17 Q. How wonderful.

18 So how long did you -- when did you arrive in Sumter?

19 A. I think it was 2015. I was with Florence,
20 Florence -- I was in Florence with Florence P.D. in 2015
21 until 2017 and then I came to Sumter County.

22 Q. Wonderful. We're glad you're here.

23 A. Uh-huh. (Affirmative).

24 Q. Did you have the opportunity to work with the
25 narcotics unit on May 7th, 2020, at [REDACTED] Jerry Street?

Antonio Artis - Direct examination
By Solicitor McElveen

1 A. Yes, ma'am.

2 Q. Can you tell me a little bit about what you did at
3 that scene?

4 A. So I was a part of the, the entry team, which is
5 pretty much the, the entire narcotics unit.

6 So, once we get to a residence, we check to see if
7 the door's unlocked. We knock and announce Sheriff's
8 Office, drug unit. If nobody answers the door, the door
9 is locked, then we utilize a, a ram to make entry into
10 that residence. Once inside the residence, we clear the
11 residence and make sure nobody's inside the residence. If
12 there is, we detain all suspects and then we go into the
13 reading of the search warrant and then we execute the
14 search warrant.

15 Q. Did you assist at this -- executing the search
16 warrant that day?

17 A. Yes, I was a part of the search.

18 Q. What did you find and where was it located?

19 A. So I located -- there was a green Buick Skylark
20 parked outside the residence and, in the trunk, I located
21 a, a black Russian SKS which had a serial number of
22 [REDACTED], and a black and wood grain SKS which had a serial
23 number of [REDACTED]

24 Q. What would you have done with those weapons or what
25 did you do with those weapons when you located them?

Antonio Artis - Direct examination
By Solicitor McElveen

1 A. So I take the, the two firearms and I handed them to
2 the executing officer on scene and they logged it on to
3 the search warrant return.

4 SOLICITOR MCELVEEN: Okay. And, Your Honor, if I
5 may?

6 THE OFFICER: They, they are---

7 SOLICITOR MCELVEEN: Your Honor---

8 THE OFFICER: ---secure.

9 SOLICITOR MCELVEEN: ---these weapons are secure with
10 zip ties. They can not be fired.

11 THE COURT: Thank you.

12 SOLICITOR MCELVEEN: Can we mark these please as
13 State's Exhibits 5 and 6?

14 THE DIGITAL REPORTER: SIX.

15 SOLICITOR MCELVEEN: Six and seven.

16 (WHEREUPON, the SKS rifles were marked as State's
17 Exhibit Nos. 5 and 6 for identification purposes only at
18 this time.)

19 Q. I'm handing you State's Exhibits 6 and 7.

20 Can you identify those items?

21 A. So, I can pick them up?

22 Q. Yes, sir.

23 A. So---

24 Q. They are unable to be fired, correct?

25 A. Yes.

Antonio Artis - Direct examination
By Solicitor McElveen

1 Q. You confirmed that?

2 They're---

3 A. Yes, ma'am.

4 Q. ---unable to be fired?

5 A. So this one would be the black and wood grain SKS
6 with the Serial Number CB2758. I'm sorry. The seat coat
7 a little tight. Oh. And this would be the black Russian
8 SKS which bears a serial number of NH5966.

9 SOLICITOR MCELVEEN: So, Your Honor, we'd like to
10 admit those into evidence at this time.

11 THE COURT: Any objection?

12 MS. COOKE: No, Your Honor.

13 THE COURT: Six and seven are admitted.

14 SOLICITOR MCELVEEN: Thank you.

15 (WHEREUPON, State's Exhibit Nos. 6 and 7 were
16 received into evidence at this time.)

17 Q. After collecting those items and turning them over to
18 the officer on scene, we did hear the testimony of Senior
19 Investigator Gra -- or Investigator Graham, what did
20 Investigator Graham do with everything?

21 Did you take custody of those items?

22 A. So, items were transported back to Sumter County
23 Sheriff's Office at 1281 North Main Street, which is in
24 Sumter, South Carolina. I took the evidence, all evidence
25 seized and to include the narcotics from Investigator

Antonio Artis - Direct examination
By Solicitor McElveen

1 Graham, and turned it over to the evidence custodian,
2 which, at the time, was Deron Solomon.

3 Q. So, all the drugs and, and everything went to
4 Investigator Graham and then to you?

5 A. Yes, ma'am.

6 Q. And you're the one who physically entered that --
7 those items into evidence?

8 A. Yes, ma'am. Handed them to the evidence custodian.
9 They were entered, handed it to them, and then they handle
10 it.

11 Q. Wonderful. Thank you. Please answer any questions
12 that defense may have.

13 MS. COOKE: No questions for this witness, Your
14 Honor.

15 THE COURT: Okay. Thank you, sir. You can step
16 down.

17 SOLICITOR MCELVEEN: And, Your Honor, may Senior
18 Investigator Artis be released as well?

19 He is also in the middle of working on an assignment.

20 THE COURT: Any objection, Ms. Cooke?

21 MS. COOKE: No, Your Honor.

22 THE COURT: Where do we want to keep those in the
23 mean time?

24 SOLICITOR MCELVEEN: I'll put those up here.

25 Thank you so much.

1 THE WITNESS: All right.

2 SOLICITOR MCELVEEN: Thank you.

3 THE COURT: I'm sorry.

4 SOLICITOR MCELVEEN: I can put them here muzzle down
5 so that---

6 THE COURT: That will be fine.

7 SOLICITOR MCELVEEN: ---it doesn't intimidate --
8 thank you. Thank you.

9 Your Honor, at this time the State would like to call
10 Erin Boland, Senior Investigator Erin Boland.

11 THE BAILIFF: (Indiscernible) state your name.

12 THE WITNESS: Erin Boland, Senior.

13 ERIN BOLAND, being first duly
14 sworn, testified as follows:

15 THE BAILIFF: All right. Step around please.

16 (WHEREUPON, the witness complies.)

17 THE BAILIFF: State your name for the record and
18 spell your last name please.

19 THE WITNESS: Erin Boland, Senior. B-O-L-A-N-D.

20 DIRECT EXAMINATION

21 BY SOLICITOR MCELVEEN:

22 Q. Tell us a little bit about yourself, what you do, and
23 what your role is at the Sheriff's Office.

24 I'm guessing by now everybody knows where you work.

25 A. Currently employed at Sumter County Sheriff's Office.

Erin Boland - Direct examination
By Solicitor McElveen

1 I'm a senior investigator. I'm back in our crime scene,
2 forensics, and evidence unit. I'm currently the evidence
3 custodian for the county. I started with Sumter County in
4 2001. worked there until 2015 as an investigator. Went
5 to the state for five years and then decided to come back
6 home in 2020. I've been doing the evidence custodian
7 since August of 2020.

8 Q. And where did you grow up?

9 A. I grew up in Mississippi. But I graduated high
10 school here in Sumter.

11 Q. So you came with family?

12 You came to Sumter with family?

13 A. My dad was civil service. I came with him my senior
14 year of high school.

15 Q. We're glad to have you. I guess you're a hometown
16 boy at this point.

17 A. At this point.

18 Q. So tell me what you do do.

19 You kind of went a little bit into it.

20 But as the evidence technician, what does the
21 evidence technician do?

22 A. The evidence technician, evidence custodian's
23 responsible for all evidence, all property items that are
24 brought into the Sumter County Sheriff's Office whether
25 they're brought in as evidence for potential processing,

Erin Boland - Direct examination
By Solicitor McElveen

1 for safekeeping, or found property.

2 Q. So, where -- who brings the items to you?

3 A. The officers of the Sumter County Sheriff's Office
4 bring items in when they receive the items, for whatever
5 reason, on the road or out in the field. We have a
6 secured temporary evidence lockers at the main office
7 there at 1201 or 1281 North Main Street.

8 They place them in those lockers after entering them
9 into our record management or RMS computer system at which
10 point, daily, I check those lockers. I was -- obtain the
11 items out of those lockers along with the computer
12 printouts that they provided with it for chain of custody.
13 I take them to our evidence storage building, package it
14 accordingly to what needs to be done or why it's being
15 held, receive it in on a digital chain of custody showing
16 what location and where it's being stored.

17 Q. Sounds like a lot of work.

18 So it was---

19 A. It has its days.

20 Q. You receive evidence for all of Sumter County --

21 A. It, it---

22 Q. -- cases?

23 A. Every item that comes into the Sheriff's Office, yes,
24 ma'am.

25 Q. And you mentioned RMS and a chain of custody report.

Erin Boland - Direct examination
By Solicitor McElveen

1 Can you tell us a little bit about your business
2 records that are used to do that?

3 A. We, we, we are currently using a system called Zerker
4 (phonetic) at which logs any property that's received or
5 obtained by the Sheriff's Office beginning with the
6 receiving officer, the patrol officer. In this case, the
7 narcotics officer.

8 Once they receive the property, they enter it in with
9 a description, serial numbers, color, complete details as
10 possible. A printout of that goes -- the computer logs it
11 as that officer receiving it. They place it in the
12 temporary location or deliver it straight to myself
13 depending on the item at which time I, I verify the item
14 based on their entry into the computer system.

15 I verify any needs that that item may have such as
16 processing, such as chemical analysis of drugs, or
17 fingerprinting, things of that nature that's being
18 requested to be done. I receive it into the custody, the
19 permanent custody of the Sheriff's Office in the computer
20 system. So it would show going from that officer to
21 myself.

22 I then become responsible for it, to transfer it
23 where it's needed. Whether that's to an in-house chemist
24 or to SLED for chemical analysis or to our in-house lab
25 for fingerprintings or things like that. Once the lab

Erin Boland - Direct examination
By Solicitor McElveen

1 work is complete, if there's any requested, I then receive
2 it back from the area it went to and assign it to a
3 permanent storage location within our secured evidence
4 building.

5 Q. Do these -- does the system create chain of custody
6 reports?

7 A. Yes. Both our current and our old system creates
8 evidence list and chain of custody reports showing from
9 the initial officer receiving it to its final location.

10 Q. I'm gonna hand you what we're asking to be marked as
11 State's Exhibit 8 for identification purposes only.

12 (WHEREUPON, the chain of custody report was marked as
13 State's Exhibit No. 8 for identification purposes only at
14 this time.)

15 Q. Can you identify this item?

16 A. Yes, this would be a chain of custody report
17 generated by our older RMS system.

18 Q. And what case is it on?

19 what's the report for?

20 A. The -- this is a report for Case Number -- Sheriff's
21 office Case Number 20069175 and it is several different
22 chain of custodies for different items received under that
23 report.

24 Q. And what is the date and time of the -- the first
25 date and time for when it was received or released?

Erin Boland - Direct examination
By Solicitor McElveen

1 A. The, the initial date and time on all of these would
2 be May the 7th, 2020, and it shows Symeon Graham as the
3 receiving officer on --.

4 Q. And then it was released to who?

5 A. From there it was released to Antonio Dewayne Artis.

6 Q. And that's the gentleman we just heard from, correct?

7 A. Correct. Senior Investigator Artis. And then it
8 shows from Senior Investigator Artis being placed in our
9 temporary drug locker at the Sheriff's Office.

10 Q. Thank you.

11 Your Honor, we would like to admit the report --
12 chain of custody report, State's Exhibit 8, as a business
13 records exception under the hearsay rule.

14 THE COURT: Any objection, Ms. Cooke?

15 MS. COOKE: I'm, I'm sorry.

16 They would like to admit --?

17 THE COURT: The chain of custody report.

18 Do you need to show her what you've handed Mr.---

19 SOLICITOR MCELVEEN: I---

20 THE COURT: ---Boland?

21 SOLICITOR MCELVEEN: I handed her a copy, Your Honor.

22 MS. COOKE: Your Honor, just that I've never seen --
23 I don't think I've ever seen a chain of custody admitted
24 and I'm not sure that it's relevant since he testified
25 that they took the drugs.

Erin Boland - Direct examination
By Solicitor McElveen

1 SOLICITOR MCELVEEN: Your Honor, these are -- since
2 they're fungible items, I'm just making sure to cover our
3 bases on chain of custody.

4 THE COURT: I, I think it's properly admitted.

5 SOLICITOR MCELVEEN: Thank you.

6 THE COURT: You can admit it.

7 SOLICITOR MCELVEEN: Thank you, Your Honor.

8 (WHEREUPON, State's Exhibit No. 8 was received into
9 evidence at this time.)

10 Q. Investigator Boland or Senior Investigator Boland,
11 the -- you stated, with weapons, the rifles here, would
12 they stay but drug -- drugs would go off and be tested,
13 correct?

14 A. Yes. In this particular case, drug analysis was
15 requested on the drugs. At that time we had an in-house
16 chemist, Joseph Powell. So it shows on the chain of
17 custody report that it was transferred from our storage
18 location at the Sheriff's Office to Joseph Powell at our
19 drug lab and then back into custody once he was finished.

20 Q. And so I'll hand you State's Exhibit 3.

21 This is what you have been holding onto or that
22 Sumter County's been holding onto since Mr. Powell's
23 analysis, correct?

24 A. That is correct. This was received back in this
25 package form from Joseph Powell. Has our property label

Erin Boland - Direct examination
By Solicitor McElveen

1 on it bearing the case number as well as a PR or a
2 property receipt number that's specifically assigned to
3 that BEST kit.

4 Q. And that remained sealed after he analyzes it,
5 correct?

6 A. That is correct. This is how it was received. It
7 remains sealed. Once he analyzes it, he seals it in his
8 manner. It is received back by the evidence technician or
9 evidence custodian and then placed into one of our two
10 drug lockers for long term storage.

11 Q. Thank you. I have no further questions for you at
12 this time. Please answer any questions the defense may
13 have.

14 MS. COOKE: I have no questions for this witness,
15 Your Honor.

16 THE COURT: Thank you, sir. You can step down.

17 THE WITNESS: Thank you.

18 SOLICITOR MCELVEEN: Your Honor, may I approach with
19 Ms. Cooke --

20 THE COURT: Sure.

21 SOLICITOR MCELVEEN: -- please?

22 Thank you.

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: Okay. Ladies and gentlemen, we're gonna

1 take a quick break while we are awaiting our next
2 witnesses arriving. Please don't begin discussing the
3 case yet.

4 Thank you.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: Okay. Let's be at recess a few minutes,
8 let y'all have a break, and then I thought we at least --
9 I, I will talk with the defendant about his rights with
10 respect to testifying before we bring the jury in while we
11 have a bit -- a little bit of a downtime.

12 MS. COOKE: Okay. We'll be right back, Your Honor.
13 We're both going to the restroom.

14 THE COURT: No problem.

15 (WHEREUPON, a short recess was taken at this time.)

16 THE COURT: Okay. We're back on the record.

17 Mr. Hickman, just wanted to go over a few things with
18 you, sir, regarding your rights. You have a
19 constitutional right to remain silent and that right
20 continues throughout this trial.

21 So what that means for you is that you do not have to
22 take the stand. Nobody can force you to take the stand
23 and nobody can hold it against you if you choose not to
24 take the stand. That means not the court and not the
25 jury.

1 THE DEFENDANT: Right.

2 THE COURT: If you determine that you wanted to take
3 the stand, of course, that's your right. We would follow
4 the same procedure that we followed with all the witnesses
5 thus far.

6 So you would take the stand. Your attorney, Ms.
7 Cooke, would ask you questions on direct examination and
8 then Ms. McElveen would get a chance to ask you questions
9 on cross-examination. We will talk in just a minute about
10 what, if any, the State -- what prior convictions the
11 State would use and be able to ask you about on
12 cross-examination for impeachment purposes. We'll talk
13 about this -- that in just a minute so that you'll know
14 exactly what to expect to be able to make that decision.

15 If you chose not to testify, then I will specifically
16 instruct the jury that they can not hold that against you
17 and that they can't even discuss that during their
18 deliberations. It should not even be brought up in the
19 jury room and I'll further instruct them that it's the
20 State that has the burden of proof and they have to prove
21 you guilty beyond a reasonable doubt and that you do not
22 have any corresponding duty to prove yourself innocent of
23 the charges.

24 So that's a decision that you have to make. You do
25 not have to make that decision now. You can make that

1 decision at the time the State rests. That's at the point
2 that we'll need to know if you want to testify or not.

3 You should talk with your attorney about that.
4 You're welcome to talk with family, friends about whether
5 or not you want to testify. But, ultimately, it is your
6 decision to make.

7 Ms. Cooke, anything else that you would like for me
8 to put on the record with your client regarding his
9 rights?

10 MS. COOKE: I'm, I'm sorry, Your Honor. I'm not --
11 not as far as my client and his rights. Just, just maybe
12 --.

13 THE COURT: Let's go ahead and you -- y'all ready to
14 talk about what's on the NCIC?

15 SOLICITOR MCELVEEN: Yes, Your Honor.

16 THE COURT: Maybe you need a minute to look it over.

17 MS. COOKE: I just need one, one moment, Your Honor.

18 THE COURT: Uh-huh. (Affirmative).

19 (Pause.)

20 MS. COOKE: Or I can -- I think I'm ready.

21 SOLICITOR MCELVEEN: I beg the Court's indulgence---

22 THE COURT: Okay. I guess let me ask---

23 SOLICITOR MCELVEEN: ---just one second. Forgive me.

24 (Pause.)

25 SOLICITOR MCELVEEN: Sorry, Your Honor. My computer

1 is --.

2 (Pause.)

3 SOLICITOR MCELVEEN: Beg the Court's indulgence. I'm
4 so sorry.

5 (Pause.)

6 SOLICITOR MCELVEEN: Your Honor, I believe that all
7 the prior convictions are drug charges -- the drug charge
8 past I don't think we can enter. He has a substantial
9 drug history. Well how about -- Your Honor, would you
10 like a copy of his criminal record to review?

11 THE COURT: Sure.

12 SOLICITOR MCELVEEN: Thank you.

13 THE COURT: So, my first question for the State is is
14 there a prior conviction that you would seek to impeach
15 him with?

16 SOLICITOR MCELVEEN: Your Honor, there are no crimes
17 of dishonesty or false statement. There are -- obviously,
18 Your Honor, if, if he were to open the door to some sort
19 of moral turpitude, there is an ABHAN and a discharging a
20 firearm into a dwelling. But I don't see, unless he opens
21 the door, anything that we would use to impeach his
22 testimony --

23 THE COURT: Okay.

24 SOLICITOR MCELVEEN: -- if that, Your Honor, is, is
25 succinct enough.

1 THE COURT: Sure.

2 Anything else that you want to address regarding
3 that, Ms. Cooke?

4 MS. COOKE: Your Honor, if they're not going to seek
5 to introduce anything unless he opens the door, I don't
6 think I really need to argue much.

7 THE COURT: I would agree. Just wanted to give you
8 that opportunity.

9 SOLICITOR MCELVEEN: And, Your Honor, there is -- you
10 know, the discharging a firearm into a dwelling and an
11 ABHAN and possession of a stolen weapon, it -- and an
12 unlawful carry, I mean those things I understand he could
13 open the door to. But besides that, Your Honor, I just
14 don't see any crimes of dishonesty or false statement or
15 anything that's immediately impeachable.

16 MS. COOKE: And I mean we -- if he opens the doors,
17 we could argue it at the time or, if you want me to, I can
18 go ahead and argue -- argument on the record now. The
19 only thing I would object to is that they're over 10 years
20 old. When a crime is over 10 years old, the law states
21 that I'm suppose to get written notice that they're gonna
22 be used to impeach. And since they are remote, the
23 prejudice -- the -- it must -- the probative value must
24 substantially outweigh the prejudicial value.

25 THE COURT: Well, I guess what I what -- would say is

1 if the State feels that he has opened the door to any
2 impeachment with a prior crime, that let's --.

3 MS. COOKE: Argue it then?

4 THE COURT: Yeah, let's --

5 SOLICITOR MCELVEEN: Yes, Your Honor. We won't
6 open---

7 THE COURT: -- argue it outside the presence of the
8 jury before it comes before them.

9 SOLICITOR MCELVEEN: Yes, Your Honor.

10 THE COURT: Okay.

11 SOLICITOR MCELVEEN: I plan to tread very lightly if
12 I were to open that door.

13 THE COURT: Okay.

14 SOLICITOR MCELVEEN: May I check and see if a --
15 another -- we are awaiting one more witness just so we can
16 go back to back with witnesses.

17 THE COURT: Yeah, that's fine.

18 SOLICITOR MCELVEEN: Do you mind if I step outside
19 and see if --?

20 MS. COOKE: No, we're -- we'll be off-the-record for
21 a minute.

22 SOLICITOR MCELVEEN: Thank you.

23 (WHEREUPON, a short recess was taken at this time.)

24 THE BAILIFF: All the jurors are seated, Your Honor.

25 THE COURT: Thank you.

1 SOLICITOR MCELVEEN: Your Honor, at this time the
2 State would call Lieutenant Jason Tassone.

3 THE COURT: Come on up.

4 THE BAILIFF: Place your left-hand on the Bible.
5 Raise your right-hand. State your full name, sir.

6 THE WITNESS: Jason Tassone.

7 JASON TASSONE, being first duly
8 sworn, testified as follows:

9 THE BAILIFF: Step around, sir.

10 (WHEREUPON, the witness complies.)

11 THE BAILIFF: State your full name and spell your
12 last for the record please, sir.

13 THE WITNESS: Jason Tassone. T-A-S-S-O-N-E.

14 DIRECT EXAMINATION

15 BY SOLICITOR MCELVEEN:

16 Q. Good morning.

17 A. Good morning.

18 Q. Where do you work?

19 What do you do?

20 Tell us about yourself.

21 Where are you from?

22 A. I work with the Sumter County Sheriff's Office. I've
23 been here for a little over 16 years. I have 20 years
24 total in law enforcement. I started at the county jail.
25 worked at the jail for a couple years. worked with the

Jason Tassone - Direct examination
By Solicitor McElveen

1 City of Sumter Police Department before moving out of
2 the -- to the Sheriff's Office. Right now I'm assigned to
3 the I-95 interdiction team in Sumter County and I'm also
4 the K-9 supervisor.

5 Q. So you work around a lot of narcotics?

6 A. I do.

7 Q. Can you tell me a little bit -- where are you from?

8 A. Where am I from?

9 Q. Yeah.

10 A. I'm from Upstate New York. I'm a transplant.

11 Q. Let -- why did you come to Sumter?

12 what brought you to Sumter?

13 A. The weather. It's beautiful here.

14 Q. So can you tell me, May 7th, 2020, what were you
15 doing?

16 what role were you in and what did you do that day?

17 A. So that day we were assisting our narcotics agents
18 with a search warrant at a residence on Jerry Street.

19 Q. What did you do as a part of that?

20 A. We helped secure the yard area upon initial entry of
21 the residence and we were basically the yard perimeter,
22 the security team, while the narcotics agents were
23 searching and checking the property.

24 Q. Who is we?

25 A. Myself, Sergeant Rulong, Sergeant Floyd at the time,

Jason Tassone - Direct examination
By Solicitor McElveen

1 and the narcotics agents.

2 Q. So you guys were -- you and Rulong and Floyd were
3 standing outside sort of securing the yard?

4 A. Yes, we were.

5 Q. What happened?

6 what did you see and what happened?

7 A. While we were standing there, a white Ford 150 came
8 slow rolling down Jerry Street. We looked inside the
9 vehicle. We did observe the two subjects that we were
10 looking for were inside that truck. We tried to flag them
11 down. They just kept slow rolling past up. They wouldn't
12 stop.

13 Q. Let me ask, who were the two subjects?

14 A. Mr. Hickman and Mr. Hickson.

15 Q. Do you see Mr. Hickman today---

16 A. I do.

17 Q. ---in the courtroom?

18 A. He's the defendant.

19 Q. And he's seated at the defense table?

20 A. That's correct.

21 SOLICITOR MCELVEEN: Your Honor, please let the
22 record reflect that the officer did identify the defendant
23 as the suspect, the person charged with these offenses.

24 THE COURT: Yes, ma'am.

25 SOLICITOR MCELVEEN: Thank you.

Jason Tassone - Direct examination
By Solicitor McElveen

1 And I'm sorry.

2 This did happen in Sumter County, correct?

3 A. It did.

4 Q. Okay. So what happened when you saw the truck with
5 these two people?

6 A. So we -- because our patrol vehicles were blocked in,
7 we were able to get into Investigator Artis's Tahoe. We
8 went after the vehicle to try to initiate a traffic stop.
9 As you get to the end of Jerry Street, it goes through
10 like somebody's front yard. We were behind the vehicle.
11 At -- Sergeant Rulong initiated the blue lights and siren
12 to try to get the vehicle to pull over.

13 If you follow Jerry Street it comes out to a field,
14 Winkles Road, by the jail and there's a cattle gate. The
15 truck stopped at the gate for a few seconds and then
16 accelerated rapidly, rammed the gate. The gate swung
17 open. It back on both sides. But the gate actually swung
18 back closed.

19 So, we didn't want to take the sheriff's new Tahoe
20 through the same gate and, you know, for -- not to tear it
21 up. We had to go all the way around the field edge back
22 to the road that goes to the jail. And while we were
23 doing that, he was -- the driver was able to go towards
24 the bypass. We BOLO'ed the vehicle out, you know.

25 Q. What is BOLO?

Jason Tassone - Direct examination
By Solicitor McElveen

1 A. A BOLO's a be on the look out. we knew that -- we
2 knew that they made a left heading towards 401 and one of
3 our deputies, a Corporal Barwick, was able to locate the
4 vehicle a short ways away a few minutes later on West
5 Sherwood and it was abandoned.

6 Q. So they -- the two individuals were not in the car by
7 the time it was located?

8 A. They were not.

9 Q. Were you able to see Mr. Hickman sitting in the seat
10 approaching the scene?

11 A. I was.

12 Q. And you, again, identified this defendant, correct?

13 A. Correct.

14 Q. You were not able to catch up with him that day
15 though.

16 Is that correct?

17 A. That's correct.

18 Q. Thank you. I have no further questions. Please
19 answer any questions defense may have.

20 A. Yes, ma'am.

21 MS. COOKE: Beg the Court's indulgence one moment.

22 (Pause.)

23 MS. COOKE: I have no questions for this officer,
24 Your Honor.

25 THE COURT: Thank you, sir. You can step down.

1 SOLICITOR McELVEEN: And, Your Honor, may Lieutenant
2 Tassone be released so he can go back to work?

3 THE COURT: Ms. Cooke, any objection to him being
4 released from his subpoena?

5 MS. COOKE: No, Your Honor.

6 THE COURT: Yes, sir.

7 SOLICITOR McELVEEN: Thank you, Your Honor.

8 Your Honor, at this time the State would call
9 Shaquanna Spencer to the stand.

10 THE BAILIFF: Place your left-hand on the Bible.
11 Raise your right-hand. State your name.

12 THE WITNESS: Shaquanna Spencer.

13 SHAQUANNA SPENCER, being first duly
14 sworn, testified as follows:

15 THE BAILIFF: Thank you. Step around please, ma'am.

16 (WHEREUPON, the witness complies.)

17 THE BAILIFF: Could you spell your first name and
18 your last name for the record please, ma'am?

19 THE WITNESS: S-H-A-Q-U-A-N-N-A. S-P-E-N-C-E-R.

20 DIRECT EXAMINATION

21 BY SOLICITOR McELVEEN:

22 Q. Good morning, Miss Spencer.

23 A. Good morning. Good morning.

24 Q. Can you tell us -- tell me about yourself.

25 where are you from and where are you working now and

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 just tell me a little bit about yourself?

2 A. Okay. I'm, I'm from Rembert, South Carolina. I
3 lived in Sumter probably like the last 12 years. I work
4 at Pilgrim Pride right now. I active lead there. No
5 kids, kids. Just me.

6 Q. wonderful.

7 where did you go to -- did you go to school here in
8 Sumter or --?

9 A. I went to Ebenezer and Crestwood.

10 Q. Fantastic.

11 Can you tell us, in May -- on May 7th, 2020, were you
12 living at [REDACTED] Jerry Street?

13 A. On and off.

14 Q. What do you mean on and off?

15 A. At first I won't -- when they moved -- first moved
16 there, I was living there probably like the first like
17 two, three months -- I mean two, three weeks and then I
18 started talking to a girl. Then I probably was kind of
19 staying with her and staying, staying there. Sometimes
20 staying with her.

21 Q. All right. Who else lived at that residence?

22 A. Me, Kimo, and Body.

23 Q. Okay. Tell me who's Kimo.

24 A. Akeem Hickman.

25 Q. And he's seated at the table next to the defense

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 attorney?

2 A. Yes.

3 Q. And who else is the other person?

4 I'm sorry. I didn't catch the nickname.

5 A. Scottie.

6 Q. Scottie?

7 A. Uh-huh. (Affirmative).

8 Q. And that's Scottie Hickson?

9 A. Uh-huh. (Affirmative).

10 Q. Are Mr. Hickman and Mr. Hickson related?

11 A. They brothers.

12 Q. They're brothers.

13 Are you related to them?

14 A. Yeah, I'm they cousin.

15 Q. So, the three of y'all were living there?

16 A. Yes, ma'am.

17 Q. Can you tell us about -- were there drugs at the
18 house?

19 A. Yeah.

20 Q. Tell me about that -- people -- were, were people --
21 did you -- were you there when drugs sales were happening?

22 Did you, did you take part in them?

23 A. Yeah. Yeah, man. It was just like a hang out. Like
24 everybody be there. You know like all -- like all the
25 homies. Like just everybody. You know, it -- I mean a

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 lot of stuff go on, you know.

2 Q. Tell me---

3 A. Like---

4 Q. ---about -- tell me about it.

5 A. Like we could be rolling dice or playing cards or
6 listening to music, flirting with girls, or it could be
7 anything. So, yeah.

8 Q. And usually there were drugs at the scene?

9 A. Yes.

10 Q. And people were selling or delivering and dispensing
11 drugs there, right?

12 A. Yeah.

13 Q. Were there weapons at the scene?

14 A. Yeah.

15 Q. Do you remember when the officers came and executed
16 the search warrant on May 7th?

17 A. Yes.

18 Q. Tell me about that.

19 were you there and tell me what happened.

20 A. Scaredest day of my life. Oh, it was me, my cousin,
21 Santana, Fantasia, and Vera and then my little --
22 Santansia's son and we was just sitting in there. We just
23 drinking, about to drink, start drinking. Kimo had just
24 leave -- like we was at -- first we all sitting outside
25 getting a haircut. Then he had left. Then soon as he

Shaquanna Spencer - Direct examination
By Solicitor McElveen

- 1 left, like y'all came in.
- 2 Q. Kimo being Akeem Hickman?
- 3 A. Uh-huh. (Affirmative).
- 4 Q. He left?
- 5 So, he had just been at the scene?
- 6 A. Yeah, like, like less than five minutes ago.
- 7 Q. Did he have his own bedroom in that house?
- 8 A. Yeah.
- 9 Q. Where were the drugs kept at that house?
- 10 A. Some in the kitchen kind of -- some in the kitchen
- 11 cabinet and anywhere else. I was like -- like if it in
- 12 they room stuff or nothing -- stuff like that, I wouldn't
- 13 know like, you know, exactly to pinpoint it. But like
- 14 mostly in the kitchen in they, in they -- like cabinet.
- 15 Q. And it was pretty obvious that there were things in
- 16 the kitchen?
- 17 A. Yeah.
- 18 Q. Did you play a role in -- I mean dispensing drugs to
- 19 --?
- 20 A. Yeah.
- 21 Q. Yeah?
- 22 A. Uh-huh. (Affirmative).
- 23 Q. Did Mr. Hickman play a role as well in this?
- 24 A. Yeah.
- 25 Q. Were the drugs there more than---

Shaquanna Spencer - Direct examination
By Solicitor McElveen

- 1 A. Hold up. Hickman, Hickman -- like I know they last
2 name Hickson and Hickman. Like, man, that confusing me
3 like.
- 4 Q. Okay. I'm sorry. Kee -- Kee -- you call him kimo?
- 5 A. Yeah.
- 6 Q. Okay. So did kimo play a role in the distributing of
7 those drugs at the scene?
- 8 A. Yeah.
- 9 Q. Tell me what he would do.
- 10 A. Like, like he was like -- like everybody look up to
11 him. Like you know what I mean?
- 12 Like he just like if we need some -- we need to
13 know -- I mean like say if he leave, and like if he leave
14 the phone there, somebody call like just tell us what
15 it -- I meant well tell me what do you know and then, you
16 know, I just do it.
- 17 Q. So you would do whatever he instructed you to do?
18 You looked up to him?
- 19 A. Yeah.
- 20 Q. Did he take care of you?
- 21 A. No.
- 22 Q. But you looked up to him and admired him a little
23 bit?
- 24 A. Yeah, like -- yeah.
- 25 Q. Would you say he was in charge?

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 A. Yeah.

2 Q. Did he ever -- was he always living at that house?

3 A. No. Like we had just moved. Like all of us had just
4 moved there like together. At first I was trying to get
5 it in my name but I couldn't. Oh, I, I don't know whether
6 I could or not cause I never really tried. But like the
7 first day we talked about it, then the next day they had
8 it now. I just moved in with them.

9 Q. So, they secured the house and you just moved in?

10 A. Uh-huh. (Affirmative).

11 Q. Was it -- how long had you moved in before the search
12 warrant happened?

13 A. Probably like -- I know -- it had to been like a
14 month cause he -- I know Bur paid -- Kimo paid the first
15 rent. So then he started talking about like everybody got
16 to start contributing. So it probably just been a month,
17 you know.

18 Q. I see.

19 So Mr. Hickman paid the first months rent?

20 A. Uh-huh. (Affirmative).

21 Q. And did you have -- did Mr. Hickman -- was -- he was
22 kind of in charge of drugs at the scene?

23 He knew where most of it was or he and Mr. Hickson
24 kind of shared the drugs at the scene or --?

25 A. No, Scottie ain't never like -- I meant Scottie be

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 working. So you know what I mean?

2 Nah, I don't know like whether he -- you know what I
3 mean?

4 But I mean -- he was a -- the head man like, you
5 know. Like I ain't gon' -- I don't know how to put it.
6 He's the head man, you know.

7 Q. I have no further questions.

8 A. Okay.

9 Q. Thank you. I appreciate it. Please answer any
10 questions the defense may have.

11 CROSS-EXAMINATION

12 BY MS. COOKE:

13 Q. So, Miss Spencer, you're, you're charged with
14 trafficking in heroin?

15 A. Say it again.

16 Q. You're charged with trafficking heroin --

17 A. Okay.

18 Q. -- on the indictment?

19 SOLICITOR MCELVEEN: Objection. No question.

20 A. I don't know. Like I know I got a lot of charges. I
21 don't know what they actually are or nothing. Like I
22 can't tell you what they are right now without looking at
23 them.

24 MS. COOKE: Mark -- have this marked for defense
25 exhibit only, Your Honor. ID only, Your Honor.

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 THE COURT: Uh-huh. (Affirmative).

2 (WHEREUPON, an indictment was marked as Defendant's
3 Exhibit No. 1 for identification purposes only at this
4 time.)

5 Q. So here's the indictment with your name on it.
6 You're charged with trafficking heroin.

7 SOLICITOR MCELVEEN: Your Honor, I don't know if Ms.
8 Cooke has laid the proper foundation. I don't know if
9 Miss Spencer can identify -- maybe if we can -- can she
10 identify that?

11 I don't know.

12 MS. COOKE: I've, I've said it was the, the
13 indictment---

14 SOLICITOR MCELVEEN: Right.

15 MS. COOKE: ---with, with her name on it---

16 SOLICITOR MCELVEEN: But, Your Honor, she can't
17 testify---

18 MS. COOKE: ---with, with, with the charges on it.

19 THE COURT: You can ask her if she's -- if she is
20 familiar with the indictment.

21 Q. Are you familiar with the, with the indictment, the
22 charging document, the charging document that, that
23 charges you with the charges that you're charged with in
24 General Sessions Court?

25 A. I mean I'm not familiar with this document right

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 here.

2 Q. But you, you can read it, correct?

3 You see where it says Shaquanna Spencer---

4 SOLICITOR MCELVEEN: Objection, Your Honor.

5 Q. ---is?

6 SOLICITOR MCELVEEN: She said she can not identify
7 that document. She can't agree to anything if she doesn't
8 know what that document is.

9 MS. COOKE: I just asked her if she can read it.
10 She's --

11 SOLICITOR MCELVEEN: Your Honor?

12 MS. COOKE: She's reading the document.

13 Can you---

14 THE COURT: And---

15 Q. Can you---

16 THE COURT: Well, we're not introducing this into
17 evidence.

18 MS. COOKE: I'm not introducing---

19 THE COURT: Is that---

20 MS. COOKE: ---the document into evidence.

21 SOLICITOR MCELVEEN: But, Your Honor, if she's
22 reading it, when -- means she's introducing it into
23 evidence.

24 THE COURT: Yeah, if we're not introducing it---

25 MS. COOKE: But no, she's---

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 THE COURT: ---then you can---

2 MS. COOKE: But she's reading it silently.

3 THE COURT: Okay.

4 A. No.

5 what do you want to know?

6 what do you want to know?

7 Q. So you're claiming you have no idea that you're
8 charged with trafficking heroin?

9 A. I mean I know I'm charge -- charged with counsel
10 failing all or something like that. But I don't know what
11 this like. Like -- I meant some guns and I don't know
12 what like everything I'm charged with. Like I can't tell
13 you.

14 Q. Okay. So, you know you're charged with Fentanyl?

15 A. Yes, ma'am, like that's like one of my big charges
16 like. I don't know what else to tell you.

17 Q. And have you -- you talked with the solicitor about
18 your testimony today?

19 A. No.

20 You said did I talk to her?

21 Q. You didn't talk with the solicitor at all about your
22 testimony today?

23 They just, they just, they just subpoenaed you and
24 you, you just came to court and, and answered questions?

25 A. No, I didn't talk to her. I saw her for the first

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 time in the hallway just now and she had called my name
2 and then sit me in that room.

3 Q. So you haven't talked with anybody with the
4 solicitor's office or law enforcement about your testimony
5 today?

6 A. No.

7 Q. And you have an attorney?

8 A. Yes.

9 Q. And so your attorney hasn't told you not to talk with
10 the solicitor or law enforcement about your charges?

11 A. No. He didn't told me not to talk to them. He
12 didn't told me to talk to them. He just talked to me
13 about my case. He never said like nothing about -- like
14 he just tell me what I'm gon' go through cause I'm asking
15 questions. I don't know nothing about court. So I'm
16 asking what I'm gon go through, what's, what's about to
17 happen, and that's all he referring to.

18 Q. So, you've admitted that you understand you're
19 charged with drugs and guns and everything?

20 A. Yes, ma'am.

21 Q. And surely your attorney has told you that those
22 things carry prison time?

23 A. I mean, yeah, he told me what -- yeah, he told me
24 some stuff.

25 Q. Okay. But you're claiming that, even through you've

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 talked to your attorney, you've never talked to the
2 solicitor's office?

3 You just came in here and took the stand under oath
4 and testified and you're charged with these charges that
5 are gon' send -- that can send you to prison without
6 talking to the solicitor's office and about talking with
7 law enforcement?

8 A. I'm ready to get this over with. It's been three
9 years almost and I'm tired of this. Can't get a good job.
10 Got to work at Pilgrim's. I'm tired of working there. I
11 want to get this over with, do what I got to do.
12 whatever's gon' happen is gon' happen.

13 Q. And you have no idea what you're charged with except
14 guns and some Fentanyl?

15 A. No, ma'am.

16 Q. And so, so you're aware that your attorney told you
17 that you can -- could get five years for one of these?

18 SOLICITOR MCELVEEN: Objection, Your Honor. This is
19 attorney/client privilege that she's asking her to reveal
20 on the stand.

21 THE COURT: Y'all approach for just a minute.

22 (WHEREUPON, a bench conference was held out of the
23 hearing of the jury at this time.)

24 Q. All right. So, you expect this jury to believe that
25 you came in here -- you were subpoenaed and you came in

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 here and testified without talking to anybody about it
2 under oath admitting that you're being charged with a
3 bunch of drugs and a bunch of guns that can send you to
4 prison?

5 A. I mean no, ma'am. I haven't talked to the solicitor.
6 This my first time ever seeing that lady.

7 Q. And you're not expecting any sort of help or anything
8 for your charges---

9 A. No.

10 Q. ---or your testimony today?

11 A. No, ma'am.

12 Q. So you're expecting to go to prison after you testify
13 today for a significant amount of time?

14 A. If that's what God got for me, I mean I got to do
15 what I got to do.

16 Q. Okay. And you haven't been given any kind of hint by
17 the solicitor or law enforcement whatsoever that they
18 might help you out for your testimony today?

19 A. No, ma'am.

20 Q. And you were at this house the day that the search
21 warrant was executed?

22 A. The -- like the day the police came there?

23 Q. Uh-huh. (Affirmative).

24 A. Yeah.

25 Q. And they arrested you?

Shaquanna Spencer - Direct examination
By Solicitor McElveen

1 A. Yeah.

2 Q. And you had undisclosed amount of money in your front
3 left and right pocket when they arrested you?

4 A. Yes.

5 MS. COOKE: No other questions, Your Honor.

6 THE COURT: Any redirect?

7 REDIRECT EXAMINATION

8 BY SOLICITOR McELVEEN:

9 Q. Miss Spencer, you and I -- have we ever met before
10 this morning when you walked in this courtroom?

11 A. No, ma'am.

12 Q. Have I ever spoken to you before?

13 A. No, ma'am.

14 Q. Thank you. No further questions.

15 THE COURT: Okay. Thank you, ma'am. You can step
16 down.

17 SOLICITOR McELVEEN: And, Your Honor, may this
18 witness be released from her subpoena?

19 THE COURT: Any objection, Ms. Cooke?

20 MS. COOKE: No, Your Honor.

21 SOLICITOR McELVEEN: Thank you.

22 Your Honor, may I see if -- we have one more witness.
23 I can see if he's arrived yet.

24 Thank you.

25 THE COURT: Sure.

1 (Pause.)

2 SOLICITOR MCELVEEN: Your Honor, may we approach with
3 defense real quickly?

4 THE COURT: Yes.

5 MS. COOKE: I'm, I'm sorry. My client was talking
6 with me.

7 SOLICITOR MCELVEEN: Okay. I was gonna ask if you'd
8 approach. I just want to make sure we've got --.

9 Your Honor, we are awaiting Mr. Powell's arrival.
10 We're running ahead of schedule. He said he was on route
11 at -- and he's gonna be minutes. He leaves his wife at
12 home that he needs to take care of. So, he is on the way.
13 That is the State's last witness after that.

14 THE COURT: Okay. I'm gonna go ahead and let y'all
15 take a break while we're waiting on this last witness
16 rather, rather than us all just sitting in here.

17 So, again, please don't begin discussing the case and
18 we'll bring you in just as soon as the next witness
19 arrives.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: Okay. If you-all would just let me know
23 when --

24 SOLICITOR MCELVEEN: Yes, Your Honor.

25 THE COURT: -- he's here.

1 SOLICITOR MCELVEEN: I'm sure he's on route. I just
2 know he has to leave his wife. He said he was hurrying.
3 I asked him to come faster a little bit ago and he said he
4 was on the way. He -- so I'm sorry.

5 THE COURT: It's okay. No problem.

6 SOLICITOR MCELVEEN: I didn't think --.

7 (WHEREUPON, the audio ended at this time.)

8 SOLICITOR MCELVEEN: Well, Your Honor, just from an
9 abundance of caution, I am gonna ask Mr. Powell to open
10 the drugs. Because there's Fentanyl, everybody who
11 handles it is gonna have to have gloves. He will use
12 gloves. I'm sure anybody who comes -- I know that Miss
13 Sherry will be careful if she needs to. She has gloves.
14 But I just want to make the Court aware we will be
15 planning on opening that packet with Mr. Powell.

16 THE COURT: Yeah. Please don't release any Fentanyl
17 into the courtroom.

18 SOLICITOR MCELVEEN: Yes, sir. Yes, Your Honor. I
19 mean ma'am.

20 THE COURT: Okay.

21 SOLICITOR MCELVEEN: Your Honor, he is 15 minutes
22 away.

23 THE COURT: Okay. That's fine.

24 SOLICITOR MCELVEEN: Thank you.

25 (WHEREUPON, a short recess was taken at this time.)

1 SOLICITOR MCELVEEN: Thank you for your patience,
2 patience.

3 (Whereupon, the following takes place within the
4 presence of the jury.)

5 THE BAILIFF: All the jurors are seated, Your Honor.

6 THE COURT: Thank you.

7 SOLICITOR MCELVEEN: Your Honor, at this time we
8 would call Mr. Joe Powell to the stand.

9 THE BAILIFF: Place your left-hand on the Bible and
10 raise your right-hand. State your full, sir.

11 THE WITNESS: Joseph D. Powell.

12 JOSEPH POWELL, being first duly
13 sworn, testified as follows:

14 THE BAILIFF: Thank you. Step around---

15 THE WITNESS: Thank you.

16 THE BAILIFF: ---there please, sir.

17 THE WITNESS: Thank you, sir.

18 THE BAILIFF: State your full name and spell your
19 last name for the record please, sir.

20 THE WITNESS: Yes, ma'am. My name is Joseph Dwayne
21 Powell. P-O-W-E-L-L.

22 DIRECT EXAMINATION

23 BY SOLICITOR MCELVEEN:

24 Q. Good morning, Mr. Powell.

25 A. Good morning.

Joseph Powell - Direct examination
By Solicitor McElveen

1 Q. Tell us about yourself.

2 what are you doing now but what were you doing before
3 what you're doing now?

4 A. well, currently I'm retired. I'm taking care of my
5 wife who is struggling with various types of arthritis.
6 So, I'm in, in home health, health -- health giver. But
7 before I taking -- took on that task I was working for the
8 Sumter County Sheriff's Office as a forensic chemist. My
9 duties were to take materials that was brought in to test
10 for various types of drugs, to issue a report about what I
11 found, and then come to court, if necessary, to testify
12 about it.

13 Q. Tell us a little bit about your training and your
14 education.

15 Tell -- brag on yourself for me.

16 A. Yes, I originally received my bachelor's of science
17 degree in chemistry from the University of Southern
18 Mississippi. I was interested in trying to work on my PhD
19 and an opportunity to -- came for it because the
20 university of South Carolina accepted my application. So
21 I came here to South Carolina and began to study in the
22 area of advanced chemistry. That didn't work out well
23 because of some other issues which came up.

24 So, after leaving there, I became employed at the
25 South Carolina State Law Enforcement Division as a drug

Joseph Powell - Direct examination
By Solicitor McElveen

1 chemist. I worked in -- at SLED for 10 years in the drug
2 department while developing various methods as been used
3 in the area of trace evidence. Trace evidence happens to
4 be formed -- and I asked to go ahead and transfer into
5 that area where I was responsible for various types of
6 analysis for every county in this state.

7 within the year I became manager of that department
8 and remained so until I retired. After being retired, my
9 wife felt it would be better for me to go find another job
10 because, for whatever reason, she really didn't want me to
11 stay around the house. So, there was -- opening came
12 forth in Sumter. I took it and I worked there for 10
13 years until I had to stop because of my wife's health.

14 Q. So you retired from SLED as a trace analyst and---

15 A. And a drug chemist, yes.

16 Q. ---and drug analysis expert in those areas and then
17 also you -- and then you graced us here at Sumter
18 County---

19 A. Yeah.

20 Q. ---correct?

21 A. That is correct.

22 Q. Were you working in May of 2020?

23 A. Yes, I was.

24 Q. I'm gon' -- well, tell me -- us a little bit.

25 what would you do?

Joseph Powell - Direct examination
By Solicitor McElveen

1 How would you collect evidence?

2 How -- what was the general procedure in analyzing
3 and collecting and all of your process?

4 A. The general procedure was evidence was submitted to
5 me to be analyzed and we received more, more than just
6 from the county. We handled the drug cases from the city
7 as well as Clarendon and Lee County. And what they would
8 do is they would bring them to the building. I would sit
9 down and I would accept them. I would analyze them using
10 various techniques that I had at my disposal. Then issue
11 a report.

12 Q. So you said you would issue a report?

13 A. Yes.

14 Q. Would you -- how would the drugs or how do the drugs
15 show up to you when you first collect them?

16 Are they sealed?

17 Tell me about the securing process and how you reveal
18 them and test them.

19 A. Almost in all cases drugs would have to be sealed.
20 The only exception would be something as so large that you
21 can't seal it. But that one I would receive directly
22 to -- and then I would create a super sized plastic bag to
23 seal it when I got through.

24 But if I received any evidence that could be sealed,
25 it had better be sealed or I would not do any analysis

Joseph Powell - Direct examination
By Solicitor McElveen

1 with it. So, the fact that I ran analysis, I -- the
2 evidence was sealed when I received it. I tend -- open it
3 up and then begin the procedure of ana -- analysis of it.

4 Q. And you provide -- tell us a little bit about the
5 testing procedure.

6 Just a basic, non-chemist response on how you
7 analyzed these drugs or these suspected drugs.

8 A. What you're trying to do is you're trying to take a
9 piece of evidence and begin to break it down into what it
10 is.

11 First thing you need to do is you open it up. You do
12 a visual examination. Are you dealing with what type of
13 sample is it?

14 Is it liquid or is it a solid?

15 And so if it is a solid, the, the first thing that I
16 would do is weigh it. You have to know what this -- the
17 weight of it is and what's going on. Then I will take and
18 start sampling and do what's called spot tests. Spot
19 tests are little ways just kind of begin to give me a path
20 of what I'm dealing with. The various colors will tell me
21 I'm dealing with maybe a, a -- some type of morphine
22 compound or I may be dealing with other -- some other type
23 of material.

24 I will then take and -- take, take a small amount,
25 place it in a test tube, do an extraction, and run it on

Joseph Powell - Direct examination
By Solicitor McElveen

1 an instrument to be able to get its actual molecular
2 weight and, with that, it is a fingerprint technique. And
3 this technique told -- tells me exactly what the material
4 is. So, thus report will reflect what the material is and
5 its weight.

6 Q. And these are SLED approved policies and these are
7 general practices across the State.

8 Is that correct?

9 A. It's general practices across the United States. We
10 actually -- this is something that is being used virtually
11 by every state in the union and various county
12 laboratories and, to my knowledge, no one has deviated
13 from that.

14 Q. And maybe some of these policies you help create in
15 SLED at the time?

16 A. Well, a lot of these tests, yes, I was involved in
17 some of the research developed to be able to form these
18 tests. I -- you know, it's general knowledge of whenever
19 we go to conferences we would reveal what we would do and
20 then everybody else would begin to look at it and adopt
21 it. So, yes, I have -- my hands are involved in a lot of
22 the tests that are being used today.

23 Q. I think it's fair to say Sumter County misses having
24 you serving us.

25 A. Well, thank you for that.

Joseph Powell - Direct examination
By Solicitor McElveen

1 Q. I'm gonna hand you what's been marked as State's
2 Exhibit 9 for identification purposes only.

3 A. Okay.

4 Q. Can you tell us what that item is and who created
5 that item?

6 A. Yes. What's listed as State's Exhibit 9 is a report
7 generated by me. It has my name on it. It's a copy of it
8 and on it it has the first page, which is showing the
9 various items that were submitted for analysis. The next
10 page is showing each one of those items broken down and
11 described as I found it and then, on the third page, it
12 has the actual results of the analysis. And the final
13 page is what's called a statement of qualifications.

14 I attach this to every case that I analyze going over
15 my educational background, how many times I've testified,
16 the things that are there. And sometimes this can be used
17 in lieu of me not testifying cause it shows all the
18 information that might be necessary for an issue to be
19 resolved as far as court is concerned.

20 Q. But what date was that report issued?

21 A. This report was issued on May 12 of 2020.

22 Q. And you created that report, correct?

23 A. Yes, I did.

24 SOLICITOR MCELVEEN: Your Honor, we would like to
25 have this report entered into evidence at this time.

Joseph Powell - Direct examination
By Solicitor McElveen

1 THE COURT: Ms. Cooke, any objection?

2 MS. COOKE: Um.

3 THE COURT: Can I have y'all approach just a minute?

4 (WHEREUPON, a bench conference was held out of the
5 hearing of the jury at this time.)

6 SOLICITOR MCELVEEN: Your Honor, before admitting
7 that report, the State would like to make a motion to have
8 Mr. Joe Powell -- well, let me ask the witness.

9 Mr. Powell, how many times have you testified in
10 court?

11 A. I have testified in court over 600 times. Of that
12 number, 300 or more have been in the area of drug evidence
13 and the other half would be in the area of trace evidence.

14 SOLICITOR MCELVEEN: Your Honor, the State would like
15 to make a motion to have Mr. Powell qualified as an expert
16 in chemical narcotic analysis and trace analysis chemical
17 analysis, Your Honor.

18 THE COURT: Any objection or do you want -- have any
19 additional voir dire for the witness, Ms. Cooke?

20 MS. COOKE: Your Honor, I, I would have some
21 additional voir, voir dire.

22 THE COURT: Go right ahead.

23 VOIR DIRE

24 BY MS. COOKE:

25 Q. Mr. Powell, I did not hear everything that, that you

Joseph Powell - Voir Dire
By Ms. Cooke

- 1 said. You were talking a little fast --
- 2 A. Oh, I'm sorry. I apologize.
- 3 Q. -- with the -- probably Ms. McElveen though.
- 4 A. I've had people tell me in New York I talk too fast.
- 5 Q. If you -- and you, you worked at SLED before?
- 6 A. Yes, ma'am.
- 7 Q. Okay. And in the Sumter -- and then you also worked
- 8 at the Sumter County Sheriff's Office?
- 9 A. That is correct.
- 10 Q. And then you had your own lab here that you---
- 11 A. Well, yes, we had the county lab which is where I was
- 12 working at.
- 13 Q. Okay. And that you were trained by SLED?
- 14 A. That is correct.
- 15 Q. And in your own lab, did you do any blind testing
- 16 where you would do something like send brass or some non
- 17 marijuana to somebody for them to test to see if it would
- 18 come back as actual marijuana and, and to, to see -- I
- 19 mean basically what's called blind testing to see if they
- 20 test---
- 21 A. well---
- 22 Q. ---the same thing you do?
- 23 A. well, I think what you're talking about is what's
- 24 called proficiency test and, yes, I performed yearly a
- 25 proficiency test. It was submitted to me from a national

Joseph Powell - Voir Dire
By Ms. Cooke

1 laboratory. This proficiency test was also sent out to
2 other labs around the country and then we, not knowing
3 what the results are gonna be, issued our report. They
4 would then grade us to see if we met their standard of
5 what it was and I passed in all tech -- in all cases.

6 Q. Okay. So, so your lab did actually become certified?

7 A. No, no, no. Now you're talking about something
8 different there. Certification is a process where you go
9 through a series of conditions to be able to get your
10 laboratory up to what's considered to be the standard of,
11 of some of the laboratories, the bigger laboratories.
12 This is gonna be where you have a certain number of
13 personnel and things to be able to do the analysis.

14 There are -- in the small -- in the case of small
15 laboratories, this is a somewhat difficult thing to do
16 because it requires you to have multiple personnel and
17 things like that and it was not something that was
18 feasible for the county lab. But as far as any kind of
19 blind testing, yes, we perform -- every year I continue to
20 receive the testing or samples to be tested and I pass
21 them all.

22 Q. Would you consider blind testing the same thing as
23 peer review or did you, did you ever, like SLED, see is
24 their analysis to other people to peer review to see if
25 they come up with the same result?

Joseph Powell - Voir Dire
By Ms. Cooke

1 Did you ever peer, peer review the stuff that you
2 analyzed?

3 A. The peer review, the answer -- the short answer is
4 no. However, the peer review is something that said we
5 just did in-house. We didn't send it out. If I -- I, I
6 did not have -- ever have a case where there was a
7 question as to what material it was. And so I did not
8 have a peer review.

9 Q. Okay. All right. And the -- all right. So let's
10 talk about the marijuana.

11 In 2017 hemp became legal but marijuana stayed
12 illegal and, for a while, only SLED could test marijuana
13 to see if it was marijuana that was over the threshold of
14 hemp.

15 A. That's not ex -- that's not correct.

16 We immediately, when the, the law came into effect, I
17 initiated a program where I was looking to see if it was
18 hemp. What you're looking for is the THC content of less
19 than .3 percent in the plant. A hemp plant and a
20 marijuana plant are actually the same plant. It's just
21 the amount of THC that they produce.

22 So, yes, I immediately implement -- implemented that
23 as a, as a part of my regiment. So, once it became --
24 hemp became legal, every time a marijuana case came to me,
25 I tested it to see if it was hemp or marijuana.

Joseph Powell - Voir Dire
By Ms. Cooke

1 Q. Okay. So you're saying you can do that right away?

2 A. Yes.

3 Q. So, you would dis -- disagree with me if, if or, or
4 would be surprised if I told you that SLED told me that no
5 laboratory in, in the, in the state except for SLED could
6 do that for, for a couple years at least?

7 A. I would disagree with it.

8 Q. Okay.

9 A. Now, I think what SLED may of been saying to you is
10 the method that we're doing was what's called a
11 quantitation method. Their idea was to take and weigh out
12 a certain amount of marijuana or a plant material, then
13 sit down here and quantitate how much THC versus CBD,
14 Cannabidiol, which is the compound you're looking for, to
15 see what the ratio of it was. I, however, said I want to
16 look and see if the plant has CBC or if it has THC because
17 you will have -- the plant will -- if it's making CBD, the
18 THC level will come down or, if it's making THC, the CBD
19 level will come down.

20 So, what I did is I developed a program to look at
21 just what was the concentration of CBD. If it had the oil
22 for CBD, and had very little THC, it was hemp. Matter of
23 fact, the way my threshold was set up, up to 1 percent
24 could pass for hemp.

25 So, I was not setting at the .3 percent. I was

Joseph Powell - Voir Dire
By Ms. Cooke

1 actually at a higher level that could of been classified
2 as marijuana. So, if I called it marijuana, it has way
3 over one percent THC in it.

4 Q. Okay.

5 All right. Thank you, Your Honor. I have no further
6 questions for this witness.

7 THE COURT: And you have any objection to him being
8 able to testify as an expert in the chemical analysis of
9 narcotics?

10 MS. COOKE: No, Your Honor. I do not.

11 THE COURT: Okay. Ladies and gentlemen, normally a
12 witness is limited in their testimony to things that they
13 observed, things they saw, things they heard. But we have
14 an exception for that for a witness who's been qualified
15 as an expert witness. This means that they are permitted
16 to give opinion testimony in the field in which we've
17 qualified them as an expert.

18 So, I have found that he is qualified to give opinion
19 testimony in that area. You can give it whatever weight
20 you feel it's entitled to.

21 SOLICITOR MCELVEEN: Thank you, Your Honor.

22 And in light of his testimony, we are, we are asking
23 that his report, State's Exhibit 9, be entered into
24 evidence at this time.

25 THE COURT: Any objection?

Joseph Powell - Direct examination
By Solicitor McElveen

1 MS. COOKE: No objection, Your Honor.

2 THE COURT: Number 9 is admitted.

3 (WHEREUPON, State's Exhibit No. 9 was received into
4 evidence at this time.)

5 CONTINUED DIRECT EXAMINATION

6 BY SOLICITOR MCELVEEN:

7 Q. Mr. Powell, I will get to your report. But I also
8 wanted to know -- well, if, if, if I hand you State -- I'm
9 handing you State's Exhibit 3.

10 Are you able to identify that the -- can you tell me
11 if this -- have you touched this package before and I will
12 get you a knife and some gloves eventually?

13 A. Yes. Anything that I put my hands on I put my
14 initials, J.U.P., and I tend to make them very large so I
15 can spot them in court. It helps sometimes. So, yes,
16 that is my initials.

17 So, this is a container that I have handled. It also
18 bears with it a number that I've created, 0523, and that
19 corresponds to the number that is on my report as well as
20 we have other information which has been attached to it.
21 This is a -- gonna be a bag that I created and sealed
22 myself with my initials and inside is going to be a paper
23 bag, which is gonna be accompanied with an evidence bag.
24 Unfortunately I think the, the plastic -- paper bag was
25 too large to be fit inside of the plastic. But we stuck

Joseph Powell - Direct examination
By Solicitor McElveen

1 it in any -- anyway. And inside of the paper bag is gon'
2 be found the evidence that we're describing here today.

3 Q. So, the report that you created that's in evidence,
4 State's Exhibit 9, is the analysis of Package 3?

5 Is that correct?

6 State's Exhibit 3?

7 A. That is correct.

8 Q. Can you please read from your report what was found,
9 the total amounts or the amounts that were found, just
10 each item, your analysis of each item just the chemical
11 analysis and the weights please?

12 A. And this is rather lengthy. So I do apologize for
13 that.

14 My Item Number 4 was listed as a plastic bag
15 containing green plant material and that was found to be a
16 half a gram of marijuana.

17 Item 5 was three full pouches containing brown
18 patches and that is going to be bureau amorphine
19 (phonetic) found. This is actually gonna be a material
20 that is used to -- it actually have to counter some of the
21 effects from some types of narcotics.

22 Item Number 6 is going to be plastic bag with brown
23 powder and in this we found 73 grams of powder, which was
24 a mixture of heroin, which is a Schedule I, Fentanyl,
25 which at that time was a Schedule II, and Tramadol, which

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1 is a -- which is Schedule IV. And I said 73 grams. I
2 apologize. It was 4.76 grams or 73 grains. I misread
3 that part.

4 Item Number 7 was a plastic bag containing green
5 plant material .8 grams worth of marijuana.

6 Item 9 also was green plant material and it was
7 0.6 grams of marijuana.

8 Item 13 was brown powder and this was
9 monoacetylmorphine. Monoacetylmorphine is a -- what is
10 called a precursor or the, the beginning chemical to be,
11 be able to make something called diacetylmorphine or
12 heroin. So, you don't find this in nature. This is
13 actually going to be a by-product of a laboratory which is
14 processing the chemical and you have a residue left out,
15 which is going to be the monoacetylmorphine. So this is
16 gonna be a product that actually filled out of the
17 reaction.

18 Now, monoacetylmorphine itself does not carry a
19 schedule. So it's not -- it's, it's not illegal to
20 possess.

21 Item 14 is going to be green plant material and it's
22 gonna be 47.3 grams.

23 Item 15 is going to be some homemade tablets. This
24 is gonna be someone had a big -- pill press and was
25 pressing in making homemade tablets. All tablets have to

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By Solicitor McElveen

1 have a pharmaceutical imprint on them in the United
2 States. Other countries do not require this but we do.

3 If you -- in this case, the imprint was incorrect or
4 was missing or something. But they were homemade meaning
5 they were not manufactured through a normal manufacturing
6 process and I found them to contain Tramadol and that was
7 a -- that's a Schedule IV drug.

8 Item 18 is gonna be also green plant material.
9 That's 59.8 grams.

10 Nineteen, also marijuana, 11.8 grams.

11 Number 20 is gonna be a plastic bag containing 11
12 beige capsules imprinted with Teva, T-E-V-A, 3109. This
13 is Amoxicillin. This is an antibiotic and it comes as a
14 prescription only.

15 Number 23 is gonna be plant material. It's gonna be
16 0.3 grams of marijuana.

17 Twenty-four is gonna be also some more homemade pills
18 and these pills -- I weighed them out because of the fact
19 that they were homemade. I just treated them as a powder
20 and there was 9.28 grams worth of methamphetamine.

21 Number 26 was a cardboard box containing brown powder
22 and here we have 56.2 grams again of a mixture of heroin,
23 Fentanyl, and Tramadol.

24 Twenty-seven was a plastic bag containing green plant
25 material which was 4.9 grams.

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1 And, finally, plastic bag with also more homemade
2 tablets. It was methamphetamine 2.71 grams.

3 Q. Not trying to put you on the spot for too much mass
4 (phonetic), but using the amount of heroin and Fentanyl
5 and Tramadol mix, would you disagree that the total
6 amount, through all of these items, is 60.96 grams?

7 A. I would not disagree with your calculations.

8 Q. And then, for methamphetamine, the total amount is
9 11.99 grams of methamphetamine?

10 A. Let's see here. Yes, I would agree.

11 Q. And it may be a little harder because it's all over
12 the place but -- and the total amount of marijuana,
13 126 grams, divided by the amount per ounces, a total of
14 4.4 ounces of marijuana?

15 A. That would be consistent with the numbers I've got
16 here.

17 Q. And I'm -- Your Honor, I'm gonna hand up a knife and
18 some gloves and ask Mr. Powell to --

19 A. Okay.

20 Q. -- un-package the -- oh. Sorry. Do you---

21 A. I came prepared.

22 Q. Do you need a knife?

23 A. That I do need.

24 SOLICITOR MCELVEEN: Your Honor, may, may I give him
25 a knife to open --?

Joseph Powell - Direct examination
By Solicitor McElveen

1 THE COURT: Sure.

2 Q. And if you can, Mr. Powell, walk us through the
3 opening of these items---

4 MS. COOKE: Your Honor, may we approach?

5 THE COURT: Uh-huh. (Affirmative).

6 (WHEREUPON, a bench conference was held out of the
7 hearing of the jury at this time.)

8 SOLICITOR MCELVEEN: Thank you.

9 A. Open?

10 Q. Yes, sir.

11 If you can walk us through the opening and how you
12 sealed it upon examination and kind of walk us through
13 what, what you see as your markings please.

14 A. I, I removed the contents of my created plastic bag.
15 Inside is going to be a paper bag and fortunately I was
16 very good about sealing up tightly. So bear with me.

17 Q. Mr. Powell, what's on the front of that paper bag?

18 A. What's on front of it is going to be the original
19 pouch that are what's called the drug pouch where we put
20 in the evidence that we, we get from a crime and, in this
21 case, I placed them outside cause it was not gon' be able
22 to contain the volume that's inside this -- in the bag.
23 And all these are gon' be contained in a little small
24 plastic bags which have been sealed back up. So there
25 should be very little chance of any kind of contamination.

Joseph Powell - Direct examination
By Solicitor McElveen

1 I got there --.

2 Q. I think something dropped out here. Let me look.

3 A. Oh, it's some plastic.

4 Q. And so, Mr. Powell, all of these items you tested
5 separately, correct?

6 A. Yes, each one of these items were tested and on my
7 report is listed the number. That number would correspond
8 to a number on the bag.

9 For example, this is Item Number 27. So, if you
10 looked on the report for Item 27, it would tell that this
11 would be a plastic bag with marijuana and then the report
12 would also indicate, by 27, the results of it. And all of
13 these are categorized that a way.

14 Q. And you test each one separately.

15 Is that correct?

16 A. That is correct.

17 Q. Yeah. Let's give another for example here.

18 Tell me about this item.

19 A. This one is listed as Item Number 20. The Item
20 Number 20 is going to be a plastic bag containing 11 beige
21 capsules and we found that to contain Amoxicillin. So,
22 that's -- what you have is the original container they was
23 found in and there is going to be a small bag containing
24 the pills that's found inside here.

25 Q. And then do you see Item 26.

Joseph Powell - Direct examination
By Solicitor McElveen

1 A. Twenty-six?

2 Q. I'm sorry?

3 A. Four, 24, 14.

4 Q. I'm whatever -- just pull out one more that you can
5 show what it is.

6 A. Twenty-eight.

7 Q. Or I mean -- Item 6 or 26 so, so that we are
8 crosschecking it. Take it from you.

9 A. Okay. This is Item Number 6. Item 6 is listed as a
10 plastic bag containing brown powder and inside this little
11 small cloth pocket you'll find a plastic bag and in that
12 is going to be brown powder. That's gonna be a mixture of
13 the heroin, Fentanyl, and Tramadol that's inside this
14 container.

15 Q. Thank you. Thank you for your testimony. Please
16 answer any questions defense may have.

17 A. Yes, ma'am.

18 Q. Thank you, Mr. Powell.

19 MS. COOKE: Your Honor, I have no further questions
20 for this witness.

21 THE COURT: Okay. Thank you, sir.

22 SOLICITOR MCELVEEN: Your Honor, may we put all these
23 items back in the bag and repackage it so that it's under
24 Item 3?

25 Thank you, Your Honor.

1 (Pause.)

2 SOLICITOR MCELVEEN: Your Honor, if it's for the
3 Court, we'd love to -- I don't know if we can get this bag
4 back into the vacuum sealed container.

5 would it be possible to ask Madam Court Reporter to
6 mark the bag as Exhibit 3 just so that we can -- we don't
7 have to shove it all back into here?

8 THE COURT: Sure.

9 SOLICITOR MCELVEEN: Thank you. We'll do it at the
10 break.

11 And may this witness be excused from his subpoena at
12 this time?

13 THE COURT: Any objection?

14 MS. COOKE: No, Your Honor.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: Yes, you can.

17 SOLICITOR MCELVEEN: Thank you, Mr. Powell.

18 THE WITNESS: Make sure I didn't leave anything.

19 SOLICITOR MCELVEEN: Your Honor, at this time the
20 State would rest.

21 THE COURT: Okay. Let me have y'all approach for
22 just a minute where we can talk about scheduling.

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 THE COURT: Okay. We're gonna go ahead and dismiss

1 you-all for lunch.

2 We have a number of matters that we're gonna need to
3 take up in your absence. So, I'm gonna have you back at
4 2:30. I know this is a protracted lunch break. But I'd
5 rather let you have that time on your own than have you
6 sitting back in the jury room waiting on us.

7 Again, we're gonna be working. I don't want you to
8 think that we're just, you know, I don't know, shopping on
9 Amazon and reading the paper and drinking coffee. We will
10 be working during the break. But we will see you back at
11 2:30.

12 Please don't begin discussing the case. We most
13 likely will move into closing arguments before the day is
14 over. So, you're kind of in the home stretch here.
15 Again, don't discuss the case during the break and we'll
16 see you back at 2:30.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: Okay. So, do I understand correctly that
20 you would rather us take a lunch break and then come back
21 and hear directed verdict motion and also go over the
22 proposed jury charges?

23 MS. COOKE: That, that is my preference, Your Honor,
24 if you're okay with that.

25 THE COURT: That's fine with me.

1 Do y'all have any specific charges that you want to
2 hand up or what I would say is I will email you. We're
3 working on a draft that I'll email you just a rough draft
4 for you to take a look at it, of course, subject to
5 motions and anything else that y'all tell me you want to
6 add.

7 SOLICITOR MCELVEEN: Thank you, Your Honor.

8 MS. COOKE: Thank you, Your Honor.

9 I, at, at this time, without looking at that draft, I
10 don't have anything specific. But after looking at that
11 draft, there might be one or two I might add. But I don't
12 know until I see the draft. It's probably all in there.

13 THE COURT: Okay. Well, I'm gonna try to email those
14 to you as soon as possible so you can be looking at them
15 during the break as well.

16 MS. COOKE: Thank you, Your Honor.

17 THE COURT: Okay. We'll -- what time can we have you
18 guys back?

19 Can, can you guys be back at 1:30?

20 SOLICITOR MCELVEEN: Yes, Your Honor.

21 THE COURT: Is that -- I mean that gives us an hour.
22 So I would say 1:30 or 1:45 so that we have enough time.
23 I don't want to throw y'all into closings without having a
24 chance to go over your charges.

25 SOLICITOR MCELVEEN: Your Honor, do we know---

1 MS. COOKE: Is it---

2 SOLICITOR MCELVEEN: May we inquire if the defendant
3 plans to testify so that I know if we are going into
4 closing arguments or not?

5 THE COURT: Do you need time to talk with him about
6 that during the break, Ms. Cooke?

7 (Pause.)

8 THE DEFENDANT: No, ma'am, I'm not going to.

9 THE COURT: Okay. What I would say is if we can
10 maybe have a final answer at 1:30. So that's when we
11 would kind of really need to know for sure and y'all --
12 that we all have a little chance to discuss it during
13 lunch break as well.

14 Okay. We'll be back at 1:30.

15 MS. COOKE: All right. Thank you, Your Honor.

16 SOLICITOR MCELVEEN: Thank you, Your Honor.

17 (WHEREUPON, Court was in recess for the lunch hour.)

18 THE COURT: Okay. Let's start with the motion for a
19 directed verdict.

20 MS. COOKE: Yes, Your Honor.

21 Section 44-53-370 is a statute that we're mostly
22 mainly dealing with here about, about drugs. Specifically
23 I want to talk about Section E. Maybe it was 370 and
24 375(e), Your Honor, that, that we argued about yesterday.

25 This is an or statute. Ms. McElveen was stating

1 yesterday that she has to prove all of the elements and
2 that's when we were arguing about him selling and
3 distributing drugs and that sort of thing. This is an or
4 statute. It includes selling, manufacturing, cultivating,
5 delivering, purchasing, bringing into the state, providing
6 financial assistance, aiding, abetting, attempt,
7 conspiring. She didn't prove all of those, Your Honor.
8 She doesn't have to prove all of those elements because it
9 says or. Or this, or this, or who was knowingly in actual
10 or constructive possession or who knowingly attempts to
11 become in actual or knowing possession of and it lists a
12 bunch of drugs.

13 A search warrant case is a possession case and that's
14 what we're dealing with here today, possession case.

15 Is it actual or is it constructive possession?

16 It is definitely not actual because that would mean
17 the drugs are on him. That means we are dealing with a
18 constructive possession search warrant case and nothing
19 else, Your Honor.

20 They have to prove two things to prove constructive
21 possession. One is that he knew the drugs were there and,
22 two, is that he had the ability to control their
23 disposition. They have not proven either.

24 He was not at the house. Shaquanna Spencer was at
25 the house with the drugs. She was arrested. She had

1 money in her pockets. She was with the drugs. If they've
2 done what -- he, he -- he's not on trial for selling
3 drugs. He's not on trial for distributing drugs. I
4 understand that they've got him on surveillance doing that
5 but that's not what here -- we're here for today.

6 We're here today for a search warrant at [REDACTED] Jerry
7 Street and, and Mr. Akeem Hickman being in constructive
8 possession because he was not in actual possession of the
9 drugs that were there and they have proven neither of
10 those elements.

11 Ms. Bronwyn brought up a case yesterday that I
12 actually watched in front of Judge Cothran where he DV'ed
13 the case and threw it out because she didn't show that the
14 defendant was in the house with the drugs. She tried
15 another case a month later and Mr. -- and Judge Cothran,
16 the Honorable Judge Cothran asked is this going to be like
17 the last case and Ms. McElveen said no, I've got what I
18 need and she put in mail with the defendant's name on it
19 and Judge Cothran said no, ma'am, that's not enough to
20 prove that he owns this house and directed verdict that
21 case as well and they were both against Sean Kent and they
22 were approximately a month apart.

23 This time they're trying to do it with a driver's
24 license, Your Honor. You know, if, if, if, if I was held
25 responsible for anywhere I've left my driver's license, I,

1 I would own three cars, a gas station, and a couple of
2 houses and, and all the drugs in them and, and other
3 things as well, Your Honor. A driver's license does not
4 prove that, that he owned that property.

5 In addition to that, and very, very, very importantly
6 I believe to this case, since those cases came down in
7 2020, a case, State v. Spencer, came down where they did
8 prove that the defendant owned the property where the
9 drugs were found. But the defendant was not at the
10 property.

11 They charged the jury that the jury could infer that
12 because he owned the property, which I don't believe has
13 been proven here at all just because a driver's license
14 was left in a bedroom and there are pictures of him and
15 his brother and a bunch of people partying on a wall, they
16 charged the jury that, because that defendant -- well, it
17 was, was proven, in State v. Spencer in 2020, to own the
18 property that the jury could infer that he had the ability
19 to control the drugs or control their disposition.

20 The, the case was overturned and the Supreme Court
21 twice said no, absolutely not. We are not doing this.
22 That, that, that is not okay.

23 I have the case here. I can hand a copy up to Ms.,
24 Ms. McElveen. And, if I may approach, I can hand a copy
25 up to Your Honor.

1 THE COURT: Sure.

2 MS. COOKE: In Subsection 2 at the bottom, the Court
3 said, under these four cases, the State presents evidence
4 the defendant had control over the property which the
5 drugs were located. The trial court should deny directed
6 verdict motion. But the mere existence of evidence the
7 defendant had control over the property does not equate to
8 a finding of constructive possession. It remains the
9 burden of the State to convince the jury the defendant had
10 the requisite knowledge and intent.

11 Similarly, under Subsection 4 on the last page or
12 under the conclusion -- let me find it, Your Honor. I'm
13 sorry.

14 well, one thing it says is the improper explanation
15 of the inference of knowledge and possession permitted by
16 the jury to find Stewart guilty of simple possession of
17 trafficking without the State proving knowledge and
18 intent, a scenario not permitted under the legal
19 principles of possession as we explained it in Ellis
20 Brand -- Brown, Lane, and Hudson, and it also -- it also
21 states -- I'm sorry. I had it highlighted in one of my
22 cases, Your Honor.

23 I'm sorry. I can't find it because I had it
24 highlighted in my other case. But it basically says---

25 THE COURT: Well, in this case---

1 MS. COOKE: ---the same thing that I just said under,
2 under number two.

3 THE COURT: In this case, it says it's improper for a
4 judge to instruct the jury that they can.-- that they may
5 infer that, when a substance is found on the property
6 under the defendant's control, that the defendant's
7 knowledge and possession may be inferred.

8 MS. COOKE: Yes.

9 THE COURT: And so -- but it does say like -- well,
10 this whole chain of cases that say judges should not
11 instruct juries that you may infer from these facts blah,
12 blah, blah. But in all those cases it says the attorneys
13 can argue that to the jury. But the judge can not
14 instruct cause that's getting into a, a comment on the
15 facts.

16 But this case does say that the trial attorneys may
17 argue to the jury whether the inference should be drawn.
18 But the trial judge should not include that in jury
19 instructions.

20 MS. COOKE: But, but, Your Honor, I don't believe
21 that, that they have put, put any proof in that, that he
22 owns the property nor have they shown that he had the
23 right to exercise dominion and control over the drugs.

24 THE COURT: well, how about Miss Spann's (sic)
25 testimony that he lived there, that he paid the first

1 months rent, that he was a, a coresident in the house
2 with---

3 MS. COOKE: I believe that might meet the first
4 element, Your Honor, that he knew the drugs were there if
5 they were all over the place but not the second one, that
6 he had the right to exercise dominion and control over
7 them.

8 THE COURT: Okay. MS. McElveen, you want to be
9 heard?

10 SOLICITOR MCELVEEN: Yes, Your Honor.

11 We through -- first of all, through senior
12 investigator or through Investigator Graham, he did state
13 that the drugs in the kitchen could of been used -- would
14 be able to be put under the dominion and control of
15 anybody within the home. He also testified that they had
16 surveillance on that home and had been under investigation
17 and had seen Mr. Hickman there.

18 Also, Your Honor, Miss Spencer's own testimony
19 testified that she was invited to come live there with
20 these two brothers, that they were residents. Mr. Hickman
21 was, I think she said, the man in charge. He directed
22 them to make the drug sales. Scottie Hickson was off
23 working. She was doing everything at his direction and
24 that there were large amounts of narcotics. But he was
25 the guy in charge and he was a resident.

1 Furthermore, there are photographs of him, his
2 driver's license at the scene. Your Honor, I believe
3 there's a lot of testimony indicating he was been -- he's
4 been seen there by police before. And I did lose one case
5 against Sean Kent in regards to that. But I did not lose
6 a second case against Sean Kent for that.

7 But I do remember the case where I did and it was
8 involving a 6-foot marijuana tree where they shut --
9 officers showed up, saw it, went inside, got a search
10 warrant, searched, and then left the scene before even
11 ever seeing the defendant there. That was a unique case
12 and I learned a lot from that case.

13 But, in this case, the officers have seen Mr. Hickman
14 there. They confirm that through investigations for an
15 ongoing amount of time and Miss Spencer con -- confirmed
16 that with her testimony. He doesn't have to own the
17 property to be able to exercise dominion and control.
18 They were renters. But even then, even if he was
19 squatting there, he could exercise dominion and control.
20 It doesn't matter who owns the property, Your Honor.

21 MS. COOKE: Your Honor, if I'm not mistaken, the
22 officers did testify that -- to that. But it was -- it,
23 it was decided that the jury was told to just -- to
24 disregard that.

25 As far as Miss Spencer, I think maybe I misspoke a

1 few minutes ago. I'm, I'm not sure like -- I believe that
2 the officers have to catch the defendant with the drugs
3 for it to be possession. I don't think that they can go
4 by somebody saying oh, Akeem Hickman was here this morning
5 and you need to go arrest him because he knows these drugs
6 are here.

7 SOLICITOR MCELVEEN: Your Honor, constructive
8 possession is a separate thing than actual possession as
9 Your Honor's well aware. So, we would allege that this is
10 under a constructive possession theory which Your Honor
11 does cover perfectly in the charges.

12 THE COURT: So, my recollection is that Officer
13 Graham testified that they had seen him at the residence
14 previously and she testified -- Miss Spencer testified
15 that he had been at the property five minutes before.

16 Am I correct that he is only being charged with the
17 drugs that were either found in the common area or in the
18 bedroom that had his driver's license?

19 SOLICITOR MCELVEEN: Yes, Your Honor. The common
20 areas, yes, Your Honor.

21 MS. COOKE: Your Honor, I'm, I'm not sure about that.
22 That was gonna be one of my arguments to a jury. I mean
23 they, they talked about drug -- guns and drugs found
24 outside in three or four cars.

25 why did they put that into evidence if he's not being

1 charged with it?

2 SOLICITOR MCELVEEN: And, Your Honor, we would allege
3 that those are common areas. They were on the property
4 for anyone to exercise dominion and control over. They
5 were subject to the search warrant. No one's -- no one
6 claimed possession of those specifically. They are common
7 areas of the curtilage of the home.

8 MS. COOKE: Someone's car is not a common area.

9 THE COURT: So the -- to get to the total weight
10 includes the amounts that were found in the vehicles?

11 SOLICITOR MCELVEEN: Yes, Your Honor, which is why we
12 put them into evidence, Your Honor.

13 Yes. Yes, ma'am.

14 MS. COOKE: There was no evidence as to whose car it
15 was or that it was unlocked or that he had been in the car
16 or that he had been near the car. I just, I just don't
17 believe that a -- that someone else's car is a common
18 area.

19 THE COURT: So, I don't have any issue with the items
20 found in that bedroom or items found in the common area.
21 I am struggling with the amounts found in the vehicles
22 though. That -- there was not any testimony about how
23 long the vehicles had been there or who the vehicles
24 belonged to or that, you know, law enforcement had seen
25 him coming and going from the vehicle.

1 I mean I, I don't recall anything---

2 SOLICITOR MCELVEEN: Your Honor, the car's were
3 un-operational. They were just sitting there. One lacked
4 a motor and one was right in front of the house just being
5 used as storage.

6 MS. COOKE: That's not in evidence.

7 THE COURT: I don't recall any testimony about that.

8 SOLICITOR MCELVEEN: Well, Your Honor, I think the --
9 Ms. Cooke -- this will be a question of fact for the jury
10 if they could determine that those cars -- if he could
11 exercise dominion and control over those cars. Surely if
12 they're in front of his property he could exercise
13 dominion and control over them. And if they're
14 un-operational that's for sure.

15 But that would be a question of fact that Ms. Cooke
16 could argue to a jury or could of cross-examined the
17 officers on. Those are certainly questions of fact that a
18 jury can decide in determining if the requisite amounts
19 are present on scene.

20 MS. COOKE: I can't cross-examine someone about
21 something I don't know and hasn't been put into evidence
22 and I don't think a jury can hear it. And I don't think
23 if my car's in somebody's yard and locked that they have
24 the right to go to my car and go in it or go through it.

25 SOLICITOR MCELVEEN: Your Honor, it wasn't locked.

1 The cars were not locked. There's no testimony the cars
2 were locked.

3 MS. COOKE: The testimony is---

4 SOLICITOR MCELVEEN: The cars were subject---

5 MS. COOKE: ---it wasn't.

6 SOLICITOR MCELVEEN: ---to the search warrant and Ms.
7 Cooke could of certainly asked the officers were there
8 indication of who owned the cars, who -- were the cars
9 locked, was there any indication -- and, Your Honor, the
10 fact that she didn't ask these questions and they're -- I
11 mean it's just -- the cars were sitting there
12 un-operational.

13 They were searched. These drugs were found. They're
14 in a common yard, a common area of the home. Anybody
15 could of exercised dominion and control over those,
16 especially residents and people who were at the property.
17 I think that's a question of fact for the jury to decide
18 if we could prove strong enough that that car is something
19 that he could exercise dominion and control over.

20 THE COURT: I'm gonna take a look at the car issue.
21 That -- see if I can find any case law on that cause that,
22 that does give me some pause.

23 I do find that there's factual issues with respect to
24 the amounts found in the common areas and, and in the
25 bedroom where they had his driver's license. And I think

1 that there is sufficient evidence for -- between the
2 codefendant's testimony, Graham's testimony. Specifically
3 that he was there five minutes before, that they had seen
4 him at the property before, her testimony that he was the
5 one who rented it and paid the first months rent.

6 I think that's sufficient for this to go in front of
7 the jury. But, again, I'm gonna let -- take a look at the
8 issue regarding the amounts found in the cars.

9 SOLICITOR MCELVEEN: Thank you, Your Honor.

10 MS. COOKE: And, Your Honor, I, I do have one jury
11 charge based, based on State, State v. Stewart that I
12 would pro -- propose is that the mere existence of
13 evidence that the defendant had control over property
14 where drugs were found does not give rise to an inference
15 of knowledge of the drugs nor the ability to control the
16 disposition of those drugs and does not equate to a
17 finding of constructive possession which State v. Stewart
18 says.

19 THE COURT: I know we have a mere presence but I
20 think it's under the marijuana section. There's a mere---

21 SOLICITOR MCELVEEN: I think---

22 THE COURT: ---presence.

23 SOLICITOR MCELVEEN: ---you have a mere presence
24 throughout and you have a constructive possession charge
25 in there already too.

1 MS. COOKE: I'm -- I -- I'm just not sure --.

2 THE COURT: So, I -- what I've got is constructive
3 possession means that the defendant had dominion and
4 control over the right to exercise dominion or control and
5 mere presence at the scene where drugs were found were not
6 enough to prove possession. But if you want to hand that
7 up I'll take a look at it.

8 SOLICITOR MCELVEEN: And, Your Honor, I think this is
9 giving the State v. Stewart -- if you were to give this
10 charge, it would actually be the opposite of what State v.
11 Stewart says to do -- I mean not -- it would also be
12 commenting on the facts. Just like you can't say it gives
13 an inference, I don't think -- I think it would be
14 improper for the judge to also say it does not give an
15 inference. That would be another cometary on the facts,
16 another reason. Be the opposite situation but the same
17 end result in State v. Stewart if you were to say it does
18 not give an inference.

19 I think Your Honor covers it in your charges in
20 regards to constructive possession and mere presence.

21 MS. COOKE: Just because it says it does not give an
22 inference, an inference doesn't mean that they can't --
23 that they can't, that they can't find it. I think that's
24 a misreading of it and I, I think that mere presence --
25 I'm -- I don't mind a mere, mere presence charge being

1 given especially -- but I don't mind a mere presence
2 charge being given. But I don't think it covers it
3 because he -- this, this trial is about what happened on
4 May 7th as was stated before.

5 It's about what happened on May 7th and what
6 happened, what they found, and who was there when they
7 did -- executed the search warrant on, on that morning of
8 May 7th. Whether he was there and paid the first months
9 rent or there on another date or even there with drugs on
10 another date or even sold drugs on another date doesn't
11 matter.

12 The only thing this trial is about is whether he was,
13 he was there when they executed the search warrant and was
14 in the vicinity of the drugs and could exercise dominion
15 and control over them and had knowledge that they were
16 there when the ex -- when the search warrant was executed.
17 If there was -- I'll, I'll save that for my closing.
18 That's okay. I'll stop right there.

19 THE COURT: I, I don't think that the law requires
20 that he has to be physically present at the time they
21 execute the search warrant if there's circumstantial
22 evidence, again, to show that he's got constructive
23 possession, dominion, control over the drugs. But, again,
24 I'm gonna take a close look at the vehicle issue---

25 SOLICITOR MCELVEEN: And, Your Honor, in re---

1 THE COURT: ---before I give you my ruling.

2 SOLICITOR MCELVEEN: If I may?

3 In regards to the vehicle, part of the trafficking
4 statute does state that they -- part of the activity could
5 be conspiring to, to -- conspiring to deliver, dispense,
6 dis -- purchase, distribute, you know, all those verbs.
7 But there's a element of conspiring to do that.

8 And, Your Honor, we would say that -- I mean if -- in
9 a car in the front yard, in his front yard, I mean it is
10 un-operational, but even if that's not a fracture, he is
11 conspiring with individuals to traffic that amount of
12 drugs in that car. Even if it's someone else's car, which
13 we don't say it is, but even if it is, he is conspiring
14 with others to traffic those drugs in that car. So --.

15 THE COURT: I just don't think that there's any facts
16 in evidence regarding the car just to show that that was
17 part of anybody's plan.

18 SOLICITOR MCELVEEN: Your Honor, it's on the search
19 warrants.

20 THE COURT: I understand. But there was no testimony
21 for this jury, for example, from the codefendant that
22 yeah, we kept the drugs in the car and we used drugs out
23 of the car to do this or that. I mean she didn't mention
24 the cars at all.

25 SOLICITOR MCELVEEN: But Officer -- she admitted that

1 she didn't know what was in their rooms and stuff like
2 that. So, she admitted that there are areas that she
3 wouldn't know about. But that she was told to distribute
4 drugs when people called.

5 So, she is of the same thing about the bedrooms and
6 the fact that Mr. Hickman -- she didn't necessarily feel
7 like she could exercise dominion and control over it. But
8 that doesn't -- she said Mr. Hickman was in charge. He
9 was the head guy. He can exercise -- he's the one that
10 was instructing everybody.

11 He could certainly exercise dominion and control over
12 the drugs. They're in a car in his front yard, especially
13 an un-operational one, which -- so --.

14 THE COURT: All right.

15 SOLICITOR MCELVEEN: And that, and that would be a
16 part of the conspiracy aspect of trafficking.

17 THE COURT: That -- again, there just wasn't any
18 testimony that any of them knew about the drugs out in the
19 vehicles. But I -- I'm gonna take a look and see if
20 there's any case law on this.

21 So, let me hear from y'all -- anything else that you
22 want to tell me regarding any of the other charges?

23 MS. COOKE: No, Your Honor.

24 THE COURT: And you-all have looked at the proposed
25 charges as to all the offenses?

1 SOLICITOR MCELVEEN: Yes, Your Honor, except for the
2 structure of the heroin charge very clearly lays out the
3 weight baseline and, at the beginning of the charge,
4 whereas methamphetamine you have to -- wait till the
5 very -- looks like the very last sentence to determine
6 what the weight amount is.

7 I would just ask that maybe we add the trafficking in
8 methamphetamine 10 to 28 grams at the beginning of that
9 section and at the end because it is all throughout the
10 trafficking in heroin. Basically just kind of make them
11 similar and how -- and they reference that, that weight
12 range.

13 THE COURT: I just -- I -- the reason I did that is
14 cause I didn't see it on the indictment.

15 SOLICITOR MCELVEEN: Your Honor, it is in the --
16 let's see. It's in the Count 3, trafficking in
17 methamphetamine in excess of more than 10 grams---

18 THE COURT: Okay. I got you.

19 SOLICITOR MCELVEEN: ---but less than 28 grams. It's
20 under Count 3.

21 THE COURT: Is there any issue with lesser includeds?

22 I guess the only lesser included would be maybe a
23 simple possession of marijuana?

24 MS. COOKE: Yes, Your Honor.

25 THE COURT: Anybody requesting any lesser includeds?

1 MS. COOKE: One moment, Your Honor. Let me, let me
2 take a look at the indictment.

3 (Pause.)

4 MS. COOKE: No, Your Honor. I don't believe they're
5 any lesser included of the other ones unless -- no, Your
6 Honor.

7 THE COURT: Okay. All right. If y'all give me just
8 a minute. We're gonna do the verdict form. I'm gonna
9 take a look at the vehicle issue. I think we've got a few
10 minutes until the jury's due back.

11 SOLICITOR MCELVEEN: Thank you, Your Honor.

12 THE COURT: All right. Let me address the defendant.
13 Sir, we talked earlier about the fact that you do not
14 have the obligation to testify.

15 THE DEFENDANT: Uh-huh. (Affirmative).

16 THE COURT: That's your decision to make and you
17 understand the consequences of that are, if you choose not
18 to testify, I'll instruct the jury that they can not use
19 that against you. They can't even discuss it during their
20 deliberations and I will further instruct them that the
21 State has the burden of proof in this matter and that you
22 do not have any burden of proving yourself innocent. But,
23 again, having said that, it's your decision and this is
24 your day in court. So, it's entirely up to you.

25 But have you had a chance to talk with your attorney

1 about the decision?

2 THE DEFENDANT: Yes, I'm, I'm good. I'm not gonna
3 testify against myself.

4 THE COURT: Okay. And anything else you want me to
5 put on the record with respect to that, Ms. Cooke?

6 MS. COOKE: No, Your Honor.

7 THE COURT: Okay. All right. Give me just a few
8 minutes and we'll let the jury get back and I'll come in
9 before I bring the jury in.

10 SOLICITOR MCELVEEN: Thank you, Your Honor.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: Okay. I did not find any South Carolina
13 cases. But I did find some North Carolina cases.
14 Construction -- constructive possession of drugs found in
15 vehicles at a residence.

16 So, in most of these cases the Court was requiring
17 some further connection between the vehicle and the
18 defendant other than it was just parked at the house.
19 Specifically I'm looking at a case, State versus Doolan
20 and State versus Marshall. These are both North Carolina
21 cases.

22 The trial court excluded evidence that the police had
23 found marijuana in a car parked within the curtilage of
24 the defendant's house where the State failed to link its
25 possession or control to the defendant. State versus

1 Doolan had to do with a boat that was parked at the
2 residence or slightly outside of the curtilage and
3 basically said, even if it was within the curtilage,
4 without any other evidence to show that the defendant had
5 any ownership in, interest in, possession of the boat, had
6 been seen on the boats, that there was no evidence for it
7 to go to the jury on the issue of constructive possession.

8 So I am gonna exclude --.

9 SOLICITOR MCELVEEN: Your Honor, may I ask quickly?

10 THE COURT: Uh-huh. (Affirmative).

11 SOLICITOR MCELVEEN: The fact though that he is a
12 known resident of this home and is subject to the search
13 warrant, the State -- or were those the facts in those
14 cases?

15 were they a known resident?

16 Did they have proof of his---

17 THE COURT: Yeah.

18 SOLICITOR MCELVEEN: ---link to the home?

19 THE COURT: Yeah.

20 SOLICITOR MCELVEEN: They did?

21 THE COURT: I mean, in both of these, the person
22 lived at the residence.

23 SOLICITOR MCELVEEN: Okay. So they had him as a
24 resident. Not just a mere visitor.

25 THE COURT: So, again, without some indication, I

1 mean there -- I didn't catch any evidence related to how
2 long the cars had been parked there, if anybody'd ever
3 seen him coming in and out of those vehicles. I mean
4 there was -- the only testimony I heard was that they were
5 vehicles at the residence where the search warrant was
6 executed.

7 SOLICITOR MCELVEEN: And, Your Honor, well, in that
8 case---

9 THE COURT: And without any nexus between them at
10 all, I just don't know what the jury is considering other
11 than just pure speculation.

12 SOLICITOR MCELVEEN: Your Honor, trafficking four to
13 10 grams though then would be proper for the
14 heroin/Fentanyl mix found in the kitchen. So, it'd be
15 four to 10 grams instead of the over 28.

16 THE COURT: well, that's what I would need y'all to
17 do is to --

18 SOLICITOR MCELVEEN: Uh-huh. (Affirmative).

19 THE COURT: -- determine what -- cause I do find that
20 there's sufficient evidence of constructive possession for
21 the amounts found within the house.

22 SOLICITOR MCELVEEN: And, Your Honor, that, that
23 heroin found in the kitchen cabinet, Item 6, it was in the
24 cabinet area in the black pouch that actually Mr. Powell
25 handled. That was found inside the kitchen in a black

1 pouch and that is 4.76 grams of heroin. So, it would
2 reduce the amount for four to 10 -- to four to 10 in the
3 charge and not over 28.

4 So, it'd still be trafficking. But just a lesser
5 amount.

6 THE COURT: Is that your recollection as well, Ms.
7 Cooke?

8 MS. COOKE: Your Honor, I'm -- I would have to go
9 through my notebook and, and look.

10 THE COURT: But this is the time if you want to take
11 a look at that.

12 (Pause.)

13 MS. COOKE: I have in my notes about---

14 SOLICITOR MCELVEEN: I---

15 THE COURT: ---the suspect Fentanyl found in a pouch
16 in the kitchen. But I didn't write down what the weight
17 was of that one.

18 MS. COOKE: And, and on the ledger, I don't, I don't
19 see amounts. That, that was one problem. I don't---

20 SOLICITOR MCELVEEN: Item 6---

21 MS. COOKE: I don't see amounts.

22 SOLICITOR MCELVEEN: Item 6 on the drug analysis has
23 the weights. They don't include weights inside the
24 reporting officer because they have not weighed the drugs.
25 They would include packaging and that's not acceptable.

1 So, Mr. Powell's analysis has Item 6, heroin,
2 Fentanyl, and Tramadol, 4.76 grams without package weight
3 included.

4 MS. COOKE: It doesn't say where they were found
5 because, when I stopped earlier, that was gonna be part
6 of -- that was gonna be part of my closing and part of my
7 argument that, that, in closing, that --

8 SOLICITOR MCELVEEN: Items---

9 MS. COOKE: -- not all of these drugs have been shown
10 to have been, to have been, to have been his. So -- and
11 I, I don't see -- I, I don't see, except through the
12 testimony, where it shows exactly what amount was found
13 where. Not, not on the ledger nor the -- I mean it says
14 in whole what was found on the analysis. But not how much
15 was found here, how much was found there, how much was
16 found there. And that was actually going to be part of my
17 argument in closing.

18 SOLICITOR MCELVEEN: And, Your Honor, the Sheriff's
19 office report that we provided Ms. Cooke does have Item 6,
20 brown powder substance Fentanyl inside black pouch found
21 inside kitchen cabinet above microwave by Investigator
22 Graham. Investigator Graham did testify to finding those
23 drugs inside the kitchen.

24 That Item 6 number matches Item 6 number from the
25 drug analysis there corresponding item or itemized numbers

1 from the Sheriff's Office report to the drug analysis,
2 which is why the drug analysis starts at four and has 4,
3 5, 6, 7, 9, 13, 14, 15, 18, 19, 20, 23. It jumps around
4 because it reflects the item numbers as set out in the
5 Sheriff's Office report.

6 THE COURT: Does that change anything with respect to
7 the methamphetamine charge?

8 SOLICITOR MCELVEEN: There is no methamphetamine
9 found in the cars, Your Honor. So --.

10 But the heroin we do say is, is four to 10 now and we
11 will change our presentation of the law to four to
12 10 grams instead of the over 28.

13 THE COURT: How about the marijuana?

14 SOLICITOR MCELVEEN: The marijuana, Your Honor, is
15 4.4 ounces. So anything over 28 grams would of been -- I
16 beg the Court's indulgence one second. Let me --.

17 MS. COOKE: And there were guns found---

18 SOLICITOR MCELVEEN: So---

19 MS. COOKE: ---in the cars.

20 SOLICITOR MCELVEEN: The marijuana -- the stolen
21 weapon wasn't in the -- in there. We're not alleging the
22 stolen weapon was in the car. That was in Mr. Hickman's
23 bedroom.

24 But the marijuana, Item 4, is -- was found in the
25 kitchen. Point eight -- the Del Monte peaches jar is Item

1 7 that was testified to. Suspect marijuana on the kitchen
2 counter, Item 9. Item 14 -- suspect marijuana and in a
3 plastic bag in closet of Hickman's bedroom found by Senior
4 Investigator Reynolds. That's 47.3 grams. So that amount
5 right there would get you the PWID amount.

6 Let's see. The grocery bag the suspect marijuana in
7 the closet in Hickman's bedroom found by Investigator
8 Reynolds is Number 18 and that is 59.8 grams of marijuana.

9 Item 23 would not be. That is -- not count. That
10 was not found in his bedroom. Let's see.

11 Now, the Number 19, suspect marijuana in a red bowl
12 with his driver's license was found, that would be --
13 that's another 11.8 grams.

14 And then Item 27, the red Dodge Charger, that
15 marijuana would not be counted. So, so Item 27.

16 So we could take away -- let's see, oh gosh, math,
17 5.2 grams away from total amount of -- I'm sorry, Your
18 Honor. Math is not my strong suit.

19 THE COURT: I'm showing there was a total of
20 126 grams.

21 SOLICITOR MCELVEEN: Yes, Your Honor. Minus 5
22 point -- what'd I just say 5.2 --

23 MS. COOKE: Yeah.

24 SOLICITOR MCELVEEN: -- minus -- so, 126 grams minus
25 5.2 grams is --?

1 THE COURT: 120.8.

2 SOLICITOR MCELVEEN: I'm sure Your Honor's correct.
3 120.8.

4 MS. COOKE: And the meth pills were in---

5 SOLICITOR MCELVEEN: Which---

6 MS. COOKE: ---Hickson's bedroom.

7 SOLICITOR MCELVEEN: Which is twenty -- divided by
8 28.35. That is 4.261. So that's 4.261 ounces of
9 marijuana found within the home excluding the cars.

10 THE COURT: How about the Tramadol?

11 Was any of the Tramadol found in the -- within the
12 vehicles?

13 SOLICITOR MCELVEEN: The Tramadol was located inside
14 all of the Fentanyl and heroin mix. It was mixed in there
15 with it.

16 THE COURT: Okay.

17 SOLICITOR MCELVEEN: There was also Tramadol found
18 separately in Hickman's bedroom as well, blue pills.

19 So there are two amounts of Tramadol that were found
20 one in a common area and one inside Mr. Hickman's bedroom.

21 THE COURT: Okay. Anything else with respect to the
22 jury charges?

23 SOLICITOR MCELVEEN: So you said 120.8 grams of
24 marijuana.

25 MS. COOKE: I don't know if we've been over this.

1 But the only meth I see is in Hickson's bedroom.

2 SOLICITOR MCELVEEN: Your Honor, that was subject
3 to -- I, I think that with Miss Spencer's testimony that
4 Mr. Hickson was at work and that Mr. Hickman was in charge
5 and he was the one who had control over all the drugs and
6 he's the one that sold it all, I think the fact that she
7 stated that and that she said Mr. Hickson -- Mr. Hickson's
8 at work, I think that does give a level of -- I mean it's
9 a question of fact for the jury.

10 But I think that's a question of fact that the jury
11 can determine whether Mr. Hickman could exercise dominion
12 and control of those drugs that were inside the residence
13 when Miss Spencer stated that he was in charge,
14 Mr. Hickson wasn't there, and Mr. Hickman was the one who
15 everybody -- that he was the guy in charge and everybody
16 did what he said.

17 MS. COOKE: Why---

18 THE COURT: Um---

19 MS. COOKE: Why would Hick -- why would meth be in
20 Hickson's bedroom?

21 Hickson was charged and so was Shaquanna Spencer.

22 THE COURT: I guess I thought I understood earlier,
23 and I thought I specifically asked, was Hickman being
24 charged with only those specific drugs that were found in
25 his room and Hickson was charged with separate --.

1 SOLICITOR MCELVEEN: Oh, I, I think they were all
2 charged with all the drugs. I'm sorry. I misun -- I
3 thought you meant outside the car and inside the house.

4 THE COURT: Well, I'm talking about earlier either
5 today---

6 SOLICITOR MCELVEEN: I'm sorry.

7 THE COURT: ---or yesterday.

8 SOLICITOR MCELVEEN: Your Honor, I think everybody
9 was charged with everything cause, if not, they would---

10 THE COURT: Well, there was a lot---

11 SOLICITOR MCELVEEN: ---people could get up and
12 say---

13 MS. COOKE: There was a lot of talk about common
14 areas and I, I don't think Hickman should be charged with
15 drugs that were in Hickson's bedroom when Hickson was
16 charged with possession and trafficking meth.

17 SOLICITOR MCELVEEN: But I think we're all assuming
18 that drugs can only belong to one person whereas drugs
19 don't have to just belong to one person and don't have to
20 be solely under the dominion and control of the one person
21 at the scene. I mean I -- drugs don't necessarily have to
22 just only belong to one person. They can belong to
23 multiple people. Multiple people can exercise dominion
24 and control.

25 I can get up here and say that Ms. Spencer can

1 exercise dominion and control over the drugs in the house
2 too along with Mr. Hickman, Mr. Hickson. I think they all
3 could.

4 MS. COOKE: And there's also case law saying just
5 because they're four people in a car where drugs are found
6 that, that not all four have to be found guilty. That's
7 why there's a mere presence charge.

8 SOLICITOR McELVEEN: And, Your Honor, part---

9 MS. COOKE: I just -- this just doesn't make, doesn't
10 make sense to me that he be charged with drugs that are,
11 that are in his bedroom. He wasn't in, in the bed -- he
12 wasn't at work 24/7. I mean was he at work -- I mean it's
13 my understanding that -- and as Mr. Hickman has been
14 sitting here telling me and I told him that I might of
15 misunderstood her.

16 I mean if he was -- if, if he was at work on the
17 morning of the search warrant, then the officer that
18 testified that's -- that -- that, that saw him run away
19 from, from the scene was not telling the truth. I mean he
20 wasn't at work 24/7.

21 SOLICITOR McELVEEN: Your Honor, can -- trafficking
22 in heroin all -- and methamphetamine also has elements of
23 someone who conspires to sell, manufacture, cultivate,
24 deliver, purchase. So no matter the fact that the drugs
25 are in a codefendant's bedroom, he can still conspire, and

1 per Miss Spencer's testimony, he did conspire to sell
2 those things with all of them, whoever came to the house,
3 whoever called a number, whoever -- they were there to
4 sell drugs.

5 So, the fact that a -- again, one person doesn't
6 necessarily possess drugs in one location. He can
7 still -- he can conspire to sell, cultivate, manufacture,
8 deliver, or purchase, or bring into the state a
9 trafficking amount of drugs. Even if they're not sitting
10 in his bedroom, he can conspire to sell those drugs and
11 Miss Spencer's own testimony admitted that they were all
12 conspiring to sell drugs together.

13 THE COURT: I do find there's enough for it to go to
14 the jury on the issue of constructive possession of the
15 drugs found in the home.

16 SOLICITOR MCELVEEN: Thank you, Your Honor.

17 THE COURT: I'm going to adjust the jury charges on
18 the trafficking in heroin down four to 10.

19 What I'd like to do is go ahead and bring the jury in
20 and then we'll print out the verdict forms and let y'all
21 take a look at them at the end before we send those back
22 to the jury rather than stop now and do it.

23 SOLICITOR MCELVEEN: Thank you, Your Honor.

24 THE COURT: Okay. Let's talk about closing. The
25 defendant has not put in any testimony. So the State will

1 open in full. The defendant will close in full. I guess
2 nothing real else -- really else I need to say about that.

3 Since the defendant is not testifying, I hate to
4 bring the jury in, have the defendant rest on the record,
5 then send the jury right back out.

6 So, can we just agree to do that out of order and let
7 you go ahead and renew your motion for directed verdict
8 as -- and we'll let you rest in front of the jury but let
9 you go ahead and renew that motion now.

10 MS. COOKE: Yes. Yes, Your Honor. I renew my motion
11 for directed verdict.

12 THE COURT: Okay. And your motion, again, is granted
13 with respect to the drugs that were found in the vehicles
14 and denied with respect to the drugs found in the house.

15 Okay. Let's bring the jury in.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE BAILIFF: All the jurors are seated, Your Honor.

19 THE COURT: Thank you.

20 Okay. The State has rested.

21 Ms. Cooke.

22 MS. COOKE: I'm, I'm sorry, judge. I thought I was
23 going last since we didn't put up evidence.

24 THE COURT: You are. Just gonna let you rest on the
25 record.

1 MS. COOKE: Oh. Oh, I'm sorry. I apologize. The
2 State -- defense rests.

3 THE COURT: Okay. Thank you.

4 Okay. We're gonna move right into closing arguments
5 then.

6 Ms. McElveen.

7 SOLICITOR MCELVEEN: Yes, Your Honor, if I may?

8 Beg the Court's indulgence.

9 (Pause.)

10 SOLICITOR MCELVEEN: And I believe if Your Honor were
11 to approve the HDMI on the video presentation board, I
12 believe it will work. I say that with hopes, with great
13 hope.

14 THE COURT: It's telling me it's starting up.

15 THE CLERK: You need the (indiscernible)?

16 SOLICITOR MCELVEEN: Yes, please. I'm sorry. Ms.
17 Brandt. I'm sorry.

18 Is it showing up for you, Your Honor?

19 THE COURT: I -- it just is showing a flower on my
20 screen.

21 SOLICITOR MCELVEEN: A flower.

22 Okay. It's not showing a --?

23 THE COURT: I've got podium PC HDMI.

24 SOLICITOR MCELVEEN: That's odd cause that is my
25 screen saver I think, an automatic one.

1 Ah ha. Yes. Yay. Thank you.

2 Good afternoon, ladies and gentlemen. This has been
3 a pretty quick case with a lot of witnesses and a lot of
4 testimony. I appreciate all of your attention and the
5 role that you guys play here today.

6 You've gotten to hear from a variety of officers
7 about what they saw, what they experienced, and what they
8 personally witnessed when executing a search warrant at
9 ■ Jerry Street here in Sumter County.

10 I'm gonna open a little bit about the law and what
11 the law is.

12 First of all, regarding trafficking in heroin and,
13 and methamphetamine, any person who knowingly sells,
14 manufactures, cultivates, delivers, purchases, or brings
15 into the state, or who provides financial assistance, or
16 otherwise aids, abets, attempts, or conspires. You can
17 even conspire to sell, manufacture, cultivate, deliver,
18 purchase, or bring into the state, or who is knowingly in
19 actual or constructive possession, or who knowingly
20 attempts to become in actual or constructive possession of
21 4 grams or more of heroin or methamphetamine is guilty of
22 trafficking in these narcotics.

23 Ladies and gentlemen, these are violent crimes. So
24 anyone who is in possession of a pistol or a weapon during
25 commission of a trafficking in a drug like this, they are

1 also guilty of possession of a weapon during commission of
2 a violent crime.

3 For our situation, heroin -- at -- what you heard is
4 that Mr. -- I'm sorry. Those are -- Mr. Hickman was in
5 possession of over 4 grams of heroin that were found in
6 the -- in his I believe, Your Honor, in the kitchen. I'm
7 sorry. Jury.

8 Ladies and gentlemen of the jury, I believe it was
9 found in the kitchen over 4 grams of heroin. You heard
10 Investigator Graham talk about the heroin that was found
11 in the kitchen in that black pouch and you saw Mr. Powell
12 show you one of those many bags was that black pouch of
13 heroin and a mix of Fentanyl inside the kitchen. That's
14 in a common area of the home.

15 As to the methamphetamine, ladies and gentlemen,
16 testimony was given there were 11.99 grams of those
17 homemade, remember the pressed tablets, that Mr. Powell
18 again testified to with the markings on it. Those were
19 also found inside the home again indicating Mr. Hickman's
20 intent to conspire, which means to think about and try to
21 assist in the sell or distribution of these narcotics.

22 Miss Spencer's own testimony admitted that
23 Mr. Hickman was the man in charge. Mr. Hickman did --
24 Mr. -- everybody did what Mr. Hickman wanted him to do.
25 They were family. If that phone rang, she answered it.

1 She provided the narcotics to whoever rang and Mr. Hickman
2 was the one who called the shots for that house. He was
3 able to exercise the dominion and control over the
4 narcotics and frankly over the people inside that home.

5 And what nerve it took for Miss Spencer to take the
6 stand and tell her -- to tell what happened. What nerve
7 it took for her to testify in front of you guys. She may
8 not be a likable witness to you. But she came up there
9 and she testified, swore, took an oath, and gave you guys
10 her truth.

11 Ladies and gentlemen, when it comes to this
12 trafficking in heroin and methamphetamine, you'll see on
13 the drug analysis, and Mr. Powell testified to it, but
14 you'll get to look at these documents and touch them minus
15 the guns and drugs most likely. But you'll be able to
16 wit -- take it, look at this drug analysis.

17 You'll see that the Fentanyl -- the heroin had
18 Fentanyl mixed in with it too and Tramadol, a Scheduled IV
19 controlled substance. The statute, and I highlighted it
20 here, says that 4 grams of more -- of any mixture
21 containing these substances is guilty.

22 So, even if there's just a little bit of heroin and
23 there's a lot of Fentanyl, which is probably just as
24 dangerous, but even if there's just a little bit of heroin
25 and a lot of Fentanyl, the fact that it is over 4 grams

1 automatically tells you that they can still be guilty of
2 trafficking in that heroin or in that methamphetamine.
3 The combination or the mixture is enough, with the weight,
4 to traffic in those drugs.

5 You will see that on the drug analysis. You will see
6 where they are mixtures. But those mixture include heroin
7 and the methamphetamine I believe is very clearly just
8 methamphetamine. But even a mixture you can be found
9 guilty on the full amount of the weight of those
10 substances.

11 They're many ways to traffic. You guys, there are --
12 a variety of definitions. You can knowingly deliver. You
13 can be in actual possession. Someone, for example, if
14 Miss Spencer, at the scene, in actual -- if she was
15 holding a bag of drugs, she would be in actual possession.

16 Constructive possession is when someone can exercise
17 control or dominion over a property without actually
18 holding it. So, in this case, Mr. Hickman would be in
19 constructive possession of the drugs. He had just left.
20 He ran out. He exercised dominion and control of these
21 drugs. He was the head man. He controlled the pawns in
22 the game. He told them when and where to distribute the
23 drugs. They did what he said.

24 He was the one in the kitchen. He could take it all
25 around. Everybody in the house, you might say, could

1 exercise dominion and control over those drugs.

2 Especially the ones in the kitchen.

3 Anybody who can be -- those are -- that's a
4 constructive possession. It's a legal theory that is hard
5 to understand and hard to grasp. But it is a strongly --
6 a strong legal principle that you can constructively
7 possess an item without having it physically in your hand.

8 For instance, this computer is all the way over here.
9 But I am in constructive possession of that computer
10 because I can exercise dominion and control over it even
11 though I'm not touching it myself. In this case, Mr.
12 Hickman was in constructive possession of all the
13 narcotics and the weapons in his home. Inside of his
14 bedroom he did have the stolen pistol in his closet.

15 Ladies and gentlemen, he was in constructive
16 possession of that pistol. It was inside his room. He
17 could go home, exercise dominion and control over that
18 weapon at anytime.

19 Another ways to traffic in heroin or meth is to aid,
20 abet, attempt, or, again, conspire, which means to plot,
21 to sell or deliver or dispense these drugs. Drugs found
22 in Mr. Hickson's room, Mr. Hickman, per Miss Spencer's own
23 testimony, he was conspiring to sell those drugs. People
24 call. You do the drug sale.

25 Mr. Hickman was the man in charge. He called all the

1 shots. Mr. Hickson, he -- when he was not at work, was
2 around. People were around I think she said drinking and
3 partying and homies were around. But Mr. Hickman was the
4 one calling the shots. He conspired to sell, and,
5 therefore, traffic in these drugs inside the home.

6 In regards with possession with intent to distribute
7 marijuana, this is a little -- it's, it's not as strict as
8 the trafficking. But it is unlawful for a person to
9 possess with intent to manufacture, which means to make,
10 or distribute, dispense, deliver, or purchase a controlled
11 substance. Marijuana being the controlled substance.

12 You can infer an intent to distribute with anything
13 over 28 grams. Anything over an ounce, the law says you
14 can infer or just go ahead and suppose. If you wish, you
15 can suppose that they have the intent to distribute it.
16 It would be over the amount for personal use.

17 In this case, he possessed over four times that. He
18 was in possession -- Mr. Hickman was in possession of
19 4.261 ounces of marijuana, which is four times over an
20 ounce. We can infer that he had the intent to distribute
21 that marijuana.

22 Ladies and gentlemen, that marijuana was found in the
23 kitchen and it was found in his bedroom and that full
24 amount was found in either of those two places. He could
25 exercise, again, dominion and control or constructively

1 possess all of that marijuana.

2 Possession of a Scheduled IV controlled substance,
3 this involves the Tramadol. The Tramadol was found in the
4 kitchen in the common area. But also it was found within
5 the mixture of the heroin, Fentanyl, Tramadol mixture. So
6 it is also -- he is in possession of that Scheduled IV
7 controlled substance, again, with that -- those drugs that
8 are in the kitchen, that common area.

9 There's no weight requirement in a simple possession.
10 It is less than -- there's, there's no weight requirement
11 in this definition.

12 Again, Your Honor -- ladies and gentlemen of the
13 jury, the possession, we are going over again this actual
14 possession versus constructive position -- possession.
15 The defendant constructively possessed these drugs. He
16 could come home, go into his bedroom, go into the kitchen,
17 and exercise dominion and control over them at any time he
18 wanted.

19 He lived there. He was a coresident. He paid the
20 first months rent. He paid the first months there. His
21 pictures were on the wall. He and his brother shared the
22 property. Miss Spencer stated that he, he paid the rent.
23 He, he got the lease with her or he, he, he procured the
24 house before she even knew it. They invited her to come
25 over. He procured the house and was paying the first

1 months rent, ladies and gentlemen.

2 Possession of a stolen pistol. Finally, a person
3 shall not knowingly buy, sell, transport, pawn, receive,
4 or possess any stolen handgun or one from which the
5 original serial number has been removed or obliterated.
6 You heard Sergeant Reynolds talk about finding a, a weapon
7 in the closet with ZRV223. He ran the NCIC and that gun
8 had been reported stolen.

9 Mr. Hickman, again, had that gun in his closet under
10 his possession. He could exercise dominion and control
11 over that. It was in his bedroom.

12 And, finally, the possession of a weapon during
13 commission of a violent crime. If he is guilty of the
14 trafficking violent crimes, and he is in possession of a
15 weapon, it is another separate offense. You must find
16 that he has committed a violent crime though to be guilty
17 of that. And, again, those violent crimes are the two
18 trafficking charges. Those have been deemed violent by
19 our state legislature and by our Code of Laws.

20 You guys, as jurors, have -- are in the unique
21 position that you bring in your common sense. We have to
22 prove everything beyond a reasonable doubt. It doesn't
23 have to be all doubt. We can't say without -- beyond any
24 doubt whatsoever in the entire world. We have to be --
25 prove it beyond a reasonable doubt.

1 Your common sense is what determines what's
2 reasonable. If you are inside the kitchen, and let's say
3 you have a five year old boy playing outside with a
4 baseball. Let's call him Johnnie. You got Little Johnnie
5 outside playing with a baseball and you're inside baking a
6 cake and Johnnie's walked out with a baseball. You hear a
7 crash. The neighbor calls you and says Little Johnnie
8 just threw a baseball into my window.

9 You didn't see Little Johnnie throw the baseball into
10 the window. But your common sense and your reason -- that
11 is beyond a reasonable doubt. You -- beyond any
12 reasonable doubt you saw Little Johnnie with a baseball
13 and now there's a broken window and a baseball through it.
14 You, using your common sense, know our Little Johnnie just
15 threw a baseball through a window.

16 That is an example of beyond a reasonable doubt. You
17 didn't see it. But your common sense and your reason
18 tells you you know that he broke the window.

19 We can not prove -- they're not many things we can
20 prove with absolute certainty. They're very few things we
21 can prove with absolute certainty.

22 There's direct evidence. Like I can say that I saw
23 investigator or, I'm sorry, Lieutenant Yelton take the
24 stand and testify because I was in here seeing it. But my
25 coworkers downstairs, they have circumstantial evidence

1 that he came and testified. They show -- saw him show up.
2 They've seen him lingering around. They know I'm in
3 trial. They know that he's been around the building.
4 They know he's a narcotics officer. They know I'm trying
5 a drug case. But they aren't sitting here to watch him
6 testify. But they know that he did.

7 That is circumstantial evidence. If you see someone
8 come into the courthouse and you have a -- let's say you
9 haven't been outside. You haven't had lunch. It's the
10 morning. You're about to leave. But people start walking
11 in in rain coats and with wet umbrellas. You can't see
12 the rain. But you know that it's raining outside because
13 people are coming in. That is circumstantial evidence.

14 They're very few things we can prove beyond any doubt
15 whatsoever. In this case, we have to prove them beyond a
16 reasonable doubt.

17 Your common sense determines what's reasonable. Your
18 common sense, your use of circumstantial evidence, the
19 circumstantial and direct evidence we have given you from
20 this witness stand, is what you use to find -- make a
21 finding of beyond a reasonable doubt. And the State would
22 like to strongly encourage you to think that we have
23 proven our case beyond a reasonable doubt.

24 We have Mr. Hickman who is a resident. We know that
25 he was there five minutes earlier. We know that officers

1 knew he'd been there previously. We have evidence that
2 there are a lot of drugs found in the scene.

3 There is a bedroom with his driver's license in it.
4 There is a bedroom with other peoples' information in it.
5 We have Miss Spencer testifying that they each have
6 bedrooms.

7 Miss Spencer gave a lot of information. She gave a
8 lot of information. She testified he lived there. He was
9 the man in charge.

10 Why does Miss -- does Miss Spencer have a reason to
11 get on the stand and lie?

12 Did Miss Spencer try to cover-up her role in this?

13 I beg you all to think of those questions. Miss
14 Spencer admitted her part. She admitted his part. She
15 admitted Mr. Hickson's part. She says whatever happens to
16 me, God, is gonna happen. It's gonna happen to me. I'm
17 just ready to get it over with.

18 Ladies and gentlemen, we ask you to be thoughtful and
19 mindful. This is not Law & Order. We can't take mud off
20 of tires and determine that it came from the far east
21 corner of Rembert. This is not NCI -- we can't determine
22 there's fingerprints on everything. Fingerprints are very
23 hard to get. We can't pull fingerprints off of
24 everything.

25 We can't know anything -- we can't prove every single

1 element. Officers don't always have items. Officers
2 aren't perfect. But they did a really good job and they
3 are working hard and we have worked hard to provide you
4 with as much testimony as we can for the truth in this
5 case and given you all the evidence you need to find
6 Mr. Hickman guilty and find that he committed these crimes
7 beyond a reasonable doubt.

8 Thank you very much.

9 THE COURT: Ms. Cooke.

10 MS. COOKE: Your Honor, if it's okay, I'm gonna take
11 the chair over there?

12 THE COURT: Please.

13 MS. COOKE: We're moving---

14 SOLICITOR MCELVEEN: Do you want me to help you?

15 MS. COOKE: Please.

16 SOLICITOR MCELVEEN: Here. I can help you. I don't
17 want you to carry it.

18 MS. COOKE: If you could just move that.

19 SOLICITOR MCELVEEN: Yes, I can.

20 You want me to take this?

21 MS. COOKE: Ladies and gentlemen, we are here about
22 what happened on the date of the search warrant on May
23 7th and what happened when they executed the search
24 warrant on May 7th. We are not here about any other day
25 or any other time or any other act that may have been

1 committed or testified to.

2 He is on trial today. Mr. Hickman is on trial today
3 for what happened on May the 7th during the execution of a
4 search warrant on that date and that is all.

5 Anything else that was testified to, it's not
6 relevant nor should be deliberated about during your
7 deliberations. And if need be, they'll -- and if any of
8 those things are enough for him to be tried on, he will be
9 tried on a, on another trial on another day. But this is
10 about what happened during the execution of a search
11 warrant on May 7th.

12 During that execution of the search warrant on May
13 7th, Akeem Hickman was not at [REDACTED] Jerry Street where it
14 was executed. Shaquanna Spencer was. She didn't open the
15 door. They had to ram it open with a ram.

16 She was arrested. She had money in both front
17 pockets of her jeans. Her testimony was ridiculous.
18 She's claimed she didn't know what she was charged with.
19 She claimed she had never talked to a law enforcement
20 officer or anyone with the Solicitor's Office yet she was
21 served with a subpoena.

22 She walked in here. She answered questions she had
23 never heard before and admitted that she was ready to go
24 to jail for it no matter what.

25 SOLICITOR McELVEEN: Your---

1 MS. COOKE: with all due respect, and excuse my
2 language, she was here to save her ass and put it on
3 somebody else.

4 She was home. She had money. She wouldn't answer
5 the door. They had to ram the door. She was arrested.
6 Her testimony was absolutely absurd and ridiculous and she
7 looked like a fool saying the things that she said.

8 Akeem Hickman was not home. This is a possession of
9 drugs case. This is not a selling drugs case. This is
10 not a bringing into the county or the state drugs case.
11 This is a possession of drugs and there are two
12 possessions of drugs.

13 There's actual possession and there's constructive
14 possession. Actual possession is I have a joint in my
15 pocket. And so, when the police arrest me, they can
16 arrest me for actual possession.

17 Constructive possession requires two elements. It
18 requires knowledge that the drugs are there and it
19 requires the ability to exercise dominion and control over
20 those drugs. If those two things are not present, there's
21 no constructive possession and Akeem Hickman, if you go by
22 your oath and abide by the law, you must find him not
23 guilty.

24 A driver's license does not covet (sic) it. If, if,
25 if I owned a residence or a car or anything in that

1 residence or car where I had ever left my driver's
2 license, I would have a couple of cars, a gas station, a
3 movie theater, and a couple of houses right now. Just
4 because somebody's driver's license is in a relative's
5 house doesn't mean that they own the house. Nothing was
6 ever shown that they own the house.

7 Not even Miss Spencer testified that they owned the
8 house. She said she tried to get the house. She
9 couldn't. The next day they had that -- they had the
10 house. Not Akeem Hickman. They had the house and she
11 went to the house.

12 Let's pretend for a second that he did pay the first
13 months rent.

14 who paid the second?

15 who paid the third?

16 who paid the fourth?

17 who paid the fifth?

18 His -- the law enforcement officer testified that he
19 put a wedgefield address on the warrants for Mr. Hickman
20 because that's what was on his driver's license as his
21 home address. There were pictures on the wall of him and
22 his brother. That doesn't mean he lives there.

23 The only pictures I have on my walls are pictures of
24 me and my friends and pictures of me and my cats. And
25 even more than that, South Carolina law, since 2020, has

1 stated that -- let's pretend for a minute that Akeem
2 Hickman owned [REDACTED] Jerry Street. Since 2020, the law has
3 stated that owning a property does not give rise to an
4 inference that a person has the right to exercise dominion
5 and control over drugs found in that property.

6 So, even if he owned the property, which it wasn't
7 proven that he did, it does not give rise to the
8 presumption or inference that he had the right to exercise
9 dominion and control over drugs.

10 Miss Spencer said all kinds of crazy things. She
11 said well, he was there five minutes earlier.

12 well, you know what?

13 I go to my neighbor's house a lot.

14 You know what my neighbor does?

15 She likes to smoke weed. She likes to smoke weed.

16 If I go over to her house and she's smoking, smoking weed,
17 I make some excuse to leave. But if the cops go in there
18 and they arrest her for smoking weed and find marijuana in
19 her house and he says you know what?

20 My next door neighbor, Elaine Cooke, was here five
21 minutes earlier and they come around -- what if -- and
22 they come arrest me. Then what the State's saying today
23 is I should go to jail because they're saying Akeem
24 Hickman should go to jail because she said that Akeem
25 Hickman was here five minutes ago.

1 If the police -- they went -- I -- I'm not saying
2 they didn't do a good job on executing the search warrant
3 and arresting Shaquanna Spencer.

4 But if they were doing a great job and Akeem Hickman
5 was such a, a big bad drug dude, and they were doing all
6 this surveillance, why didn't they arrest him as he was
7 leaving or before he left or after he got back?

8 What if it was his brother's house or it was his
9 brother and Shaquanna's house and he came over there
10 sometimes and that's why his driver's license were there
11 because it was his brother's house?

12 What if he was coming over there that day and he saw
13 the cops there raiding the house and saw Shaquanna Spencer
14 being arrested so he took off?

15 If you think that is a real possibility, they have
16 not proven their case beyond a reasonable doubt and you
17 must find him not guilty if you think that is a real
18 possibility. The fact that he had possession -- then --
19 that he had the power to exercise dominion and control
20 over these drugs, the possibility that he had the power
21 and dominion and control over -- to exercise dominion and
22 control over these drugs is not enough. The probability
23 that he had the right to exercise dominion and control
24 over these drugs when he was not at the house when the
25 search warrant was executed is not enough. It is not

1 enough for beyond a reasonable doubt.

2 And -- there was Amoxicillin in the bedroom of Akeem
3 Hickman of who they're saying is the bedroom of Akeem
4 Hickman along with his driver's license. That person
5 wasn't arrested. That person isn't on trial. That person
6 wasn't charged.

7 who are they?

8 why does a driver's license make him the owner of the
9 house but a bottle, but a bottle of Amoxicillin doesn't?

10 Shaquanna Spencer supposedly never talked to anyone.
11 She supposedly never -- doesn't expect any consideration
12 for coming in here and giving her wild testimony about I
13 never talked to anyone, I didn't know what questions were
14 coming, I'm not expecting any consideration. I'm
15 expecting to go to jail. I just want this over with.

16 That's absurd. That's absurd. I've been doing this
17 for 23 years and I've never seen anything like that or
18 heard any testimony like that or seen anybody testimony --
19 anybody testify without some expectation that they're
20 gonna get some consideration for their testimony against
21 another person.

22 Let's talk about the benefit of the doubt. The
23 defendant, under South Carolina law in a criminal trial,
24 gets the benefit of the doubt. If you have doubts, he
25 gets the benefit of them. He gets the benefit of the

1 doubt in South Carolina.

2 Let me try to give you a little example of what that
3 means. I don't know how many of you are baseball fans. I
4 used to be a huge baseball fan. I couldn't even tell you
5 one person playing for the Braves by -- right now. But I
6 used to watch every single game.

7 I used to could tell you Jave Lopez could hit a home
8 run if you threw him a breaking ball. I used to could
9 tell you all kinds of stuff about the Braves. I don't
10 have time to watch them anymore and it's hard to watch
11 baseball when you don't know the players and you don't
12 know how they play. But I love baseball.

13 So, for those of you who love baseball and you know
14 these rules, please forgive me for a minute while I
15 explain to people who don't know baseball what this means.

16 In baseball, the pitcher pitches the ball to the
17 batter. The batter bats the ball. The batter runs to
18 first base. The goal is to go to first base, second base,
19 third base, and home -- home plate and then you got a run.
20 Then you get a point. And the team at the end of the nine
21 innings with the most points wins the game.

22 When the batter hits the ball, and if somebody
23 catches it in the air, it's an out. When the batter hits
24 the ball, and it hits the ground, the outfielder picks up
25 the ball and throws it to first base. If the runner's

1 foot touches the bag before the ball hits the glove, he's
2 safe. If the ball hits the glove before the runner's foot
3 touches the bag, he's out and you get three outs in an
4 inning and then you, then you switch.

5 The team on the infield goes to the outfield. The
6 team on the outfield comes to the infield.

7 So, what happens in the case of a tie?

8 The tie goes to the runner. In this case, Akeem
9 Hickman is the runner. The tie goes to the runner. If
10 you're unsure about something, if you have doubts, the tie
11 goes to the runner. The tie goes to Akeem Hickman. Akeem
12 Hickman gets the benefit of the doubt under the law in
13 South Carolina.

14 Let's talk about beyond a reasonable doubt for a
15 minute while we're on baseball. While we're talking about
16 baseball, let's say that, the Braves, they're your
17 favorite team or a football team. The Panthers are your
18 favorite football team and did -- if they still have the
19 Panthers or whoever your favorite team is. You finally
20 get tickets.

21 Let's say the Braves are your favorite team and they
22 finally go to the world series again and you get tickets.
23 And you're in your car and you're in the driver's seat.
24 And you've got you and your spouse and two children or you
25 and three friends. Four people in the car and you're in

1 charge of all four tickets.

2 And, before you leave, you got -- you've got them in
3 your pocket. And before you back out of the driveway, you
4 stop and think oh, gosh, I don't want to drive all that
5 way to Atlanta and not have these tickets. Let me just
6 check one more time and you would open, open your jacket
7 and oh, yes, I've got the tickets. We're good to go.

8 That is a hesitation to act. If you hesitate to act,
9 then Akeem Hickman is not guilty. They must prove that he
10 had the right to exercise dominion and control over these
11 drugs beyond a reasonable doubt. If you hesitate to act,
12 he is not guilty. If you think that there is a real
13 possibility that he did not have the right to exercise
14 dominion and control over those drugs, he is not guilty
15 under South Carolina law.

16 If this lady that testified, Shaquanna Spencer, who's
17 charged with all these charges and ready to go to jail and
18 didn't -- not, not thinking about any kind of
19 consideration for her testimony, never talked to a
20 prosecutor, never talked to a -- law enforcement or don't
21 know who, don't know who served her with a subpoena cause
22 law enforcement usually serves people with subpoenas. But
23 she swore she had never talked to a law enforcement
24 officer.

25 SOLICITOR MCELVEEN: Your Honor, may we approach

1 about -- I'd like to object to facts not in evidence.

2 THE COURT: Sure.

3 (WHEREUPON, a bench conference was held out of the
4 hearing of the jury at this time.)

5 MS. COOKE: If he was such a big bad man, why, why
6 did she stay there?

7 why, why didn't she run and leave?

8 why does she sell drugs and have, have money in her
9 two front pockets?

10 You must be firmly convinced that he knew the drugs
11 were in that house and that he had the right to exercise
12 dominion and control over them. And even if you think or
13 decide that he owned that house, which I don't think he
14 did and definitely was not proven just because a driver's
15 license was there, or because he paid one months rent, and
16 his driver's license had the Wedgefield address on it and
17 so did the warrant that was written out that he was served
18 and arrested with, even if he owned that house since 2020,
19 South Carolina law has said that does not mean he has the
20 right to exercise dominion and control over drugs in that
21 house.

22 If you have any doubts, please have them today. You
23 can't have them tomorrow. You can't have them next week.
24 You can't have them next year. You can't have them in the
25 hour after you render your verdict or it will be too late

1 for Akeem Hickman. If you have doubts, please deliberate
2 about those doubts and have those doubts today. He is
3 entitled to that much for you to put that much seriousness
4 into your deliberations and for you to have those doubts
5 today because tomorrow it will be too late when you wake
6 up.

7 There was talk about him being at the house. The
8 only talk I remember about him being in the house was from
9 Shaquanna Spencer. Even law enforcement admitted that he
10 wasn't there all the time.

11 why?

12 Because people (indiscernible) Wedgefield and he
13 visited his brother sometime and it wasn't his house in my
14 opinion.

15 The only other thing I want to say is this. The --
16 well, a couple other things I want to say. The judge is
17 going to instruct you that you are not to take into
18 consideration and deliberate about the fact that Akeem
19 Hickman didn't testify.

20 Now everybody knows that when you tell somebody not
21 to think about an elephant in a room, what's the first
22 thing they think about?

23 An elephant in a room.

24 You're gonna want to think about it and want to talk
25 about Akeem Hickman not testifying even though the law

1 says you can't.

2 I want you to do one thing for me and blame me. He
3 doesn't have to testify. He doesn't have to prove
4 anything. The State does. So don't blame him for not
5 testifying. If you're gon' put any blame on anybody,
6 blame me because it's really hard not to think about
7 something when you're told not to think about it and we
8 all know that. That's where the pink elephant story comes
9 from.

10 The other thing I want to talk about is fingerprints.
11 Ms. McElveen said that it's hard to fingerprint things.
12 I, I -- it's not hard to fingerprint things and, and I'm
13 not sure -- I can't remember exactly whether she --
14 they're -- there were definitely fingerprints because I, I
15 asked the officer about it. There were fingerprints.
16 There were definitely fingerprints on the gun and, and
17 they returned nothing.

18 SOLICITOR McELVEEN: Objection, Your Honor. We'd
19 like to approach. Again facts not in evidence.

20 THE COURT: Sure.

21 MS. COOKE: That is exactly what was said.

22 (WHEREUPON, a bench conference was held out of the
23 hearing of the jury at this time.)

24 THE COURT: Okay. Ladies and gentlemen, you should
25 rely on your own recollection of what the testimony was in

1 this case.

2 Thank you.

3 MS. COOKE: So, basically that's all I want to ask
4 you today. If you have any doubts, please have them
5 today. They have to prove beyond a reasonable doubt. You
6 have to be firmly convinced that he knew about the drugs
7 and had a right to exercise dominion and control over
8 them. And if you think there's a possibility or any
9 possibility that he didn't know, then, under South
10 Carolina law, you must find him not guilty.

11 Thank you.

12 THE COURT: Okay. Ladies and gentlemen, you've heard
13 all the testimony and the evidence in this case and it's
14 now my duty to instruct you on the law that applies.

15 The indictment in this case alleges several different
16 offenses against the defendant and those charges are,
17 first, trafficking in heroin, second, trafficking in
18 methamphetamine, methamphetamine, third, possession with
19 intent to distribute marijuana, fourth, possession of a
20 scheduled IV controlled substance, that being Tramadol,
21 five, possession of a weapon during the commission of a
22 violent crime, and, six, possession of a stolen pistol.

23 Each charge is a separate and distinct offense. You
24 must decide each charge separately on the evidence and the
25 law applicable to it uninfluenced by your decision as to

1 any other indictment.

2 The defendant may be convicted or acquitted on any or
3 all of the offenses charged. You'll be asked to write a
4 separate verdict of guilty or not guilty for each of these
5 charges.

6 I remind you that the fact that the defendant was
7 arrested, charged, and indicted in this case is not
8 evidence and can not be considered by you as evidence of
9 guilt nor does it create any presumption or inference of
10 guilt.

11 This document is simply the formal, written
12 instrument which contains the charges made against the
13 defendant. It's the formal document by which this case is
14 brought into court.

15 The defendant has pled not guilty to this indictment
16 and that plea puts the burden on the State to prove the
17 defendant guilty. A person charged with committing a
18 criminal offense is never required to prove himself
19 innocent. I charge you that it is an important rule of
20 law that the defendant, in a criminal trial, no matter
21 what the seriousness of the charge may be, will always be
22 presumed to be innocent of the crime for which the
23 indictment was issued unless guilt has been proven by
24 evidence satisfying you of that guilt beyond a reasonable
25 doubt.

1 This presumption of innocence does not end when you
2 begin your deliberations but it accompanies the defendant
3 throughout the trial unless you reach a verdict of guilt
4 based on evidence satisfying, satisfying you of that guilt
5 beyond a reasonable doubt.

6 The presumption of innocence is not just a legal
7 theory. It's not just a legal phrase that we throw
8 around. It is a substantial right to which every
9 defendant is entitled unless you, the jury, are satisfied
10 from the evidence of the defendant's guilt beyond a
11 reasonable doubt.

12 Now, what is a reasonable doubt in the law?

13 First of all, it's the kind of doubt for which you
14 can give a reason. It's also described as the kind of
15 doubt that would cause a reasonable person to hesitate to
16 act. Proof beyond a reasonable doubt is proof that leaves
17 you firmly convinced of the defendant's guilt.

18 There are very few things in this world that we know
19 with absolute certainty and, in criminal cases, the law
20 does not require proof that overcomes every possible
21 doubt. If, based on your consideration of the evidence,
22 you are firmly convinced that the defendant is guilty of
23 the crime charged, you must find the defendant guilty.
24 If, on the other hand, you think there's a real
25 possibility that the defendant is not guilty, you must

1 give the defendant the benefit of the doubt and find him
2 not guilty.

3 I remind you that, during this trial, you and I have
4 certain duties to perform. As the trial judge, it's my
5 responsibility to preside over the trial of the case and I
6 also have the duty to rule on the admissibility of the
7 evidence offered during the trial.

8 You are to consider only the competent evidence
9 before you. You are to consider only the testimony which
10 has been presented from the witness stand and any exhibits
11 which have been made a part of the record in this case.

12 I have the additional duty to charge you the law
13 applicable to the case, and, as a presiding judge, I am
14 the sole judge of the law of the case. It is your duty,
15 as jurors, to accept and apply the law as I now state it
16 to you.

17 If you already had an idea as to what the law is or
18 what you think the law ought to be, and it does not agree
19 with what I now tell you the law is, you must abandon your
20 previous idea because you're sworn to accept the law and
21 apply the law exactly as I state it to you.

22 In every case tried before a jury, the jury becomes
23 the sole and exclusive judges of the facts. A trial judge
24 can not comment on or make any statement to a trial jury
25 about the facts in a case. Since you, the jury, are the

1 sole finders of the facts, you are not to infer from what
2 I've said during the progress of this trial in ruling on
3 the admissibility of evidence or otherwise or by anything
4 that I say now during the course of this instruction to
5 you that I have any opinion about the facts of the case.

6 This is a matter solely for you, the jury, to
7 determine. As jurors, it's your duty to determine the
8 effect, value, weight, and truth of the evidence presented
9 during this trial.

10 There are two types of evidence which are generally
11 presented during a trial. There's direct evidence and
12 circumstantial evidence.

13 Direct evidence directly proves the existence of a
14 fact and does not require deduction. Direct evidence is
15 the, is the testimony of a person who claims to have
16 actual knowledge of a fact such as an eye witness.

17 Circumstantial evidence is proof of a chain of facts
18 and circumstances indicating the existence of a fact.
19 Crimes may be proven by circumstantial evidence.

20 The law makes no distinction between the weight or
21 value to be given to either direct or circumstantial
22 evidence nor is a greater degree of certainty required of
23 circumstantial evidence than of direct evidence. You
24 should weigh all of the evidence in this case.

25 However, to the extent that the State relies on

1 circumstantial evidence, all of the circumstances must be
2 consistent with each other, and when taken together, point
3 conclusively to the guilt of the accused beyond a
4 reasonable doubt. If these circumstances merely portray
5 the defendant's behavior as suspicion, the proof has
6 failed.

7 After weighing all of the evidence, if you're not
8 convinced of the guilt of the defendant beyond a
9 reasonable doubt, you must find the defendant not guilty.
10 The State has the burden of proving the defendant guilty
11 beyond a reasonable doubt and this burden rests with the
12 State regardless of whether the State relies on direct
13 evidence, circumstantial evidence, or some combination of
14 the two.

15 And, necessarily, you must determine the credibility
16 of witnesses who have testified in this case and
17 credibility simply means believability. It is your duty,
18 as jurors, to analyze and evaluate the evidence and
19 determine which evidence convinces you of its truth.

20 In determining the believability of witnesses who
21 have testified in this case, you may believe one witness
22 over several or several witnesses over one. You may
23 believe a part of the testimony of a witness and reject
24 the remaining part of the testimony of that same witness.
25 You may believe the testimony of a witness in its entirety

1 or you may reject the testimony of a witness in its
2 entirety.

3 You may consider whether any witness has exhibited to
4 you any interest, bias, prejudice or other motive in the
5 case. You may also consider the appearance and manner or
6 demeanor of the witness while on the witness stand.

7 The rules of evidence ordinarily do not permit
8 witnesses to testify to opinions or conclusions. An
9 exception to this rule exists for witnesses that we call
10 expert witnesses. A witness, who by education and
11 experience, has become expert in some art, science,
12 profession, or calling may state an opinion as to relevant
13 and material matter in which the witness claims to be an
14 expert and may also state the reasons for the opinion.

15 In this trial, you've heard expert testimony in the
16 field of chemical analysis of narcotics. You should
17 consider any expert received in evidence in this case, and
18 like any other evidence, give it the weight that you think
19 it deserves. If you decide that the opinion of an expert
20 is not based on sufficient education and experience or if
21 you conclude that the reasons given in support of the
22 opinion are not sound or that the opinion is outweighed by
23 other evidence, you may disregard the opinion entirely.

24 An expert witnesses testimony is to be given no
25 greater weight than that of other witnesses simply because

1 the witness is an expert. Further, you are not to --
2 required to accept an expert's opinion even though it's
3 not contradicted.

4 I instruct you and emphasize that the fact the
5 defendant did not testify is not a factor to be considered
6 by you in any way in your deliberations and in your
7 consideration on the question of the guilt or innocence of
8 the defendant. It must not be considered by you in any
9 manner whatsoever.

10 A defendant has the constitutional right to remain
11 silent and the assertion of this right must not be
12 considered by you in your deliberations. I repeat, under
13 your oath, you are to draw no conclusion whatsoever from
14 the fact that the defendant in this case did not testify.
15 And the fact that this defendant did not testify should
16 not even be discussed in the jury room.

17 The burden of proof, as I've stated to you, is on the
18 State. The defendant is not required to prove his
19 innocence. The burden on -- of proof remains on the State
20 to prove guilt beyond a reasonable doubt.

21 The defendant is charged with trafficking in heroin
22 in excess of four but less than 10 grams. The State must
23 prove, beyond a reasonable doubt, that the defendant
24 knowingly sold, manufactured, cultivated, delivered,
25 purchased, brought into the state, provided financial

1 assistance, or otherwise abated, excuse me, aided,
2 abetted, attempted, or conspired to sell, manufacture,
3 cultivate, deliver, purchase, or bring into the state, was
4 knowingly in actual or constructive possession of heroin.
5 The State must also prove, beyond a reasonable doubt, that
6 the amount of the heroin or any mixture containing heroin
7 was more than four and less than 10 grams.

8 The defendant is charged with trafficking in
9 methamphetamine in excess of 10 grams but less than
10 28 grams. The State must prove, beyond a reasonable
11 doubt, that the defendant knowingly sold, manufactured,
12 cultivated, delivered, purchased, brought into the state,
13 provided financial assistance, or otherwise aided,
14 abetted, attempted, or conspired to sell, manufacture,
15 cultivate, deliver, purchase, or bring into this state, or
16 was knowingly in actual or constructive possession of
17 methamphetamine. The State must also prove, beyond a
18 reasonable doubt, that the amount of the methamphetamine
19 or any mixture containing methamphetamine was more than
20 10 grams.

21 The defendant is charged with possession with intent
22 to distribute, to distribute marijuana. The State must
23 prove, beyond a reasonable doubt, that the defendant
24 possessed marijuana with the intent to distribute it.

25 To prove possession, the State must prove, beyond a

1 reasonable doubt, that the defendant had both the power
2 and the intent to control the disposition or use of the
3 marijuana. Possession may be either actual or
4 constructive.

5 Actual possession means that the marijuana was in the
6 actual physical custody of the defendant. Constructive
7 possession means that the defendant had -- defendant had
8 dominion and control or the right to exercise dominion or
9 control over either the marijuana itself or the property
10 on which the marijuana was found.

11 Mere presence at the scene where drugs were found is
12 not enough to prove possession and two or more persons may
13 have joint possession of a drug.

14 The State must also prove, beyond a reasonable doubt,
15 that the defendant intended to distribute the marijuana.
16 Distribute means to deliver other than by administering or
17 dispensing a drug. Intent may be shown by acts and
18 conduct of the defendant and other circumstances from
19 which you may naturally and reasonably infer intent.

20 In determining whether the defendant had the intent
21 to distribute the marijuana, you may consider the
22 circumstances surrounding the defendant's alleged
23 possession. You may consider the amount of the substance
24 alleged to have been possessed, the manner in which it was
25 allegedly possessed, the place where it was allegedly

1 possessed, and other factors which you consider to be
2 important. You must find that the defendant did not
3 intend to have the marijuana solely for his own use.

4 When a person possesses more than 28 grams or more
5 than one ounce of marijuana, this creates an inference
6 that the defendant possessed the marijuana with the intent
7 to distribute it. This inference does not relieve the
8 State from proving, beyond a reasonable doubt, that the
9 defendant had the intent to distribute. It's simply an
10 evidentiary fact to be taken into consideration by you
11 along with other evidence in the case and to be given the
12 weight that you decide it should have.

13 The defendant is charged with possession of a
14 scheduled IV controlled substance. In this case,
15 Tramadol.

16 The State must prove, beyond a reasonable doubt, that
17 the defendant knowingly or intentionally possessed the
18 Tramadol. Knowingly means with knowledge, consciously,
19 not accidentally. Intentionally means willfully intending
20 the result which actually occurs not accidentally or
21 involuntary. Intent may be shown by acts and conduct of
22 the defendant and other circumstances from which you may
23 naturally and reasonably infer intent.

24 To prove possession, the State must prove, beyond a
25 reasonable doubt, that the defendant had both the power

1 and the intent to control the disposition or use of the
2 drugs. Possession may be either actual or constructive.

3 Actual possession means that the substance was in the
4 actual, physical control of the defendant. Constructive
5 possession means that the defendant had dominion and
6 control or the right to exercise dominion or control over
7 either the drugs itself or the property on which the drugs
8 were found. Mere presence at the scene where drugs were
9 found is not enough to prove possession and two or more
10 persons may have joint possession of a drug.

11 Possession of Tramadol is a crime unless the Tramadol
12 was obtained directly from or through a valid
13 prescription, prescription or order of a practitioner
14 acting in the course of med -- of professional medical
15 practice. A practitioner is a physician, dentist,
16 veterinarian, podiatrist, scientific investigator,
17 pharmacy, hospital, or other person or institution
18 licensed, registered, or otherwise permitted to
19 distribute, dispense, conduct research with respect to, or
20 administer a controlled substance in the course of
21 professional practice of research in this state.

22 The defendant is charged with possession of a weapon
23 during the commission or, or attempt to commit a violent
24 crime. The State must prove, beyond a reasonable doubt,
25 that the defendant was in possession of a firearm or

1 visibly displayed what appeared to be a firearm during the
2 commission of a violent crime. A firearm means any
3 machine gun, automatic rifle, revolver, pistol, or any
4 weapon which will or is designed to or may be readily
5 converted to expel a projectile.

6 In order to find the defendant guilty of possession
7 of a weapon during the commission of a violent crime, you
8 must first find the defendant guilty of either committing
9 a violent crime or attempting to commit a violent crime.
10 Trafficking in heroin and trafficking in methamphetamine
11 are classified as violent offenses under South Carolina
12 law. The State must prove, beyond a reasonable doubt,
13 that the weapon furthered, advanced, or helped in the
14 commission of the crime.

15 And, finally, the defendant is charged with
16 possession of a stolen pistol. The State must prove,
17 beyond a reasonable doubt, that the defendant did
18 knowingly buy, sell, transport, pawn, receive, or possess
19 a stolen handgun. A handgun means any firearm designed to
20 expel a projectile and designed to be fired from the hand
21 but does not include any firearm generally recognized or
22 classified as an antique, curiosity, or collector's item,
23 or any that does not fire fixed cartridges.

24 Ladies and gentlemen, your verdict in this case must
25 be unanimous. We're gonna send you back to the jury room

1 in just a few minutes with all the -- well, not all the
2 exhibits. I'm not gonna send you back with the firearms
3 and I'm not gonna send you back with the illegal
4 narcotics. We think that's probably not a great idea.

5 We will ask -- the first thing you do is select a
6 foreperson. Any person serving on the jury is eligible to
7 be the foreperson except for our alternate jurors who will
8 not accompany you back into the jury room.

9 You do not need any special experience or training or
10 education to be the foreperson. The foreperson is going
11 to preside over the deliberations. If you have any
12 questions for me or any issue that needs to be brought to
13 my attention, you'll write a note to me and give it to the
14 bailiffs. At the end, once you've reached a verdict, you
15 will fill out the verdict form on behalf of the jury.

16 We are gonna send you back with a verdict form for
17 each of the six offenses. On each of these verdict forms
18 you're gonna see the specific offense and it's gonna ask
19 you -- it's gonna say we, the jury, unanimously find, as
20 to the offense of X, Y, Z, we find the defendant and it
21 will give you the option of either guilty or not guilty.
22 Please don't read anything into the order in which these
23 appear. One's got to appear first and one's got to appear
24 second.

25 You will simply check the box for either guilty or

1 not guilty and the foreperson will sign their verdict form
2 at the bottom. Again, your verdict must be unanimous.

3 Before we send you back to the -- deliberate, any
4 additions, objections to the jury charges?

5 MS. COOKE: None from the defense, Your Honor.

6 SOLICITOR MCELVEEN: None from the State, Your Honor.

7 THE COURT: Okay. All right. If I can ask the
8 alternates to remain in the courtroom with us and the
9 other 12, we'll go ahead and send you back to the jury
10 room. We'll be with you shortly with your verdict forms
11 and with your exhibits.

12 THE BAILIFF: You want the two alternates to stay in,
13 Your Honor?

14 (WHEREUPON, the following takes place outside the
15 presence of the jury and the two alternate jurors were
16 dismissed at this time.)

17 THE COURT: Let me let you take a look at the verdict
18 forms before we send those back.

19 (Pause.)

20 SOLICITOR MCELVEEN: Okay. Your Honor, we -- could
21 we go on the record?

22 we would just hope to add the violent crimes, the
23 crimes that are violent somehow giving them an indication
24 to trigger them to realize that violent crime is -- the
25 traffickings are the violent crimes.

1 MS. COOKE: Is there a---

2 SOLICITOR MCELVEEN: We would hate -- I envision --
3 what if they found them guilty if there's a violent crime
4 and they find him not guilty of two traffickings?

5 THE COURT: well, I did cover that in the charges
6 that, you know, in order to find you guilty you've got to
7 find that. I'm just trying to think how I would do that
8 on a verdict form. I mean---

9 SOLICITOR MCELVEEN: I was thinking -- well, I would
10 propose that maybe under the trafficking verdict form put
11 number two, if yes, as to the charge of possession of
12 ordering -- commission of a violent crime, do you, the
13 jury, you know, find the defendant guilty or not guilty.
14 Like I would put it as a, if yes, subsection to the two
15 trafficking charges would be my suggestion.

16 UNIDENTIFIED SPEAKER: Then what if it comes back to
17 yes on both?

18 Is that two counts---

19 SOLICITOR MCELVEEN: No.

20 UNIDENTIFIED SPEAKER: ---or does that---

21 SOLICITOR MCELVEEN: They would just be---

22 UNIDENTIFIED SPEAKER: ---or is that just two counts?

23 SOLICITOR MCELVEEN: It would just be one count.

24 I've never seen a verdict form where it's all on different
25 pages but --.

1 THE COURT: I've never put it on the same page unless
2 it was---

3 SOLICITOR MCELVEEN: No, it makes sense cause then
4 it's -- I've just never seen it. It's great.

5 THE COURT: Let's see.

6 SOLICITOR MCELVEEN: I'm just wondering if like if
7 you do a if yes.

8 THE COURT: Let me see what -- I think I have a
9 verdict form from a previous---

10 SOLICITOR MCELVEEN: I'm sorry, Your Honor, and
11 maybe, and maybe they were playing -- paying close
12 attention and totally not have an issue. But I just --.

13 UNIDENTIFIED SPEAKER: (Indiscernible).

14 THE COURT: It is. "

15 Yeah.

16 Y'all want to look at the exhibits and make sure
17 you've got everything that needs to go back and nothing
18 that doesn't?

19 SOLICITOR MCELVEEN: I think it's just the chain of
20 custody, the drug analysis, the Del Monte peaches, and not
21 the two -- not the four firearms and not the narcotics.
22 And these two things were not admitted.

23 THE DIGITAL REPORTER: Okay.

24 (Pause.)

25 THE COURT: Okay. what I have done it looks like on

1 a previous verdict form is, on the possession of a weapon
2 during a violent crime, in parenthesis next to guilty, a
3 notation you may only find the defendant guilty of this
4 offense if you have also found him guilty of, in that
5 case, murder or voluntary manslaughter.

6 SOLICITOR MCELVEEN: So -- or trafficking in
7 methamphetamine or trafficking in heroin. Thank you. I
8 just -- I worry. I just worry. I don't know what -- I
9 would hate for something crazy to come back.

10 (Pause.)

11 THE COURT: Oh, we've already got a note.

12 Okay. We, we have a, a note just indicating that
13 Mr. Flowers is the foreperson. Juror Number 59. I was
14 worried we already had a note.

15 SOLICITOR MCELVEEN: I know. I was like, oh, gosh.
16 Please tell me --.

17 (WHEREUPON, the jury began deliberations at 4:03PM
18 and returned with a verdict at 4:49PM.)

19 THE COURT: Okay. I understand that we do have a
20 verdict.

21 Okay. You can bring, bring the jury on in.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE BAILIFF: All jurors are seated, Your Honor.

25 THE COURT: Okay. I understand that you've reached a

1 verdict.

2 THE FOREMAN: Yes, we have.

3 THE COURT: Okay. If you wouldn't mind handing the
4 verdict form to the bailiff? .

5 (WHEREUPON, the foreman complies.)

6 THE COURT: Okay. The jury's verdict.

7 As to the traffic -- at to the charge of trafficking
8 in heroin four to 10 grams, we, the jury, unanimously find
9 the defendant guilty.

10 As to the charge of trafficking in methamphetamine 10
11 to 28 grams, we, the jury, unanimously find the defendant
12 guilty.

13 As to the charge of possession of a weapon during the
14 commission of a violent crime, we, the jury, unanimously
15 find the defendant guilty.

16 As to the charge of possession with intent to
17 distribute a controlled substance being marijuana, we, the
18 jury, unanimously find the defendant guilty.

19 As to the charge of possession of a Scheduled IV
20 controlled substance being Tramadol, we, the jury,
21 unanimously find the defendant guilty.

22 And as to the charge of possession of a stolen
23 pistol, we, the jury, unanimously find the defendant
24 guilty.

25 Let me ask, ladies and gentlemen of the jury, is this

1 your verdict?

2 (WHEREUPON, jurors respond in the affirmative.)

3 THE COURT: Anything further from the State or the
4 defendant?

5 SOLICITOR MCELVEEN: Nothing, Your Honor. Thank you.

6 THE COURT: Ms. Cooke.

7 MS. COOKE: I would ask that the jury be polled, Your
8 Honor.

9 THE COURT: Sure.

10 If you would poll the jury?

11 You got your list?

12 THE CLERK: Yes, Your Honor.

13 THE COURT: Ladies and gentlemen, for each -- we're
14 gonna poll the jury. The question that we'll have for you
15 is is this your verdict and is it still your verdict.

16 Go right ahead, sir.

17 THE BAILIFF: Julie Wilson, is this your verdicts
18 and still your verdict?

19 THE JUROR: Yes.

20 THE BAILIFF: Sha -- Sylvia Miles?

21 THE JUROR: Sylvia.

22 THE BAILIFF: Sylvia Miles, is this your verdicts and
23 still your verdict?

24 THE JUROR: Yes, sir.

25 THE BAILIFF: Miranna Pugh, is this your verdicts and

1 still your verdict?

2 THE JUROR: Miranda Pugh?

3 THE BAILIFF: Yes.

4 THE JUROR: Yes.

5 THE BAILIFF: Vanessa McElveen, is this your verdicts
6 and still your verdict?

7 THE JUROR: Yes.

8 THE BAILIFF: Okay. Alexander Leneau, is this your
9 verdicts and still your verdict?

10 THE JUROR: Yes, sir.

11 THE BAILIFF: Sarah Sandifer, is this your verdict
12 and still your verdict?

13 THE JUROR: Yes, sir.

14 THE BAILIFF: William D. Spirles, is this your
15 verdict and still your verdict?

16 THE JUROR: Yes.

17 THE BAILIFF: Michele Kelly, is this your verdict and
18 still your verdict?

19 THE JUROR: Yes, sir.

20 THE BAILIFF: Jeremiah Perry, is this your verdict
21 and still your verdict?

22 THE JUROR: Yes, sir.

23 THE BAILIFF: Rhonda Benenhaley, is this verdicts and
24 still your verdict?

25 THE JUROR: Yes, sir.

1 THE BAILIFF: Whitney Duffy, is this your verdict and
2 still your verdict?

3 THE JUROR: Yes, sir.

4 THE BAILIFF: John Flowers, is this your verdict and
5 still your verdict?

6 THE JUROR: Yes, sir.

7 THE COURT: Thank you, sir.

8 THE BAILIFF: Thank you.

9 THE COURT: Okay.

10 (WHEREUPON, the jury was dismissed at this time.)

11 THE COURT: If you-all want to take a look at the
12 verdict forms.

13 SOLICITOR MCELVEEN: Yes, Your Honor.

14 THE COURT: We'll, we'll just be at ease for a few
15 minutes while we prepare the sentencing sheets.

16 SOLICITOR MCELVEEN: Yes, Your Honor, and I'm
17 printing them out now in that upstairs -- right in there.
18 It will be one second, Your Honor.

19 (WHEREUPON, a short recess was taken at this time.)

20 SOLICITOR MCELVEEN: Your Honor, we're back on the
21 record with the State of South Carolina versus Akeem
22 Jarmill (phonetic) Hickman. Indictment 2020-GS-43-0725.
23 I have passed up the sentencing sheets as needed for the
24 sentence for the drug charges.

25 Mr. Hickman does -- this is his third or subsequent

1 offense.

2 If I may just read his entire criminal history?

3 2011, discharging a firearm into a dwelling, assault
4 and battery high and aggravated, unlawful possession of a
5 pistol, possession of methamphetamine, unlawful carrying
6 of a weapon, and simple possession of marijuana.

7 A parole revocation in 2012.

8 2014, unlawful possession of a firearm with a person
9 with a violent felony.

10 2014, an open container and driving under suspension.

11 2016, manufacturing or distribution of cocaine, and,
12 Your Honor, it appears that there is a possession of a
13 firearm by a violent felon also in 2016.

14 A driving under suspension and DUI from 2022 and a
15 driving under suspension before that.

16 Your Honor, I think at the time though of the
17 indictment the possession, because the charge was for
18 simple possession of cocaine base at the time of the
19 incident, and that was charged in 2011. This occurred in
20 2020. So that would of been within the 10 years of the
21 time of the offense. So, this is his third or subsequent
22 non-marijuana offense.

23 THE COURT: The sentencing sheet says second or
24 subsequent.

25 SOLICITOR MCELVEEN: For heroin, there is not a third

1 or subsequent. The trafficking in heroin only goes up to
2 second or subsequent. Just for the heroin. I think the
3 methamphetamine trafficking does say third or subsequent
4 though.

5 THE COURT: It does.

6 SOLICITOR MCELVEEN: For some reason, heroin only
7 goes up to the second or subsequent and I could be wrong
8 about that. But that's what my notes -- that's what my
9 cheat sheets indicate.

10 THE COURT: So, I'm showing that both the trafficking
11 in heroin and the trafficking in methamphetamine carry the
12 mandatory minimum 25 years.

13 Is that your understanding as well, Ms. Cooke?

14 MS. COOKE: Yes, Your Honor.

15 THE COURT: Okay. If you could go ahead and take the
16 defendant into custody.

17 Is there any time that I need to give him credit for?

18 SOLICITOR MCELVEEN: Your Honor, it appears that he
19 spent two nights in jail on this. He was arrested
20 October 25th, 2020, and bonded out October 26th, 2020.

21 THE COURT: Okay. It give me no pleasure,
22 Mr. Hickman, but this -- these offenses carry mandatory 25
23 year sentences, sir. So, I'm making all of your sentences
24 run concurrent.

25 But, again, it's 25 years on the trafficking of

1 heroin. It's 25 years on the trafficking in
2 methamphetamine.

3 On the possession with intent to distribute, this
4 carries zero to five. I'm giving you a concurrent three
5 years on that.

6 On the possession of a weapon during a violent crime,
7 it's a five year sentence concurrent. And for the
8 possession of controlled substance, the sentence is one
9 year concurrent and one more.

10 For the possession of a stolen pistol, I'm doing a
11 three year concurrent sentence.

12 Good luck to you, sir.

13 SOLICITOR MCELVEEN: And, Your Honor, these are
14 violent and serious. I just want to make sure that, that
15 the record reflects that on the trafficking charges.

16 Thank you, Your Honor.

17 THE COURT: Yeah, I don't know that I really need to
18 advise him of anything on that since it just is what it
19 is.

20 SOLICITOR MCELVEEN: Thank you, Your Honor.

21 THE COURT: Thank you. And I, I am giving him his
22 two days of credit.

23 SOLICITOR MCELVEEN: Thank you, Ms. Cooke.

24

25 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Sumter County, South Carolina, on the 4th and 5th day of December, 2023.

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

March 23rd, 2024

PAMELA E. GREEN, Court Reporter

WITNESSES

Symeon Graham Sumter County Sheriff

J. Yelton Sumter County Sheriff

*Gwen Herod*AMENDED
DOCKET NO. 2020-GS-43-0725

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

MARCH TERM 2022

ARREST WARRANT NUMBER

2020A4310100358 2020A4310100359
 2020A4310100360 2020A4310100361
 2020A4310100362 2020A4310100363
 2020A4310100365 2020A4310100366
 2020A4310100367 2020A4310100368
 2020A4310100369 2020A4310100370
 2020A4310100372 2020A4310100373
 2020A4310100374 2020A4310100375
 2020A4310100376 2020A4310100377

THE STATE

vs.

AKEEM JERMILE HICKMAN

SHAQUANNA DENISE SPENCER

SCOTTIE DWAYNE HICKSON

ACTION OF GRAND JURY

TRUE BILL*Christie Shabazz*

Foreperson of Grand Jury

Date: 3-10-22

VERDICT

Indictment for

Drugs / Trafficking in Heroin, etc., 28 g or more
 Drugs/ Poss with Intent to Distribute Marijuana
 Drugs/ Trafficking in Methamphetamine
 Drugs/ Poss. C I-V controlled substance
 Possession of a Stolen Pistol
 Possession of a Weapon during Commission of a Violent
 Crime

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Drugs / Trafficking in Heroin, etc., 28 g or more
 Drugs/ Poss with Intent to Distribute Marijuana
 Drugs/ Trafficking in Methamphetamine
 Drugs/ Poss. C I-V controlled substance
 Possession of a Stolen Pistol
 Possession of a Weapon during Commission of a Violent Crime

At a Court of General Sessions, convened on March 10, 2022 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE TRAFFICKING IN HEROIN

That in Sumter County, South Carolina, on or about May 7, 2020, the Defendant(s), **SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN, and/or SCOTTIE DWAYNE HICKSON** unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Heroin, in excess of twenty-eight grams (28g) or more; in violation of § 44-53-370 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

That in Sumter County, South Carolina, on or about May 7, 2020, the Defendant(s), **SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN, and/or SCOTTIE DWAYNE HICKSON** unlawfully did possess with intent to distribute, dispense, or deliver a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, or did otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, or deliver marijuana, all in violation of § 44-53-370, Code of Laws of South Carolina (1976), as amended.

COUNT THREE TRAFFICKING IN METHAMPHETAMINE

That in Sumter County, South Carolina, on or about May 7, 2020, the Defendant(s), **SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN, and/or SCOTTIE DWAYNE HICKSON** knowingly did sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Methamphetamine, in excess of more than ten grams (10g) but less than twenty-eight grams; in violation of § 44-53-375 of the South Carolina Code of Laws (1976) as amended.

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR 2020-GS-43-0725
WITH THE AFORESAID NAMES OF SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN
and SCOTTIE DWAYNE HICKSON SHOWN THEREON:

COUNT FOUR

POSSESSION OF A SCHEDULE IV CONTROLLED SUBSTANCE

That in Sumter County, South Carolina, on or about May 7, 2020 the Defendant(s), **SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN, and/or SCOTTIE DWAYNE HICKSON**, knowingly or intentionally and unlawfully did possess a quantity of Tramadol, a Schedule IV controlled substance, all in violation of § 44-53-370 of the Code of Laws of South Carolina (1976), as amended.

COUNT FIVE

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That the Defendant(s), **SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN, and/or SCOTTIE DWAYNE HICKSON** did in Sumter County, on or about May 7, 2020, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of § 16-23-0490, S. C. Code of Laws, 1976, as amended.

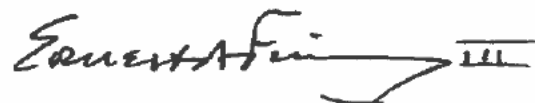
COUNT SIX

POSSESSION OF A STOLEN PISTOL

That in Sumter County, South Carolina, on or about May 7, 2020, the Defendant(s), **SHAQUANNA DENISE SPENCER, AKEEM JERMILE HICKMAN, and/or SCOTTIE DWAYNE HICKSON** did unlawfully possess a stolen Glock 43 9mm handgun, Serial # ZRV223; all in violation of § 16-23-0030 of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor



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and
\$200
ma

126

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Akeem Jermile Hickman

AKA:

Race: Black Sex: M Age: 33

DOB: 1989 SS#: [REDACTED]

Address: Emil Rd

City, State, Zip: Wedgefield, SC 29168

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020-GS-43-0725

A/W#: 2020A4310100365

Date of Offense: 5/7/2020

S.C. Code § 44-53-0370(e)(3)(c)

CDR Code #: 0149

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADS

TO: Drugs / Trafficking in Heroin, morph., etc, 4 g or more, but less than 14 g - 2nd or sub. offense

in violation of § 44-53-0370(e)(3)(a)2 of the S.C. Code of Laws, bearing CDR Code # 0156

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:

SCB68440

, Bronwyn K

SC Bar #

Defendant

Cooke, Susan Elaine

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 25 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:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. 2 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Akeem Jermile Hickman INDICTMENT/CASE#: 2020-GS-43-0725**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning \$ _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	8.25
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	
TOTAL		\$	283.25

Clerk of Court/ Deputy Clerk: James C. Campbell
Court Reporter: Sherrin JonesPresiding Judge: Kristi Clark
Judge Code: 2762
Sentence Date: 12-5-23

277-5 up
+70
#0-5

2066

STATE OF SOUTH CAROLINA
COUNTY OF Sumter

IN THE COURT OF GENERAL SESSIONS

STATE VS.

INDICTMENT/CASE#: 2020-GS-43-0725

Akeem Jermile Hickman

AW#: 2020A4310100366

AKA:

Date of Offense: 5/7/2020

Race: Black Sex: M Age: 33

S.C. Code § 44-53-0370(b)(2)

DOB: 1989 SS#:

CDR Code #: 0186

Address: Emil Rd

City, State, Zip: Wedgefield, SC 29168

DL#: SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADS

TO: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.t.d. - 1st

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186

X NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X 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:

Bronwyn K SC Bar # Defendant Cooke, Susan Elaine SC Bar# SCB68440

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,
for a determinate term of 3 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:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
SCDOC. 2 (days/months)

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Akeem Jermile Hickman INDICTMENT/CASE#: 2020-GS-43-0725**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5 %)			\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100		\$100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114(BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$8.25
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500		\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$283.25

Clerk of Court/ Deputy Clerk: James C. Campbell
Court Reporter: Shem JonesPresiding Judge: Kish Curb
Judge Code: 2762
Sentence Date: 12-5-23

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STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020-GS-43-0725

Akeem Jermile Hickman

AKA:

Race: Black Sex: M Age: 33

DOB: [REDACTED] 1989 SS#: [REDACTED]

Address: [REDACTED] Emil Rd

City, State, Zip: Wedgefield, SC 29168

DL#: [REDACTED] SID#: [REDACTED]

A/W#: 2020A4310100367

Date of Offense: 5/7/2020

S.C. Code § 44-53-0375(C)(1)(c)

CDR Code #: 0452

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADS

TO: Drugs / Trafficking in meth or cocaine base - 10 g or more, but less than 28 g - 3rd or sub. offens

in violation of § 44-53-0375(C)(1)(c) of the S.C. Code of Laws, bearing CDR Code # 0452

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:

SCB68440

, Bronwyn K

SC Bar #

Defendant

Cooke, Susan Elaine

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 25 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:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
SCDOC. 2 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Akeem Jermile Hickman INDICTMENT/CASE#: 2020-GS-43-0725**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 8.25
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ 283.25

Clerk of Court/ Deputy Clerk: James C Campbell
Court Reporter: Shern JonesPresiding Judge: K. L. LenthJudge Code: 2762Sentence Date: 12-5-23

281/yr
x/yr

4066

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Akeem Jermile Hickman

AKA:

Race: Black Sex: M Age: 33

DOB: 1989 SS#: [REDACTED]

Address: Emil Rd

City, State, Zip: Wedgefield, SC 29168

DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020-GS-43-0725

A/W#: 2020A4310100368

Date of Offense: 5/7/2020

S.C. Code § 44-53-0370(d)(2)

CDR Code #: 0180

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADS

TO: Drugs / Poss. of other controlled sub. in Sched. I to V - 2nd or sub. offense

in violation of § 44-53-0370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0180

X NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X 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:

SCB68440

Bronwyn K

SC Bar #

Defendant

Cooke, Susan Elaine

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 1 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 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:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
SCDOC. 2 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Akeem Jermile Hickman INDICTMENT/CASE#: 2020-GS-43-0725**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>8.25</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500		\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$ <u>283.25</u>

Clerk of Court/ Deputy Clerk: James C. Campbell
Court Reporter: Sherrin JonesPresiding Judge: Kushline
Judge Code: 2762
Sentence Date: 12-5-23

STATE OF SOUTH CAROLINA
COUNTY OF Sumter

IN THE COURT OF GENERAL SESSIONS

STATE VS.

INDICTMENT/CASE#: 2020-GS-43-0725

Akeem Jermile Hickman

AW#: 2020A4310100369

AKA:
Race: Black Sex: M Age: 33
DOB: 1989 SS#: [REDACTED]
Address: [REDACTED] Emil Rd
City, State, Zip: Wedgefield, SC 29168
DL#: [REDACTED] SID#: [REDACTED]

Date of Offense: 5/7/2020
S.C. Code § 16-23-0030
CDR Code #: 2364

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADS

TO: Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pistol

in violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

X NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X 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:

SCB68440

Bronwyn K SC Bar # [REDACTED] Defendant Cooke, Susan Elaine SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 3 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:

☒ 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. 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. Akeem Jermile Hickman INDICTMENT/CASE#: 2020-GS-43-0725**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>2500</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114(BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk: James C. Campbell
Court Reporter: Sherrin JonesPresiding Judge: Kristine
Judge Code: 2762
Sentence Date: 12-5-23

6 of 6

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Akeem Jermile Hickman

AKA:

Race: Black Sex: M Age: 33DOB: 1989 SS#: [REDACTED]Address: Emil RdCity, State, Zip: Wedgefield, SC 29168DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020-GS-43-0725

A/W#: 2020A4310100370

Date of Offense: 5/7/2020

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

X NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: X 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:

SCB68440

Bronwyn K

SC Bar #

Defendant

Cooke, Susan Elaine

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:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
 SCDOC. 2 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or
 § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Akeem Jermile Hickman INDICTMENT/CASE#: 2020-GS-43-0725**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		\$
§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>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500		\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
TOTAL			\$ <u>12875</u>

Clerk of Court/ Deputy Clerk: James C. Campbell
Court Reporter: Sherrin JonesPresiding Judge: Kush AntuJudge Code: 2742Sentence Date: 12-5-23

CERTIFICATE OF COUNSEL FOR APPELLANT

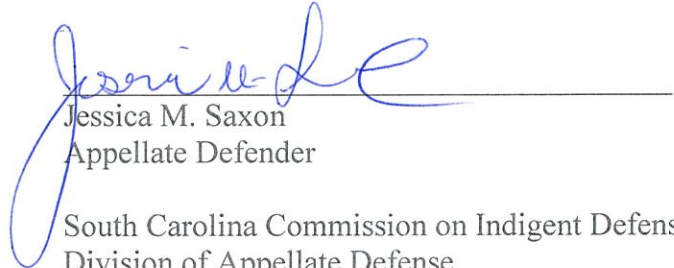
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Oct 31 2024

SC Court of Appeals


Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 31st day of October, 2024.

RECEIVED

Oct 31 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Saluda County

Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

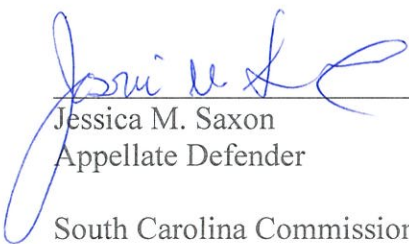
AKEEM JERMILE HICKMAN,

APPELLANT

APPELLATE CASE NO. 2023-001917

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Akeem Jermile Hickman, #344497, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 31st day of October, 2024.



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

Leverett, Scott

From: Leverett, Scott
Sent: Thursday, October 31, 2024 4:06 PM
To: SC - FARTHING MARK
Cc: SC - COLLINS CAROLINE; Saxon, Jessica
Subject: 2023-001917 - State v. Akeem J. Hickman - Record on Appeal
Attachments: 2023-001917 - State v. Akeem J. Hickman - Record on Appeal.pdf

Dear Mr. Farthing,

IT has been brought to my attention that the Record was filed without the Cover page and table of contents. Attached please find the corrected Record on Appeal that is being filed today with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Jessica Saxon
Appellate Defense