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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KYLE NICHOLAS MOUZON,

APPELLANT

APPELLATE CASE NO. 2023-001755

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED SEPTEMBER 11, 13, & 14, 2023	1
PRE-TRIAL MOTION TO SUPPRESS.....	4
RULING BY THE COURT.....	8
OPENING REMARKS BY THE COURT.....	10
OPENING STATEMENT BY MR. FINLEY	13
OPENING STATEMENT BY MS. MARTINEZ	16
TESTIMONY	
SEAN FLAHERTY	
Direct Examination by Ms. Bozarth	18
JEREMY BAILEY	
Direct Examination by Ms. Bozarth	20
RENEWED OBJECTION FROM PRE-TRIAL MOTION	30
RULING BY THE COURT.....	31
TESTIMONY	
JEREMY BAILEY (CONT'D)	
Direct Examination by Ms. Bozarth	31
RENEWED OBJECTION FROM PRE-TRIAL MOTION	33
RULING BY THE COURT.....	33
TESTIMONY	
JEREMY BAILEY (CONT'D)	
Direct Examination by Ms. Bozarth	33
Cross-Examination by Ms. Martinez	42
Re-Direct Examination by Ms. Bozarth.....	47

DILLON CHOW	
Direct Examination by Ms. Bozarth	50
MATTER OF LAW	57
TESTIMONY	
DILLON CHOW	
Direct Examination by Ms. Bozarth	59
MCCAUGHLEY BRYAN	
Direct Examination by Ms. Bozarth	64
Cross-Examination by Ms. Martinez	71
SONYA HERRON	
Direct Examination by Mr. Finley	72
Cross-Examination by Ms. Martinez	75
Re-Direct Examination by Mr. Finley	83
JASON SCURRY	
Direct Examination by Mr. Finley	84
AMBER HORN	
Direct Examination by Ms. Bozarth	89
KYLE MOUZON	
Direct Examination by Ms. Martinez.....	95
Cross-Examination by Ms. Bozarth.....	100
DEFENSE RESTS	103
CLOSING ARGUMENT BY MS. BOZARTH	104
CLOSING ARGUMENT BY MS. MARTINEZ.....	116
CLOSING REPLY ARGUMENT BY MS. BOZARTH.....	119
CHARGE ON THE LAW	121
VERDICT	135
JURY POLL.....	135
SENTENCING	138
DEFENDANT’S MOTION TO SUPPRESS EVIDENCE.....	140

INDICTMENT143

SENTENCE SHEET.....145

CERTIFICATE OF COUNSEL147

1 STATE OF SOUTH CAROLINA) IN CIRCUIT COURT NO. 9
2 COUNTY OF CHARLESTON) DOCKET NO.: 2023-GS-10-03919

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5 STATE OF SOUTH CAROLINA,)
6)
7 Plaintiff,)
8)
9 versus)
10)
11 KYLE MOUZON,)
12)
13 Defendant.)
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J U R Y T R I A L

13 DATES AND TIMES: September 11, 2023-3:25 p.m. to 4:09 p.m.

14 September 13, 2023-9:40 a.m. to 9:58
15 a.m., then 10:10 a.m. to 10:43 a.m.,
16 then 11:49 a.m. to 12:51 p.m., then 2:00
17 p.m. to 3:34 p.m.

18 September 14, 2023-10:09 a.m. to 11:18
19 a.m., then 12:51 p.m. to 12:56 p.m.

20 LOCATION: South Carolina Circuit Court No. 9
21 JUDGE: Bentley Price
22 TRANSCRIBED BY: Sandra J. Early

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1 THE COURT: Right. We'll do that.

2 **9/13/2023 - 10:10:51 to 10:43:09**

3 THE COURT: All right. What's your final
4 motion?

5 MS. MARTINEZ: The motion to suppress, Your
6 Honor, and a Jackson v. Denno.

7 THE COURT: All right. What's your motion to
8 suppress?

9 MS. MARTINEZ: We're asking that -- the first
10 thing is the traffic stop be suppressed. The officers
11 had no reasonable suspicion to believe that there was
12 any criminal activity in the car. We're also asking
13 for a motion to suppress the drugs for lack of
14 probable cause to search the vehicle. There's no --
15 no indication from -- from the discovery that the
16 police were arresting Kyle subsequent to -- that
17 they -- when they impounded -- we believe that the
18 State is going to argue that the police would have
19 found the drugs in the car anyway because he was being
20 arrested subsequent to the DUS and, therefore, were
21 going to conducted an inventory search of the vehicle.
22 We think that that search was unreasonable. There's
23 no indication that the officers followed any policies
24 and procedures with respect to that. We have a tow
25 sheet that there is no inventory that was taken from

1 the car that evening.

2 And also, with regards to the statements that
3 were made by Ms. Sonya Herron to police officers, it's
4 not sufficient for probable cause for the officers to
5 believe that there were drugs in the vehicle. She was
6 intoxicated. She was under the influence of drugs at
7 the time. The State is going to argue that they found
8 -- police found the drugs where she said that they
9 would be, but she also made other many other
10 (unintelligible) statements about where she thought
11 the location of the drugs were. We can think that
12 considering her condition at the time that she was
13 providing the information, there was reason for police
14 to doubt the information that she was providing them
15 -- or to -- that doubt the truthfulness of her -- of
16 the information she was providing.

17 THE COURT: All right.

18 MS. BOZARTH: Your Honor, with regard to this, I
19 guess, starting at the beginning of the reasonable
20 suspicion to pull over the vehicle, as I relayed
21 before, this was a domestic. The law enforcement
22 provided the description of the vehicle. About three
23 minutes later, Officer Bailey -- well, not even three
24 minutes later, Officer Bailey is behind that vehicle
25 that matches the description. That information of

1 this possible domestic, which we won't refer to in
2 trial, we'll just refer to it as an altercation.
3 Having been informed of that in addition with the
4 erratic driving, traffic infractions, that was the
5 reasonable suspicion to pull over the vehicle in the
6 first place. At that time, law enforcement approaches
7 defendant, gets his driver's license, runs it, comes
8 back as suspended.

9 But also, even before that while -- right while
10 Officer Bailey is patting the defendant down for
11 weapons, Officer Scurry and Officer Chow are on
12 passenger side. At that time, the passenger was out
13 of the car and immediately tells law enforcement
14 there's drugs in the car. And she further provides
15 more detailed information about how he has all these
16 back packs, in a Crown Royal bag, in a specific little
17 cute container. At that point, Officer Chow
18 approaches defendant and says you're being detained.
19 Your passenger says that there's drugs in the vehicle.
20 You're not under arrest or anything like that, but
21 right now, we just need to investigate this. My
22 partner here is going to finish up this traffic stop,
23 and we're going to go from there.

24 At that point, law enforcement does search the
25 vehicle. While they're conducting a preliminary

1 search, Officer Bryan -- McCaughley Bryan is also on
2 scene discussing with the witness, Sonya. Sonya
3 further provides -- or Officer McCaughley Bryan with
4 more details as to a locked compartment in his vehicle
5 and where he's known to store drugs. At that point,
6 McCaughley tells her Sergeant Scurry that there's a
7 locked compartment. At that point, Sergeant Scurry
8 retrieves the keys from defendant. He also -- he --
9 at that point, he -- they have determined he's driving
10 under suspension. Sergeant Scurry says, you know,
11 you're being arrested. We're not trying to introduce
12 the statements here from defendant, but he does inform
13 him of being arrested. He has the keys from
14 defendant's person, goes into the locked compartment,
15 opens it. Sure enough, that's where they recover the
16 drugs.

17 And, Your Honor -- oh and with regard to the PC,
18 a traffic stop can be extended if there is further, I
19 guess, indication of a crime that has either occurred
20 or is occurring at the time. When they pulled him
21 over, they were just investigating this domestic, but
22 as soon as Sonya says there's drugs in the car, the
23 investigation takes a turn and it becomes a reason for
24 it be prolonged. With regard to Sonya not being
25 credible, this is someone who has been dating the

1 defendant for --

2 THE COURT: I'm not worried about that.

3 MS. BOZARTH: -- okay.

4 THE COURT: Credibility of the witnesses is --
5 is r the jury to determine. All right.

6 MS. MARTINEZ: Judge, other than the -- and I
7 apologize for interrupting you -- other than the
8 statement from the witness saying that there are drugs
9 in the car, there's nothing else in the history of
10 this particular arrest that would indicate or give a
11 police officer suspicion that there would be drugs in
12 the vehicle. My client did not appear intoxicated.
13 He was not acting suspicious. There wasn't anything
14 particular to indicate that there would be drugs in
15 the car, particularly in a locked glove -- in a locked
16 compartment. So even if they had a reason for -- to
17 stop him for a traffic offense, we don't think that
18 there was anything to warrant a search of the drugs in
19 the car.

20 THE COURT: All right. All right. I want to
21 hear the testimony but, obviously, you'll get one more
22 bite at this apple. So for right now, I'm going to
23 deny the motion to suppress the evidence. I want to
24 the Denno hearing when the officer is here, right
25 before he testifies. I'll allow the jury to go out,

1 we'll have the hearing. I want to hear from him *in*
2 *camera* and then we'll bring them back out. Anything
3 else?

4 MS. BOZARTH: With regard to the -- sure. Well,
5 one thing I did want to clarify with regard to the
6 prior drug use history with Sonya, she -- she is going
7 to testify as to, you know, using drugs with
8 defendant. I just want to clarify that while
9 defendant, if he takes the stand, I would plan on
10 asking questions in regard to his use with Sonya.

11 THE COURT: All right. Let's see what he
12 decides to do. All right. Anything else?

13 MS. MARTINEZ: Your Honor, we'd ask that the
14 witnesses be sequestered --

15 THE COURT: All right.

16 MS. MARTINEZ: -- during the trial.

17 THE COURT: (Unintelligible.)

18 MS. BOZARTH: Oh, Officer Bailey.

19 THE COURT: All right. He can stay in and all
20 the rest will be sequestered. All right. Anything
21 else?

22 MS. MARTINEZ: Your Honor, we'd like to have
23 Tommy, our investigator, here.

24 THE COURT: Sure. All right. Bring them out.

25 THE BAILIFF: Yes, Your Honor.

1 (The jury entered the courtroom.)

2 THE BAILIFF: All the jurors are present, Your
3 Honor.

4 THE COURT: Thank you very much. All right.
5 Ladies and gentlemen, thank you so very much for being
6 here on time. I apologize for the delay. There was
7 some other matters that we needed to take up that did
8 not have to do with this case that I was not aware of,
9 so I apologize for that. Madam Clerk, if you'll swear
10 the jury.

11 THE CLERK: Ladies and gentlemen, if you'll
12 please stand and raise your right hands. And that the
13 defendant would stand.

14 (The jury was sworn to try the case.)

15 THE CLERK: If you accept this oath, please be
16 seated. If you have not accepted this oath, please
17 remain standing. Let the record reflect all jurors
18 have been seated.

19 THE COURT: All right. Thank you very much.
20 Ma'am, you're sitting in the Forelady chair so I'm
21 going to appoint you the Forelady of the jury. Okay?
22 Just luck of the draw. Congratulations. So you only
23 have two duties at this point in time. They're not
24 overly complicated. The first thing is, is that
25 whenever I ask you all to retire to the jury room for

1 a break or for a particular matter of law or something
2 along those lines, please just make sure that no one
3 discusses anything about the case until I tell you all
4 to deliberate because, obviously, you don't know any
5 -- you don't know all the facts of the case until the
6 case is over. All right? And the second is, is if an
7 emergency comes up, if you'll just reduce it to
8 writing, tell me what the issue is, and I'll try to
9 resolve it for you. Okay? That's it for right now.
10 I'll explain to you your duties at a later time.

11 Just so you know, this will not be a very long
12 trial. These lawyers are prepared and are good
13 lawyers and they're not going to waste anybody's time.
14 It's a short trial, but it doesn't mean it's not any
15 less important to the defendant. All right? So don't
16 think that just because it's a short trial, it's not
17 important. It is.

18 I just want to kind of let you know what's going
19 and in the lay of the land. This is Morgan. She's my
20 law clerk. You'll hear it -- you'll see us talk a
21 lot. We pass notes a lot. Right now, we've been
22 trying to find out what we're going to have from Jimmy
23 John's for lunch. That her job to coordinate it. So
24 just because we're talking, it has nothing to do with
25 the case. So I don't want you all to think that we're

1 discussing anything about the case. It's kind of like
2 one of those with -- if somebody says something, and I
3 say something to her, I don't want you all to think
4 that I -- that meant anything to me, because it
5 doesn't.

6 This is our wonderful court reporter, Sherry.
7 She's taking everything down, and so you'll see her
8 tell people sometimes to slow down. That's just
9 because she's got to keep up with everything. Lindsay
10 is our clerk this week, and she just runs the
11 courtroom. You'll see people ask her to turn monitors
12 on and other things like that. If it gets too hot or
13 too cold, you could blame her. All right? And then
14 you've met our wonderful deputies and our wonderful
15 bailiffs.

16 In a couple of moments -- oh, also, if you do
17 need a break and something comes up and we're
18 continuing on and it's going a little too long and you
19 think you need a break, just raise your hand. The
20 bailiff will come ask you what's going on, and if you
21 need a break, I'll give you one. Fair enough? All
22 right. At this time, what I'm going to do, ladies and
23 gentlemen, is allow the parties to give what they call
24 their opening statement. What that means is that is a
25 statement, and that's it. It's not to be considered

1 evidence by yourself. It's simply a statement of what
2 they believe the evidence is going to show in this
3 case. At the end of the case, I'm going to give them
4 the opportunity make closing arguments, which means
5 that they're going to argue what they believe that the
6 evidence has now shown. All right. We'll start with
7 the State.

8 MR. FINLEY: Thank you, Your Honor. Good
9 morning.

10 (The jury replied, good morning.)

11 MR. FINLEY: You cannot escape the
12 responsibility of tomorrow by evading it today.
13 That's a quote by Abraham Lincoln. And you say, what
14 does that have to do with this case? That's why we're
15 here. The defendant has been evading his
16 responsibility for this incident since July of 2021.
17 This is not a complex case. This is a drug case. You
18 don't need a mastery of the law or a deep
19 understanding of the law to understand this case. But
20 what's important is, this case is about possession of
21 drugs, who had possession of the drugs. And the
22 evidence will show that the defendant had possession
23 of the drugs. I'm going to run quickly through the
24 facts. They're not particularly entertaining.
25 There's not a lot of drama. It's not a -- it's a

1 pretty simple case.

2 In the early morning hours of July 15th, 2021,
3 the defendant picked his girlfriend up from downtown
4 to give her a ride back home. When they were headed
5 back home, there were on Meeting Street. They got
6 into an argument in the vehicle that caused the
7 defendant to drive a little erratically. They got
8 pulled over. When they got pulled over, the
9 passenger, his girlfriend, asked to exit the vehicle.
10 Law enforcement allowed her to. He was -- also exited
11 the vehicle. But through their investigation, law
12 enforcement learned that there were drugs in the
13 vehicle. Now, those are the basic facts. You're
14 going to hear more testimony from the officers.
15 You're going to hear testimony from the witness. The
16 key things that I want you to remember and think about
17 when you're listening to this testimony is who owned
18 the truck, whose name was the truck registered in,
19 where were the drugs located, who had exclusive access
20 to those drugs? And again, the facts will show that
21 those drugs are the defendant's.

22 I'm Jason Finley. Along with my cocounsel, Sara
23 Bozarth, we're for the State, we're the prosecution
24 for the State. We prosecute crimes. We're here to
25 present you with the evidence. The reason why those

1 facts that I just told you are important is because
2 Judge Price is going to instruct you on the law in
3 this trial. He's going to give you the elements of
4 the law, what is required of you to make a
5 determination about whether the defendant is guilty or
6 not. But I want you to remember those key facts that
7 I told you.

8 Now, after I sit down here, Defense counsel is
9 going to get up here and give their opening statement.
10 You know, I don't know what his defense is. You may
11 hear that it's somebody else's drugs. He may blame it
12 on somebody else. He may say, you know, there were
13 mistakes made. He may say that they're not his. I
14 don't know. I don't know what his defense will be. I
15 can't imagine what else his defense would be. But
16 again, when you hear the testimony and you hear the
17 evidence, think about whose truck is it, whose name is
18 it registered in, who has access to those drugs, who
19 has the key that opens the door that starts the truck?
20 Remember those facts.

21 You're going to listen to the witnesses'
22 testimony, you're going to look at the evidence, and
23 you're going to use your common sense. As a juror,
24 you just took an oath. You took the oath to well and
25 truly try the case and render a true verdict according

1 to the law and the evidence, and that's what we're
2 asking you to do. We're asking you to use your common
3 sense. And in using your common sense, we're asking
4 you to return a verdict of guilty. Thank you.

5 MS. MARTINEZ: Kyle has not been taking
6 responsibility for the last two years. It's the
7 State's burden to prove that he's guilty beyond a
8 reasonable doubt. And just because the drugs were
9 found in the truck, it doesn't mean they are his.
10 Sonya Herron put them in there. And Sonya Herron and
11 Kyle have a history together. They were in a
12 relationship. And the night that this incident
13 happened, earlier before he picked her up on King
14 Street here in (unintelligible) Charleston, she had
15 gotten information that he had been cheating on her.
16 So of course, she was already upset at him before he
17 picked her up. And that night, she had been out in
18 the downtown area. She'd been out with friends.
19 She'd been drinking. She'd been doing drugs. So a
20 little bit before 3:00 a.m. when Kyle picks her up,
21 the very first thing she does is she confronts him.
22 So they had an argument outside of the truck and they
23 had an argument inside of the truck. Eventually, she
24 makes it into the car -- the truck. There's an
25 argument in the truck. He's driving it erratically.

1 At some point, when he reaches Meeting and Lee Street,
2 she puts the truck into park.

3 Officer Bailey over here, he was driving right
4 behind them, so he saw the truck stop abruptly. He
5 got out of his patrol car, gets up to the passenger --
6 to the driver's side of the vehicle to investigate
7 what's going on. And as he reaches the driver's side
8 of the vehicle, the first thing that Sonya does is she
9 gets out of the truck. The next thing she does is say
10 there's drugs in the car. And police found drugs in
11 the truck that night, and they found them where she
12 said they would likely be. And of course, she knew
13 where they would be because she put them there. So
14 for Kyle, what started that early morning as driving
15 to downtown to pick up his girlfriend after she been
16 out drinking and doing drugs with her friends, ended
17 up with him going to jail and Sonya Herron going home.
18 Thank you.

19 THE COURT: All right. Thank you very much.
20 Call your first witness.

21 MS. BOZARTH: Your Honor, the State calls
22 Sergeant Flaherty.

23 THE CLERK:

24 (The witness was sworn in)

25 THE CLERK: If you will state your full name for

1 the record, spelling your last name.

2 THE WITNESS: Sean Flaherty, F-L-A-H-E-R-T-Y.

3 SEAN FLAHERTY

4 was called as a witness, and having been first duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MS. BOZARTH:

8 Q. Hi, Sergeant Flaherty. Sergeant, where do you work?

9 A. I'm currently the Team 9 Administrative Sergeant.

10 Team 9 is the entertainment district for the Charleston
11 Police Department.

12 Q. And your official title?

13 A. Just Sergeant for -- Administrative Sergeant for Team
14 9.

15 Q. And in that role, what are your responsibilities?

16 A. Currently, I'm assisting the lieutenant. It's -- it's
17 a newer position, so trying to go over cases, just
18 anything that pops up in the area.

19 Q. And back in 2021, where were you working?

20 A. I was a Team 9 evening shift sergeant, patrol
21 sergeant.

22 Q. And what are your duties at the time?

23 A. At that time, I worked fine 5:00 p.m. to 3:00 a.m. My
24 designated area was, again, King Street, the market area.
25 I had a squad of officers to oversee and just anything

1 that happens in that area, anything those officers do, I
2 have to respond to and, essentially, supervise.

3 Q. Okay. And back in July of 2021, did you to -- how are
4 you involved in this case?

5 A. I was on my way back to the office at 3:00 a.m. to
6 just sign in computer paperwork, do and end-of-shift
7 report, and I was flagged down for a disturbance at the
8 Circle K gas station at Meeting and Calhoun Street.

9 Q. And upon being flagged down -- and you said that was
10 around 3:00 a.m.?

11 A. Yes.

12 Q. Upon being flagged down, what did you do, if anything?

13 A. I immediately put out on the radio that I was getting
14 flagged down for some sort of disturbance. When I got on
15 scene, there was a truck pulling out that the attendant
16 had told me that there was some sort of altercation going
17 on inside the truck. I then -- I was able to broadcast
18 that information. I believe it was a dark in color Chevy
19 truck that went north on Meeting Street. But then I got
20 tied up with -- the attendant then got into an argument
21 with another person there at the station -- at the gas
22 station.

23 Q. And after you radioed that out, were you called to
24 another scene awaiting this incident?

25 A. Officer Bailey stopped a truck going north on Meeting

1 calls Officer Bailey.

2 THE COURT: All right. Madame Clerk?

3 THE CLERK: Your Honor, do you want him re-sworn
4 in front of the jury?

5 THE COURT: Yeah. We'll have to do it again.

6 (The witness was sworn in.)

7 THE CLERK: If you'll just state your full name
8 for the record, spelling your last name.

9 JEREMY BAILEY

10 was called as a witness, and having been first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION (Cont'd.)

13 BY MS. BOZARTH:

14 Q. Hi, Officer Bailey. Officer Bailey, where do you
15 work?

16 A. With the City of Charleston Police Department.

17 Q. And how long have you been working with CPD?

18 A. Nine years.

19 Q. Nine years? What is your title now?

20 A. School Resource Officer.

21 Q. And in your time as a law enforcement officer, what
22 are the extent of your training and experience?

23 A. I spent six years as a patrolman in Team 4, the West
24 Ashley area. I've had experience with multiple traffic
25 stops, narcotics investigations, DUIs, typical traffic

1 enforcement, civil disputes, normal law enforcement
2 activities.

3 Q. And back in 2021, were you working with CPD?

4 A. I was, yes, ma'am.

5 Q. And in what capacity? What was your title?

6 A. So I was a school resource officer, but being that it
7 was the summertime, we were put on supplemental patrol for
8 the bar district, which is King Street.

9 Q. And what were your responsibilities at that time?

10 A. So at the time, we would just -- we would monitor the
11 -- the foot traffic back and forth ensuring there is no
12 over intoxication, everybody was being safe, there's no
13 laws being violated.

14 Q. And back in July of 2021, do you recall being involved
15 in this case?

16 A. I do, yes, ma'am.

17 Q. And how did you become involved?

18 A. So I just gotten off work at about 3:00 in the
19 morning. I heard a radio traffic of an incident at the
20 Circle K gas station.

21 Q. And just -- not to put you off, where is that Circle
22 K? Is that in Charleston County?

23 A. It is. It's within the city -- it's within the City
24 of Charleston, which is also in the County of Charleston.

25 Q. Okay. And so you received a call. I didn't mean to

1 interrupt you. But you received a call at the gas
2 station?

3 A. So Sergeant Flaherty, he's the one that got the call,
4 so I heard it come across the radio that the vehicle had
5 just left the location and was traveling down Meeting
6 Street and that it was leaving the area. Being that I'd
7 just gotten off work, I was getting ready to get onto
8 Meeting Street and go home, so I turned left.
9 Unfortunately, there was a vehicle that was in front of
10 me. It was an older model pickup truck. I confirmed with
11 Sergeant Flaherty that the vehicle had left and asked if
12 he wanted me to do anything with the vehicle. He said,
13 no, let it go. I continued traveling down away from the
14 city, still in the city's jurisdiction. The vehicle was
15 moving within the lane, but drifting side to side. It was
16 kind of abrupt, but they were still inside of the lane.
17 We approached Lee Street and then the lane -- the vehicle
18 went where the center dividing line was basically in the
19 middle of the truck, so it was split-laning. And then,
20 all of the sudden, I'm behind the vehicle and it abruptly
21 stopped, almost causing me to strike the rear end of it.
22 At that time, the vehicle was unsafe. I had to perform a
23 traffic stop and get them off the roadway at the time.
24 Q. When pulling the vehicle over, did you call for backup
25 or --

1 A. I notified dispatch of the -- the traffic stop and
2 describe the vehicle, put out the plates. And then a few
3 other -- a few additional officers did show up to the
4 traffic stop.

5 Q. And when you arrived to the scene, who else was there?

6 A. When I arrived at the scene?

7 Q. Well, when you pulled them over.

8 A. When I pulled them over, it was just myself, the
9 defendant, and there was a female party in the truck as
10 well.

11 Q. And what other law enforcement officers arrived --

12 A. After --

13 Q. -- around -- around that time?

14 A. Around the time. So I'd just stopped the vehicle,
15 introduced myself to the driver, and then Officer Chow
16 showed up and I believe Sergeant Scurry showed up as well.

17 Q. And do you know where they went or --

18 A. They went to the passenger's side of the vehicle to
19 speak with the female.

20 Q. And did you approach -- you approached the driver?

21 A. I did.

22 Q. And was it just the driver and the passenger in the
23 vehicle?

24 A. It was, just those two.

25 Q. And upon approaching the driver, what did you do?

1 A. I began to introduce myself and the reason for the
2 stop, but there was a minor argument going on and the
3 female asked if she could get out of the car, so I -- out
4 of the truck -- so I agreed. I went ahead and let her
5 out. And because she was on the other side of the vehicle
6 and he was in the vehicle, I asked him to step out as
7 well.

8 Q. And is that common when there are two parties arguing?

9 A. Yes, it is.

10 Q. Did you ask him for his ID and registration?

11 A. Yes. When we got to the -- when I was at the window,
12 I asked him for his license, registration, and proof of
13 insurance. We had a minor discussion and then I asked him
14 to step out.

15 Q. And eventually, did you run his information? Was the
16 vehicle registered him?

17 A. It was, yes.

18 Q. And at that point, so he's out of the vehicle. Is he
19 still by his truck?

20 A. We were at the -- the tail end of his truck. For his
21 comfort and for our safety, we stepped to the rear of his
22 truck and I had him drop his tail gate. That way, he
23 would have something to lean against and that we were out
24 of the lane of travel.

25 Q. And at that point, did you do anything?

1 A. We -- we had just started speaking about the reason
2 for the traffic stop when another officer came up and
3 informed me that the female party had stated that there
4 was a large amount of narcotics in the vehicle and that he
5 was going to be detained.

6 Q. And so were you there? Did you observe him be
7 detained?

8 A. I did, yes.

9 Q. Was he under arrest at that time?

10 A. Not at that time, no.

11 Q. And in your experience, what is being detained?

12 A. So depending on what the situation is, it can be as
13 simple as me telling you you're not -- we're -- we're
14 performing an investigation, you're not free to leave
15 right now. Or depending on if there's other circumstances
16 involved like drugs or anything else, you may be placed
17 into handcuffs to ensure that there is no violent action
18 at that point.

19 Q. So is it in furtherance of the investigation?

20 A. It is, yes.

21 Q. And at any point, did you run his driver's license?

22 A. I did. Once Officer Chow placed him under
23 investigative detention, I did leave and I went to -- I
24 went to my patrol car first which, unfortunately, wasn't
25 working. So I went to Officer Chow's vehicle and I ran

1 his -- his driver's license and registration.

2 Q. And what were the results?

3 A. So the registration came back as his vehicle and it
4 was -- it was free and clear. But when I ran his driver's
5 license, it came back suspended.

6 Q. And based -- on that point, based on the information
7 that you had at that time, what did you do?

8 A. As soon as I exited the vehicle -- or went to exit the
9 vehicle, Sergeant Flaherty and Sergeant Scurry were
10 informing me of what Sergeant Scurry and Officer Chow and
11 Officer Bryan were discussing with the female party, that
12 there was enough probable cause for a search based on
13 those statements that she provided.

14 Q. And you were informed that there were drugs in the
15 vehicle?

16 A. There were, yeah.

17 Q. And you were informed in what kind of containers there
18 were or did you --

19 A. At -- when I was right there, no, but as I'm coming up
20 and we're going to go through that, the female party was
21 just describing in very good detail that -- what it would
22 be contained in and where it would be found.

23 Q. And did you have any involvement physically searching
24 the vehicle?

25 A. I did, yes.

1 Q. And what was your role in that?

2 A. So I was one of the search officers on the driver's
3 side of the vehicle, and I believe Officer Chow was on the
4 passenger's side of the vehicle, and Sergeant Scurry was
5 directly behind me.

6 Q. And can you describe searching the vehicle? Is there
7 a specific way to start?

8 A. So for -- for safety purposes, we always track from
9 the outside in. So we'll check the door, work your way
10 into the vehicle making sure that there is no weapons or
11 anything, anything that we're going to cut on. Work your
12 way to the -- the seats and then to the center console. I
13 believe at that time, we found out that the center console
14 was -- it lifted up and there was -- the -- as we're
15 searching there, the -- the young lady said that no, no,
16 no, it's in a locked -- the -- the bottom part is locked,
17 there's a secret compartment.

18 Q. Of the center console?

19 A. Yeah. Of the center console, there's a secret
20 compartment that's locked.

21 Q. And at that point, were you able to open the locked
22 container or was it --

23 A. I believe --

24 Q. -- was it locked?

25 A. -- it was locked. I believe Sergeant Scurry went and

1 got the keys and brought them back.

2 Q. Where were the keys, do you know?

3 A. It was on the defendant.

4 Q. And do you know is this -- is it -- would you just --
5 how would you describe this compartment at the center
6 console?

7 A. So in -- in this style of pickup truck, the -- the --
8 the seats are separate but the center console is also like
9 a third row -- third seating right in the middle that
10 turns it into a bench seat. But if you put it down, it
11 has the cup holders in the top. And then if you lift it
12 all the way up, there's actually a lockbox on -- that you
13 can use a key to open.

14 Q. And -- but was it his driver's key that opened it?

15 A. I believe so, yes, ma'am.

16 Q. And upon unlocking that box -- well, first, can you
17 kind of describe the overall vehicle, what was inside of
18 it, without going specifically into --

19 A. There was a lot of material in there. There were
20 personal effects, backpacks, odds and end tools in the--
21 the back of the vehicle. And then in the -- the front, it
22 was just random items strewn about. It was kind of in
23 disarray. There was -- there was some food and stuff that
24 had been -- fresh food that had been strewn about the --
25 the cab in the truck.

1 Q. And so once the compartment was unlocked, were you
2 participating in -- what was recovered, or what did you
3 observe that was recovered?

4 A. So I was on the -- I was on the driver's side near the
5 seat. And then Officer Chow was actually using the key to
6 open it. And as he -- as he opened it, he was passing me
7 different items. The first item was a Crown Royal bag
8 with some material inside of it. So I was looking inside
9 of that, and that's where I found the actual crystalline
10 substance. And then he kept handing me other items, one
11 of which was a glasses case. And then when I opened that,
12 there was a -- a glass pipe in there. Typically -- the
13 way the glass pipe was set up, it had some packing
14 material typically used for narcotics use. And then there
15 was a digital scale that he passed me as well, all from
16 the -- the center console.

17 Q. And throughout your investigation prior to recovering
18 these, were -- were you informed that drugs may be located
19 in those containers?

20 A. Yes, specifically that area and what they would be
21 contained in.

22 Q. The Crown Royal bag?

23 A. The Crown Royal bag.

24 Q. The eyeglasses case?

25 A. Yes, ma'am.

1 Q. I'm showing you what's been previously -- or
2 permission to approach, Your Honor?

3 THE COURT: Absolutely.

4 BY MS. BOZARTH:

5 Q. I'm showing you what's been previously marked as
6 State's Exhibit 2. Do you recognize this?

7 A. I do, yes, ma'am.

8 Q. And what is it?

9 A. That's the glasses container that the glass pipe was
10 actually found inside of.

11 Q. And is it in substantially the same condition as when
12 you recovered that?

13 A. Yes, ma'am.

14 Q. And how can you tell that's the same glasses case?

15 A. This is my marking, my initials. So when we put
16 evidence in, we have to place it within a sealed plastic
17 container. And then we seal it and then we place our--
18 our initials over each of the seals to make sure that it
19 wasn't broken.

20 MS. BOZARTH: Your Honor, at this time, the
21 State moves State's Exhibit 2 into evidence.

22 (Plaintiff's Exhibit 2 was moved for
23 admission into evidence.)

24 THE COURT: All right. Any objection?

25 MS. MARTINEZ: No. We'd like to renew our

1 objections based on the pretrial motions, Your Honor.

2 THE COURT: All right. Over the objection.

3 (Plaintiff's Exhibit 2 was admitted into
4 evidence.)

5 MS. BOZARTH: Thank you, Your Honor.

6 MS. BOZARTH: Permission to publish, Your Honor?

7 THE COURT: Yes, ma'am.

8 BY MS. BOZARTH:

9 Q. You can open that.

10 A. Okay.

11 Q. Do you need gloves?

12 A. I -- I do, yes, ma'am. I don't --

13 MS. BOZARTH: And permission to publish, Your
14 Honor?

15 THE COURT: Yes, ma'am.

16 MS. BOZARTH: Okay.

17 THE WITNESS: Sorry. Thank you. Did you need
18 me to open it?

19 BY MS. BOZARTH:

20 Q. Do you need scissors? Sorry?

21 A. No. It -- it appears to be open at the end.

22 Q. Okay. And can you show the jury what you're opening?

23 A. It's a glasses container. It's black in color with
24 Optical Eyeland on it.

25 Q. Can you open it?

1 A. Yeah.

2 Q. And what's inside of that?

3 A. So it's a -- it's a glass pipe typically used for the
4 consumption of narcotics.

5 Q. And based on your training and experience, do you know
6 what the tinfoil is for?

7 A. So the -- it can be used for one of two things. It
8 can be used to contain the actual substance so it doesn't
9 come out. It can also be torn apart to be folded up to
10 use as packing material for the -- whatever the narcotics
11 is to sit on top of. That way, when it's ignited, it can
12 be inhaled without being pulled through.

13 Q. And I'm going to publish this on there.

14 A. I don't think you want to touch that.

15 Q. Okay.

16 A. Do you want me to put it back in the bag?

17 Q. Yes, please. Officer Bailey, I am now approaching you
18 with what's been marked as State's Exhibit 3. What is
19 that?

20 A. It's a digital scale.

21 Q. Do you recognize that?

22 A. I do, yes, ma'am.

23 Q. And how do you recognize that?

24 A. It was recovered from the center console of the
25 vehicle during the traffic stop.

1 Q. And was that -- what was that found amongst?

2 A. That was found in the same locked compartment that the
3 Crown Royal bag and also the -- the pipe was also located.

4 Q. The eyeglasses case?

5 A. Yes, ma'am.

6 Q. And is that in the same substantial condition as it
7 was when you recovered it?

8 A. Yes, ma'am. It's still sealed with my initials on
9 each of the sides.

10 Q. Okay. And upon recovering it, you sealed it?

11 A. I did, yes, ma'am.

12 MS. BOZARTH: Your Honor, at this time, the
13 State moves State's 3 into evidence.

14 (Plaintiff's Exhibit 3 was moved for
15 admission into evidence.)

16 THE COURT: Any objection?

17 MS. MARTINEZ: Subject to pretrial motions, Your
18 Honor.

19 THE COURT: All right. Over the objection.

20 (Plaintiff's Exhibit 3 was admitted into
21 evidence.)

22 MS. BOZARTH: Permission to publish, Your Honor?

23 THE COURT: Okay.

24 BY MS. BOZARTH:

25 Q. You can take that.

1 A. You want me to open it?

2 Q. Yes.

3 A. Okay.

4 Q. I think if you rip it.

5 A. I can. I just didn't want to damage it too much. Oh,

6 I see. Sorry. They're not easy to tear.

7 Q. All right. Thank you. And, Officer Bailey, can you

8 show the jury what was recovered?

9 A. Okay.

10 Q. And what is that, exactly?

11 A. It's a digital scale. It's typically used to measure

12 quantities of whatever the substance is that's either to

13 be purchased, sold, weighed.

14 Q. And in your training and experience, what scale is

15 found with narcotics -- I mean, can you -- can you testify

16 as to what --

17 A. So I can -- I can testify as to the typical uses. It

18 can be -- it's typically used to either -- by those who

19 consume it to measure out the quantities that they're

20 either buying or it also could be used by an individual

21 selling to measure out to ensure that they're giving out

22 the correct quantities.

23 Q. I'm approaching with what's been marked -- with what's

24 been marked as State's Exhibit 1.

25 A. Okay. Can I put this back in?

1 Q. Yeah.

2 A. Okay. If you have to touch that, be careful. There
3 is some form of powdery substance on there, so don't touch
4 it.

5 Q. Thank you. State's Exhibit 1. What is that?

6 A. It's a manila envelope that has my name on it. It
7 also has -- it appears to have the bin number for the --
8 the testing and it also has the case number assigned to
9 it.

10 Q. And can you describe -- can you describe how that
11 works? So --

12 A. So inside should be another one of these, a clear bag
13 that has my original label. And it should also have my
14 initials on each side of it.

15 Q. You can go ahead and open it. And how do you -- what
16 is that?

17 A. That's the -- that's the packing material that I
18 initially put on there. There's the -- the seals for each
19 side with my name on it.

20 Q. Is there a substance inside of it?

21 A. There is. There's a clear crystalline substance. It
22 appears to be crystal methamphetamines.

23 Q. And can you tell, has that -- is there -- has it been
24 sealed?

25 A. It appears to have been opened and resealed.

1 Typically, this is done when they do the testing. They
2 open it from the side as not to disturb mine. So what
3 they would do is typically open along the side and then
4 reseal it.

5 Q. And so in this instance, did you recover the -- what
6 did you do once you recovered the drugs from the scene?

7 A. I -- we field-tested them with a -- a field test kit.
8 That was Sergeant Scurry that actually conducted that
9 test. Once it field-tested presumptive for crystal
10 methamphetamines, I secured it in my vehicle until I was
11 able to take it and log it into evidence.

12 Q. And you sealed -- did you seal the bag?

13 A. I did, yes, ma'am.

14 Q. Would there be a way to tell if it was tampered with?

15 A. The -- the seal on my name, as -- as with the other
16 bag, if you go to tear it, it will -- it will completely
17 destroy the -- the signature.

18 Q. And with regard to its condition today, is there a way
19 to track who has handled it?

20 A. Yes, ma'am. There is a -- there's form that is filled
21 out each time it's entered, taken out, and each one of
22 those is part of the chain of custody. And on the chain
23 of custody, anybody that has either put it in, taken it
24 out for testing, they actually sign that they -- they did
25 so.

1 Q. In this instance, can you tell if this substance has
2 been tampered with are altered in any way?

3 A. Not to my -- not as it appears to me. The packaging
4 does have another set of initials on the -- the actual bag
5 itself where the bag was resealed, and it also has
6 initials on the lab testing number that's actually inside.

7 Q. I'm just going to maintain that as an exhibit for now.

8 A. Okay.

9 Q. With regard to -- so you said after you collected --
10 well, after you field-tested positive, when was defendant
11 arrested?

12 A. He was arrested after it field-tested presumptive for
13 crystal methamphetamines.

14 Q. And can you describe that process?

15 A. So we did the testing and once it came back -- when
16 you field test it, it will either come out -- there's two
17 ampoules that you put inside of a similar sized bag. You
18 take a small amount of the substance, you put inside.
19 Then you take one of the-- both the ampoules and you put
20 it inside with whatever the material is. You break one of
21 the ampoules, you shake it up for 10 to 20 seconds, and
22 then you break the other to fully mix. If it is not a --
23 it's -- if it's not the substance that's supposed to be
24 tested, it won't turn any color. It will stay a brownish
25 color. If it is whatever the substance is -- in this

1 case, crystal methamphetamines -- it will turn either a
2 dark blue or even a purple color. Once it actually turned
3 that dark blue slash -- well, it was kind of a purplish
4 color, I secured all the material in my vehicle and then I
5 retrieved a Miranda warning card.

6 Once I retrieved that Miranda warning card, I went
7 back and informed the defendant that he was being placed
8 under arrest for the possession of crystal
9 methamphetamines and for driving under the -- driving
10 under suspension.

11 Q. And at that point when you administered Miranda, what
12 -- he was -- he had been detained?

13 A. Yes, ma'am.

14 Q. And he -- where was he standing?

15 A. He was standing directly in front of my marked patrol
16 vehicle.

17 Q. And what were the conditions at that time?

18 A. It was clear, normal. It was very clear outside. It
19 wasn't warm, but it wasn't quite cold either. It was
20 pretty comfortable.

21 Q. And when you're issuing Miranda, were a bunch of law
22 enforcement officers formed around him?

23 A. At the time, it was myself, Officer -- or Sergeant
24 Flaherty was standing on the passenger's side of my
25 vehicle. He had his body camera facing us to record the

1 interaction. Probably 10 to 15 yards away was Sergeant
2 Scurry, who had assisted me with actually doing the field
3 test portion.

4 Q. And with regard to the Miranda, when -- what -- what
5 did you relay to him with regard to Miranda?

6 A. So when I do a Miranda, to make sure that I get it
7 properly, we actually have a preprinted CPD card that we
8 read it from. After each line, you ask if you understand
9 what -- what I've read to you. And at each stage, he
10 stated that he did understand.

11 Q. Okay. And did you coerce him into making any
12 statement?

13 A. No, ma'am.

14 Q. Did he ask for an attorney?

15 A. No, ma'am.

16 Q. Did you promise him anything?

17 A. No, ma'am.

18 Q. And so after you provided him with Miranda -- upon
19 arrest, provided Miranda for -- informed -- you informed
20 him that he was being arrested for quid meth?

21 A. I didn't -- for possession of methamphetamines,
22 because we had not -- we hadn't done the weight yet. The
23 -- the way that works is, if there's packing materials or
24 other materials that would lead us to believe that it was
25 being distributed, that would be immediate. But this was

1 based on the actual weight of the substance itself.

2 Q. And that changes the charge --

3 A. That changes the charge.

4 Q. -- from your experience?

5 A. Yes, ma'am.

6 Q. And upon providing Miranda, did you speak with him?

7 A. I did. I asked him -- I informed him that we found a

8 clear crystalline substance inside of the vehicle and

9 asked him if he knew what that was.

10 Q. And what did he say?

11 A. He -- he responded with something to the effect of

12 it's crystal meth are meth.

13 Q. So he acknowledged the substance as meth?

14 A. He acknowledged the substance is being meth.

15 Q. That was in his car?

16 A. Yes.

17 Q. Okay. And how did you transport the drugs to -- to --

18 to -- where did you transport them to?

19 A. In my marked patrol car.

20 Q. And you testified -- did you drop it off at a locker?

21 A. Yes. I went -- so our evidence room is separate from

22 where we actually package everything at, which is also

23 recorded. So I -- you go in, you log into the -- the

24 computer. You create the -- the labels to ensure that

25 nothing gets logged in incorrectly. Then once you have

1 all the packing material done, you go and find a locker.
2 The lockers are -- they're secured with a pretty hefty
3 lock, and each key is specifically for that locker. So I
4 unlocked the locker, I took the key with me, put the
5 material in, marked which -- which locker it would be on
6 the evidence voucher, and then secured it.

7 Q. Thank you. And with regard to your conversation with
8 defendant, is that defendant in the courtroom today?

9 A. He is, yes.

10 Q. Can you point him out and identify him?

11 A. It's the gentleman in the yellow shirt.

12 Q. In the yellow shirt? Thank you. And in this kind of
13 case, based on your training and experience, is this the
14 kind of case where you would take fingerprints of the
15 contents of the vehicle?

16 A. No, ma'am, not normally.

17 Q. And why not?

18 A. So with the -- with the -- with a drug charge, it's
19 simply who was in possession of the actual substance.
20 It's not something you would need to do fingerprints for.

21 Q. And was it your job to take any written statements
22 from anybody?

23 A. No, ma'am, because I did not speak with -- I did not
24 speak with the female. That was done by Officer Chow and
25 Sergeant Scurry.

1 Q. And was it your job to, essentially, do anything
2 further?

3 A. Nothing further than what I'd already stated.

4 Q. And did you conduct any follow-up?

5 A. There was no one to follow up with. The defendant was
6 the only one on scene that I was speaking with. Sergeant
7 Scurry and Officer Chow were speaking with the -- the
8 female that was giving the information.

9 Q. Did you have any further involvement with this case?

10 A. Just the transport, the paperwork, and the securing of
11 the evidence.

12 Q. Please answer any questions Defense may have.

13 A. Yes, ma'am.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MS. MARTINEZ:

17 Q. You had a body-worn camera that evening; right?

18 A. Yes, ma'am.

19 Q. And it's CPD policy to have it on?

20 A. It is, yes, ma'am.

21 Q. And it stopped recording at some point; right?

22 A. Yes, ma'am.

23 Q. So you didn't capture the entire stop.

24 A. I couldn't. It -- unfortunately, after an entire
25 shift of having it on. And I did turn it on prior to

1 making contact with the defendant. And during that
2 encounter, at approximately 3:02, you can hear on the
3 body-worn camera that's it's saying that it has low
4 charge. And then at approximately 3:12 is when it shut
5 off.

6 Q. So you didn't record the entire conversation with
7 Kyle?

8 A. No. That was actually captured on Sergeant Flaherty's
9 body-worn camera.

10 Q. And you didn't -- you didn't record the truck stopping
11 abruptly?

12 A. I couldn't. I was already off work and my -- all my
13 equipment was turned off at that time because I was
14 heading home.

15 Q. Okay. And your body camera, that starts the recording
16 when you get out of you car?

17 A. It does, yes, ma'am.

18 Q. So you -- you saw the black truck --

19 A. Mm-hmm.

20 Q. -- on Meeting and Lee Street?

21 A. No. Prior to that.

22 Q. Prior to that. Okay. But you saw said it stop
23 abruptly right at Meeting and Lee Street?

24 A. Approximately 15 yards before that is where it came to
25 rest in front of my car.

1 Q. You were right behind it?

2 A. Yes, ma'am.

3 Q. And you saw the female passenger put the gear in park?

4 A. No. The -- the defendant told me that while we were
5 on scene.

6 Q. Okay.

7 A. I only know that it -- it stopped very quickly in
8 front of me.

9 Q. Do you remember telling one of the officers -- one of
10 the officers there that she was (unintelligible) the truck
11 into park?

12 A. Yes. I'd told Sergeant Flaherty that, I believe,
13 while -- while I was trying to run the driver's license.

14 Q. So you saw some kind of altercation inside the truck;
15 right?

16 A. I didn't see the altercation inside of the truck, no.
17 Only the -- the only portion of what could be construed as
18 an altercation was the -- the verbal, the loud verbal as
19 I'm walking up to the actual cab of the car.

20 Q. Did the female passenger, she was intoxicated?

21 A. I -- I -- I wouldn't be able to say if she was
22 intoxicated. I had very limited conversation with her.

23 Q. She had food stains on her tube top?

24 A. I believe so. When I walked by, she has something --
25 some sort of red substance on her blouse, and there was

1 food strewn about the cab of the car.

2 Q. And so you said that they -- it seemed like they were
3 in an argument or had been in an argument?

4 A. Yes, ma'am.

5 Q. And she was angry at him?

6 A. I couldn't testify to her mind state.

7 Q. Okay. She had just learned that Kyle had been
8 cheating on her?

9 A. Ma'am, I couldn't testify to that?

10 MS. BOZARTH: Your Honor, this is beyond the
11 scope of direct. The officer testified that he did
12 not speak with --

13 THE COURT: I'll overrule the objection. You
14 can answer the question.

15 THE WITNESS: I did, Your Honor. I have no
16 knowledge of that.

17 THE COURT: All right.

18 BY MS. MARTINEZ:

19 Q. Did Kyle appear intoxicated?

20 A. No, ma'am.

21 Q. So he had been drinking, it didn't look like he'd been
22 drinking?

23 A. He didn't appear to be, no, ma'am.

24 Q. He didn't look like he'd been doing any drugs?

25 A. Not at the time, no, ma'am.

1 Q. He said the drugs were not his; right?

2 A. Not that I can recall.

3 Q. So the -- the bag of drugs was not fingerprinted;

4 right?

5 A. No.

6 Q. Neither was the glasses case?

7 A. No.

8 Q. Or the pipe?

9 A. No.

10 Q. Or the scale?

11 A. No.

12 Q. Nothing was fingerprinted?

13 A. No.

14 Q. So you weren't the only officer on scene; right?

15 A. No.

16 Q. There was Bryan?

17 A. The female officer. I believe her name is Bryan.

18 Q. Scurry?

19 A. Mm-hmm.

20 Q. Chow?

21 A. Yes, ma'am.

22 Q. Flaherty?

23 A. Yes, ma'am. And myself.

24 Q. Okay. And you testified that he acknowledged the

25 drugs being meth or crystal meth?

1 A. Yes, ma'am.

2 Q. So I've taken a look at all the body cam video in this
3 case. And there isn't anywhere, at least that's audible,
4 where he makes that statement.

5 A. Okay.

6 Q. Can you show us where it is?

7 A. When I'm -- after Miranda and I asked him what the
8 crystalline substance is when he asked -- or when -- when
9 he replied to my question.

10 Q. But you can't show us the statement?

11 A. I -- it -- it's --

12 Q. -- the recorded statement?

13 A. -- it's un-audible. And like I said before, my
14 portion of the body camera which would have been able to
15 hear that better -- I believe the -- the audio from
16 Sergeant Flaherty, it does catch at the conversation, but
17 it's muffled by road traffic, the road noises.

18 MS. MARTINEZ: The Court's indulgence.

19 THE COURT: Yes, ma'am.

20 MS. MARTINEZ: I have no further questions, Your
21 Honor.

22 THE COURT: All right. Anything to follow up?

23 MS. BOZARTH: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. BOZARTH:

1 Q. With regard to your review of -- in preparation for
2 this case, did you review Scurry's -- or Flaherty's body
3 cam?

4 A. I did, yes, ma'am.

5 Q. And with regard to that interaction, just based on
6 your observation, you're -- you're on that camera?

7 A. I am, yes, ma'am.

8 Q. And based on your observation watching that body
9 camera, can you hear what the defendant is saying?

10 A. During my conversation or in general?

11 Q. As captured from the security -- or as captured from
12 Flaherty's.

13 A. Yes. You can hear quite a bit of the conversation
14 except for when cars are passing by.

15 Q. But with regard to -- like, how far away is he
16 standing from you?

17 A. So the defendant was standing in the middle of the
18 vehicle and our -- the vehicle that I drive is a Ford
19 Explorer, so it's a very small compact SUV. The defendant
20 is standing in between my headlights and Sergeant Flaherty
21 is standing right next to the passenger's side front
22 headlight.

23 Q. Would his body cam be able to pick up that
24 conversation, the specifics?

25 A. Not -- not specifics, no.

1 Q. Would it -- would it be better -- would your body cam
2 have been able to capture that?

3 A. Absolutely.

4 Q. However, was your body cam on?

5 A. I had just worked a full shift and I was actually on
6 my way home. And after that full shift, it had a small
7 amount of charge left. I activated that body-worn camera
8 as I got out of the vehicle. And like I testified
9 earlier, you can actually hear the camera say that it was
10 -- the battery was dying. And approximately -- at
11 approximately 12 minutes later, it was completely turned
12 off.

13 Q. And in your training and experience, did law
14 enforcement always have body cameras?

15 A. No, ma'am.

16 Q. Thank you.

17 THE COURT: All right. You may be excused.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: All right. Ladies and gentlemen,
20 it's 12:42. We're going to go ahead and take our
21 lunch break. I would just ask that you be back by
22 2:00. All right? Thank you so very much, and enjoy
23 lunch. You can just leave it there.

24 (The jury exited the courtroom.)

25 **9/13/2023 - 2:00:28 p.m. to 3:34:09 p.m.**

1 THE COURT: All right. Anything before we bring
2 them out?

3 MS. BOZARTH: Nothing from the State, Your
4 Honor.

5 THE COURT: All right. Bring them out.

6 (The jury entered the courtroom.)

7 THE BAILIFF: All jurors are present, Your
8 Honor.

9 THE COURT: All right. Thank you very much. I
10 hope you all enjoyed your lunch. Call your next
11 witness.

12 MS. BOZARTH: Thank you. The State calls
13 Officer Chow.

14 THE CLERK: Please place your left hand on the
15 Bible and raise your right.

16 (The witness was sworn in.)

17 THE CLERK: Please have a seat. If you will
18 just state your full name for the record, spelling
19 your last name, please.

20 THE WITNESS: Dillon Chow, C-H-O-W.

21 DILLON CHOW

22 was called as a witness, and having been first duly sworn,
23 testified as follows:

24 BY MS. BOZARTH:

25 Q Officer Chow, where do you work?

1 A I'm currently assigned to the special enforcement team
2 for the City of Charleston Police Department.

3 Q Okay. What are your responsibilities to that?

4 A The special enforcement team is a street crimes unit
5 so we are tasked with serving warrants and arresting, you
6 know, for drug and gun interdiction and things of that
7 nature.

8 Q And how long have you been doing that for?

9 A About a year.

10 Q And what did you do -- did you work at CPD previously
11 or --

12 A I've been at CPD for the past four years.

13 Q Four years? And before your current title, what were
14 you doing?

15 A I was an officer for Team 1 Patrol, which is our
16 downtown metropolitan patrol division.

17 Q And what were your responsibilities in that role?

18 A On Team 1 Patrol, you respond to a variety of calls
19 for service, things of that nature, 911 calls such as
20 assaults, you know, things of that nature.

21 Q And did you receive a call about this case?

22 A Yes, ma'am. I heard a call-out over the radio, at
23 which point, Officer Bailey initiated a motor vehicle
24 stop. I was in the area and I responded on the scene as a
25 backup.

1 Q And do you remember where the location was?

2 A That was at the intersection of Meeting and Lee
3 Street.

4 Q And is that in the city limits of Charleston?

5 A Yes, ma'am.

6 Q Charleston County?

7 A Yes, ma'am.

8 Q So upon arrival, what do you observe?

9 A So upon arrival, Office Bailey was at the driver's
10 side of the vehicle. As I was approaching, I believe he
11 was getting the driver -- or the driver was exiting the
12 vehicle. Upon seeing this, I positioned myself to the
13 driver's side of the vehicle to assist him.

14 Q And who was on scene, who else?

15 A So I was the secondary officer on scene. Immediately
16 following me was Sergeant Scurry, aside from SPO Bailey.

17 Q Okay.

18 A And then Officer Bryan arrived on scene shortly
19 thereafter and Sergeant Flaherty.

20 Q And with regards to occupants of the vehicle, who was
21 in the vehicle?

22 A There was one other occupant, the female party.

23 Q Okay. And did you -- when you got there, do you
24 remember around what time it was?

25 A Around approximately 3:00 a.m.

1 Q Did you speak to anybody?

2 A I didn't speak with the passenger. As Bailey had the
3 driver exit the vehicle, I kind of stood between him and
4 the -- between him and the witness -- or the female party.

5 Q And from your investigation at that time during that
6 course of investigation, did you have an understanding as
7 to what the from -- the relation, the passenger and the
8 driver?

9 A I believe they were in some type of romantic
10 relationship. I wasn't sure exactly what at the time.

11 Q After that -- after, I guess, your observing or
12 investigating upon arrival, what did you do after that?

13 A So through investigative means, we learned that there
14 were possibly narcotics inside the vehicle. So upon
15 hearing this, I detained the defendant and placed my
16 handcuffs on him.

17 Q Okay. And can you explain why you detained him?

18 A Yes. So whenever there's some type of, you know,
19 narcotics in the vehicle, that type of unknown, we would
20 like to -- for officer safety, for the most part -- deny
21 access to that, and so we just placed him in handcuffs for
22 further investigation into that -- into those narcotics.

23 Q So you don't arrest at that point?

24 A He was not under arrest at that point.

25 Q You were just -- were you just investigating?

1 A Yes, ma'am.

2 Q And about how long was that after you arrived on
3 scene?

4 A I want to say a matter of a few minutes.

5 Q And do you remember around -- at what time -- did you
6 search the vehicle?

7 A I did search the vehicle.

8 Q Who else -- was anyone else searching the vehicle with
9 you?

10 A I believe Sergeant Scurry was on the driver's side of
11 the vehicle, as I was on the passenger side of the
12 vehicle.

13 Q And who makes the determination as to searching the
14 vehicle?

15 A I mean, personally, when I heard that there were
16 narcotics in the vehicle and the manner in which we
17 learned that information, I made the determination that
18 probable cause existed for that search.

19 Q And can you explain your process of searching the
20 vehicle, where you start?

21 A So I started on the passenger side of the vehicle. I
22 usually do a systematic search whenever I search a car.
23 So passenger side, and then I searched the center console
24 area, then back seat, and then I switch over to the other
25 side of the car, driver's seat, and then the rear seat

1 again.

2 Q And during the course of your investigation, were you
3 aware of where to look for the possible drugs?

4 A Yes, ma'am. I believe Officer Bryan learned through
5 investigative means that the drugs were specifically
6 located in a locked compartment underneath the center
7 console and they were located inside a bag.

8 Q And so upon learning this information with regard to
9 the lockbox, what did you do, if anything?

10 A I stood by and waited. I believe Sergeant Scurry
11 retrieved the -- the keys to unlock the lockbox.

12 Q And where were those keys?

13 A They were located on the defendant's person.

14 Q Okay. In a pocket?

15 A I don't recall.

16 Q Okay. And upon receiving those keys, did you do
17 anything with them?

18 A Yeah, I -- Sergeant Scurry handed me the keys and I
19 unlocked the lockbox and opened it.

20 Q And upon opening the lockbox -- well, could you get in
21 the lockbox before the key?

22 A No. It was locked.

23 Q And upon unlocking it, what did you -- can you just
24 describe what you saw?

25 A Yeah. There was a plethora of various items in there.

1 But there was the -- there was a Crown Royal bag that was
2 described by the female party and a glasses case for the
3 two things that stuck out to me right away.

4 Q And can you also explain just the overall vehicle,
5 what else was in there?

6 A Inside the lockbox?

7 Q Not the lockbox, just stepping back, in the vehicle
8 itself.

9 A Oh, there was, I mean, backpacks, miscellaneous
10 personal items throughout the vehicle. I believe there
11 was tools, fishing equipment, just a lot of personal use
12 things.

13 Q Okay. And so further, with regard to the lockbox, you
14 said -- what did you say you uncovered with regard to
15 narcotics?

16 A I believe it was around 3 grams of methamphetamine.
17 Within the glasses case, there was a pipe and a scale.

18 Q A digital scale?

19 A Yes, ma'am.

20 Q And Officer Chow, were you wearing a body-worn camera?

21 A I was.

22 Q Was it activated during your search?

23 A It was.

24 Q Was it activated during the entirety of the search?

25 A It was not activated during the entirety of the stop.

1 But it was activated as soon as I picked up the bag. I
2 realized my body-worn camera was off. Not really -- I
3 don't recall why it was off at the time. And as soon as I
4 observed that, I turned my body-worn camera on.

5 MS. MARTINEZ: May we approach, Your Honor?

6 THE COURT: Sure.

7 (Bench conference off the record).

8 THE COURT: Ladies and gentlemen of the jury, we
9 need to take up a matter of law. If you'll excuse us
10 for about five minutes. We'll bring you right back
11 in.

12 (The jury exited the courtroom.)

13 THE COURT: All right. What are the photos that
14 you're attempting to enter?

15 MS. BOZARTH: Your Honor, the State is
16 attempting to enter State's 10 through 14. State's 10
17 is an overview of the locked compartment. It shows
18 the eyeglasses case where they retrieved the meth
19 pipe. That is right immediately when Officer Chow
20 turns on his body cam before he takes out anything of
21 the center console. State's 11, due to your -- in
22 accordance with your ruling, your pretrial ruling with
23 regard to the ammo, there was ammo recovered in the --
24 in the body cam with, you know, the drugs. So what
25 we've done -- we do want to show the keys that go to

1 the lockbox, but we did redact the ammo in there. And
2 we also have State's 12 which shows defendant's
3 business -- lawn care business cards showing that this
4 is his, he had access to this, it's his ownership. We
5 also have State's 13. I believe this is what Defense
6 is objecting to. It's a bag of rubber bands, his
7 medicine, his phone charger. This also had the ammo
8 in it, but we -- it's not visible here. This we're
9 just showing all of what was in there. I don't see
10 how this is -- the probative value is substantially
11 outweighed by the danger of unfair prejudice for this.

12 THE COURT: What are you arguing as to why you
13 know what the photos in?

14 MS. MARTINEZ: Well, Your Honor, I think that
15 they're cumulative. And earlier, the State,
16 Ms. Bozarth was telling me that there's rubber bands
17 in here that go -- I guess, shows some proof of
18 packaging for possession with intent to distribute. I
19 don't know about --

20 THE COURT: It's a possession with intent to
21 distribute trial.

22 MS. MARTINEZ: -- I don't know how about the --
23 and also, cumulative because she already has an
24 overview, a picture with an overview of what was found
25 in the console.

1 THE COURT: I'm not worried about cumulative.
2 Bring them back in.

3 THE BAILIFF: Yes, Your Honor.

4 (The jury entered the courtroom.)

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

7 THE COURT: All right. I just wanted you to get
8 some steps in. All right. Yes, ma'am.

9 MS. BOZARTH: Thank you, Your Honor. Permission
10 to approach the witness?

11 THE COURT: Yes, ma'am.

12 BY MS. BOZARTH:

13 Q Officer Chow, I am approaching you with what's been
14 marked as State's 10 through 14. I'm handing you -- if
15 you thumb through those. And first, let me know if you
16 recognized them.

17 A I do.

18 Q And what are they?

19 A They are still shots from my body-worn camera of the
20 search of the vehicle, specifically the -- that lockbox
21 compartment.

22 Q And do those pictures fairly and accurately depict the
23 conditions at that time?

24 A They do.

25 Q Have they been altered in any way? Well, with minus

1 the redaction -- redactions on one?

2 A No, ma'am.

3 Q Okay.

4 MS. BOZARTH: Your Honor, at this time, the
5 State moves to admit State's 10 through 14 into
6 evidence.

7 (Plaintiff's Exhibits 10 through 14 were
8 moved for admission into evidence.)

9 THE COURT: All right. Over the objections.

10 MS. BOZARTH: Permission to publish, Your Honor?

11 THE COURT: Yes, ma'am.

12 (Plaintiff's Exhibits 10 through 14 were
13 admitted into evidence.)

14 BY MS. BOZARTH:

15 Q I'm showing you what's been marked as State's 10. Can
16 you describe what this is or what we're looking at?

17 A That's the open lockbox of the container that which we
18 opened with the defendant's key.

19 Q And what's that?

20 A That's the glasses case that the pipe was located
21 inside.

22 Q And at this point, is this right -- at what time is
23 this happening? Is this right when you turned your body
24 cam on?

25 A Yes, ma'am.

1 Q I'm showing you what's been marked as State's 11. Can
2 you explain, what's -- what's that?

3 A Those are the keys for the vehicle that were retrieved
4 from the defendant's person.

5 Q And this is still --

6 A The open lockbox.

7 Q -- okay. And can you describe the -- the center
8 console situation?

9 A Yes, ma'am. So the center console was -- there is
10 a -- there's two tiers to it. The first tier was just a
11 regular center console that you would have on any other
12 vehicle. And the second tier, the bottom tier, was
13 lockable which you have to -- the only means of opening
14 it, just like a glove box in a vehicle, is using the
15 vehicle's key.

16 Q And that's the -- is that the key that would drive the
17 vehicle?

18 A Yes, ma'am.

19 Q I'm showing what's been marked as State's 12. What is
20 that?

21 A That's a box that was retrieved from the -- that --
22 that center console.

23 Q Can you tell what that says?

24 A Lawn care business cards.

25 Q I'm showing what's been marked as State's 13. And is

1 that glare from your body camera?

2 A I believe that's from a -- glare from a flashlight
3 that was used.

4 Q Just like in there, can you identify what's in this
5 picture?

6 A It was a bag of rubber bands and prescribed pills,
7 pill bottles.

8 Q Is that a phone charger?

9 A I believe so.

10 Q And I'm showing you what's been marked as State's 14.
11 And despite the glare, can you tell what that is?

12 A That's the glasses case that I opened.

13 Q And what was inside the glasses case?

14 A The glass pipe.

15 Q And where was it?

16 A That was recovered from that lockbox.

17 Q And so -- I'm sorry. Just to clarify, did you
18 personally recover the drugs?

19 A So I located them inside the vehicle. Upon
20 discovering them, my sergeant, Sergeant Scurry at the
21 time, was on the driver's side. I opened the bag and the
22 glasses container.

23 Q I'm sorry. Just to -- what bag?

24 A The Crown Royal bag.

25 Q Okay.

1 A Sorry, I'm coughing from a cold. And I placed it on
2 the driver's seat where Sergeant Scurry was and he
3 inspected those narcotics.

4 Q Did you observe him open that bag?

5 A I did.

6 Q And you observed him take out the narcotics?

7 A Yes.

8 Q And from your understanding -- well, at that point,
9 what did you do?

10 A At that point, I continued my search. I believe he
11 took and seized the drugs with Officer Bailey. I'm not
12 sure exactly what they did, but I continued my search
13 throughout the vehicle as there was a lot of, you know,
14 bags and whatnot.

15 Q And with what you recovered, was that consistent with
16 what was -- what you had learned in your investigation
17 before searching the vehicle?

18 A Yes, ma'am. That was consistent with what we learned.

19 Q At that point, did you -- were you involved in field
20 testing the substance?

21 A I was not.

22 Q At that point, what did you do?

23 A After completing that search, I completed a tow sheet,
24 as we determined that the vehicle was going to be towed.
25 I completed that tow sheet and at that point, my body

1 camera was turned off -- or prior to getting back into my
2 vehicle -- excuse me -- my body camera was turned off and
3 the vehicle was towed.

4 Q Please answer any questions Defense may have.

5 MS. MARTINEZ: No questions from the Defense,
6 Your Honor.

7 THE COURT: All right. You may be excused.
8 Have a good rest of your day. Call your next witness.

9 MS. BOZARTH: The State calls Officer Bryan.

10 (The witness was sworn in.)

11 THE CLERK: Please have a seat. If you will
12 state your full name for the record, spelling your
13 last name, please.

14 THE WITNESS: My name is McCaughley Bryan. My
15 last name is spelled B-R-Y-A-N.

16 MCCAUGHLEY BRYAN

17 was called as a witness, and having been first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MS. BOZARTH:

21 Q Officer Bryan, where do you work?

22 A I work for the City of Charleston Police Department.

23 Q And how long have you been working there?

24 A I was hired in 2019, approximately four years.

25 Q And what's your title now?

1 A I'm a detective assigned to the special victims unit.

2 Q And for that, what's your experience -- or what's your
3 training?

4 A So I graduated from Clemson University, where I
5 majored in criminal justice and minored in legal studies.
6 From there, I went to the South Carolina Criminal Justice
7 Academy. I graduated and was hired by the City of
8 Charleston Police Department. Of my experience
9 contributing on patrol and additionally wanted what I do
10 now as a detective. I've attended numerous trainings as
11 well.

12 Q Back in 2021, were you working in the same capacity,
13 or what was your role or title?

14 A In 2021, I was working as a patrol officer for the
15 Team 1 area, which is in downtown Charleston.

16 Q And at that time, what were your responsibilities?

17 A Working patrol, I had a range of responsibilities. I
18 responded to everything from 911 calls. Those could
19 include multiple different things that we would be
20 responding to. Additionally, I responded to things, just
21 traffic stops, I conducted traffic stops, and I also
22 responded to traffic accidents as well.

23 Q And in July 2021, did you receive a call about this
24 case?

25 A I did.

1 Q And what did you do upon receiving that call?

2 A I responded to the -- to the scene of the traffic
3 stop.

4 Q And upon arrival, what did you observe?

5 A Upon my arrival, I observed -- when I got there, I saw
6 Senior Police Officer Bailey. He was in his car. I
7 believe he was in his car. He was speaking with Sergeant
8 Flaherty. And then Officer Chow was standing behind the
9 vehicle with the defendant, and the witness was standing
10 on the sidewalk on the passenger side of the vehicle with
11 Sergeant Scurry.

12 Q And at that point, do you recall what time you
13 responded to the scene?

14 A Approximately 3:00 a.m.

15 Q And at that point, again upon arrival, what do you do?

16 A When I -- initially when I arrived, I -- sorry --
17 initially when I arrived, I was instructed to frisk the
18 witness, and it resulted in negative weapons on her
19 person.

20 Q The witness being the female passenger?

21 A Yes.

22 Q At that point upon frisking her, what did you do?

23 A At that point, I just spoke with her, had a
24 conversation.

25 Q And what was -- again, what was your role at that

1 time?

2 A It was to act as an assisting officer, a backup
3 officer and just provide support wherever needed.

4 Q Okay. And what was -- what was -- what was the
5 witness's demeanor?

6 A She was very talkative. She was emotional. It
7 appeared that she was upset from the events from earlier
8 in the evening.

9 Q And without saying what she said, do you have an
10 understanding of how she knew the defendant?

11 A My understanding through our conversation was that she
12 and the defendant back in 2021 at that point had been
13 dating for approximately a year and a half.

14 Q And for how long were you talking to her,
15 approximately?

16 A I spoke with her for the majority of my time on scene,
17 approximately 30 minutes.

18 Q And while you're talking to her, what was everybody
19 else doing?

20 A So my main focus was on the witness and speaking with
21 her. I believe upon my arrival it was when I started to
22 notice where everybody was at the time. And at that
23 point, Sergeant Flaherty and sergeant -- or Senior Police
24 Officer Bailey were speaking in their vehicle, and I
25 approached the witness, and Sergeant Scurry and Officer

1 Chow was at the rear of the vehicle with the defendant.

2 Q And at that point, had you gained further information
3 as to what was going on?

4 A Yes. At that point, while speaking -- or through my
5 conversation with the witness, I learned that there were
6 narcotics in the vehicle.

7 Q And through your investigation, were you informed as
8 to where those narcotics may be?

9 A Yes.

10 Q Were you provided the information as to multiple
11 locations or what?

12 A Multiple locations.

13 Q As to possibly where they could be?

14 A Yes.

15 Q And upon learning that information, what did you do?

16 A Upon learning that information, I relayed that
17 information to Sergeant Scurry.

18 Q And did you continue your conversations with the
19 witness?

20 A I did.

21 Q And did you gain more information the more you talked
22 to her?

23 A I did.

24 Q Would you inform your sergeant throughout?

25 A Yes.

1 Q And did you learn about a locked compartment?

2 A Yes. So during my conversation with the witness, I
3 learned that there would be narcotics located in a secret
4 compartment in the middle of the vehicle under the front
5 seat. So under the front seat in the middle, she referred
6 to it -- referred to it as a secret compartment. There
7 would also be narcotics located in a bookbag, in a Crown
8 Royal bag, in a Cubes gum container, as well as in a
9 glasses case. Additionally, there would be other
10 miscellaneous bags also located in the vehicle that would
11 contain other paraphernalia such as needles and a scale.

12 Q And did you have any involvement physically searching
13 the vehicle?

14 A No.

15 Q Did you recover anything --

16 A No.

17 Q -- from the vehicle? Was it your job to take written
18 statements from anybody?

19 A No.

20 Q Was it your job to, I guess, fingerprint the car?

21 A No.

22 Q In your experience, is that something that law
23 enforcement would do in this kind of case?

24 A No.

25 Q And at that point after the search were you a part of

1 field testing the substance?

2 A No.

3 Q And after that, what -- what did you do?

4 A After that, I was instructed to transport the
5 defendant from the traffic stop to Al Cannon County
6 Detention Center.

7 Q So the defendant was in your backseat?

8 A Yes.

9 Q And was he already arrested?

10 A Yes.

11 Q Did you provide him air conditioning?

12 A I did. It was July 2021 in downtown Charleston, so it
13 was very hot. I asked if he wanted the AC on, and he
14 requested the AC -- the air be circulating back, which
15 makes it very, very loud in my cruiser.

16 Q Did you conduct any -- well, how long was the car ride
17 to the jail?

18 A I am unable to recall for certain the exact time, but
19 it was approximately 15 minutes.

20 Q And at that point, what did you do?

21 A At which point?

22 Q When you got to the jail.

23 A I transported him -- or walked with him inside and
24 took him into the detention center.

25 Q And do you remember what time you left the detention

1 center?

2 A I do not.

3 Q Is -- did you conduct any follow up?

4 A I did not.

5 Q Is that the extent of your involvement in this case?

6 A Yes.

7 Q Okay. Please answer any questions the Defense may
8 have?

9 THE COURT: Okay.

10 MS. MARTINEZ: I beg the Court's indulgence,
11 Your Honor.

12 CROSS-EXAMINATION

13 BY MS. MARTINEZ:

14 Q So you testified that the witness was emotional.

15 A Yes.

16 Q Did she appear intoxicated when you were speaking to
17 her?

18 A I could not say for certain. I was not giving her an
19 FST test or anything like that.

20 Q Was she slurring her words?

21 A I don't recall.

22 MS. MARTINEZ: I beg the Court's indulgence. No
23 further questions for the witness, Your Honor.

24 THE COURT: Anything to follow-up?

25 MS. BOZARTH: Nothing from the State, Your

1 Honor.

2 THE COURT: All right. Thank you so very much.
3 You may step down. Have a wonderful rest of your day.
4 Call your next witness.

5 MR. FINLEY: The State calls Sonya Herron.

6 (The witness was sworn in.)

7 THE CLERK: Please have a seat. And if you will
8 state your full name for the record, spelling your
9 last name, please.

10 THE WITNESS: Sonya Herron, H-E-R-R-O-N

11 SONYA HERRON

12 was called as a witness, and having been first duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. FINLEY:

16 Q Sonya, do you know the defendant, Kyle Mouzon?

17 A Yes, sir.

18 Q Do you see him in this courtroom today?

19 A Yes, sir.

20 Q Could you please point him out to the Court?

21 A In the yellow.

22 Q Were you and the defendant dating back in July of
23 2021?

24 A Yes, sir.

25 Q For approximately how long had you been dating at the

1 time of this incident?

2 A Probably a year and a half.

3 Q Did you call the defendant to come pick you up in the
4 early morning hours of July 15th, 2021?

5 A He was supposed to meet me out that night.

6 Q Did he meet you?

7 A Did he meet me?

8 Q Yes.

9 A Not 'til after the bars closed.

10 Q But approximately what time was that?

11 A About 2:30.

12 Q And then after he met you all, did you all head home
13 or start to head home later?

14 A We started to head home. Yes, sir.

15 Q Was he driving his truck?

16 A Yes, sir.

17 Q When you got into his truck, did you have anything on
18 you?

19 A Just my food and then my phone.

20 Q When you were in (noise disruption, unintelligible),
21 did a -- did a police officer pull you over?

22 A Yes, sir.

23 Q Did you ask law enforcement to exit the vehicle?

24 A Yes, sir.

25 Q Were you patted down by law enforcement?

- 1 A Yes, sir.
- 2 Q Did law enforcement find anything on you?
- 3 A No, sir.
- 4 Q Did you alert law enforcement to the possibility that
5 narcotics were in the vehicle?
- 6 A Yes, sir.
- 7 Q Did you know exactly where the narcotics were located?
- 8 A No, sir.
- 9 Q Did you give them --
- 10 A Just gave them different areas.
- 11 Q -- areas to search?
- 12 A Like, various places that I had known of from just us
13 using drugs.
- 14 Q How did you know there were drugs in the vehicle?
- 15 A Just from him and I using drugs together. Like, we've
16 done drugs together. He's given me drugs.
- 17 Q You used drugs --
- 18 A We had relationship.
- 19 Q -- you use drugs together before?
- 20 A Yes, sir.
- 21 Q And he's given you drugs before?
- 22 A Yes, sir.
- 23 Q Were you ever detained or placed under arrest or
24 charged with a crime related to this incident?
- 25 A On that night? No, sir.

1 Q On that night. You just stated that you had used
2 drugs before. Have you ever been charged or convicted of
3 a crime because of your drug use?

4 A Yes, sir.

5 Q You have?

6 A Yes, sir. I've just had two charges.

7 Q You have two charges?

8 A Yes, sir, from 2015 and then from 2019. I think
9 that's last year.

10 MR. FINLEY: No more questions, Your Honor.

11 THE COURT: All right.

12 MR. FINLEY: Answer any questions the Defense
13 may have.

14 CROSS-EXAMINATION

15 BY MS. MARTINEZ:

16 Q So in 2016, you were convicted for possession of meth;
17 right?

18 A You said 2016?

19 Q Yes.

20 A No.

21 Q No?

22 A I was convicted, or was I arrested?

23 Q Convicted.

24 A When I went to court? Are you saying when I went to
25 court for it?

1 Q Yes.

2 A Oh, sorry. I guess I was there. I was convicted. I
3 just know about the year I was arrested.

4 Q Would it help refresh your memory if I showed you the
5 sentencing sheet of your guilty plea?

6 A I know what I pleaded guilty to. I got 18 months
7 probation from it.

8 Q And then in '21, you were also convicted of
9 possession.

10 A Okay. yeah, that was (unintelligible) -- or no, wait.

11 Q Not '21, '23, March of this year, you were convicted.

12 A Yeah, I was convicted this year. I had six months
13 probation. I just got off of it. That was from when I
14 got arrested in 2019.

15 Q Okay. So you met with the solicitor last week?

16 A The same day I met with you.

17 Q Yes, September 6th?

18 A Yes.

19 Q Right before you met with -- with us. When you met
20 with the solicitor, you watched some body-cam video.

21 A Yes.

22 Q Body-cam video of you?

23 A Just of me, yes.

24 Q Okay. And before you watched that video, you didn't
25 remember exactly what had happened; right?

1 A No. I didn't remember anything until we got out of
2 the car.

3 Q I'm sorry?

4 A Until we got out of the car. Like, I didn't remember
5 like what I said to the officers or -- I do remember what
6 I said to the officers, but I don't remember like -- or I
7 gave like a whole life story of my life.

8 Q But prior to watching body-cam video in preparation
9 for trial, you didn't remember exactly all of what had
10 happened and what you said that night.

11 A I was under the influence, yes, but, but I do recall
12 like initially why -- when we got pulled over. I'm trying
13 to understand your question, like -- but nevermind.
14 Sorry.

15 Q Do you remember telling us when you met with my
16 investigator, Mr. Jason King, that you didn't remember all
17 of what happened that night?

18 A I do, but I don't - I didn't say about all that night.
19 You asked me if I just remembered anything from that
20 night, and I said not everything.

21 Q Okay. So you had a history with Kyle.

22 A Yes.

23 Q Okay. On July 15 of '21, he was your boyfriend.

24 A The '21, yes.

25 Q Yes. And you now have a 2-month-old son together.

- 1 A Mm-hmm.
- 2 Q Okay. So in '21, you were living in Goose Creek?
- 3 A I've always lived in Goose Creek. Yes.
- 4 Q Okay. And that night you were out with friends in
5 downtown.
- 6 A Mm-hmm.
- 7 Q And Kyle was not out with you?
- 8 A No. He was supposed to meet with me that night.
- 9 Q He was out with your friends?
- 10 A No. He was supposed to meet us -- he was supposed to
11 meet us downtown that night. I got out with my friends
12 at, like, 9:00. He was supposed to be there a couple of
13 hours later, but he didn't show up 'til (unintelligible).
- 14 Q Okay. So he was supposed to go to downtown to pick
15 you up, is that what you're saying?
- 16 A No. He was supposed to actually be downtown with me,
17 like, downtown and out with friends that night, but he
18 didn't.
- 19 Q Do you remember telling Officer Bryan he was supposed
20 to be there to pick you up?
- 21 A No. He ended up picking me up but, no, he was
22 supposed to be downtown with me at the time.
- 23 Q So --
- 24 A But he ended up just picking me up. Like regardless,
25 I was supposed to ride home with him that night.

1 Q Okay. He was supposed to give you a ride home?

2 A Yeah. Like he was -- no matter what, whether he was
3 going downtown or to pick me up right after, like, we were
4 supposed to ride together back home to like drop me off or
5 stay the night, whatever he wanted to do.

6 Q And right before he was supposed to pick you up, there
7 was a scuffle at the place where you were hanging out?

8 A Yeah. No, not at Gilroy's where I was hanging at.
9 That was at Republic.

10 Q Okay. So the police came over to Republic?

11 A But that -- yeah, but that has nothing to do with --
12 nevermind. Sorry. Sorry. He wasn't there for that.

13 Q All right. I understand. You were doing drugs that
14 night?

15 A I was under the influence from intoxication.

16 Q Okay. You were doing in MDMA or ecstasy?

17 A No.

18 Q Do you remember when you met with myself and my
19 investigator?

20 A And I told you I was under the influence, yes.

21 Q Do you remember saying that you also were on MDMA, or
22 using MDMA?

23 A No. I said I was under the influence.

24 Q So you mentioned Gilroy's earlier.

25 A Gilroy's.

1 Q So (unintelligible) at Gilroy's?

2 A Yeah. That's where we got food at.

3 Q Okay.

4 A It's the only place that's open after the bars.

5 Q And --

6 THE COURT: Hold on. You've got to speak up.

7 BY MS. MARTINEZ:

8 Q -- what's the last thing you said --

9 THE COURT: Hold on, hold on. You've got to
10 speak up --

11 THE WITNESS: Oh, I'm sorry.

12 THE COURT: -- because whatever you say is being
13 recorded, and I couldn't hear anything you were
14 saying.

15 THE WITNESS: Sorry. I said it was the only
16 place that was open after the bars closed was
17 Gilroy's.

18 BY MS. MARTINEZ:

19 Q And so Kyle picked you up a little bit before 3:00
20 a.m.?

21 A Yeah, 3:00 a.m. Yeah.

22 Q So that night, you got some information that Kyle had
23 been cheating on you.

24 A It's been like earlier than just that night, but yeah
25 yes, ma'am.

1 Q For about a year or something like that?

2 A About like the whole time we were together at the
3 time? Yes, ma'am.

4 Q Okay. And you learned this through the father of one
5 of your children; is that right?

6 A Yes.

7 Q So when you picked him up, you confronted him right
8 away?

9 A When I picked him up?

10 Q When he picked you up. I apologize. When he picked
11 you up, you confronted him?

12 A No, not right away.

13 Q But you confronted him in the truck?

14 A At some point, yes.

15 Q Okay. You threatened to call the other woman.

16 A Yes.

17 Q Okay. You were angry.

18 A Of course, yes.

19 Q The two of you were arguing.

20 A We were going back and forth, yes.

21 Q Okay. And you guys stopped at a gas station at some
22 point.

23 A I don't recall, like, stopping at a gas station.

24 Like, I've never -- I didn't get out of the car once I got
25 in the car.

1 Q Okay. Do you remember rolling into a gas station at
2 any point?

3 A Honestly, I wasn't paying attention to anything like
4 that.

5 Q Okay. So at some point on Meeting Street and Lee
6 Street, police pulled over the truck.

7 A I don't know where exactly they got behind us at.

8 Q And you weren't paying attention because you were busy
9 arguing; right?

10 A Yeah. It was -- yes, ma'am, we were.

11 Q Okay. So at some point while the two of you are
12 arguing, you tried to put the truck in park?

13 A No, I never tried to put the car in park.

14 Q Okay.

15 A Or truck, sorry.

16 Q And that's why the truck stop abruptly.

17 A I don't recall even stopping abruptly, but I didn't
18 try to put his truck in park.

19 Q So when Officer Bailey came to the truck, one of the
20 first things you did was you asked to get out; right?

21 A Yes, because we were arguing and it was going -- like,
22 we started getting physical with each other. But that was
23 -- that's why I asked to get out of the car.

24 Q Okay. You were angry.

25 A Yeah.

1 Q So you had food stains all over you from the wing
2 sauce?

3 A I had food all over me. Yes, ma'am.

4 Q So you get out of the car -- the truck. You get out
5 of the car, the officers are talking to you; is that
6 right?

7 A Are you asking me?

8 Q Yes.

9 A Yes.

10 Q And you told them that there were drugs in the car?

11 A Yes.

12 MS. MARTINEZ: I beg the Court's indulgence. I
13 have no further questions, Your Honor.

14 THE COURT: All right.

15 REDIRECT EXAMINATION

16 BY MR. FINLEY:

17 Q So you and Kyle were arguing.

18 A Yes, sir. Yes, sir. Sorry.

19 Q From the time -- from the time you got in his truck,
20 to this argument, to the time the police officers pulled
21 you over, did you place drugs in the locked compartment in
22 his truck?

23 A No, sir. When I got into his truck, like the car --
24 he never pulled his keys out of the ignition. The car
25 stayed running the whole time.

1 Q And you've told us about your prior convictions and
2 your troubles with drug use?

3 A Yes, sir.

4 Q And you've taken responsibility for those convictions?

5 A Yes, sir.

6 Q You pled and you took responsibility and took the
7 consequences; correct? You're on probation?

8 A Yes, sir. I just got off probation.

9 Q No more questions.

10 THE COURT: All right. Thank you very much.
11 You may step down. Ma'am?

12 THE WITNESS: Oh, sorry. Do I leave this
13 behind?

14 THE COURT: Yes.

15 THE WITNESS: Okay. Thank you.

16 THE COURT: All right. Call your next witness.

17 MR. FINLEY: The State calls Sergeant Scurry.
18 Permission to approach the bench, Your Honor?

19 THE COURT: Yes, sir.

20 (Bench conference off the record.)

21 THE CLERK: Please have a seat. If you'll state
22 your full name for the record, spelling your last
23 name, please.

24 THE WITNESS: Jason Scurry. The last name is
25 S-C-U-R-R-Y.

1 A Yep. I went to the passenger's side and I spoke to a
2 witness or the passenger in the vehicle, a female party.

3 Q The passenger?

4 A Yes, sir.

5 Q And what was her demeanor at the time when you spoke
6 to her?

7 A She -- she appeared to be a little distraught,
8 tearful, very talkative. It seemed like her heart rate
9 was a little elevated based on whatever she was going
10 through at the time.

11 Q So without saying what she said, did you understand
12 the relationship with the defendant at that time?

13 A Shortly thereafter, yes. It was some sort of
14 relationship, yes, sir.

15 Q Did she have anything on her?

16 A No, sir.

17 Q How long did you speak with the passenger?

18 A I spoke to her for several minutes, maybe three to
19 five minutes.

20 Q And upon speaking with her, what did you do after
21 that?

22 A Upon speaking with her after that, I believe I left
23 her. I called for a female officer to come deal with her,
24 basically. I spoke to the defendant briefly. I spoke to
25 the officers briefly as well.

1 Q And -- and through your investigation, did you learn
2 any additional information?

3 A Yep. The witness, the female party, did say the
4 defendant had drugs in his vehicle, yes.

5 Q So upon receiving this information that there was
6 possibly drugs in the vehicle, what did you do next?

7 A I think at that point, other officers had him detained
8 for the most part. And I think they overheard it as well,
9 but I let, I think, Officer Bailey know too of her
10 statements.

11 Q Did you speak with the defendant?

12 A Briefly, I did speak to him.

13 Q Did you ask him about the possibility of narcotics
14 being in his vehicle?

15 A Yes, sir, I did.

16 Q And what was his answer?

17 A He said, no, there was no narcotics in the vehicle.

18 Q What was his demeanor at this point when you were--
19 when you were talking to him?

20 A So I thought he was cool, he was calm, he wasn't
21 agitated. He didn't appear like he was drinking or
22 anything. He was steady on his feet. He was just cool
23 and calm. He answered all the questions without
24 hesitation.

25 Q So at this point, did you -- did you and other

1 officers go search the vehicle?

2 A Yes, at that point. I think a little more
3 intelligence was gathered but, yes, we conducted a search
4 on the vehicle.

5 Q Can you describe just the general contents when you
6 were searching the vehicle what was in it?

7 A Briefly, I searched the vehicle in the back. I mean,
8 it seems like he lived in the vehicle, basically. There
9 was bags -- a lot of bags, just other things within the
10 second cab of the truck, multiple items, a few backpacks,
11 things like that.

12 Q So while you were performing this search, did you
13 learn any additional information from other officers?

14 A Yes, sir. While we were doing this search, the female
15 party was still talking to the female officer, and I think
16 she got more in-depth of where the drugs were at in
17 describing items and where they were located at.

18 Q Did she describe multiple locations?

19 A At first, I think she said backpack. She described a
20 few different places. Then as the female officer spoke to
21 her, she claimed it was in a lockbox in the truck under
22 the center console, and she kind of describes the items
23 that was inside.

24 Q So upon learning that information that there was a
25 lockbox, what did you do at that point?

1 to the level of being overly drunk.

2 Q So she had food stains on her tube top?

3 A I don't remember that, but I think the other officers

4 said that she did look distraught. I don't know if they

5 were food stains or what.

6 Q Did she seem upset?

7 A She did seem a little upset. She was very talkative.

8 Yes.

9 Q A little angry?

10 A Maybe a little, yes.

11 Q They were in some kind of argument, her and Kyle?

12 A Yes, ma'am.

13 Q So after you're talking to her and talked to Kyle, you

14 just said he was cool and calm?

15 A At first approach, yes, ma'am.

16 Q Okay. He was composed?

17 A Yes, ma'am.

18 Q Not nervous?

19 A I would say he was probably a little nervous, but he

20 was -- he was manageable. He was easy to talk to. He --

21 he -- that's what I'm saying.

22 Q Not sweating, not shaking?

23 A I'm not going to say all that. I'm just saying he was

24 manageable and you could talk to him.

25 Q Did you see him shaking or sweating?

1 tell?

2 A The suspect is listed as Kyle Nicholas Mouzon.

3 Q And is this a fair and accurate representation of the
4 lab report that you generated as a result of your --

5 A Yes.

6 Q -- testing?

7 A Yes.

8 MS. BOZARTH: Your Honor, the State moves to
9 admit State's 9 into evidence.

10 (Plaintiff's Exhibit 9 was moved for
11 admission into evidence.)

12 THE COURT: All right. Any objection?

13 MS. MARTINEZ: Your Honor, subject to previous
14 objections.

15 THE COURT: All right. Overruled.

16 (Plaintiff's Exhibit 9 was admitted into
17 evidence.)

18 MS. BOZARTH: Permission to publish, Your Honor?

19 THE COURT: Yes, ma'am.

20 BY MS. BOZARTH:

21 Q Okay. Amber, can you just kind of walk us through
22 what all of this means?

23 A Yeah, okay. So what would happen is a case would come
24 to me. I'd be assigned a case. It would be released to
25 me by the evidence technician. And so what I would do is

1 I would take the case and I would verify that the lab
2 number listed is corresponding to the case number in RMS.
3 Once I've verified that the information is correct, then I
4 proceed with my analysis. In this particular case, I've
5 described it as a crystalline substance. Methamphetamine
6 generally is present as a crystalline substance. And I
7 have weighed it, so that weight I was talking about before
8 was automatically generated into this report 3.20 grams.
9 The number next to it is the measurement of uncertainty
10 for the balance which, as you can see, is very, very
11 small. The results are methamphetamine, and methods I
12 used were a presumptive color test, FTIR, and GCMS.

13 Q And with regard to those drugs, can you -- can you
14 explain the process of how you end up with them?

15 A So what happens is if drugs are taken in, the officers
16 turn them into evidence. An evidence technician -- in
17 this case, Linda Wilson -- she would travel from the
18 forensic services building to headquarters. She would get
19 the substances that are marked to be analyzed, bring it
20 over to the forensic services building. And at that
21 point, the lab manager assigns to the analyst who's
22 getting what case. Then I would come downstairs, collect
23 my assigned cases, Linda would sign them out to me in the
24 chain, and then I would proceed with analysis.

25 Q And can you tell if a substance has been -- is there

1 tamperproof --

2 A Yes.

3 Q -- so can explain -- can you explain that from when
4 law enforcement -- from your -- from this incidence, when
5 law enforcement drops off the drugs?

6 A I am not super familiar with their procedures. I know
7 what we do from the point we receive it. But we are not
8 allowed to accept it if the officer hasn't placed it in an
9 outer, double-sealed and initialed evidence envelope or a
10 bag and then later in an envelope.

11 Q And then from where what do you do in this case?

12 A At that point, I come, I make sure that the seals are
13 in place and nothing is unsealed. I test them and I see
14 that the initials are there. And at that point, I would
15 cut the side of the bag. I don't cut the officer initials
16 ever to get to the evidence to analyze it.

17 Q And upon reviewing your report, do you complete a
18 record of who handles the drugs?

19 A Yes.

20 Q And what would you call that?

21 A A chain of custody.

22 Q And according to your chain of custody, do you -- do
23 you have that up there with you?

24 A This is the RMS chain.

25 Q Well, with regard -- with the chain with regard to the

1 -- the drugs?

2 A With -- with the drugs, yes.

3 Q And can you -- can you tell who obtained the drugs and
4 who went --

5 A I can tell --

6 Q -- who handled them?

7 A -- I can see that Officer Bailey was first, and I can
8 see then Bryan (unintelligible) in evidence, who signed
9 them in, and then I can see that Linda picked them up and
10 brought them to the forensic services building.

11 Q Okay. And then that's where you took them --

12 A And that's where I -- yes --

13 Q -- unsealed it?

14 A -- then I took it next, and then I returned it to
15 Linda.

16 Q Okay. Okay. Amber, I'm showing you what's been
17 marked as State's Exhibit 1 for identification purposes.

18 A Okay.

19 Q Do you recognize that?

20 A Can I open it?

21 Q Yeah.

22 A Because my initials would be --

23 Q Well, yeah.

24 A -- on the seal inside.

25 Q But don't publish it to the jury yet.

1 A Yep, I do. I recognize it.

2 Q And what is that?

3 A This is a plastic bag of crystalline substance.

4 Q And can you tell where that's from?

5 A I can, because I can see Officer Bailey's initials on
6 the seal and I can also see my own initials on both the
7 weight and the seal that I did.

8 Q Is that how you can tell that you tested these
9 substances?

10 A Mm-hmm, yeah. Yes.

11 Q Have those substances been altered or tampered with?

12 A No. It does not appear to have been opened it all,
13 not since my analysis.

14 Q Okay. And that was in a secured lab?

15 A Yes.

16 Q Is it in substantially the same condition as when you
17 handled it?

18 A Yes.

19 MS. BOZARTH: Your Honor, the State would like
20 to admit State's 1 into evidence at this time.

21 (Plaintiff's Exhibit 1 was moved for
22 admission into evidence.)

23 THE COURT: All right.

24 MS. MARTINEZ: Your Honor, subject to our
25 pretrial motions.

1 THE COURT: All right. Over the objection.

2 (Plaintiff's Exhibit 1 was admitted into
3 evidence.)

4 MS. BOZARTH: Permission to publish?

5 THE COURT: (No audible response.)

6 BY MS. BOZARTH:

7 Q And this is substance that you tested?

8 A Yes.

9 Q This crystallized substance that's in this bag?

10 A Yes.

11 Q And would you have -- how much did you say it weighed?

12 A 3.20 grams.

13 Q And from those tests that you made, were you able to
14 come to an opinion as to what the substance was?

15 A Yes. The substance is methamphetamine.

16 Q And you just said -- you just said that it weighed
17 3.2 grams?

18 A Yes.

19 Q Please answer any questions Defense may have.

20 THE COURT: All right.

21 MS. MARTINEZ: I have no questions for the
22 witness, Your Honor.

23 THE COURT: All right. Thank you very much for
24 being here. Please drive safe. Call your next
25 witness.

1 regard to what Karla -- that previous argument in
2 regard to defendant's -- I can still comment on his
3 demeanor.

4 THE COURT: Sure.

5 MS. BOZARTH: Thank you.

6 THE COURT: Bring them out.

7 (The jury entered the courtroom.)

8 THE BAILIFF: All jurors are present, Your
9 Honor.

10 THE COURT: All right. Thank you so very much.
11 All right. Thank you all for being on time.
12 Obviously, I keep trying to tell you all that we
13 normally are always on time, but something keeps
14 coming up, so I apologize for that. And we will get
15 started and go ahead and continue with the trial. All
16 right. Call your first witness.

17 MS. MARTINEZ: The Defense calls Kyle Mouzon.

18 (The witness was sworn in.)

19 THE CLERK: State your full name for the record,
20 spelling your last name.

21 THE WITNESS: Kyle Mouzon, M-O-U-Z-O-N.

22 KYLE MOUZON

23 was called as a witness, and having been first duly sworn,
24 testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MARTINEZ:

2 Q. Kyle, are those drugs here in evidence, are they your
3 drugs?

4 A. No, ma'am.

5 Q. What is your age?

6 A. 34.

7 Q. Where do you live?

8 A. North Charleston.

9 Q. And what do you do for work?

10 A. I own my own landscape company.

11 Q. And do you know Sonya Herron?

12 A. Yes, ma'am.

13 Q. How do you know her?

14 A. We were in a relationship for about a year and a half,
15 two years at that time.

16 Q. How long? You said a year and a half, about a year
17 and a half; is that right?

18 A. Yes, ma'am.

19 Q. Okay. Do you have any kids together?

20 A. Yes, ma'am.

21 Q. How old?

22 A. About two months.

23 Q. Just one, or several?

24 A. Yes, ma'am, just one.

25 Q. Okay. So let's talk about the early morning of July

1 15th, '21. Why did you come to downtown?

2 A. I was called come pick her up about 12:00, 12:30, and

3 I got down there about 2:00, 2:15 at the --

4 Q. And when you say you were downtown to pick up, who are
5 you talking about?

6 A. Sonya Herron.

7 Q. Okay. So she called you around 12:00, 12:30 --

8 A. Yes, ma'am.

9 Q. -- and you came down here to pick her up. Where did
10 you pick her up?

11 A. Off of King Street in front of Gilroy's, the pizza
12 place.

13 Q. Do you remember around the time you got there?

14 A. Like I said, it was about 2:00, 2:15, in that window
15 somewhere around there.

16 Q. And so was she still out with friends?

17 A. Yes, ma'am.

18 Q. What happened when you picked her up in front of
19 Gilroy's?

20 A. There was an argument that went on for about five or
21 ten minutes outside of the truck. And then we got into
22 the truck and made my way around to hit the interstate.

23 Q. And five to ten minutes, you guys are arguing outside
24 of the truck. What was the argument about?

25 A. She was saying that I had cheated on her for the --

1 the whole relationship, that I'd been with somebody else.

2 And that's what -- that's what she was arguing about.

3 Q. Okay. Anything else going on while you guys were
4 arguing outside of the truck?

5 A. She was yelling all kinds of stuff. She was yelling
6 rape at the time, she was -- I mean, cussing, carrying on.
7 It was -- it was a -- it was a sight to see.

8 Q. Okay. So you eventually made it to the truck, back
9 into the truck. What happens when you get to the truck?

10 A. Like I said, she was still carrying on, but we got in
11 the truck. I got her calmed down enough that I felt safe
12 that she could get in the truck and we could make it home.
13 We take a left off of King Street and she's -- I can tell
14 she's starting to get riled up again, and I pulled into
15 the gas station. And the attendant there had seen the
16 argument and she said that she was going to call the
17 police. And then that's when I went ahead and left the
18 gas station and was later pulled over about two or three
19 minutes after that.

20 Q. You got pulled over about two or three minutes
21 after --

22 A. Leaving the gas station.

23 Q. -- the gas station?

24 A. Yes, ma'am.

25 Q. Who pulled you over?

1 A. Officer Bailey, I think it is.

2 Q. Okay. Did you get arrested that night?

3 A. Yes, ma'am.

4 Q. Did she put the gear in park?

5 A. Yes, ma'am.

6 Q. Okay. So Officer Bailey testified yesterday that you
7 acknowledged that the crystalline substance he showed you
8 was meth. How did you know it was meth?

9 A. Just seeing it. Seeing that she had had two prior
10 convictions of that, that she had been around it, and I
11 figured that's what she had on her.

12 Q. Were they your drugs?

13 A. No, ma'am.

14 Q. Did you put them there in the center console?

15 A. No, ma'am.

16 Q. Who put them there?

17 A. She did.

18 Q. Did you plan to do anything with the drugs?

19 A. No, ma'am.

20 Q. Did you know they were there?

21 A. No, ma'am.

22 Q. Did you tell the cops they were there?

23 A. I didn't tell the cops. I told the cops that I knew
24 she had put something in my console. But I was not aware,
25 I did not check the -- the bag or did not ask about a bag,

1 what was in it.

2 MS. MARTINEZ: The Court's indulgence.

3 THE COURT: Yes, ma'am.

4 MS. MARTINEZ: Nothing further from the witness,
5 Your Honor.

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

7 CROSS-EXAMINATION

8 BY MS. BOZARTH:

9 Q. So you testified that you had been dating Sonya for
10 about a year and half or up to two years?

11 A. Yes, ma'am.

12 Q. And about -- did you spend a lot of time with her, I
13 mean, over a year and a half to two years? That's a lot
14 of time?

15 A. Yes, ma'am.

16 Q. And you knew she was using meth while you were dating
17 her.

18 A. No, ma'am.

19 Q. Well, you just testified that she had those prior
20 convictions.

21 A. Yes, ma'am. That was before me and her.

22 Q. Well, that's not -- those convictions were not, but
23 we'll -- we'll circle back to that. You -- well you were
24 at home in North Charleston before you drove downtown;
25 right?

1 A. Yes, ma'am.

2 Q. And what time did you get that call?

3 A. About 12:00, 12:30.

4 Q. And about what time did you arrive downtown?

5 A. About 2:00, 2:15.

6 Q. And you were supposed to meet up with her at Republic?

7 A. No, ma'am.

8 Q. And you -- you arrived, I guess -- how -- how long

9 does it generally take you to get downtown?

10 A. 30, 20 to 30 minutes, at best.

11 Q. So you got that call, you drove all the way downtown

12 in for minutes just to pick her up?

13 A. Yes, ma'am.

14 Q. Just to pick her up to take her back all the way to

15 Goose Creek --

16 A. Yes, ma'am.

17 Q. -- that early in the morning?

18 A. Yes, ma'am. She'd been out at the bars and she needed

19 a ride home. The bars were closing at 2:00.

20 Q. And so you drove all the way there and all way back?

21 A. Yes, ma'am.

22 Q. And you knew she was mad at you?

23 A. At the time, I did not know that the argument was

24 about to come on from that, no.

25 Q. And you knew she was mad at you for cheating on her?

- 1 A. No, I did not.
- 2 Q. And you knew that she liked meth?
- 3 A. No.
- 4 Q. You testified that she was a meth user.
- 5 A. I testified saying that I knew her prior convictions.
- 6 Q. At the time that law enforcement approached you, you
- 7 just testified that you told law enforcement it was her
- 8 meth because you think that it was because you knew her to
- 9 have it on her because you knew that she had convictions
- 10 for it.
- 11 A. I said that I knew what was in the bag --
- 12 Q. Right --
- 13 A. -- because of her -- I didn't --
- 14 Q. -- at that time, because you knew that she used meth.
- 15 A. -- that -- because she had used meth in the past, yes.
- 16 Q. Right. So you knew her to use meth.
- 17 A. That's not what you -- you said I -- I knew her prior
- 18 to use it, not that she had been using it while we were
- 19 together.
- 20 Q. You told law enforcement it was meth because you knew
- 21 she used meth.
- 22 A. In the past, yes.
- 23 Q. Right. You all had dated for a year and a half to two
- 24 years.
- 25 A. Yes.

1 Q. And you knew she liked meth.

2 A. No.

3 Q. Nothing further from the State.

4 THE COURT: All right. Any other follow-up?

5 MS. MARTINEZ: Nothing further from the Defense,
6 Your Honor.

7 THE COURT: All right. You may step down. Call
8 you next witness.

9 MS. MARTINEZ: The Defense has no other
10 witnesses, Your Honor.

11 THE COURT: All right.

12 MS. MARTINEZ: The Defense rests.

13 THE COURT: All right. Ladies and gentlemen,
14 the Defense has rested. As I indicated yesterday, at
15 this point in time, I'm going to allow them to give
16 their closing arguments. Just so you know, the State
17 will close in full and then the Defense will give a
18 rebuttal, and then they'll give a short reply. So I
19 don't want you to think that it's just going to keep
20 going back and forth forever. Okay? As I indicated
21 at the beginning of the trial, that the opening
22 statements and the closing arguments are not to be
23 considered evidence by you whatsoever. This is just
24 an argument by the attorneys as to what they believe
25 the evidence has now shown you. All right? We'll

1 start with the State.

2 MS. BOZARTH: Thank you, Your Honor. It's
3 always easier to blame someone else instead of taking
4 responsibility for your own actions. And who is
5 better to blame here than Sonya? You heard Sonya used
6 drugs. She used meth. Who better to blame than the
7 girl that he was going to go pick up early in the
8 morning? Who better to blame? She's an easy target.
9 But I want to remind you that this isn't Sonya on
10 trial. This is defendant's day in Court. He is the
11 one on trial. We're not here to demonize the
12 defendant, we, the State. We're here to hold him
13 accountable. It sounds like Defense is trying to make
14 this whole trial about Sonya. It's not. You heard
15 her testify about a part of her life that she's
16 embarrassed about, that she's ashamed about. It's
17 hard to talk about you history with drug abuse, drug
18 use in front of a room full of strangers, also front
19 of a room full of law enforcement officers, in front
20 of prosecutors, in front of a judge under oath on the
21 record. That's difficult. That's not something that
22 someone wants to really talk about. Of course, she's
23 going to have that kind of demeanor on the stand.
24 It's difficult.

25 In this case with defendant, it's no surprise

1 that someone dealing drugs would be sitting next to
2 them in a car someone who's using drugs. That's how
3 the drug world works. That's how it is. Users hang
4 out with dealers. Dealers hang out with users. It
5 would be great in all criminal cases if witnesses came
6 in and had no baggage, no history, were squeaky clean,
7 nothing. But this is a drug case. This is real life.
8 You're just not going to get that in drug cases. And
9 you heard her say, yes, she knew where he kept the
10 meth, because she had used with him before. He'd
11 given it to her. She testified to that. She knew the
12 specifics of it. She'd been dating him for a year and
13 a half to two years. That's enough time to know where
14 someone keeps their stuff, especially as a meth user.
15 She knows where the meth is. She knows where he kept
16 it.

17 She provided several places in his car where the
18 meth might be, where she knew they might be because
19 she'd seen it before. She didn't know exactly where
20 it would be. She didn't say, oh, you need to
21 specifically look here, here, here. No. She said the
22 drugs, she gave some of the locations, various forms.
23 Turns out that matched up with what law enforcement
24 recovered down to the Crown Royal bag, the scale, the
25 eyeglasses case. That all matched up. And you heard

1 about her past. But he also heard her take ownership
2 for her actions. She dealt with them and she -- she
3 took accountability for them. And now, Defense wants
4 to blame her for his actions, where he had the drugs
5 in his car, in his locked compartment, where he had
6 the keys.

7 Now, the judge will instruct you on the law at
8 the end of this trial, and you're to take the law as
9 he gives it to you and apply it to the facts as you
10 find them. But do -- even though this is not a lot of
11 words, I want to break down this charge, because these
12 words are important. And I just want to kind of
13 encapsulate what evidence we presented to you to lead
14 from this defendant's guilt. So what is possession?
15 Let's break that down. Possession of a drug doesn't
16 necessarily mean that you have to have it on your
17 person, that one person has to find it in your hand or
18 in your pocket. That would be actual possession. So
19 there's actual possession -- actual possession and
20 constructive possession. That would be actual.
21 Constructive possession, that means that you have
22 dominion and control over that drug. So what'
23 dominion and control? Defendant had the keys to this
24 locked compartment. You heard law enforcement
25 couldn't get into that compartment unless they had the

1 keys that he had. Sonya didn't have the keys. He
2 needed the keys to drive that car. You saw in there,
3 you saw that picture of the keys, you heard law
4 enforcement testify to that.

5 So what is intent to distribute? Well, what
6 does distribute really mean here? Distribute doesn't
7 necessarily mean that you're out there hustling with,
8 you know, a stack of cash or, you know, a bunch of
9 gold (unintelligible), like whatever comes to your
10 mind as to a drug dealer. No. Distribute means that
11 you're sharing it with someone, that you're giving it
12 to someone, that you're just dispensing it the nature
13 of the word. You're not just keeping it for yourself,
14 you're handing it out. He had 3.2 grams of meth. You
15 heard law enforcement testify that's not personal use.
16 So how do you determine this intent? This word,
17 "intent." Well, you have to infer. Intent is an
18 inference. There's no mathematical formula that you
19 can just plug in the facts and then figure out intent.
20 There's no medical science that you can take out
21 someone's brain, chop it in half, dissect it, and
22 figure out what they were thinking at the time.
23 There's no computer device you can just plug it in and
24 everything pops up. No. You have to infer. You have
25 to look at the surrounding circumstances. You have to

1 use your logic, your common sense, to come to a
2 conclusion.

3 So what's a -- there are two types of evidence
4 here; direct and circumstantial evidence. And no
5 matter what you've heard, direct evidence and
6 circumstantial evidence are to be given the same
7 weight. The law draws no distinction in terms of
8 weight or importance between direct evidence and
9 circumstantial evidence. And neither is a -- nor is a
10 greater degree of certainty required for
11 circumstantial evidence. No matter what you may have
12 heard on TV, direct and circumstantial are to be given
13 the same weight and importance. So what is direct
14 evidence? Direct evidence is going to be someone
15 coming in here personally, coming in here, taking an
16 oath, getting on the stand and testifying as to what
17 they personally observed, heard, experienced, what
18 they saw what happened. You heard a bunch of direct
19 evidence in this case. You heard from law
20 enforcement, you heard from Sonya. You heard with
21 regard to -- and you heard from the chemist with
22 regard to the substance.

23 So you heard this direct evidence. What did you
24 hear from Flaherty? You heard that Flaherty got on
25 scene -- well, first, he's flagged down at Circle K,

1 and then he calls it out. He calls out -- he
2 describes the truck and minutes later, Officer Bailey
3 is right behind that truck, it's hitting the brakes.
4 He finds that vehicle being driving erratically, pulls
5 that car over, goes up to the defendant, asks for his
6 driver's license and insurance. The car comes back to
7 -- or not insurance, but the registration. The car
8 comes back to defendant. And at that time, Officer
9 Bailey runs his license. It comes back as suspended.
10 And then at that point, defendant is detained when law
11 enforcement learns that there are possibly drugs in
12 the vehicle. And you heard from Officer Chow, this
13 whole detaining thing. This isn't law enforcement
14 coming to a conclusion as soon as they get on scene.
15 This isn't them picking Sonya's story immediately and
16 and being like, well, you know. he's guilty. No.
17 When law enforcement does with detaining is to further
18 their investigation. They're conducting an
19 investigation.

20 You heard from Officer McCaughley, McCaughley
21 Bryan. You heard her testify as to what she saw and
22 experienced. Yeah. She testified that she saw the
23 witness, the passenger, Sonya. She saw her acting
24 erratically. She had been out all night. She's
25 partying. She was out. We're not trying to hide that

1 fact. No. That's what was happening. That what was
2 going on. And she testified that defendant was
3 supposed to meet her at Republic earlier, but he
4 didn't make it. He was going to be partying with her,
5 too. You also heard from Sergeant Scurry. He
6 testified he arrived on scene. Immediately, he calls
7 a female cop to come and pat -- pat down the witness,
8 Sonya. Also, Sergeant Scurry is one of the
9 supervising sergeants on scene. He is the one who --
10 he's basically overseeing what everyone else is doing,
11 making sure they're following the right protocol. He
12 also is one who, while he's -- while he went and
13 learns that there might be drugs in the vehicle,
14 that's when he decides, okay, we're going to search
15 this vehicle, we have enough information as to where
16 it might be.

17 And you know, we're going to go start this
18 search with Chow. At that time, while Scurry is
19 searching, he's getting information from Officer Bryan
20 as to where these drugs might be and getting more
21 specific and more specific as to where the drugs might
22 be. And eventually, he learns, well, there's a secret
23 compartment and it's in the center of the truck. But
24 it's a secret one a lock. At that time, Sergeant
25 Scurry goes up to defendant, gets his keys. And you

1 heard Sergeant Scurry testify as to defendant's
2 demeanor. You heard Sergeant Scurry say, well, yeah,
3 that guy was cool as a cucumber. He was, you know,
4 relaxed, he was totally chill. But when he went to go
5 get his keys, that's when defendant started acting
6 different. He started getting a little irritated,
7 because at that time he knew he had been caught. He
8 knew that once the cops had his keys, that they were
9 going to go into his locked box. And he knew that
10 those drugs were in that locked box. He knew that
11 meth pipe was also in the lockbox and his scale.

12 Now, what is circumstantial evidence?
13 Circumstantial evidence, well, this -- this relates to
14 his intent to distribute. So what is circumstantial
15 evidence? It's really proof of a chain of facts and
16 circumstances that lead to an inference.
17 Circumstantial evidence is based on inference. It's
18 not direct personal knowledge. It is an inference.
19 It's a conclusion. And circumstantial evidence and
20 that inference, it's not a guess. It's not a hunch.
21 It's not a suspicion. It's not an assumption. No.
22 It's you coming to a conclusion using your common
23 sense, using logic, basing your reasoning on the
24 circumstances surrounding this case. So what can you
25 -- what -- what circumstantial evidence is in this

1 case? Well, look to the weight of those drugs. He
2 had 3.2 grams of meth. You heard Sergeant Scurry say
3 that's not typical for personal use, 3.2 grams of
4 meth. You would consider where it was possessed. It
5 was in his truck in his locked compartment.

6 He had those 3.2 grams of meth on him, the pipe,
7 the scale. He had that meth on the go, and he was
8 going to pick up Sonya, who used meth. He left his
9 house. He got that call around, like what, midnight,
10 arrived downtown maybe around 2:00. He went all the
11 way -- he was at his house. Why was -- why would he
12 leave? He was at his house. To go pick up Sonya, who
13 had been partying that night. He left those 3.2 grams
14 of methamphetamine. And he knew that she was angry
15 with him. She knew -- he knew that she found out that
16 he had been cheating on her. And you know what Sonya
17 likes, is meth. She was mad at him. He knew that she
18 liked meth. He was bringing it to her. That's why he
19 left his house. He left his house just in North
20 Charleston all the way downtown, then to go back all
21 the way down to Goose Creek at her house. It was
22 around 3:00 a.m. in the morning.

23 And if you don't believe he was going to be
24 using it with Sonya, he sure was going to use it with
25 someone else. He had those drugs in the car. They

1 were ready. That scale, ready. Meth pipe, ready.
2 Keys, ready. And he even mentioned knowing that the
3 meth was in the car. Law enforcement asked, what's
4 that crystal substance? He said, that's crystal meth
5 or methamphetamine. And he got on the stand and he
6 said, well -- he said a couple different things that
7 didn't really make sense. He said he didn't know
8 Sonya used meth. They had been dating for a year and
9 a half to two years. But then he said she did use
10 meth. She has those convictions. Well, he's claiming
11 that he didn't know that she used meth. And he
12 changed his story. That doesn't make sense. He is
13 trying to say that she's the meth user, but he didn't
14 know. He knew.

15 Also in this case, he's mad at her -- or she is
16 mad at him. When your girl is mad at you, you want to
17 bring her what she likes. Your girlfriend likes
18 pumpkin spice lattes, you go ahead and you bring her a
19 pumpkin spice latte. If your girlfriend is mad at you
20 and she likes flowers, you go and bring her flowers.
21 Sonya liked meth. He came and brought her meth.

22 And I guess with regard to Defense alluding with
23 law enforcement that, well, where's your body cam, why
24 isn't it on, how did it die? Why didn't you
25 fingerprint the bags, why didn't you fingerprint

1 everything here? Well, you heard from law
2 enforcement. Well, first of all, Officer Bailey
3 testified that, yeah, there was a time where body cams
4 didn't exist. That doesn't mean that crimes weren't
5 happening. Also that you heard from Officer Bailey.
6 And he was just leaving his shift. His body camera
7 was dying. You heard him testify to that. The body
8 cameras aren't automatic. You don't -- they are not
9 always on. Also, you heard Sergeant Scurry with
10 regards to the fingerprinting and from other law
11 enforcement officers that sometimes in these kind of
12 cases, that's not necessary and that's not feasible,
13 and that's not reasonable, either. It doesn't make
14 sense. In this case, you heard him testify that's not
15 what they would do. That's not an abnormal thing to
16 not go around dusting for fingerprints everywhere in
17 the car, the bag, the glasses. No. That doesn't make
18 sense. This was in the defendant's locked -- in his
19 truck, his locked compartment where he had the key.
20 Sonya didn't have the key. He had that.

21 And it doesn't even make sense that, you know,
22 Defense is alluding that Sonya planted the drugs on
23 him because she was mad at him because she wanted to
24 get back at him for cheating on her. That doesn't
25 make sense. There's no time for her to go in there

1 and put these -- find his keys, put those drugs in
2 there and, you know, frame him for this. It doesn't
3 make sense.

4 So we do have the burden of proving defendant's
5 guilt beyond a reasonable doubt, but that's it, beyond
6 a reasonable doubt. Reasonable doubt, that's not all
7 doubt. That's not any possible doubt. That's not any
8 doubt. That's beyond a reasonable doubt. It's
9 evidence that you do firmly convinced of defendant's
10 guilt. There are very few things in this world that
11 we know with absolute certainty. The law recognizes
12 that. That's why it's not beyond all doubt. And
13 before you go back and deliberate, I just want just to
14 remind you that this -- the extent of what we
15 presented, that's the evidence in this case. And
16 we're not trying to hide anything from you. There are
17 rules of evidence in court that we all have to abide
18 by, and we take those rules seriously. But that will
19 be the extent of the evidence that you are to
20 consider. That's what you are to consider with regard
21 to this case.

22 Also, there may be a charge about hesitating to
23 act, reasonable doubt, hesitation to act. You'll be
24 back there deliberating. That's not hesitating to
25 act. That's you deliberating. You're supposed to

1 deliberate. That doesn't mean, you know, we're
2 hesitating to act. Automatically, you know, we must
3 -- we must come to this conclusion. No.
4 Deliberating. As a juror, you took an oath to take
5 the law as the judge gives it to you and apply it to
6 the facts as you find them. That's your oath, that's
7 your duty, even if you don't agree with the law.
8 That's your oath that you took.

9 At the end of the day, this is not about Sonya.
10 Don't hold it against her that she used drugs in the
11 past. You blame him for contributing to her problem.
12 We're asking you to use your common sense here and
13 return a verdict of guilty. Thank you.

14 MS. MARTINEZ: Just because it's his truck,
15 doesn't mean it's his drugs. And just because it took
16 two years and two months to get to trial, it doesn't
17 mean that he's been avoiding responsibility. He's
18 been waiting to be able to tell his side of the story.
19 They are not his drugs, and that is what this is
20 about. So the State's obligation never changes. They
21 still have to prove guilt beyond a reasonable doubt.
22 And I think the judge reminded you yesterday that he
23 is presumed innocent until proven guilty, and he will
24 instruct you further on the law.

25 And the State is right. This is not about

1 Sonya. It certainly is not about her. But is she
2 really someone that you should believe? Is she
3 telling the truth about what happened? She has two
4 convictions for methamphetamine. Is she lying? On
5 Scurry's account of the officers that night, she was
6 distraught, she was tearful, talkative, and it
7 appeared as though her heart rate was elevated. She
8 was emotional, also. She told you that she had been
9 out drinking, and for Kyle to come pick her up. She
10 told you she was angry because she found out earlier
11 that day that Kyle had been cheating on her, and it
12 was during the entire time that they were in this
13 relationship. That was upsetting for her. So on the
14 way home, they're still arguing. The cops stop them.
15 And as soon as this happens, she distances herself
16 from the drugs. She gets out of the car and she
17 blames that on Kyle. She didn't want to get in
18 trouble that night.

19 And here's another thing to think about. The
20 State was bringing up something about large amounts of
21 drugs. You saw that baggy yesterday of
22 methamphetamine that the prosecutor put on that
23 projector and magnified it for you. And you also
24 heard Scurry testify that a gram of methamphetamine is
25 about a day's worth of smoke. And Bailey told you

1 that a pipe is used for consumption. So whoever drugs
2 those were, it was for personal consumption. And the
3 two of them, Sonya and Kyle, had been together for a
4 year and a half to two years. Was that really the
5 first time that she got into that truck? Probably
6 not. And you know, the -- the State, at closing,
7 mentioned how police officers not fingerprinting any
8 of the items in the car -- in the truck that they took
9 into evidence. It sounds like they didn't want to be
10 inconvenienced, although there were two people in that
11 truck that night.

12 And Kyle's statement to Bailey acknowledging
13 knowledge of the drugs in the truck. There was five
14 police officers that night responding to a traffic
15 stop. Not one of their body cam shows his statement
16 audibly. Not one out of those five. So let's talk
17 about Kyle. You heard from the witnesses, the
18 officers, that he was cool, that he was calm, cool as
19 a cucumber. He was not sweating or nervous. He had
20 nothing to hide. Why would he be nervous? He didn't
21 do anything wrong. He didn't know the drugs were
22 there. He didn't put them there. He didn't plan to
23 do anything with them. He didn't have anything on
24 him, either. You heard one of the officers told you
25 that he said there were no narcotics in the car. Why

1 would he say there would be any? He didn't have any
2 narcotics in his car, as far as he was concerned.

3 So looking back at this night, the only bad
4 decision that Kyle made is to drive over here to the
5 downtown area to pick Sonya up after she had been out
6 with friends enjoying herself. Unfortunately for him,
7 he picked her up after she had learned some
8 information about the cheating, and after she had been
9 drinking, possibly doing drugs. Sonya was so upset
10 and hurt that she lied about the drugs. And once she
11 told this lie, there really was no turning back and so
12 that's why we're here. But remember this. Just
13 because it's his truck, doesn't mean it's his drugs.
14 So I ask that the verdict you render today after you
15 deliberate is that Kyle is not guilty of possession
16 with intent to distribute methamphetamine. Thank you.

17 MS. BOZARTH: Defense made a point saying, was
18 that really the first time she got into that truck?
19 No. She'd been in that truck. She'd been in that
20 truck plenty of times. That doesn't mean that she had
21 access to the keys all the time. She wasn't driving
22 that truck. She had her own car. Law enforcement
23 also pointed out -- or Defense also pointed out that
24 law enforcement, there were five cops there, no one
25 catches that statement. Yeah, because law enforcement

1 is busy. They're doing other stuff. They're
2 searching. One is searching here, one is talking to
3 the witness, one is doing this, one is during this.
4 You also heard from Officer Bailey, he's getting that
5 statement from defendant when the defendant is right
6 by the law enforcement officer. The law enforcement
7 car, Bailey is right here. Also, Scurry is over here.
8 That's why his body cam, you can't pick up the audio.
9 You can see them talking. You can see there's no you
10 (unintelligible). We can see no one swerved around
11 the defendant making him say anything. That's --
12 that's just not a real life situation where every body
13 cam is going to be on capturing everything. That just
14 doesn't make sense. That's just -- that's an
15 unreasonable standard.

16 She also pointed out that defendant said that
17 there are no narcotics in the car when law enforcement
18 asked him. He says no, there's not anything in there,
19 no. But then when law enforcement arrests him, he
20 goes, well, yeah, that's meth. Yeah, that's crystal
21 meth. Yeah, that's Sonya meth. Why wouldn't he just
22 say that immediately upon law enforcement getting
23 there? No, that's Sonya's. Yeah, there's meth in
24 there. Defense said that she was so upset and hurt
25 that he was cheating on her, that she made up this lie

1 saying that these are his. She took ownership for her
2 charges. She took ownership for her previous charges.
3 She took ownership of the meth that she -- that she
4 was related to that was her case. She took ownership.
5 That also makes here a credible witness. Defense
6 attacked her as not being credible because she was
7 using meth. No. That makes her more credible. She
8 knew where the meth would be.

9 And I guess just to summarize, as long -- I
10 guess to summarize, really, would be who are you
11 believing? Sonya, sure, she has a drug history. But
12 it's the State's position that, yeah, she used meth.
13 Kyle was with her. Kyle knew she used meth. Kyle is
14 on the way to her. He had that meth, he had all that
15 meth -- it was 3.2 grams -- in his lockbox in his
16 vehicle. Sonya didn't have the key. Just remember
17 those things. They're saying that, you know, if they
18 muddy the water to make it seem deep, don't get
19 distracted by all of -- all of the noise. Look at
20 just the facts. Look at what's been presented in
21 front of you, and look at those elements and see that
22 you're satisfied with those elements beyond a
23 reasonable doubt. Thank you.

24 THE COURT: All right. Ladies and gentlemen, as
25 everyone has indicated, it is my responsibility to

1 charge you on the law, which I will do now. Don't be
2 concerned because it's a lot to digest. I'm going to
3 allow you to have this in the back, okay, for your
4 reference, because this is the law of which you need
5 to apply the facts. Okay? All right.

6 I remind you that during this trial, you and I
7 have certain duties to perform. As the trial judge,
8 it is my responsibility to preside over the trial of
9 this case, and I also have the duty to rule on the
10 admissibility of evidence offered during this trial.
11 You are to consider only the competent evidence before
12 you. You are to consider only the testimony which has
13 been presented from the witness stand, any exhibits
14 which have been made part of the record in this case,
15 and any stipulations of counsel. I have the
16 additional duty to charge you the law applicable to
17 this case. As the presiding judge, I am the sole
18 judge of the law of this case. It is your duty as
19 jurors to accept and apply the law as I now state it
20 to you. If you already have any idea as to what the
21 law is or what the law ought to be and it does not
22 agree with what I now tell you the law is, you must
23 abandon that idea, because you were sworn to accept
24 the law and apply the law exactly as I state it to you
25 now.

1 In every case tried in this Court before a jury,
2 the jury becomes the sole and exclusive judge of the
3 facts in the case. A trial judge cannot comment on or
4 make any statement to a trial jury about the facts in
5 a case. Since you, the jury, are the sole judges of
6 the facts of this case, you are not to infer from what
7 I have said during the progress of this trial and
8 ruling upon the admissibility of evidence or
9 otherwise, or anything that I say now during the
10 course of this instruction to you that I have any
11 opinion about the facts in the case. The law does not
12 allow me to have any opinion about the facts in this
13 case. This is a matter solely for you, the jury, to
14 determine. As jurors, it is your duty to determine
15 the effect, value, weight, and truth of the evidence
16 presented during this trial.

17 The indictment charge of the defendant was
18 possession with intent to distribute methamphetamine.
19 I remind you that the fact that the defendant was
20 arrested, charged, and indicted in this case is not
21 evidence in this case, and it cannot be considered by
22 you as evidence of guilt in this case, nor does it
23 create any presumption or inference of guilt. This
24 document is simply the formal written instrument which
25 contains the charges made against the defendant. It

1 is the formal document by which the case is brought
2 into this Court. The defendant has pled not guilty to
3 these indictments. And that plea puts the burden on
4 the State to prove the defendant guilty beyond a
5 reasonable doubt. A person charged with committing a
6 criminal offense in South Carolina is never required
7 to prove himself innocent. I charge you that it is an
8 important rule of the law that the defendant in a
9 criminal trial, no matter what the seriousness of the
10 charge may be, will always be presumed to be innocent
11 of the crime for which the indictment was issued,
12 unless guilt has been proven by evidence satisfying
13 you of that guilt beyond a reasonable doubt.

14 This presumption of innocence does not end when
15 you begin your deliberations, but it accompanies the
16 defendant throughout the trial until you reach a
17 verdict of guilt based on evidence satisfying you of
18 that guilt beyond a reasonable doubt. The presumption
19 of innocence is like a robe of righteousness placed
20 around the shoulders of the defendant which remains
21 with the defendant until it has been stripped from the
22 defendant by evidence satisfying you of the
23 defendant's guilt beyond a reasonable doubt. The
24 presumption of innocence is not mere legal theory. It
25 is not just a legal phrase. It is a substantial right

1 to which every defendant is entitled unless you, the
2 jury, are satisfied from the evidence of the
3 defendant's guilt beyond a reasonable doubt.

4 What is reasonable doubt? Reasonable doubt is
5 the kind of doubt that would cause a reasonable person
6 to hesitate to act. Proof beyond a reasonable doubt
7 is proof that leaves you firmly convinced of the
8 defendant's guilt. We know very few things in this
9 world with absolute certainty and in criminal cases,
10 the law does not require proof that overcomes every
11 possible doubt. If, based on your consideration of
12 the evidence, you are firmly convinced that the
13 defendant is guilty of the crime charged, you must
14 find the defendant guilty. On the other hand, if you
15 think a real possibility exists that the defendant is
16 not guilty, you must give the defendant the benefit of
17 that doubt and find him not guilty.

18 There are two types of evidence generally
19 presented during a trial; direct evidence and
20 circumstantial evidence. Direct evidence directly
21 proves the existence of a fact and does not require
22 deduction. Direct evidence is the testimony of a
23 person who claims to have actual knowledge of a fact,
24 such as an eyewitness. It is evidence which
25 immediately establishes the main fact to be proven.

1 Circumstantial evidence is proof of a chain of facts
2 and circumstances indicating the existence of a fact.
3 It is evidence which immediately establishes
4 collateral facts from which the main fact may be
5 inferred. Circumstantial evidence is based on
6 inference and not on personal knowledge or
7 observation. It is proof that does not actually
8 establish the fact in question but that asserts or
9 describes something else from which you may either
10 reasonable infer the truth of the fact or at least
11 reasonably infer an increase in the probability that
12 the fact is true. For circumstantial evidence to be
13 sufficient to warrant the finding of a fact, the
14 circumstances must lead to that fact with reasonable
15 certainty. The facts and circumstances should be
16 considered in light of ordinary experience and common
17 sense. The existence of a fact cannot be based on
18 speculation, surmise, or conjecture. The law makes
19 absolutely no distinction between the weight or value
20 to be given to either direct or circumstantial
21 evidence. All the circumstances must be consistent
22 with each other and when taken together, point
23 conclusively to the guilt of the accused beyond a
24 reasonable doubt. If these circumstances merely
25 portray the defendant's behavior as suspicious, this

1 proof has failed.

2 Nor is a greater degree of certainty required of
3 circumstantial evidence than of direct evidence. The
4 State has the burden of proving the defendant guilty
5 beyond a reasonable doubt and this burden rests with
6 the State, regardless of whether the State relies on
7 direct evidence, circumstantial evidence, or a
8 combination of the -- of the two.

9 As to every witness, you must determine the
10 credibility of the witnesses who have testified in
11 this trial. Credibility simply means believability.
12 It becomes your duty as jurors to analyze and evaluate
13 the evidence and determine which evidence convinces
14 you of its truth. In determining the believability of
15 witnesses who have testified in this case, you may
16 believe one witness over several witnesses, several
17 witnesses over one witness. You may believe a part of
18 the testimony of a witness and reject the remaining
19 part of the testimony of that same witness. You may
20 believe the testimony of a witness in its entirety or
21 you can reject the testimony of a witness in its
22 entirety. You make it so that whether any witness has
23 exhibited to you any interest, bias, prejudice, or
24 other motive in this case. You may also consider the
25 appearance and manner of the witness while they

1 testified on the witness stand.

2 The rules of evidence ordinarily do not permit
3 witnesses to testify to opinions or conclusions. An
4 exception to this rule exists for witnesses we call
5 expert witnesses. A witness who, by education and
6 experience, has become an expert in some art, science,
7 profession, or calling may state an opinion as to
8 relevant material matters in which the witness claims
9 to be an expert and may also state the reasons for
10 those opinions. You should consider an expert opinion
11 received in evidence in this case and, like any other
12 evidence, give it the weight you think it deserves.
13 If you decide that the opinion of an expert witness is
14 not based on sufficient education and experience, or
15 if you conclude that the reasons given in support of
16 the opinion are not sound, or that the opinion is
17 outweighed by other evidence, you may disregard the
18 opinion entirely. An expert witness testimony is to
19 be given no greater weight than that of other
20 witnesses simply because the witness is an expert.
21 Further, you are not required to accept an expert's
22 opinion, even though it's not contradicted.

23 In a word, to establish criminal liability,
24 criminal intent is required. For example, the mental
25 state required to be proven by the State for a

1 particular crime may be purpose, intent, knowledge,
2 recklessness, or criminal negligence. Criminal intent
3 must be proven by the State beyond a reasonable doubt.
4 Criminal intent is always a matter that must be
5 determined by the jury from the circumstances
6 surrounding the situation. There is no way to prove
7 intent to a mathematical certainty. There is no way
8 medical science can dissect a person's brain and
9 determine what the person had in mind. So the law
10 says that criminal intent may be inferred from the
11 circumstances shown to have existed. This is how you
12 make a determination of whether or not the element
13 requiring intent was present. It is not necessary to
14 establish by direct and positive evidence, but intent
15 may be established by inference in the same way as any
16 other fact by taking into consideration the acts of
17 the parties and all of the facts and circumstances of
18 this case. Criminal intent is a mental state, a
19 conscious wrongdoing. It is up to you to determine
20 what the defendant intended to do based on
21 circumstances shown to have existed. Criminal intent
22 can arise from actions or a failure to act. It may
23 arise from negligence, recklessness, or an
24 indifference to duty or to consequences that is
25 considered by law to be the equivalent of criminal

1 intent.

2 The defendant is charged with possession with
3 intent to distribute methamphetamine. The State must
4 prove beyond a reasonable doubt that the defendant
5 possessed methamphetamine with the intent to
6 distribute it. To prove possession, the State must
7 prove beyond a reasonable doubt that the defendant had
8 both the power and the intent to control the
9 disposition or use of the methamphetamine. Possession
10 may be either actual or constructive. Actual
11 possession means that the methamphetamine was in the
12 actual physical custody of the defendant.
13 Constructive possession means that the defendant had
14 dominion and control or the right to exercise dominion
15 or control over either the methamphetamine itself or
16 the property on which the methamphetamine was found.
17 Mere presence at the scene where the drugs were found
18 is not enough to prove possession. Two or more
19 persons may have joint possession of a drug.

20 The State must also prove beyond a reasonable
21 doubt that the defendant intended to distribute the
22 methamphetamine. Distribute means to deliver other
23 than by administering or dispensing a drug. To
24 deliver means to actually constructively or attempt to
25 transfer the drug. Intent may be shown by acts and

1 conduct of the defendant and other circumstances from
2 which you may naturally and reasonably infer intent.
3 In determining whether the defendant had the intent to
4 distribute the methamphetamine, you may consider the
5 circumstances surrounding the defendant's alleged
6 possession. You may consider the amount of the
7 substance alleged to have been possessed, the manner
8 in which it was allegedly possessed, the place where
9 it was allegedly possessed, and other factors which
10 you consider to be important. You must find that the
11 defendant did not intend to have the methamphetamine
12 solely for his own use. Possession of more than 1
13 gram of methamphetamine creates an inference that the
14 defendant possessed the methamphetamine with intent to
15 distribute it. This inference does not relieve the
16 State from proving beyond a reasonable doubt that the
17 defendant had the intent to distribute it. It is
18 simply an evidentiary fact to be taken into
19 consideration by you, along with other evidence in
20 this case, and to be given the weight that you decide
21 it should be given.

22 Included with the offense of possession with
23 intent to distribute is the lesser offense of simple
24 possession. Simple possession does not require an
25 intent to distribute the methamphetamine. If you find

1 that the State has failed to prove beyond a reasonable
2 doubt that the defendant is guilty of possession with
3 intent to distribute methamphetamine, you may consider
4 whether the State has proven beyond a reasonable doubt
5 that the defendant is guilty of simple possession of
6 methamphetamine. A statement alleged to have been
7 made by the defendant has been admitted into evidence
8 in this case. While the Court has determined that the
9 statement is admissible, I instruct you that you make
10 the ultimate decision of whether or not the defendant
11 made the statement and give it the weight you so
12 choose.

13 THE COURT: All right. Madam Forelady, I will
14 give you the remaining balance of your instructions
15 now. In just a couple of moments, I'm going to ask
16 that you all retire to the jury room, but don't begin
17 your deliberations because we have to get all the
18 evidence together to give to you for your
19 consideration and your deliberation. All right? So
20 you have a couple of roles and responsibilities.
21 First off, it is your role and responsibility to allow
22 everyone and ensure that everyone has the opportunity
23 to deliberate in this case. What I mean by that is
24 this. Number one, your decision has to be unanimous,
25 so all 12 of you have to agree. All right? And so

1 what I mean by give them the opportunity is that by
2 human nature, some people are going to deliberate and
3 participate more than others. That's just the way
4 it's going to be, obviously. But what I ask you to do
5 is just make sure everybody has the opportunity. If
6 somebody wants to proceed or wants to interject it at
7 something, please just give everybody the opportunity
8 to participate in the deliberations. And again, if
9 some people so choose not to participate, that's fine,
10 too, just as long as they understand they have that
11 right. Okay?

12 The second thing is the verdict form. Once you
13 have your verdict, it is your role and responsibility
14 to fill out the verdict form. It says, State of South
15 Carolina versus Kyle Mouzon. It gives the indictment
16 number. And it says, as to the charge of possession
17 with intent to distribute methamphetamine, we, the
18 jury, unanimously find the defendant not guilty or
19 guilty. As to the charge of simple possession of
20 methamphetamine, we, the jury, unanimously find the
21 defendant not guilty or guilty. And you would simply
22 just sign here and you date it when you have a
23 unanimous verdict. Also, this is the indictment that
24 I referenced. It's simply just a document that gives
25 me jurisdiction to handle the case. That's it. But

1 it's your role and responsibility to right on the
2 indictment the verdict. So if it's guilty, write
3 guilty. If it's not guilty, write not guilty. And
4 you just sign it. All right? Fair enough? All
5 right.

6 If there is an issue that needs to be brought to
7 my attention, it is your role and responsibility to
8 reduce that to writing, hand it to one of the
9 bailiffs. They will bring it to me, and I will answer
10 whatever questions or whatever concerns that you may
11 have. I tell everybody there's always certain things.
12 As I indicated to you before, I can't comment about
13 the facts are anything along those lines. The law
14 doesn't allow me to comment about the facts or
15 anything along those lines. So my point in saying
16 that is, is that I will answer every single question
17 that you ask me. You may not like my answer. Fair
18 enough? All right. Go ahead and retire to the -- I
19 mean, to the jury room and we'll send everything back
20 in just a couple of seconds.

21 (The jury exited the courtroom.)

22 THE COURT: All right. You all make sure all
23 the evidence is together and we'll send it all back.

24 **9/14/2023 -- 12:51:45 to 12:56:46**

25 (The jury entered the courtroom.)

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

3 THE COURT: All right. Madam Forelady, it is my
4 understanding you all have a verdict.

5 JURY FOREPERSON: Yes, sir.

6 THE COURT: Is it unanimous?

7 JURY FOREPERSON: Yes, sir.

8 THE COURT: All right. Will you hand it to the
9 bailiff, please? All right. As to the charge of
10 possession with intent to distribute methamphetamine,
11 we, the jury, unanimously find the defendant guilty.
12 As to the charge of simple possession of
13 methamphetamine, we, the jury, unanimously find the
14 defendant guilty. Signed, Madam Foreperson, dated
15 September 14th, 2023. Is this your verdict?

16 JURY FOREPERSON: Yes, Your Honor.

17 THE COURT: All right. Any further polling of
18 the jurors?

19 MS. MARTINEZ: Yes, Your Honor.

20 THE CLERK: Ladies and gentlemen, when I call
21 out your jury number, if you'll just please raise your
22 right hand and answer yes or no to the questions I
23 ask. Juror No. 67, is this your verdict?

24 JUROR NO. 67: Yeah.

25 THE CLERK: Is this still your verdict?

1 JUROR NO. 67: Yes.

2 THE CLERK: Juror No. 39, is this your verdict?

3 JUROR NO. 39: Yes.

4 THE CLERK: Is this still your verdict?

5 JUROR NO. 39: Yes.

6 THE CLERK: Juror No. 202, is this your verdict?

7 JUROR NO. 202: Yes.

8 THE CLERK: Is this still your verdict?

9 JUROR NO. 202: Yes.

10 THE CLERK: Juror No. 31, is this your verdict?

11 JUROR NO. 31: Yes.

12 THE CLERK: Is this still your verdict?

13 JUROR NO. 31: Yes.

14 THE CLERK: Juror No. 293, is this your verdict?

15 JUROR NO. 293: Yes.

16 THE CLERK: Is this still your verdict?

17 JUROR NO. 293: Yes.

18 THE CLERK: Juror No. 286, is this your verdict?

19 JUROR NO. 286: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR NO. 286: Yes.

22 THE CLERK: Juror No. 21, is this your verdict?

23 JUROR NO. 21: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NO. 21: Yes.

1 THE CLERK: Juror No. 210, is this your verdict?

2 JUROR NO. 210: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR NO. 201: Yes.

5 THE CLERK: Juror No. 65, is this your verdict?

6 JUROR NO. 65: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR NO. 65; Yes.

9 THE CLERK: Juror No. 218, is this your verdict?

10 JUROR NO. 218: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR NO. 218: Yes.

13 THE CLERK: Juror No. 270, is this your verdict?

14 JUROR NO. 270: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR NO. 270: Yes.

17 THE CLERK: Juror No. 122, is this your verdict?

18 JUROR NO. 122: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NO. 122: Yes.

21 THE CLERK: Your Honor, the jury has been polled

22 and the verdict stands.

23 THE COURT: All right. What's the State's

24 position as to sentencing?

25 MS. BOZARTH: Your Honor, in this instance, the

1 evidence presented before you, we do believe that an
2 active sentence would be appropriate, a short active
3 sentence. We would leave that in the discretion of
4 the Court.

5 THE COURT: All right. What would you like to
6 tell me about Mr. Mouzon?

7 MS. MARTINEZ: Your Honor, as you heard, he's 34
8 years old. He is from the Charleston area. He has a
9 14-year-old son who likes to play football. He also
10 has the 2-month-old with Ms. Sonya Herron. He has his
11 own landscaping company. He's fully employed. He
12 works with others when he can. I would like you to
13 take into consideration that he has no prior
14 convictions in imposing the sentence. He actually got
15 a PR bond and spent one night in jail for this
16 offense. So there are no aggravating circumstances,
17 Your Honor, and I think that the evidence shows that,
18 you know, the drugs were actually intended for
19 personal use, not for distribution. So I request a
20 probation sentence. A short period of time, I think,
21 would be fair.

22 THE COURT: All right. All right. I'm going to
23 submit you to the county detention center for a term
24 of 100 days. I'm going to follow that up by probation
25 for two years. I order that you participate in

1 substance abuse counseling and random alcohol and drug
2 screens.

3 MS. MARTINEZ: Your Honor, one request. He
4 drove himself to the courthouse, so we're wondering if
5 he can turn himself in within the next 24 hours and he
6 can take the truck home.

7 THE COURT: That's fine. If he doesn't
8 self-report, I'm going to do a resentencing.

9 MS. MARTINEZ: Thank you, Your Honor.

10 THE COURT: Ladies and gentlemen of the jury, I
11 cannot thank you for your time. I hope you enjoyed
12 the process. It's a very unique process. And you're
13 free to go for the rest of the day. As I indicated
14 yesterday, your loved ones and everyone has no idea
15 where you are, so I hope you enjoy the rest of your
16 day. All right.

17 (The jury exited the courtroom.)

18 (The proceedings were concluded.)

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
)
 STATE OF SOUTH CAROLINA)
)
 -versus-)
)
)
)
 KYLE NICHOLAS MOUZON,)
)
 Defendant.)
 _____)

IN THE COURT OF GENERAL SESSIONS
 FOR THE NINTH JUDICIAL CIRCUIT

Warrant No.: 2021A1010203766

**DEFENDANT'S MOTION
 TO SUPPRESS EVIDENCE
 FROM UNLAWFUL TRAFFIC STOP**

2023 SEP 11 AM 9:13
 SHARIE J. ARMSTRONG
 CLERK OF COURT

FILED

By and through undersigned counsel Defendant, Kyle N. Mouzon, respectfully requests that this Court conduct a pre-trial hearing and to suppress evidence of drugs seized from his vehicle as a result of an unlawful traffic stop, in violation of the Fourth Amendment of the U.S. Constitution and Article 1, Section 10 of the South Carolina Constitution.

I. Background

This case arose from a traffic stop conducted on Defendant, Kyle N. Mouzon, during the early morning hours (approximately 3:00 a.m.) of July 15, 2023. Based on information provided by the passenger, law enforcement conducted a search of the truck Defendant was driving and located drugs therein. Defendant was charged with Possession with Intent to Distribute Methamphetamine and taken into custody. Defendant will argue that law enforcement had no reasonable suspicion to conduct the initial traffic stop or probable cause for the subsequent search of his truck and therefore, the drugs were obtained as fruit of an illegal search and seizure.

II. Authority

“The prosecution bears the burden of establishing probable cause as well as the existence of circumstances constituting an exception to the general prohibition against warrantless searches and seizures.” *State v. Gamble*, 405 S.C. 409, 416 (2013).

A traffic stop is not unreasonable if conducted with probable cause to believe a traffic violation has occurred, or when the officer has a reasonable suspicion, the occupants are involved in criminal activity. *State v. Willard*, 374 S.C. 129, 134 (Ct. App. 2007) (quoting *State v. Butler*, 343 S.C. 198, 201 (Ct. App. 2000)).

"Probable cause is defined as a good faith belief that a person is guilty of a crime when this belief rests upon such grounds as would induce an ordinarily prudent and cautious person, under the circumstances, to believe likewise." *Gamble*, 405 S.C. at 417 (quoting *Wortman v. City of Spartanburg*, 310 S.C. 1, 4 (1992)).

Probable cause to conduct a search exists where "the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found." *State v. Morris*, 411 S.C. 571, 580 (2015) (citing *Ornelas v. United States*, 517 U.S. 690, 696 (1996)).

The primary considerations to determine whether probable cause existed at the time of the stop or search will be “the events which occurred leading up to the stop or search, and then the decision whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount...to probable cause.” *Id.* at 581. Therefore, determining whether an officer has probable cause to conduct a warrantless search depends on the totality of the circumstances. *Id.* (quoting *State v. Brannon*, 347 S.C. 85, 92 (Ct. App. 2001)).

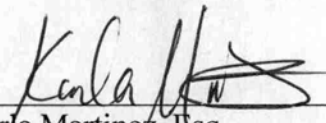
With regard to information provided by a citizen, the Fourth Circuit has observed that “absent specific reasons for police to doubt his or her truthfulness, an ordinary citizen, who provides information to police at a crime scene or during an ongoing investigation, may be presumed credible without subsequent corroboration.” *United States v. DeQuasie*, 373 F.3d 509, 523 n. 21 (4th Cir. 2004).

The remedy for evidence that is derived from an illegal search or arrest is exclusion of the evidence as it is considered “fruit the poisonous tree and is inadmissible.” *State v. Adams*, 409 S.C. 641, 647 (2014) (citing *United States v. Najjar*, 300 F.3d 466, 477 (4th Cir. 2002)).

THEREFORE, Defendant respectfully requests that this Court:

1. Conduct a hearing to determine if there was reasonable suspicion or probable cause to conduct a traffic stop on Kyle Mouzon’s vehicle; and
2. Suppress all evidence, specifically, methamphetamine, found in Kyle Mouzon’s vehicle as a result of the unlawful traffic stop and search.

Respectfully Submitted,


 Karla Martinez, Esq.
 Jason King
 Attorneys for Defendant

Charleston, South Carolina
 September 11, 2023

BY 
 JULIE J. ARMSTRONG
 CLERK OF COURT
 2023 SEP 11 AM 9:13

FILED

SBB/0380943
WITNESSES

Charleston City Police Department

Lawrence / [Signature]

AGENCY CASE NUMBER

2021-10444

ARREST WARRANT NUMBER

2021A1010203766

DATE OF ARREST

07/15/2021

ACTION OF GRAND JURY

TRUE BILL

McEdward

Foreperson of Grand Jury

AUG 07 2023

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-10-03919

The State of South Carolina

County of Charleston

FILED

8/30/2023 8:33:12 AM

JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS

AUGUST TERM 2023

THE STATE

VS.

KYLE NICHOLAS MOUZON

W/M DOB: [REDACTED]-1989

Indictment for

DIST/PWID METH 1ST

SC Code: § 44-53-0375 (B) (1)

CDR Code: 3198

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON


INDICTMENT

At a Court of General Sessions, convened August 2023, the Grand Jurors of Charleston County present upon their oath:

PWID Methamphetamine

The Defendant, Kyle Nicholas Mouzon, did on or about July 15, 2021, in Charleston County, South Carolina, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to distribute, dispense, deliver, or purchase, or possess with the intent to distribute, dispense, deliver, or purchase Methamphetamine in violation of the provisions of Section 44-53-0375 (B) (1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SARA B. BOZARTH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2023-GS-10-03919

VS.

KYLE NICHOLAS MOUZON

A/W#: 2021A1010203766

AKA:

Date of Offense: 07/15/2021

Race: White Sex: M Age: 34

S.C. Code §: 44-53-0375 (B) (1)

DOB: 1989 SS#: [REDACTED]

CDR Code #: 3198

Address: [REDACTED] Dearborne Road

City, State,

Zip: North Charleston, SC 29406

SENTENCE SHEET

DL#* [REDACTED] SID# SC02432062

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Dist/PWID Meth 1st; carries 0-15 years

In violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3198

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:

Sara B. Bozarth 102196 102987
Sara B. Bozarth, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 5 days/months/years/Time Served Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$ ___; provided that upon the service of 100 days/months/years/Time Served and or payment

of \$ ___; plus costs and assessments as applicable*; the balance is ~~suspended~~ with **probation** for 2

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.

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.

SPECIAL CONDITIONS:

146

STATE KYLE NICHOLAS INDICTMENT/CASE#: 2023-GS-10-03919
VS. MOUZON

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:**

	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	_____	_____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ <u>100</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</u>
§14-1-213 (Drug Court Surcharge)	\$150		\$ <u>150</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>23.25</u>
<input checked="" type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$ <u>500</u>
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$ _____
TOTAL			\$ <u>798.25</u>

Clerk of Court/Deputy Clerk: L Helm
Court Reporter: Caressa Johnson, DCRP

Presiding Judge: _____
Judge Code: 2766
Sentence Date: 9/14/23

CERTIFICATE OF COUNSEL FOR APPELLANT

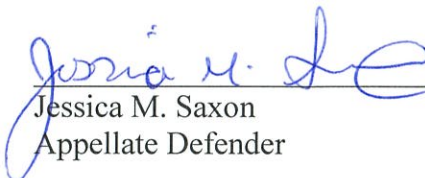
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Feb 05 2025

SC Court of Appeals



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of February, 2025.

RECEIVED

Feb 05 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.


KYLE NICHOLAS MOUZON,

APPELLANT

APPELLATE CASE NO. 2023-001755

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 Ambree Muller M. Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 5th day of February, 2025.



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: Wednesday, February 5, 2025 10:25 AM
To: SC - MULLER AMBREE
Cc: Grace Sommer; Saxon, Jessica
Subject: 2023-001755 - State v. Kyle Mouzon - Record on Appeal
Attachments: 2023-001755 - State v. Kyle Mouzon - Record on Appeal.pdf

Dear Ms. Muller,

Attached please find a copy of the Record on Appeal in the above referenced case that is being filed today with the Court of Appeals.

-Scott Leverett
Admin. Asst. for Jessica Saxon
Appellate Defense