

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Mar 13 2025**

**S.C. SUPREME COURT**

—————  
Certiorari to Marion County

Honorable George M. McFaddin, Circuit Court Judge

—————  
ERICK M. WILLARD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001837

—————  
APPENDIX  
—————

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ATTORNEYS FOR RESPONDENT

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	)	COURT OF GENERAL SESSIONS
COUNTY OF MARION	)	2017-GS-33-0322
	)	
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Erick Maurice Willard	)	)
<u>DEFENDANT</u>	)	November 13-15, 2017
		Marion, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE; and a jury.

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

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Attorneys for the Defendant

KESHIA REED  
Official Court Reporter

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	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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2					
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6					
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	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	S-1	Photo	59	60
4	S-2	4 Photos	59	62
5	S-3	9 Photos		78
6	S-4	2 Photos		83
7	S-5	4 Photos		84
8	S-6	3 Photos		90
9	S-7	Black Digital Scale		86
10	S-8	Yellow Digital Scale		86
11	S-9	Blue Baggies		86
12	S-10	Grinder		86
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	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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2				
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1 THE COURT: Mr. Solicitor, you ready to call  
2 your case?

3 MR. MCEACHIN: We are, Your Honor.

4 THE COURT: All right, go ahead and take your  
5 respective spots and get it going.

6 MR. MCEACHIN: Your Honor, may it please the  
7 Court, the State calls the case of the State vs. Erick  
8 Maurice Willard, true bill indictment with indictment  
9 number 2017-GS-33-322.

10 THE COURT: All right. Members of the jury  
11 panel, I have to ask another series of questions to see if  
12 you are qualified to serve on a particular jury. In that  
13 regard if any of these questions apply to you, I need for  
14 you to stand and please respond. In this regard, the  
15 State of South Carolina alleges that Erick Maurice Willard  
16 did in Marion County on or about March 3rd 2017 knowingly  
17 sell, deliver, purchase or bring into this state or did  
18 aid, abet, attempt or conspire to sell, deliver, purchase  
19 or to bring into this state or was in actual or  
20 constructive possession or attempted to become an actual  
21 or constructive possession of a quantity of cocaine in an  
22 amount of more than 10 grams but less than 28 grams.  
23 Therefore, the defendant Erick Willard is charged with  
24 trafficking in cocaine. He is also charged with  
25 possession with intent to distribute cocaine base. He is

1 also charged with possession with the intent to distribute  
2 methadone and he's been charged with possession with  
3 intent to distribute marijuana. In that regard, the  
4 defendant has pled not guilty and requested a jury trial.  
5 Now, has any member of the jury panel heard anything about  
6 this case, talk to anybody about this case, read anything  
7 about this case? If you know anything about this case at  
8 all no matter how insignificant you may think it is,  
9 please stand? If you would come on up here please, sir.

10 BAILIFF: Nesbitt Isreal.

11 THE COURT: Tell me what you know?

12 PROSPECTIVE JUROR: I run the club over in  
13 Mullins and I heard about stuff that he do. I know stuff  
14 about it. I know him, but I don't want to be caught up  
15 behind it.

16 THE COURT: I'm going to excuse you for the  
17 purposes of this trial only. So you go out there and have  
18 a seat.

19 BAILIFF: Melissa Brockington.

20 THE COURT: All right. Ms. Brockington, what do  
21 you know?

22 PROSPECTIVE JUROR: I use to go with him.

23 THE COURT: He use to be your boyfriend?

24 PROSPECTIVE JUROR: Back in the day. And I use  
25 to deal with him from time to time.

1 THE COURT: You use to deal with him?

2 PROSPECTIVE JUROR: Yeah.

3 THE COURT: I'm going to excuse you from this  
4 trial only. You just go out there and have a seat. Thank  
5 you. Juror number 22 is excused.

6 And would the Defendant Mr. Erick Maurice  
7 Willard would you please stand and turn and face the jury  
8 panel. All right. You may have a seat. Does any member  
9 of the jury panel related by blood or marriage or has a  
10 close personal or social relationship with the defendant  
11 Mr. Willard in this case, if so please stand? All right.  
12 Why don't you come on up here. You're juror number 115?

13 (WHEREUPON, juror number 115 Anthony Nelson came  
14 forward.)

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: How you know him?

17 PROSPECTIVE JUROR: I coached him in high school  
18 football. I coach high school football part-time. I  
19 coached him while he was in high school.

20 THE COURT: Taking that into account if you were  
21 elected to serve on a jury in this case, could you be fair  
22 and impartial to the State and the defendant?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Would you be fair and impartial to  
25 both sides?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Good. Thank you very much. You can  
3 have a seat.

4 All right. And, Mr. McEachin, if would you  
5 introduce yourself and any members of your staff or your  
6 office.

7 MR. MCEACHIN: Thank you, Your Honor. Ladies  
8 and gentlemen, good morning. My name is Fitzlee McEachin.  
9 I'm an assistant solicitor over here in Marion County. I  
10 work for Solicitor Ed Clements, who's seated here, Deputy  
11 Solicitor John Jepertinger is also in the courtroom,  
12 Assistant Solicitor Patty Parker, Assistant Solicitor John  
13 Holt. We got couple other folks downstairs that you may  
14 or may not see coming out of the courtroom Todd Tucker,  
15 Angel Daniels, David Richardson, Susan McGill, and Rick  
16 Hoefer, but that's our staff.

17 THE COURT: Thank you. Is any member of the  
18 jury panel related by blood or marriage or has a close  
19 personal or social relationship with Mr. McEachin or any  
20 member of the solicitor's office, if so please stand?

21 (WHEREUPON, there are none.)

22 THE COURT: Mr. Meezte, if you would introduce  
23 yourself and any members of your staff.

24 MR. MEETZE: My name is Vick Meetze. I work in  
25 the public defender's office. I'm working this case along

1 with Franklin Chandler who also works in our office. We  
2 work for Marion County Public Defender's office. We work  
3 for Scott Floyd who's the circuit defender for both  
4 Florence and Marion Counties. Hank Anderson is another  
5 attorney in our office. We also work with Molly Sloan.

6 THE COURT: All right. Thank you. Does any  
7 member of the jury panel related by blood or marriage or  
8 has a close personal or social relationship with  
9 Mr. Meetze or any member of his office, if so please  
10 stand?

11 (WHEREUPON, there are none.)

12 THE COURT: Okay. All right. Any witnesses on  
13 behalf of the defense will be Gene Curtis McBride, Leroy  
14 Owens, Adrian Williams. The witnesses on behalf of the  
15 State will be Marion County combine drug unit Mark  
16 Collins, Marion County Combine Drug Unit Aurelius Cribb,  
17 Marion County Combine Drug Unit Bobby Crawford, Marion  
18 County Sheriff's Office Darren Miles, and Ashley Bell with  
19 SLED South Carolina Law Enforcement Division. In that  
20 regard, is any member of the jury panel related by blood  
21 or marriage or has a close personal or social relationship  
22 with any of the defense witnesses or the State's  
23 witnesses, if so please stand?

24 (WHEREUPON, there are none.)

25 THE COURT: All right. Is any member of the

1 jury panel related by blood or marriage to any law  
2 enforcement officer that could be FBI, that could be SLED,  
3 sheriff's department, police department, highway patrol,  
4 probation agent? Anybody connected with law enforcement,  
5 if so please stand? Gentleman, on the front give me your  
6 name and your number?

7 PROSPECTIVE JUROR: Arther Foxworth I don't know  
8 my number.

9 THE COURT: What is that number?

10 THE CLERK: 50.

11 THE COURT: How does that apply to you?

12 PROSPECTIVE JUROR: Police officer Betsy Gause.

13 THE COURT: Who is the police officer?

14 PROSPECTIVE JUROR: Betsy Gause.

15 THE COURT: And how is she related?

16 PROSPECTIVE JUROR: That's my niece.

17 THE COURT: Taking that into account if you were  
18 selected to serve on a jury in this case, could you be  
19 fair and impartial to the State and the defense?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Would you be fair and impartial to  
22 both sides?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Thank you appreciate you standing.

25 PROSPECTIVE JUROR: Wendy Waugh by marriage

1 Mitchell McCaskill.

2 THE COURT: All right. And what's your number?

3 PROSPECTIVE JUROR: 163.

4 THE COURT: All right. Taking that into account  
5 if you were selected to serve on a jury in this case,  
6 could you be fair and impartial to the State and the  
7 defense?

8 PROSPECTIVE JUROR: I can be.

9 THE COURT: Would you be fair and impartial both  
10 sides.

11 PROSPECTIVE JUROR: I will be I'm sorry.

12 THE COURT: All right. Thank you very much.  
13 The lady over to the right talking to the deputy. Yes,  
14 ma'am, your name and number?

15 PROSPECTIVE JUROR: Dorothy Furness number 52.

16 THE COURT: All right. How does that question  
17 apply to you?

18 PROSPECTIVE JUROR: My cousin is a police  
19 officer.

20 THE COURT: Where?

21 PROSPECTIVE JUROR: Marion.

22 THE COURT: All right and his name.

23 PROSPECTIVE JUROR: Toby Mack.

24 THE COURT: Taking that into account if you were  
25 selected to serve on a jury in this case, could you be

1 fair and impartial to the State and the defense?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Thank you very much. All right,  
4 give me your name and number for the record?

5 PROSPECTIVE JUROR: It's Deborah Jenkins. I  
6 think I'm 83. I'm not positive.

7 THE COURT: Eighty-four?

8 PROSPECTIVE JUROR: I think.

9 THE COURT: All right, hold on we'll check.

10 THE CLERK: Eighty-four.

11 THE COURT: Eighty-four. All right. How does  
12 that question apply to you?

13 PROSPECTIVE JUROR: My nephew he's a police  
14 officer and been a police officer for about 20 years.

15 THE COURT: And where is that?

16 PROSPECTIVE JUROR: He's in Summerton now.

17 THE COURT: All right. Taking that into account  
18 if you were selected to serve on a jury in this case,  
19 could you be fair and impartial to the State and the  
20 defense?

21 PROSPECTIVE JUROR: I'd try.

22 THE COURT: Could you be fair and impartial?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: All right. Would you be fair and  
25 impartial to both sides?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Thank you very much. You may have a  
3 seat.

4 All right, and your name and number?

5 PROSPECTIVE JUROR: Heather McKenzie and I don't  
6 know my number.

7 THE CLERK: 109.

8 THE COURT: 109. How does that question apply  
9 to you?

10 PROSPECTIVE JUROR: My husband was formally a  
11 deputy of the sheriff's department in Marion and at the  
12 City at the police department. He's no longer either, but  
13 he was.

14 THE COURT: Taking that into account if you were  
15 selected to serve on a jury in this case, could you be  
16 fair and impartial to the State and the defense?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you very much. You may have a  
19 seat. Anybody else?

20 Is any member of the jury panel aware of any  
21 bias or prejudice for or against the State of South  
22 Carolina in this case, if so please stand?

23 (WHEREUPON, there are none.)

24 THE COURT: Has any member formed an opinion as  
25 to the guilt or innocence of the Defendant Mr. Erick

1 Maurice Willard in this case, if so please stand?

2 (WHEREUPON, there are none.)

3 THE COURT: Is there any member of the jury  
4 panel who is a member of or contributor to any group which  
5 has its primary concern the promotion of law enforcement  
6 or victims' rights these groups would include but  
7 certainly not be limit to MADD, SADD or CAVE Citizens'  
8 Against Violent Crimes, the fraternal order of the police  
9 or the South Carolina Law Enforcement Association, if any  
10 of these apply to you please stand?

11 (WHEREUPON, there are none.)

12 THE COURT: Is there any member of the jury  
13 panel who knows of any reason whatsoever why they could  
14 not give the parties in this case a fair and impartial  
15 trial, if so please stand?

16 (WHEREUPON, there are none.)

17 THE COURT: Has any member of the jury panel or  
18 any member of your family ever been prosecuted by this  
19 solicitor or any member of the solicitor's office  
20 regardless of whether the case was dismissed or not, if so  
21 please stand?

22 All right, Ms. Campbell, what's your number  
23 again?

24 PROSPECTIVE JUROR: I think it's 91 not sure.

25 THE COURT: Ninety-one.

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Is that right, Ms. Clerk?

3 THE CLERK: Freddy Campbell?

4 PROSPECTIVE JUROR: Yes.

5 THE CLERK: Twenty-five.

6 THE COURT: Twenty-five?

7 THE CLERK: Yes.

8 THE COURT: All right. And how does that  
9 question apply to you?

10 PROSPECTIVE JUROR: Can I come up?

11 THE COURT: Sure, be glad for you to.

12 PROSPECTIVE JUROR: My brother was charged with  
13 assault and he pled a misdemeanor here ten years ago, 15  
14 years ago.

15 THE COURT: Up here in this courtroom?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Taking that into account if you were  
18 selected to serve on a jury in this case, could you still  
19 be fair and impartial to the State and the defense?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Would you be fair and impartial to  
22 both sides?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Thank you. Appreciate you standing  
25 you can come forward if you like.

1           What's your name and number?

2           PROSPECTIVE JUROR: Foxworth 50.

3           THE COURT: All right. How does that question  
4 apply to you?

5           PROSPECTIVE JUROR: My son was convicted.

6           THE COURT: A victim?

7           PROSPECTIVE JUROR: Convicted.

8           THE COURT: Convicted. Convicted of what?

9           PROSPECTIVE JUROR: Manslaughter.

10          THE COURT: Taking that into account if you were  
11 selected to serve on a jury in this case, could you be  
12 fair and impartial to the State and the defense?

13          PROSPECTIVE JUROR: Yes.

14          THE COURT: Yes?

15          PROSPECTIVE JUROR: Yes.

16          THE COURT: Would you be fair and impartial to  
17 both sides?

18          PROSPECTIVE JUROR: Yes.

19          THE COURT: Thank you. Appreciate you coming  
20 up.

21          And juror 109 how does that question apply to  
22 you?

23          PROSPECTIVE JUROR: My husband was -- I don't  
24 know how it worked pled -- I don't know worked out a plea.  
25 I don't know how ---

1 THE COURT: He was prosecuted by this Solicitor?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Taking that into account if you were  
4 selected to serve on a jury on this case, could you be  
5 fair and impartial the Solicitor and the defense attorney?

6 PROSPECTIVE JUROR: Yeah.

7 THE COURT: Would you be fair and impartial to  
8 both sides?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: All right. Thank you. Have you or  
11 any member of your family ever been charged with a drug  
12 trafficking or drug distribution offense, if so please  
13 stand?

14 (WHEREUPON, there were none.)

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

16 MR. MCEACHIN: Nothing further, Your Honor.

17 THE COURT: How about the defense?

18 MR. MEETZE: No, your Honor.

19 THE COURT: All right. Thank you. Except for  
20 those I have excused, I find the jury panel qualified for  
21 this trial.

22 Mrs. Clerk, get us a jury of 12 and two  
23 alternates.

24 (WHEREUPON, a pause in the proceedings.)

25 THE CLERK: When I call your name, if you'll

1 come upfront and stand right here in front of the bench  
2 and turn and face the audience please. I'll be calling by  
3 juror number.

4 Juror number 169 Denise Williams.

5 (WHEREUPON, a black female, comes forward.)

6 THE CLERK: What say the State?

7 MR. MCEACHIN: Please present Ms. Williams.

8 THE CLERK: What say the defense?

9 MR. MEETZE: Please swear Ms. Williams.

10 THE CLERK: Ms. Williams, if you'll take a seat  
11 in the jury box please.

12 Juror number 60 Leo Gordon.

13 (WHEREUPON, a black male, comes forward.)

14 THE CLERK: What say the State?

15 MR. MCEACHIN: Please present Mr. Gordon.

16 THE CLERK: What say the defense?

17 MR. MEETZE: Please swear Mr. Gordon.

18 THE CLERK: Mr. Gordon, if you'll take a seat in  
19 the jury box please.

20 Juror number 42 Melike Davis.

21 (WHEREUPON, a black female, comes forward.)

22 THE CLERK: What say the State?

23 MR. MCEACHIN: Please present Ms. Davis.

24 THE CLERK: What say the defense?

25 MR. MEETZE: Please seat Ms. Davis.

1 THE CLERK: Ms. Davis, if you'll take a seat in  
2 the jury box please.

3 Juror number 13 Margot Beck.

4 (WHEREUPON, a white female, comes forward.)

5 THE CLERK: What say the State?

6 MR. MCEACHIN: Please present Ms. Beck.

7 THE CLERK: What say the defense?

8 MR. MEETZE: Please excuse Ms. Beck.

9 THE CLERK: Ms. Beck, you can take a seat back  
10 in the audience. Thank you.

11 Juror number 94 Naomi Knight.

12 (WHEREUPON, a black female, comes forward.)

13 THE CLERK: What say the State?

14 MR. MCEACHIN: Please excuse Ms. Knight for  
15 purposes of this trial only.

16 THE CLERK: Ms. Knight, you can take a seat back  
17 out in the audience. Thank you.

18 Juror number 89 James Johnson.

19 (WHEREUPON, a white male, comes forward.)

20 THE CLERK: What say the State?

21 MR. MCEACHIN: Please present Mr. Johnson.

22 THE CLERK: What say the defense?

23 MR. MEETZE: Please seat Mr. Johnson.

24 THE CLERK: Mr. Johnson, if you'll take a seat  
25 in the jury box please.

1 Juror number 50 Arther Foxworth.

2 (WHEREUPON, a black male, comes forward.)

3 THE CLERK: What say the State?

4 MR. MCEACHIN: Please excuse Mr. Foxworth for  
5 purposes of this trial only.

6 THE CLERK: Thank you, Mr. Foxworth.

7 Juror number 29 Rickey Clarkson.

8 (WHEREUPON, a white male, comes forward.)

9 THE CLERK: What say the State?

10 MR. MCEACHIN: Please present Mr. Clarkson.

11 THE CLERK: What say the defense?

12 MR. MEETZE: Please seat Mr. Clarkson.

13 THE CLERK: Mr. Clarkson, you can have a seat in  
14 the jury box please.

15 Juror number 52 Dorothy Furness.

16 (WHEREUPON, a black female, comes forward.)

17 THE CLERK: What say the State?

18 MR. MCEACHIN: Please present Ms. Furness.

19 THE CLERK: What say the defense?

20 MR. MEETZE: Please excuse Ms. Furness.

21 THE CLERK: Thank you, Ms. Furness.

22 Juror number 25 Freddy Campbell.

23 (WHEREUPON, a white male, comes forward.)

24 THE CLERK: What say the State?

25 MR. MCEACHIN: Beg the Court's indulgence.

1 (WHEREUPON, a pause in the proceedings.)  
2 MR. MCEACHIN: Please present Mr. Campbell.  
3 THE CLERK: What say the defense?  
4 MR. MEETZE: Please excuse Mr. Campbell.  
5 THE CLERK: Mr. Campbell, thank you.  
6 Juror number one Joseph Abram.  
7 (WHEREUPON, a black male, comes forward.)  
8 THE CLERK: What say the State?  
9 MR. MCEACHIN: Beg the Court's indulgence.  
10 (WHEREUPON, a pause in the proceedings.)  
11 MR. MCEACHIN: Please present Mr. Abram.  
12 THE CLERK: What say the defense?  
13 MR. MEETZE: Please seat Mr. Abram.  
14 THE CLERK: Mr. Abram, please take a seat n the  
15 jury box please.  
16 Juror number 19 Mallory Boatwright.  
17 (WHEREUPON, a black female, comes forward.)  
18 THE CLERK: What say the State?  
19 MR. MCEACHIN: Please present Ms. Boatwright.  
20 THE CLERK: What say the defense?  
21 MR. MEETZE: Please seat Ms. Boatwright.  
22 THE CLERK: Ms. Boatwright, please take a seat  
23 in the jury box please.  
24 Juror number 101 James Lewis.  
25 (WHEREUPON, a black male, comes forward.)

1 THE CLERK: What say the State?

2 MR. MCEACHIN: Please present Mr. Lewis.

3 THE CLERK: What say the defense?

4 MR. MEETZE: Please seat Mr. Lewis.

5 THE CLERK: Mr. Lewis, take a seat in the jury  
6 box please.

7 Juror number 155 Rosemary Suggs.

8 (WHEREUPON, a white female, comes forward.)

9 THE CLERK: What say the State?

10 MR. MCEACHIN: Please present Ms. Suggs.

11 THE CLERK: What say the defense?

12 MR. MEETZE: Please seat Ms. Suggs.

13 THE CLERK: Ms. Suggs, thank you.

14 Juror number 70 Amber Harrelson.

15 (WHEREUPON, a white female, comes forward.)

16 THE CLERK: What say the State?

17 MR. MCEACHIN: Present Ms. Harrelson.

18 THE CLERK: What say the defense?

19 MR. MEETZE: Please excuse Ms. Harrelson.

20 THE CLERK: Ms. Harrelson, you can take a seat  
21 back out in the audience. Thank you.

22 Juror number 33 Al Crawford.

23 (WHEREUPON, a black male, comes forward.)

24 THE CLERK: What say the State?

25 MR. MCEACHIN: Please excuse Mr. Crawford for

1 purposes of this trial only.

2 THE CLERK: Thank you, Mr. Crawford. You can  
3 take a seat back in the audience.

4 Juror number 145 Monica Sanders.

5 (WHEREUPON, a black female, comes forward.)

6 THE CLERK: What say the State?

7 MR. MCEACHIN: Please present Ms. Sanders.

8 THE CLERK: What say the defense?

9 MR. MEETZE: Please seat Ms. Sanders.

10 THE CLERK: Thank you, Ms. Sanders, if you'll  
11 take a seat in the jury box.

12 Juror number 62 Johnny Graves.

13 (WHEREUPON, a black male, comes forward.)

14 THE CLERK: What say the State?

15 MR. MCEACHIN: Please present Mr. Graves.

16 THE CLERK: What say the defense?

17 MR. MEETZE: Please seat Mr. Graves.

18 THE CLERK: Mr. Graves, if you'll take a seat in  
19 the jury box please.

20 Juror number 56 Meredith Gibson.

21 (WHEREUPON, a white female, comes forward.)

22 THE CLERK: What say the State?

23 MR. MCEACHIN: Please present Ms. Gibson.

24 THE CLERK: What say the defense?

25 MR. MEETZE: Please excuse Ms. Gibson.

1 THE CLERK: Ms. Gibson, if you'll take a seat  
2 back in the audience. Thank you.

3 Juror number 134 Verlinear Richardson.

4 (WHEREUPON, a black female, comes forward.)

5 THE CLERK: What say the State?

6 MR. MCEACHIN: Beg the Court's indulgence for  
7 just a moment.

8 (WHEREUPON, a pause in the proceedings.)

9 MR. MCEACHIN: Please present Ms. Richardson.

10 THE CLERK: What say the defense?

11 MR. MEETZE: Please seat Ms. Richardson.

12 THE CLERK: Ms. Richardson, if you'll take a  
13 seat in the jury box.

14 For alternates Juror number 37 Annette Davis.

15 (WHEREUPON, a black female, comes forward.)

16 THE CLERK: What say the State?

17 MR. MCEACHIN: Please present Ms. Davis.

18 THE CLERK: What say the defense?

19 MR. MEETZE: Please seat Ms. Davis.

20 THE CLERK: Ms. Davis, if you'll take a seat.

21 Juror number 15 Danny Bilton.

22 (WHEREUPON, a white male, comes forward.)

23 THE CLERK: What say the State?

24 MR. MCEACHIN: Please present Mr. Bilton.

25 THE CLERK: What say the defense?

1 MR. MEETZE: Please seat Mr. Bilton.

2 THE CLERK: Mr. Bilton, you can take a seat.  
3 Thank you.

4 THE COURT: All right. Any objections to the  
5 jury or the process for which they were drawn what say the  
6 State?

7 MR. MCEACHIN: None from the State.

8 THE CLERK: What say the defense?

9 MR. MEETZE: Nothing from the defense, Your  
10 Honor.

11 THE COURT: We're going to excuse this jury  
12 until 9:30 in the morning; is that right?

13 MR. MCEACHIN: Yes, sir, Your Honor.

14 THE COURT: All right. Members of the jury, we  
15 going to start this trial tomorrow at 9:30. I need for  
16 you to be back here in a little bit before 9:30. The  
17 gentleman in the green coat will lead you into that jury  
18 room at that time. However, I do want to instruct you  
19 that I know you know a little bit about this case simply  
20 because of this jury selection process. You know the  
21 defendant. You know the name. You know what the charges  
22 are. I'm going to instruct that you do not investigate  
23 this case at all when you leave this courthouse. Do not  
24 Google anybody's name. Do not look up anything about this  
25 case. Do not talk to anybody about this case. When it's

1 is over, you can do whatever you want but not until then.  
2 So if anybody ask you what are you doing, just tell them  
3 I'm on a jury, but that's it nothing further. All right,  
4 you're excused. I'll see you back at 9:30 in the morning.  
5 Everybody else remain seated.

6 (WHEREUPON, the jury is excused for the day.)

7 (WHEREUPON, a break was taken.)

8 THE COURT: All right, Solicitor, I'm ready when  
9 you are.

10 MR. MCEACHIN: Thank you, Your Honor. This is  
11 Jackson vs. Denno hearing actually for the purposes of --  
12 making sure we're clear on the record. This is the trial  
13 of State vs. Erick Willard indictment number  
14 2017-GS-33-0322. The State would call Agent Mark Collins  
15 to the stand.

16 THE CLERK: You solemnly swear or affirm to tell  
17 the truth, the whole truth and nothing but the truth so  
18 help you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you, take seat.

21 WHEREUPON,

22 Mark Collins,

23 after first having been duly sworn, testified as follows:

24 DIRECT EXAMINATION IN-CAMERA

25

1 BY MR. MCEACHIN:

2 Q Agent Collins, if you would please state your full  
3 name?

4 A Mark Reneil Collins.

5 Q And, Agent Collins, who do you currently work for?

6 A Marion County Sheriff's Office assigned to Marion  
7 County Combine Drug Unit.

8 Q And how long have you been working with the Marion  
9 County Combine Drug Unit?

10 A Since 2008.

11 Q And, I guess, as of March of 2017, you were working  
12 for under the Marion County Combine Drug Unit?

13 A Yes, I was.

14 Q And did you have occasion to become involved in an  
15 investigation with Mr. Erick Willard?

16 A Yes, I did.

17 Q If you don't mind would you relay to the Court what  
18 took place on March 3rd 2017?

19 A We executed a search warrant at Mr. Willard's  
20 resident at [REDACTED] Aster Road in Mullins. During the search  
21 warrant, Mr. Willard was taken into custody with four  
22 other subjects inside the residence.

23 Q So there were five total subjects inside the  
24 residence?

25 A That's correct.

1 Q And during the course of executing a search warrant  
2 were any alleged illegal narcotics found?

3 A Yes, there was.

4 Q Okay. And once those narcotics were found, did you  
5 or any other member of law enforcement have an opportunity  
6 to speak to Mr. Willard and the other occupants of the  
7 residence?

8 A I did.

9 Q And if you would please relay to the Court how that  
10 took place?

11 A After the search of the residence was completed  
12 off -- all five individuals were in the den area which was  
13 Erick Willard, Jean McBride, a Michael Legette, Leroy  
14 Owens and an Andrian Williams. I advise them of their  
15 Miranda rights at this time.

16 Q And if you don't mind, would you please recite the  
17 Miranda rights you read to them. I see you're reaching  
18 into your pocket. What are you reaching for?

19 A My Miranda right's card.

20 Q Is that the card you use when you recite rights to  
21 them that evening?

22 A I did.

23 Q Okay. Please proceed?

24 A You have the right to remain silent. Anything you  
25 can -- will be used against you in a court of law. You

1 have the right to talk to an attorney or have him or her  
2 present while you are being questioned. If you cannot  
3 afford to hire an attorney, one will be appointed to  
4 represent you before any question if you want. You can  
5 decide at any time to exercise these rights and not answer  
6 any questions or make statements. Do you understand these  
7 rights I have explain to you and I went and ask each  
8 individual did they understand their rights. They all  
9 said yes.

10 Q And -- I'm sorry.

11 A Having these rights in mind do you wish to talk to us  
12 now. I asked all five subjects and they all said, yes,  
13 they wish to talk.

14 Q So let's stick specifically with Mr. Willard after  
15 you read those rights to Mr. Willard, did you specifically  
16 ask him if he understood those rights?

17 A Yes, I did.

18 Q And what was his response to that question?

19 A Yes, he did.

20 Q And then you followed that up with understanding  
21 those rights do you wish to talk with law enforcement at  
22 this time?

23 A They all wish.

24 Q And they all indicated they would?

25 A Yes, they would.

1 Q And Mr. Willard was included in the group that said  
2 that they would?

3 A Yes, sir.

4 Q And you specifically asked him that question?

5 A Yes, sir.

6 Q Okay. Now, did you have an opportunity to ask any  
7 questions to any of these individuals that were in  
8 custody?

9 A Yes, I did.

10 Q Okay. And when I say questions I should probably  
11 back up a minute. After you asked the question would you  
12 like to speak to me and they all indicated they would. At  
13 that time was anything said or stated?

14 A At that time Mr. Willard spoke up.

15 Q All right. When you say spoke up was that in  
16 response to any additional question you have?

17 A We advised them that we had located some narcotics  
18 drugs inside the house, outside the house, that's when  
19 Mr. Willard spoke up and said he was going to take  
20 responsibility of the drugs located inside the house and  
21 outside the house.

22 Q So were those -- did you have -- where were the  
23 narcotics at that time?

24 A On the kitchen table in the evidence bags.

25 Q Okay. Now, in addition to simply making that

1 statement narcotics were located in and around the  
2 residence, did you ask any questions of the individuals  
3 that were in custody?

4 A No.

5 Q So Mr. Willard just voluntarily told you never mind  
6 I'll take them nobody else needs to worry about them?

7 A That is correct.

8 Q Okay. Once he made that statement, what did you do?

9 A We told him okay. We signed -- Agent Cribbed advised  
10 him of the search warrant, executed a search warrant and  
11 give him a copy of the search warrant at the jail. We  
12 advised him of his arrest warrants. We served the  
13 warrants on him. He wanted to leave the copies at the  
14 residence.

15 Q Okay. And those arrests were not necessarily talking  
16 about what you all found with regard to this case that was  
17 from prior actions by the defendant?

18 A Yes, sir.

19 Q Who all was inside the room with you at the time you  
20 read the Miranda rights to Mr. Willard?

21 A Agent Cribb.

22 Q The other four defendants excuse me -- the other four  
23 individuals in custody were also in there?

24 A Yes, they were.

25 Q As a result of what Mr. Willard told y'all, did y'all

1 assign arrest warrants on the other individuals?

2 A No, sir, we did not.

3 Q And the basis for that was?

4 A Because Mr. Willard took ownership of it.

5 Q Any other questioning of Mr. Willard go on at all?

6 A No.

7 Q That was it?

8 A That was it.

9 Q And that statement was made after you had indicated  
10 narcotics had been found in and around the residence?

11 A That's correct.

12 MR. MCEACHIN: Thank you. No further questions.  
13 Please answer any questions defense may have for you.

14 CROSS-EXAMINATION IN-CAMERA

15 BY MR. MEETZE:

16 Q Agent Collins, you sure nobody else was arrested for  
17 anything?

18 A There's somebody had a child support bench warrant  
19 and there was an individual arrest for a small bag of  
20 cocaine located in the car.

21 Q In a car that was there at the property?

22 A Yes, sir.

23 Q Okay.

24 A Not inside the residence but outside.

25 Q Yes, sir. And as you testified that you read Miranda

1 warnings to everybody that was present?

2 A I did.

3 Q And you said they all agreed to speak?

4 A Yes, they did.

5 Q Did you take -- did you get any statements from  
6 anyone besides Mr. Willard and the other individual who  
7 was charged?

8 A I didn't feel it was necessary when Mr. Willard took  
9 ownership of everything in the house.

10 Q Did they make any statements at all?

11 A No.

12 Q Even though they said they were willing to talk they  
13 didn't talk?

14 A I didn't ask them anything.

15 Q I got you. Did -- was any of this recorded?

16 A No, sir.

17 Q Did you have any kind of a body mic or camera or  
18 anything like that on you at the time?

19 A No, sir, just Agent Cribb.

20 Q Did Agent Cribb to your knowledge have any kind of  
21 camera or body mic or anything like that on him?

22 A No, sir.

23 Q Now, the incident report indicates there was a  
24 sheriff's deputy there as well?

25 A Yes, it was.

1 Q Was that Deputy Barfield?

2 A Yes, sir.

3 Q Was there anybody else besides ---

4 A Members of the SWAT team.

5 Q Were they in the living room or were they in and out

6 or can you remember?

7 A In and out.

8 Q But Deputy Barfield at least according to the

9 incident report was in there with you and Agent Cribb. Do

10 you know if Agent Barfield had on a body mic or camera or

11 anything like that?

12 A No, sir.

13 Q You don't know or he did not?

14 A He did not.

15 Q All right. And you know that?

16 A Yeah, because we don't have those.

17 Q Okay. And so there's nothing recorded to memorialize

18 the statement that you're testifying to that Mr. Willard

19 made?

20 A No, sir.

21 Q At any point in time when you got him back to the

22 sheriff's department or to the jail or whatever for

23 booking, did he make any kind of a written statement or

24 anything like that?

25 A No, sir.

1 Q Okay. So there's no written statement with regards  
2 to that?

3 A No, sir.

4 Q Okay.

5 MR. MEETZE: All right. I don't have anything  
6 further, Judge.

7 THE COURT: All right. Anything further from  
8 the State?

9 MR. MCEACHIN: Nothing from this witness. I  
10 call Agent Aurelius Cribb to the stand.

11 THE COURT: Let me ask you real quick before we  
12 got any further were the arrest warrants were they to be  
13 served on Mr. Willard from something prior?

14 MR. MCEACHIN: They were, Your Honor. They were  
15 being served on Mr. Willard for distributions.

16 THE COURT: Not connected with this?

17 MR. MCEACHIN: Not connected with this, nothing  
18 resulting from this trial, Your Honor. There are  
19 additional indictments pending against him, but as far as  
20 this trial is concerned, those arrest warrants the only  
21 basis for the search warrant as well as the arrest  
22 warrant.

23 THE COURT: Well, we don't need to mention that  
24 at trial is what I'm getting at.

25 MR. MCEACHIN: Absolutely not.

1 THE COURT: All right, go ahead.

2 THE CLERK: Do you solemnly swear or affirm to  
3 tell the truth, the whole truth, and nothing but the truth  
4 so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you.

7 WHEREUPON,

8 Aurelius Cribb,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION IN-CAMERA

11 BY MR. MCEACHIN:

12 Q Agent Cribb, if you would please state your full name  
13 for the record?

14 A Aurelius Cribb.

15 Q And, Agent Cribb, who are you employed with?

16 A Marion County Sheriff's Office.

17 Q Do you also work with the Marion County Combined Drug  
18 Unit?

19 A Yes, sir.

20 Q And were you working for the Marion County -- with  
21 the Marion County Combined Drug Unit on March the third  
22 2017?

23 A Yes, sir.

24 Q Were you part of an investigation that took place on  
25 Aster Road in Mullins on that date?

- 1 A Yes, sir.
- 2 Q And Mullins is here in Marion County?
- 3 A Yes, sir.
- 4 Q And what do you recall occurring on that particular  
5 day?
- 6 A We ask to secure a search warrant on Aster Road.  
7 There's some narcotics found at the residence inside the  
8 residence and outside the residence. Everybody was  
9 handcuffed and Agent Collins read the Miranda rights to  
10 all the -- all the people that was inside the residence.
- 11 Q Let's back up just a minute, Agent Cribb. Were you  
12 -- when you say the search warrant was executed, were  
13 inside or outside the residence when the search warrant  
14 was executed?
- 15 A I was inside.
- 16 Q And did you take -- did you also engage in the search  
17 of the residence?
- 18 A Yes, sir.
- 19 Q And you indicated that people were placed into  
20 custody. How many people were placed into custody?
- 21 A A total of five.
- 22 Q A total of five. So they were handcuffed?
- 23 A Yes, sir.
- 24 Q Placed into custody?
- 25 A Yes, sir.

- 1 Q And were they all kept together?
- 2 A They were kept in the living room, yes, sir.
- 3 Q Okay. And you indicated that Agent Collins read them  
4 their rights. Were you present when that occurred?
- 5 A Yes, sir.
- 6 Q Where were you at the time?
- 7 A We was in the living room.
- 8 Q Y'all were in the living room?
- 9 A Yes, sir.
- 10 Q So it was you and Agent Collins and the five  
11 individuals?
- 12 A Yes, sir.
- 13 Q And was Agent excuse me -- Deputy Barfield in there  
14 with you all?
- 15 A Yes, sir, he was in there.
- 16 Q Okay. So it was eight of y'all in there together?
- 17 A Yes, sir.
- 18 Q And you witness Agent Collins read him his Miranda  
19 rights?
- 20 A Yes, sir.
- 21 Q And you were in the courtroom here today when he read  
22 the Miranda rights?
- 23 A Yes, sir.
- 24 Q Were those the same ones you read that day?
- 25 A Yes, sir.

1 Q Were you also present when he asked a question if all  
2 the individuals in custody understood their rights?

3 A Yes, sir.

4 Q Specifically, do you recall what Mr. Willard said?

5 A Yes, sir.

6 Q What did he say?

7 A He said he took ownership of all the items that we  
8 located.

9 Q All right. Agent Cribb, you're going to need to  
10 speak up. I'm not talking about what he said after  
11 Miranda rights. When he was asked the question, did he  
12 understand his Miranda rights and what was his response?

13 A He said that he understood.

14 Q He stated he understood. All right. And then were  
15 you also present when Agent Collins asked if anyone wanted  
16 to speak?

17 A Yes, sir.

18 Q And did you witness or were you there when Mr.  
19 Willard responded to that question?

20 A Yes, sir.

21 Q Okay. What did he say?

22 A He say he takes ownership of the items.

23 Q Okay. When we're talking about the items, what items  
24 we're talking about?

25 A The drugs.

1 Q The drugs?

2 A Yes, sir.

3 Q Okay. At any point did Mr. Willard ask any questions  
4 or indicate that he didn't know what was going on?

5 A No, sir.

6 Q Is there anything that you observed that will cause  
7 you concern about his understanding?

8 A No, sir.

9 Q How long did that whole process take conversation  
10 between Agent Collins and individuals in custody?

11 A About four or five minutes.

12 Q Okay. Four or five minutes?

13 A Yes, sir.

14 Q All right. And then after the statement was made Mr.  
15 Willard was arrested?

16 A Yes, sir.

17 Q Okay. What happened with the other individuals?

18 A I think two of them went to jail for other offenses.

19 Q Other offenses not related to the drugs that were  
20 located in and around the residence?

21 A Yes, sir.

22 MR. MCEACHIN: Thank you. Please answer any  
23 questions Mr. Meetze may have for you.

24 MR. MEETZE: I don't have any questions for this  
25 witness.

1 THE COURT: All right. You may step down.

2 (WHEREUPON, the witness leaves the witness  
3 stand.)

4 THE COURT: Any other witnesses?

5 MR. MCEACHIN: Nothing further, Your Honor.

6 THE COURT: Any witnesses from the defense?

7 MR. MEETZE: Judge, for the record, we would  
8 make the motion that the statement that attributes  
9 Mr. Willard be excluded. There's no corroborating  
10 evidence in regards to that statement having been made  
11 with regards to any kind of audio or video recording or  
12 anything like that. No other statements from anybody else  
13 in the location. And based on that for the record, we  
14 object to it being entered as evidence.

15 THE COURT: All right. I'm going to find that  
16 the defendant was properly Mirandized and he gave the  
17 statement freely and voluntarily. Certainly, you can  
18 cross-examine to the great detail in the regard.

19 MR. MEETZE: Judge, and just to make sure  
20 that -- they've testified that he made a statement that he  
21 was taking ownership of the items that they located and  
22 they testified to just making sure there aren't any other  
23 statements the State would intend to introduce.

24 MR. MCEACHIN: That's the only statement.

25 THE COURT: That's it.

1           MR. MEETZE: And with regards to why they were  
2 there, obviously we would move that no testimony be  
3 elicited with regards to prior distribution charges that  
4 they have warrants already for. There was an alleged  
5 distribution charge that was the basis for getting a  
6 search warrant that I don't think they had warrants for.  
7 I think this is just the testimony that they were legally  
8 at the house some form or fashion or another should be.

9           MR. MCEACHIN: Certainly, Your Honor, and the  
10 State has no intention to bring that up. As a matter of  
11 fact, it's my understanding that there is no attempt to  
12 suppress any of the drugs that were at the residence based  
13 on a insufficient search warrant, invalid search warrants,  
14 so based on that there's absolutely no basis for us even  
15 getting into that.

16           THE COURT: All right, sounds good. All right,  
17 see you all at 9:30 in the morning.

18           (WHEREUPON, the proceedings were concluded for  
19 the day to be reconvened on November 14, 2017.)

20           THE COURT: You ready to bring out the jury.

21           MR. MCEACHIN: Your Honor, I have a motion.

22           THE COURT: Okay, let me hear from you.

23           MR. MCEACHIN: Thank you, Your Honor. Your  
24 Honor, it came to the State's attention last night that  
25 the defendant made a phone call from the jailhouse. He

1 contacted his mother and father. As part of that  
2 conversation, it's the State's position that the defendant  
3 made some statements against his interest. I would state  
4 at the appropriate time the State does intend to introduce  
5 that into evidence under the rules of evidence. I've  
6 notified Mr. Meetze. I was made aware of it the first  
7 thing this morning. I made him aware of it as soon as it  
8 came to light. This is isn't something that's been out  
9 there. It's not something that would have given him or  
10 had the opportunity to give him prior to trial of the  
11 case, but it just came into existence last night. So I  
12 would put that on the record. And it maybe some portions  
13 of that statement needed to be redacted, but that's  
14 certainly something that can be handled over the lunch  
15 break if we need to, Your Honor.

16 THE COURT: All right.

17 MR. MEETZE: Judge, we would object to the  
18 admission of the phone call just based on 403 objection.  
19 Also, certainly I think there's no question that portions  
20 of it would need to be redacted. There's parts of it  
21 where he speaks with his dad where he's talking about  
22 needing to get him clothes and things like that which  
23 certainly I think can be overly prejudicial, but we're  
24 asking that you exclude on the basis of its prejudicial  
25 effect.

1 THE COURT: Let's just wait and see where it  
2 goes and let me know.

3 MR. MCEACHIN: That's fine, Your Honor. I just  
4 wanted to make the Court aware of the issue.

5 THE COURT: Let's go ahead and bring out the  
6 jury.

7 (WHEREUPON, the jury came into open court.)

8 THE COURT: All right. Ms. Sanders, I'm going  
9 to make you the forelady of the jury. If you would, come  
10 take the very first seat on the row. And the gentleman in  
11 that seat can move to her seat.

12 Mrs. Clerk, if you'll go ahead and swear the  
13 jury.

14 (WHEREUPON, the jury is sworn.)

15 THE COURT: All right. Ladies and gentleman of  
16 the jury, we're getting ready to start this trial, but  
17 before we do, I just want to go over a few things with you  
18 to give you what I call a little back pocket knowledge. A  
19 little bit of knowledge about where we're going and what  
20 we're doing. The first thing I want to explain to you is  
21 the State of South Carolina has the burden of proof. They  
22 have to prove this case beyond a reasonable doubt. At the  
23 end of this trial, I will explain that to you in further  
24 detail. I'll explain that to you in great detail. Also I  
25 want to explain to you what your role is and what my role

1 is and how they differ. You, as the jury, are the judge  
2 of the facts. I, in turn, am the judge of the law. What  
3 that means is that you all determine what the facts of  
4 this case are not me and not my clerk, not the clerk of  
5 court and nobody in the audience just you all. Well, you  
6 ask yourselves, well, how do we do that. You do that by  
7 simply looking at the evidence in the case. The evidence  
8 is made up of two things. It's made up of the witnesses  
9 that come over here. They're sworn in. They take the  
10 witness stand and they testify. Furthermore, it's made up  
11 of any exhibits admitted into the record as evidence that  
12 could be photographs, reports, weapons what have you.  
13 That is where you all determine what the facts of the case  
14 are.

15 In turn, I am the judge of the law. My job is  
16 to give these parties a fair trial. Furthermore, my job  
17 is to rule on the law applicable to this case and to  
18 charge you the law applicable to this case at the very end  
19 of this trial. In that regard, I want you to understand  
20 that you have accept the law as I give it to you. You  
21 have any preconceived ideas as to what you think the law  
22 is or what the law ought to be and it does not agree with  
23 what I tell you the law is, you have to abandon your  
24 preconceptions and except the law as I give it to you.  
25 And then when I tell you to begin your deliberations and

1 only then will you take the findings of facts that you  
2 find and the law as I give it to you. You'll put the two  
3 together and make a decision therefrom a lot common sense  
4 in that process.

5           Furthermore, I want to explain to you that if we  
6 take a break at any point in time during this trial which  
7 we will take a lunch break or if we do not finish today  
8 and you have to go home tonight, as I told you in the very  
9 beginning do not discuss the case among yourselves or with  
10 anybody. Do not do any independent research at all. It  
11 would be improper and it would be premature. It's very  
12 important that you understand that you are not to discuss  
13 this case until I tell you to begin your deliberations.  
14 The reasons I tell you that is because I want to make sure  
15 that you have everything you have to have. I want you to  
16 hear from everything the State has to put up. If the  
17 defense wants to put up anything, I want you to hear from  
18 them as well and then I want you to hear from me. Once  
19 you have everything, I'll specifically tell you to begin  
20 your deliberations, but do not do so until that time.

21           If you're in the jury room and you sitting  
22 around and you thinking well we can't talk about the case  
23 what we can talk about. You can talk about the weather,  
24 Christmas, yourselves, what you do for a living whatever,  
25 but not this case until I tell you to. Right now I just

1 want you to sit back. I want you to relax. At any point  
2 in time during this trial if you have any needs, you need  
3 to stretch and you need to get up. You don't feel good.  
4 You need something to drink or whatever. If you'll just  
5 kind of waive your finger to me, I'll make sure we take an  
6 appropriate break. All right. I recognize the State for  
7 your opening statement.

8 MR. MCEACHIN: Thank you very much, Your Honor.  
9 May it please the Court.

10 THE COURT: Yes, sir.

11 MR. MCEACHIN: Defense counsel. Madam forelady  
12 and ladies and gentlemen of the jury. In the early  
13 morning hours of March the 3rd of this year 2017, these  
14 agents with the Marion County Combine Drug Unit as well as  
15 the Marion County SWAT executed a search warrant at the  
16 residence of the defendant. When they entered that  
17 residence and during the course of the next hour or so as  
18 they searched the residence, they found several different  
19 types of substances. They found multiple pills and other  
20 items that they believe to be controlled substances or  
21 narcotics, that's their function with the Marion County  
22 Combine Drug Unit does. They search for these substances.  
23 That's what this case is primarily about. And when we get  
24 to the end of the trial, you folks will have to answer two  
25 questions and two questions only. One, were the

1 substances that were found control substances or narcotics  
2 that are illegally possessed and involves the State of  
3 South Carolina and, two, who did they belong to.

4 Now, I introduce myself to y'all yesterday. I'm  
5 Fitzlee McEachin and I represent the State of South  
6 Carolina and the County of Marion in this case. It is my  
7 job as the judge has already told you it is on me to prove  
8 this case to you. It's not on the defendant. It's not on  
9 anybody, but it's on me. It's my obligation as the  
10 representative of the State. So I have to prove to you  
11 folks the defendant committed the acts that he's been  
12 charged with beyond a reasonable doubt. Now, what does  
13 that mean. Well, we'll talk a good bit about it and the  
14 judge is going to tell you a good bit about it end of the  
15 case, but it means doubt which it's not beyond all doubt.  
16 It's evidence that leaves you firmly convinced. If I  
17 present evidence that leaves you firmly convinced that the  
18 defendant did the acts that he's been indicted for, then  
19 you find him guilty. And the way I do that is by two  
20 forms of evidence. The folks you'll hear from from this  
21 witness stand and the physical evidence you'll see that we  
22 will present, so testimony and physical exhibits. Those  
23 are what you used to weigh to determine if the State's met  
24 its burden of proof in this case.

25 Now, I am firmly convinced that once you hear

1 from the witnesses in this stand and once you see the  
2 evidence that we will present to you, that all of you will  
3 be firmly convinced that Erick Willard is guilty of the  
4 crimes that he's been indicted for. He is guilty of  
5 trafficking cocaine. He is guilty of possession with  
6 intent to distribute cocaine base more commonly referred  
7 to as crack cocaine. He's guilty of possession with  
8 intent to distribute methadone and he's guilty of  
9 possession with intent to distribute marijuana.

10 We appreciate y'all being here today. Our  
11 system of justice in the United States can't work without  
12 jurors. The defense and I selected y'all because we think  
13 in the most open minded and the most fair jurors to hear  
14 this case. The good news is this case won't take a long  
15 time to try. I anticipate y'all be home by supper time  
16 tonight, but I don't want you to confuse the shortness of  
17 the case with the significance of the case. This case is  
18 very important to the State of South Carolina. It's  
19 important to the County of Marion. And it's important to  
20 the defendant. So I thank you on behalf of the State for  
21 the attention you're going to give to this matter. And I  
22 ask you once you hear all the evidence that you return a  
23 verdict that speaks the truth and the evidence will bear  
24 that out for you today. Thank you.

25 THE COURT: The defense is recognize.

1 MR. CHANDLER: Good morning, ladies and  
2 gentlemen, my name is Franklin Chandler. I work for the  
3 public defender's office here in Marion County, seated at  
4 defense table with me Attorney Vick Meetze behind him is  
5 our client Mr. Erick Willard. The one thing Mr. McEachin  
6 touched on in his opening statement I'm going to argue  
7 this a little longer and it's proof beyond a reasonable  
8 doubt. It's the highest burden of proof that exist in any  
9 courtroom proceeding here in the great United States of  
10 America. And today the State has that burden.

11 As we sit here today, Mr. Willard is an innocent  
12 man. The State has the burden of providing enough  
13 evidence to erase any reasonable doubt from your mind that  
14 Mr. Willard may be guilty. They simply aren't able to do  
15 that not with the evidence they intend to produce here  
16 today. They don't have enough in a moment to present  
17 their case. It's going to consistent mostly law  
18 enforcement testimony. They're going to tell you about  
19 searches conducted in Mr. Willard's home. They're going  
20 to tell you about drugs found in and around the house.  
21 What they're not going to tell you there's four other  
22 individuals that reside at this home. They're not going  
23 to testify as any DNA analysis. You're not going to  
24 testify as to any fingerprints found in any other drugs.  
25 They also may tell you that Mr. Willard admitted ownership

1 of these drugs. Again, you're not going to see a  
2 recording of that initially, no dash cam, no body cam,  
3 no audio recording. And the reason why is they don't want  
4 you to see the context of that admission. They don't want  
5 you to know that they threatened Mr. Willard. They charge  
6 everyone in the house with the same crime innocent or not  
7 unless someone took ownership. Being it was Mr. Willard's  
8 residence, felt he had to. Pay attention to these  
9 details. Pay attention to what the State presents. Pay  
10 attention to what's being said about proof beyond a  
11 reasonable doubt. At the end -- at the conclusion of this  
12 trial, any doubt remains in your mind said guilt or  
13 innocence Mr. Willard any reasonable thought at all, you  
14 must find him not guilty. Thank you.

15 THE COURT: Call your first witness.

16 MR. MCEACHIN: Thank you very much, Your Honor.  
17 The State could call Bobby Crawford to the stand.

18 THE CLERK: Do you solemnly swear to tell the  
19 truth and nothing but the truth so help you God?

20 THE WITNESS: I do.

21 THE CLERK: Thank you.

22 WHEREUPON,

23 Bobby Crawford,  
24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MCEACHIN:

2 Q Good morning, Agent Crawford.

3 A Good morning, sir.

4 Q How are you this morning?

5 A Doing good.

6 Q Good. If you don't mind please state your full name  
7 for the record?

8 A Bobby Lee Crawford.

9 Q And if you don't mind tell the jury what your current  
10 profession is?

11 A Law enforcement for Marion County Sheriff's office.

12 Q All right. What's your current position with Marion  
13 County?

14 A Current position now is for major for Marion County  
15 Sheriff office.

16 Q And is that what you were doing back in March of this  
17 year?

18 A No, sir, I was the agent at the Marion County drug  
19 unit.

20 Q Okay. As an agent with the Marion County drug unit  
21 what are y'all tasked with doing?

22 A Basically finding drugs and identifying it and making  
23 sure it is drugs.

24 Q Okay. That's what y'all's function is?

25 A Pretty much.

1 Q Okay. Now, you said you were an agent for them back  
2 in March of this year?

3 A March of 2017.

4 Q Yes, sir.

5 A Because I was an agent in February of 2017.

6 Q All right. Did you have occasion to become involved  
7 in a search warrant that took place on or about March the  
8 3rd of this year?

9 A Yes, sir.

10 Q All right. If you don't mind how were you involved  
11 with that tell the jury?

12 A Pretty much once we conducted a search warrant, my  
13 job at the time was to pull security at the rear of the  
14 residence and we done a search warrant. And also activate  
15 the device to deter -- not deter but to distract any  
16 person in the backyard which is a early warning device.  
17 It's like a big piece of fireworks. It gives off a big  
18 sound and also a bright light.

19 Q So on that particular morning your function was to  
20 do, I guess, surveillance on the back of the property?

21 A Correct.

22 Q As well as set off a device that's meant to distract  
23 whoever is in the residence?

24 A Yes, sir.

25 Q Why would you want to distract whoever is in the

1 residence?

2 A Well, it's an early warning device just in-case  
3 someone want to leave the residence from the back. We  
4 make sure that they're notified with the sound. And if  
5 they decide to leave the back of the residence, they  
6 have -- I'm right there looking at it.

7 Q And you recall where the search warrant was executed  
8 on this particular day?

9 A It's [REDACTED] Aster Road.

10 Q And where is that located?

11 A It's in the county, but it's close to the city limits  
12 of Mullins.

13 Q And when you say in the county, you talking about in  
14 Marion?

15 A Marion County right.

16 MR. MCEACHIN: Your Honor, may I have him step  
17 down?

18 THE COURT: Yes.

19 BY MR. MCEACHIN:

20 Q I called you Agent Crawford earlier. I apologize,  
21 Major. Major Crawford, if you don't mind, do you  
22 recognize this document right here?

23 A Yes, sir.

24 Q Okay. What is that a diagram of?

25 A Diagram of the residence [REDACTED] Aster Road.

1 Q Okay. And is this the front of the residence?

2 A It is, yes, sir.

3 Q And this will be the back?

4 A Yes, sir.

5 Q Now, you indicated that you went or better yet where  
6 did you go when you arrived at the residence.

7 A Once I arrived at the residence, I arrived on the  
8 left hand facing the residence. I arrived on the left  
9 side of the residence and I walked to the rear of the  
10 residence.

11 Q Okay. And if you don't mind, would you just draw a  
12 circle, just a small circle where you posted up when you  
13 got there?

14 A When I got there, I parked my vehicle here and I was  
15 placed at the corner of the residence because I could see  
16 to the right and to the left.

17 Q Okay. Now, and I'll let you actually hold what you  
18 got there for just a second. How long were you at the  
19 residence before the search warrant execution was  
20 initiated?

21 A I was there maybe 20 seconds at the most.

22 Q And this one of the things that happens pretty  
23 quickly?

24 A Fast, yes, sir.

25 Q Law enforcement didn't get out there hang around and

1 wait to do anything?

2 A No, we go in there and execute it as fast as we can.

3 Q Okay. And you threw your device?

4 A Yes, sir.

5 Q All right.

6 A Yes, sir, threw my device. I was standing here. It  
7 was a dog cage here. It's a barn here. I threw my device  
8 because I saw the dog, so I didn't want to do any damage  
9 to the dogs. So I threw it toward that barn in the  
10 backyard.

11 Q And did it go off and make a loud sound?

12 A Yes, it made a loud sound and the light.

13 Q While you were back there what, if anything, did you  
14 observe?

15 A I observed once I was at the back, I observed  
16 someone -- once my device went off, the search was already  
17 inside the house or they just entered the house. And I  
18 noticed someone threw something out that window right  
19 here.

20 Q Okay. And what time of day this happened, Major  
21 Crawford?

22 A It started around 0433.

23 Q So it's still pretty dark out in March at 4:30 in the  
24 morning?

25 A Yes, sir.

1 Q How were you able to see somebody throw something out  
2 a window?

3 A Actually whenever I was standing there, the  
4 nightlight from the residence in the back was on. Whoever  
5 threw it out the window could see part of the hand came  
6 out the window.

7 Q All right. And once they threw that out the window,  
8 what did you do?

9 A I secured it. Once it hit the ground, I made sure it  
10 was secure and I notified Mark Collins.

11 Q And why would you notify Agent Collins?

12 A Because he was over the operation of this search  
13 warrant.

14 Q Okay. So if you don't mind with this red marker just  
15 make an X as to where the drugs were thrown -- excuse me  
16 let me clarify that where the substance was thrown from?

17 A Okay, once it came out the window, it landed right  
18 here and right here.

19 Q All right. So there was more than one item?

20 A It was two -- it was three items that came out the  
21 window, but it was two items that had a white substance  
22 inside of it. And it was an empty bag that landed right  
23 beside the window underneath the bushes right there.

24 Q And to the best of your ability was there anything in  
25 that?

1 A There was nothing in that bag. It was just an empty  
2 bag.

3 Q But the two top bags it appears there was a white  
4 substance in the bag?

5 A White substance inside of it.

6 Q Okay. And I know this isn't to scale. You can grab  
7 a seat back in the witness stand. I know this drawing  
8 isn't to scale, but you look like you were pretty close to  
9 this window?

10 A Yes, sir.

11 Q How close would you say you were?

12 A About not even five feet. I was like right there on  
13 it.

14 Q From me to you?

15 A Maybe closer.

16 Q Okay. So you were pretty close?

17 A I was right there on the corner.

18 Q Okay.

19 MR. MCEACHIN: Your Honor, I want to mark a  
20 couple of exhibits. May I approach the witness, Your  
21 Honor.

22 THE COURT: You may.

23 (WHEREUPON, State's Exhibit Nos. 1 and 2 were  
24 marked for identification only.)

25 BY MR. MCEACHIN:

1 Q Major Crawford, can you identify State's Exhibit 1?

2 A That's the window where I was standing at on the  
3 corner?

4 Q This window here?

5 A Yes, sir.

6 MR. MCEACHIN: I move State's Exhibit 1 into  
7 evidence.

8 THE COURT: Any objections?

9 MR. MEETZE: No, Your Honor.

10 THE COURT: State's Exhibit Number 1 into  
11 evidence without objection.

12 MR. MCEACHIN: Thank you very much, Your Honor.

13 (WHEREUPON, State's Exhibit No. 1 was admitted  
14 into evidence.)

15 BY MR. MCEACHIN:

16 Q Now, Major Crawford, what's been marked as State's  
17 Exhibit 2 and it's four separate pictures. I want you to  
18 take a look at State's Exhibit 2 and tell me if you can  
19 identify those photographs?

20 A Yes, sir, the first picture is the item that came out  
21 the window that landed on the ground. The second picture  
22 is the item that came out the window that landed in the  
23 bushes was an empty wrapper like a baggie. Third picture  
24 is one of the items that came out the window on the  
25 ground. And the last picture is the item that came out

1 the window on the ground.

2 Q Okay.

3 A And the last picture is the item that came out the  
4 window from the ground.

5 Q Okay. And the last two pictures in there are those  
6 the pictures that you described as contained a white-like  
7 substance?

8 A Yes, sir.

9 Q And could you tell based on looking at them the --  
10 when you say white-like substance, can you describe any  
11 further just based on the way it looked.

12 A No, sir, it was just some white substance. I don't  
13 know exactly what was in it or nothing just saw it.

14 Q Okay. Once you saw those items come out the window,  
15 I think you indicated that you secured it. How did you go  
16 about securing them?

17 A Basically, I can keep my eyes on it at all times.

18 Q Did anybody else come up and touch those items other  
19 than I think you said Agent Collins?

20 A Agent Collins.

21 Q So he came and collected those items?

22 A Correct.

23 Q So from the time they came out that window to the  
24 time that Agent Collins picked them up, did anybody else  
25 touch those items?

1 A No.

2 MR. MCEACHIN: Thank you. I move State's  
3 Exhibit 2 into evidence.

4 THE COURT: Any objections?

5 MR. MEETZE: No, Your Honor.

6 THE COURT: State's Number 2 is into evidence  
7 without objection.

8 (WHEREUPON, State's Exhibit No. 2 was admitted  
9 into evidence.)

10 MR. MCEACHIN: Your Honor, permission to  
11 publish.

12 THE COURT: Yes.

13 BY MR. MCEACHIN:

14 Q While they're looking at that, Agent Crawford, after  
15 Agent Collins came and collected the evidence from  
16 outside, what did you do?

17 A Basically, I kept secured that corner until  
18 everything was cleared.

19 Q Until the search warrant ---

20 A To the search warrant was cleared.

21 Q Other than what you already testified to, did you  
22 notice anything else or have any other involvement in the  
23 execution of this search warrant?

24 A No, sir.

25 MR. MCEACHIN: Thank you. Please answer any

1 questions the defense may have for you.

2 CROSS-EXAMINATION

3 BY MR. MEETZE:

4 Q Major Crawford ---

5 A How you doing, sir?

6 Q I'm doing fine. Thank you. And I'm sorry to be  
7 repetitive, but I'm probably going to be a little bit  
8 repetitive with some of the questions you've already  
9 answered. You got there and you were stationed on the  
10 outside of the residence?

11 A Correct.

12 Q Where you testified to earlier?

13 A Right.

14 Q And pretty much as soon as you got there within  
15 seconds you all started the operation that you were there  
16 to do?

17 A Yes, sir.

18 Q At any point -- and from your testimony and if I'm  
19 wrong that's why I'm asking. It sounds like you remained  
20 outside?

21 A Yes, sir.

22 Q You did not go inside?

23 A No, sir.

24 Q So you're not aware of anything that happened inside  
25 from your own personal knowledge with regards to any

1 search that went on in there, correct?

2 A No, sir.

3 Q Not aware of other individuals that were in there,  
4 anything that was said to them; is that correct?

5 A No, sir.

6 Q So you not aware of anything that happened inside the  
7 house?

8 A No, sir.

9 Q Because you remained outside the house?

10 A Correct.

11 Q Okay. Now, you were not what would be considered to  
12 be the lead agent in this case, correct?

13 A No, sir.

14 Q And that's Agent Collins; is that right?

15 A Correct.

16 Q As the lead agent as part of the lead agents  
17 responsibility to do the incident reports and things like  
18 that?

19 A Correct.

20 Q And as an law enforcement officer, you're trained to  
21 do that kind of thing?

22 A Do...

23 Q Incident reports and collect evidence and things like  
24 that?

25 A We do incident reports and collect evidence.

1 Q Sure. And you trained on how to do that stuff  
2 throughout your career, correct?

3 A Yes, sir.

4 Q And as a law enforcement officer it's very important  
5 like a lot of jobs you have to constantly go through  
6 various kinds of training?

7 A Right.

8 Q Because the law changes, correct?

9 A Yes, sir.

10 Q Law enforcement techniques and different things like  
11 that can change and that kind of thing, correct?

12 A Yes, sir.

13 Q And it's important to be able to know how to collect  
14 evidence?

15 A Right.

16 Q Interview witnesses? Correct?

17 A Yes, sir.

18 Q Preserve evidence? Correct?

19 A Yes, sir.

20 Q And a big part of what an investigation does and is  
21 -- the incident report plays a large role in an  
22 investigation of the case; is that right?

23 A Yes, sir.

24 Q And that's because the incident report tells  
25 everybody what happens in a case, correct?

1 A Correct.

2 Q And that's very important wouldn't you say?

3 A Yes, sir.

4 Q Because yourself and the other agents with the drug  
5 unit, they're not the only ones that are going to be  
6 reviewing what happened in the case?

7 A Right.

8 Q Not everyone is going to review the incident report,  
9 correct?

10 A Right.

11 Q The solicitor is going to get copies of the incident  
12 report?

13 A Yes, sir.

14 Q So they're going to have to review it, correct?

15 A Yes, sir.

16 Q Defense attorneys are going to get copies of the  
17 incident report, correct?

18 A Right.

19 Q So they're going to need to review the case and be  
20 able to review what happened, correct?

21 A Yes.

22 Q And so because of all that and certainly the  
23 solicitor, defense attorneys and other people they weren't  
24 there at all, right?

25 A No.

1 Q And so it's important to make incident reports as  
2 detailed and as thorough as possible, correct?

3 A Yes, sir.

4 Q So that folks can get a good picture as to what may  
5 have occurred at a particular incident location, correct?

6 A Yes, sir.

7 Q All right. Now, you testified that -- and, of  
8 course, trials come up months and sometimes years down the  
9 road from when something actually happened, correct?

10 A Right.

11 Q And that's another thing that incident reports are  
12 good for is to refresh folks memories, correct?

13 A Yes, sir.

14 Q Now, you didn't -- not being the lead agent in this  
15 case you did not prepare the incident report, correct?

16 A No.

17 Q However, you participated in that in that you gave  
18 some information to Agent Collins for him to use and enter  
19 into the incident report, correct?

20 A Yes, sir.

21 Q Namely what you saw outside from where your position,  
22 correct?

23 A Right.

24 Q Now, you testified -- did you review the incident  
25 report before testifying today?

1 A Yes, sir, I looked at it a couple days ago.

2 Q Okay. And that's -- can be very helpful to refresh  
3 our memories of things that happen months and months ago,  
4 correct?

5 A Right.

6 Q And you testified here today that when you were  
7 positioned outside you saw someone throw objects out of  
8 the window, correct?

9 A Yes.

10 Q Now, when you reviewed the incident report, does it  
11 say anywhere in that incident report that you saw someone  
12 throw objects out the window?

13 A It did it say...

14 Q That you saw someone throw objects out of the  
15 bathroom window?

16 A I have to look at it again.

17 Q Okay.

18 MR. MEETZE: May I approach the witness, Judge.

19 THE COURT: You may.

20 BY MR. MEETZE:

21 Q Some of this is sort of marked up, but I'm going to  
22 hand you a copy of the incident report and I think this is  
23 the paragraph where it talks about all of that. Is there  
24 anywhere in there that indicates you saw someone throw  
25 objects out of the window?

1 A No, sir, I said it was on the ground.

2 Q On the ground. Okay. So it does not say you saw  
3 anybody throw anything out the window?

4 A Correct.

5 Q Is that right?

6 A Correct.

7 Q And as you testified to earlier outside of setting  
8 off the noise whatever you would call it this sort of  
9 explosion for lack of a better word and maintaining your  
10 post outside in case anybody tried to leave and locating  
11 the substance outside that was the extent of your  
12 involvement and outside of telling Agent Collins what you  
13 saw and did that kind of thing?

14 A Correct.

15 Q You didn't go inside?

16 A No, sir.

17 MR. MEETZE: I don't have any further questions.

18 THE COURT: All right. Redirect.

19 MR. MCEACHIN: Just one brief follow-up, Your  
20 Honor.

21 REDIRECT EXAMINATION

22 BY MR. MCEACHIN:

23 Q You indicated you're not the one that prepared the  
24 report?

25 A That's right.

1 Q Is there any doubt in your mind that you saw somebody  
2 throw something out the window?

3 A Yes, sir, I saw someone throw something out the  
4 window.

5 Q Okay. And I probably didn't ask that question, but I  
6 want to make sure did you see somebody throw something out  
7 the window?

8 A Yes, I did.

9 MR. MCEACHIN: No further questions.

10 MR. MEETZE: I don't have any further questions,  
11 Judge. I would ask for a short recess.

12 THE COURT: All right. You may step down.

13 (WHEREUPON, the witness leaves the witness  
14 stand.)

15 THE COURT: Members of the jury, if you would  
16 step into the jury room for just a moment. Do not discuss  
17 the case.

18 (WHEREUPON, the jury retire to the jury room.)

19 THE COURT: Yes, sir.

20 MR. MEETZE: I just need to be excused.

21 THE COURT: Okay.

22 (WHEREUPON, a break was taken.)

23 THE COURT: You ready?

24 MR. MCEACHIN: Yes, sir.

25 THE COURT: Go ahead and bring out the jury.

1 (WHEREUPON, the jury came into open court.)

2 THE COURT: Okay. Go ahead and call your next  
3 witness.

4 MR. MCEACHIN: Your Honor, we call mark Collins  
5 to the stand.

6 THE CLERK: Do you solemnly swear to tell the  
7 truth the whole truth and nothing but the truth so help  
8 you God?

9 THE WITNESS: I do.

10 WHEREUPON,

11 Mark Collins,

12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MCEACHIN:

15 Q Good morning, Agent Collins.

16 A Good morning.

17 Q If you would please state your name for the record?

18 A Mark O'Neil Collins.

19 Q Mark, what do you do for a living?

20 A I am -- work for the Marion County Sheriff's Office  
21 as a agent with the narcotics unit.

22 Q So the Marion County Combine Drug Unit what is that?

23 A Combine drug unit is a unit that is combined with  
24 Mullins, Marion and the sheriff's office. And we combat  
25 the drug offenses in the county and the city.

1 Q And are you currently with that unit?

2 A I am.

3 Q And back in March of 2017 or March of this year were  
4 you with that unit?

5 A Yes, I was.

6 Q Okay. Now, let's talk a little bit about your law  
7 enforcement experience, Mark. How much law enforcement  
8 experience do you have?

9 A 22.

10 Q All right. Other of those 22 years, how many years  
11 have you been working with the narcotics type  
12 investigations?

13 A In 2008.

14 Q So going on nine years now?

15 A Yes, sir.

16 Q All right. And in March of 2017 what was your  
17 position with the drug unit?

18 A Just a drug agent.

19 Q As a drug agent what were some of the functions that  
20 you gave?

21 A Drug agent we are responsible for investigating drugs  
22 in the county and the city. We work with a bunch of  
23 confidential informants. We investigate drug operations  
24 distributions. We do surveillance, interview. Sometimes  
25 we have to go undercover ourselves.

1 Q Is one of the functions y'all also do is execute  
2 search warrants?

3 A That is correct.

4 Q And were you involved in an investigation dealing  
5 with a search warrant execution on March the 3rd of this  
6 year?

7 A Yes, I was.

8 Q What was your role in that investigation?

9 A I was lead investigation -- lead investigator agent  
10 of Erick Willard.

11 Q Okay. And did y'all in fact execute a search warrant  
12 on that day?

13 A We did.

14 Q Okay. Who was involved in the execution of that  
15 search warrant?

16 A It was our ERT team which is like a SWAT team Agent  
17 Crawford, Agent Cribb and myself.

18 Q Okay. And when y'all -- where did y'all execute the  
19 search warrant that day?

20 A 141 Aster Road in Mullins.

21 Q Do you know whose residence that was?

22 A Yes, I do.

23 Q Whose residence was that?

24 A Erick Willard that gentleman in the white shirt  
25 there.

1 MR. MCEACHIN: Please have the record reflect  
2 that the agent has identified the defendant.

3 THE COURT: It will.

4 MR. MCEACHIN: Thank you.

5 BY MR. MCEACHIN:

6 Q Okay. Now, when y'all got to the residence that  
7 morning, where did you go or what did you do when you got  
8 there, first thing you got there where did you go?

9 A When we execute a search warrant, we get in a stack.  
10 Stack is a term that officers are lined up right behind  
11 one another and we go into a house. And when you go into  
12 a house, you break off in different directions of the  
13 house. And that morning we were in a stack when we went  
14 in. The first couple officers we made entry to the house  
15 came in contact with some individuals that were in the den  
16 area. I broke off and went into Mr. Willard's bedroom.

17 MR. MCEACHIN: May I have the witness step down,  
18 Your Honor.

19 THE COURT: You may.

20 BY MR. MCEACHIN:

21 Q Mark, if you would step down. It may be better to  
22 stand on this side so everybody can see. If you would,  
23 did you make entry to the front or the back door or where?

24 A We made entry through the front door.

25 Q Okay. And if you would show the jury half you took

1 when you made entry?

2 A We walked down the road. We got dropped off. We  
3 walked up. We had agents already in the backyard. When  
4 we were going up, they were going in the back. We  
5 breached the door. We used a distraction device at the  
6 front. We gain entry to the house. Subjects were in the  
7 den area officers put them on the ground, handcuff them.  
8 And then me -- I go to Erick Willard's bedroom which is  
9 right here.

10 Q Okay. So this is a bedroom on this side of the  
11 house?

12 A Yeah, this is like the master bedroom, bedroom,  
13 bathroom, closet.

14 Q Okay. And once you made entry into this room what  
15 did you observe?

16 A When I made entry into this room here, Mr. Willard  
17 was coming out of the bathroom. We told him to get on the  
18 ground. He got on the ground. He was handcuffed. And  
19 then he was patted down to make sure he had no weapons or  
20 anything on him. When we heard that the den was secured,  
21 that means they have searched it. We brought him out and  
22 placed him in the den area with four other subjects.

23 Q Okay. So there were five total subjects at the time?

24 A Yes, it was.

25 Q Okay. At that point in time, did you really know who

1 was searching?

2 A No, not at this time. Mr. Willard -- the whole house  
3 was secured at this time. I advised Mr. Willard in the  
4 bedroom that we had a search warrant for his residence.  
5 And he was brought up and placed there and then we started  
6 to search.

7 Q Okay. All right. And if you would, Agent Collins,  
8 with this green marker just show the jury where  
9 Mr. Willard was when you saw him the first time just make  
10 a circle if you don't mind?

11 A Right here coming out of the bathroom.

12 Q Okay. Still stand so everybody can see if you don't  
13 mind. All right, once you got back in the main room with  
14 everybody else, what did you do at that point in time?

15 A I went back into the bathroom area and started  
16 searching in there. Since, he came out of the bathroom  
17 usually in my experience we do a search warrant first  
18 thing somebody does is they try to get to the bathroom  
19 either flush it or try to destroy the evidence. And so  
20 that's the first place where we try to get the contact to  
21 in the bathroom to see if we can save any evidence that  
22 could be destroy.

23 Q And maybe I should take a step back just so the jury  
24 understands where the search warrant and what are you  
25 looking for?

1 A The search warrant we're looking for any kind of  
2 narcotics, illegal drugs.

3 Q So you went into the bathroom this bathroom here?

4 A Yes, sir.

5 Q Okay. And what, if anything, did you -- were you  
6 able to locate in that bathroom?

7 A First of all, when I was -- we were handcuffing  
8 Mr. Willard and advising him that we do have a search  
9 warrant for his residence, I notice some money on his  
10 bedside table. And then a napkin that contained some  
11 white pills. Then when I walked into the bathroom after  
12 he was escorted to the den went to the bathroom and on the  
13 sink. You could see a white powder substance on the sink.  
14 You could see a Dewalt knife, a pocket knife in the sink.  
15 And you also saw small blue baggies in the sink and in the  
16 drain you can see an off-white-rock-like substance, that's  
17 consistent with cocaine base crack stuck down in the sink.  
18 And when I was in the bathroom, that's when Agent Crawford  
19 was right here and he told me that he observed a hand come  
20 out the window and there was two bags out the window.

21 Q All right. I'm going to have you look at State's  
22 Exhibit Number 3. I'm going to ask if you can take a  
23 quick flip through there and tell me if you can identify  
24 the photographs in State's Exhibit Number 3?

25 A Pictures taken out the bathroom.

1 Q Okay. And when you say pictures taken out the  
2 bathroom, you're referring to this bathroom only?

3 A Yes.

4 Q Okay. So did these pictures show what you saw in  
5 that bathroom what you located in that bathroom?

6 A Yes, sir.

7 Q All right.

8 MR. MCEACHIN: Your Honor, I'd move State's  
9 Exhibit 3 into evidence.

10 THE COURT: Any objections?

11 MR. MEETZE: No, Your Honor.

12 THE COURT: State's Exhibit Number 3 is into  
13 evidence without objection.

14 (WHEREUPON, State's Exhibit No. 3 was admitted  
15 into evidence.)

16 BY MR. MCEACHIN:

17 Q We're going to show the jury the first pictures as  
18 far as State's Number 3. This big white thing here you're  
19 not saying that's consistent with crack?

20 A No, that's soap.

21 Q Okay. And what about this little white-rock-like  
22 substance here?

23 A That is consistent with cocaine base crack.

24 Q All right.

25 A And the blue baggies.

1 Q I was going to the next page page two of State's  
2 Exhibit 3 the blue baggies.

3 A Those are the blue baggies.

4 Q Why are those there?

5 A In my experience individuals who deal in narcotics  
6 they break the note down. They put it in those little  
7 baggies and that's how they sell the property.

8 Q And that was located in the bathroom?

9 A Yes.

10 Q Okay. Now, there's a picture is that part of State's  
11 3 that shows the -- underneath the sink what side are they  
12 on?

13 A I told you the pocket knife was in the sink. He was  
14 poking the crack down the sink drain.

15 MR. MEETZE: I'll object to that, Your Honor.

16 THE COURT: Sustained.

17 BY MR. MCEACHIN:

18 Q He was poking the substance down the sink drain?

19 A Yes.

20 MR. MEETZE: Same objection speculation.

21 THE COURT: Sustained.

22 A What I did was I had to undo the pipe of the sink and  
23 hit on the pipe to get all the crack that was stuffed down  
24 in the drain and that's how I collected it was take the  
25 sink a part.

1 Q And once you took the sink a part, did you get  
2 anything out of the pipe?

3 A Yes, I did.

4 Q All right. And also part of State's Number 3 can you  
5 explain to the jury what that is?

6 A Those are off-white-rock-like substance consistent  
7 with cocaine base crack that came out the drain of the  
8 pipe.

9 Q So you actually had to go up underneath the sink,  
10 take the pipe off and shake it out and get that out?

11 A Uh-huh.

12 THE COURT: Is that a yes or no?

13 A Yes.

14 Q Okay. Now, Agent Collins, if you would just make --  
15 just like agent -- Major Crawford did just show the jury  
16 make a couple small X's where you found the substances  
17 believed to be drugs in the bathroom?

18 A Right there.

19 Q That's about where the sink was?

20 A Yes, sir.

21 Q All right. Now, once you concluded your search of  
22 the bathroom, where was the next place you went?

23 A After I completed the search of the bathroom, I went  
24 outside and collected two bags that were thrown out the  
25 bathroom window, photographed them, collected them, put

1     them in evidence bags, came back in and completed the  
2     search of the bedroom.

3     Q     And this probably a good time to ask the question as  
4     the lead agent on the case, were you the only one that was  
5     going to collect any evidence?

6     A     That's correct.

7     Q     And why is that?

8     A     There's no chain of custody and so forth.  Somebody  
9     finds it they just stay there.  I photograph it and I take  
10    it.

11    Q     And so you're the only one that actually touches any  
12    of these substances?

13    A     That's correct.

14    Q     Okay.  So that's why you instead of Agent Crawford  
15    picking this stuff up, that's why you went outside and  
16    picked it up?

17    A     That's correct.

18    Q     So there's one agent that handles all of the  
19    substances found inside the residence?

20    A     That's correct.

21    Q     Okay.  Once you went outside and should stop just a  
22    minute and let you take a quick look at State's Exhibit  
23    Number 2 that's already been admitted take look at that.

24    A     Yes.

25    Q     Are those bags you collected near Agent Crawford?

1 A They are.

2 Q Okay. And there were -- looks like three bags two  
3 actually had some sort of substance in them?

4 A Two bags contained off white -- a white powder  
5 substance and the other bag that was stuck bush was empty.

6 Q After you went outside to collect those items, where  
7 did you go next?

8 A Then I came back in the bedroom. Then I collected --  
9 well, there was currency also in the bathroom. I  
10 collected currency that was under the sink and I open the  
11 safe. And then I collected the money that was on the bed  
12 side table and also collected the white napkin that  
13 contained ten white pills that was consistent with  
14 methadone. And then in the closet there was a coat that  
15 contained some marijuana.

16 Q Now, with regard to the -- I think the first thing  
17 you said you went back in the bathroom there was a safe in  
18 there?

19 A Yes.

20 Q Was the safe open or close?

21 A It was open.

22 Q Okay. And did you take photographs of the safe?

23 A I did.

24 Q Okay. Can you identify State's Exhibit Number 4?

25 A That was a safe that was located under the sink where

1 I had to take the pipe a part.

2 Q Okay. So same the bathroom ---

3 MR. MCEACHIN: Sorry, Your Honor. I move  
4 State's Exhibit 4 into evidence.

5 THE COURT: Any objections?

6 MR. MEETZE: No, Your Honor.

7 THE COURT: Number four is into evidence without  
8 objection.

9 (WHEREUPON, State's Exhibit No. 4 was admitted  
10 into evidence.)

11 BY MR. MCEACHIN:

12 Q So this safe was under the same sink in the bathroom?

13 A Yes, sir.

14 Q The same sink that you found an off-white-rock-like  
15 substance?

16 A Yes, sir.

17 Q If you would just mark on here, the additional places  
18 where you found -- what you believe to be a controlled  
19 substances in the bedroom?

20 A Right here was his bed, beside it was a bedside table  
21 that contained ten white pills and a napkin. There was  
22 some money beside it and also there was a closet. And  
23 there was a jacket that contained some marijuana that was  
24 bagged up in baggies.

25 Q And I'm going to show you State's Exhibit Number 5 if

1 you can take a quick look at that for me and tell me if  
2 you can identify the photograph in State's Exhibit 5?

3 A That's in his bedroom beside his bed, bed side table  
4 and his closet.

5 Q Okay. So those would be the other items you marked  
6 here?

7 A Yes, sir.

8 Q Okay.

9 MR. MCEACHIN: Your Honor, I move State's 5 into  
10 evidence.

11 THE COURT: Any objections?

12 MR. MEETZE: Let me see those. No objection.

13 THE COURT: Number 5 is into evidence without  
14 objection.

15 (WHEREUPON, State's Exhibit No. 5 was admitted  
16 into evidence.)

17 BY MR. MCEACHIN:

18 Q Now, Agent Collins, I have to look at this closely.  
19 I'm going to show picture number two explain to the jury  
20 what picture number two and State's Exhibit 5 is? Make  
21 sure you hold it up for everybody to see.

22 A Inside this napkin there's ten white pills inside  
23 that napkin. That's consistent with methadone, which is a  
24 controlled substance.

25 Q Okay. And if you kind of turn to the bright light

1 you can kind make an outline of the pills?

2 A That's correct.

3 Q There were ten total in there?

4 A Yes, sir.

5 Q Okay. Did you collect all the drugs that were  
6 located in this room as well?

7 A I did.

8 Q All right. As a matter of fact any substances we  
9 talked about today, are you the one who collected those?

10 A I did.

11 Q All right. After you completed the search of this  
12 room, where was the next place you went?

13 A I went to -- went out the den, went into this kitchen  
14 area right here where Agent Cribb had located some items  
15 on the table, which table would be right here. Some  
16 marijuana blunts on the kitchen counter over here. Some  
17 digital scales, some baggies and other drug paraphernalia  
18 items like a grinder and so forth. I photographed those  
19 and put those in evidence.

20 Q Okay. Hang tight just a second. Agent Collins, I'm  
21 going to have you step over here for me and just look down  
22 here and tell me if you can identify these items. Show  
23 you what's been marked as State's Exhibit 7 can you  
24 identify that?

25 A Yes.

1 Q Okay. And what's State's Exhibit 7?

2 A A digital scale.

3 Q All right. State's Exhibit 8?

4 A Another digital scale.

5 Q And State's Exhibit 9?

6 A Blue baggies.

7 Q And State's Exhibit 10?

8 A A grinder.

9 Q Okay. Are those the items that you were just  
10 referring to that you collected from the kitchen?

11 A Yes, sir.

12 MR. MCEACHIN: Your Honor, at this time I'd move  
13 State's Exhibit 7, 8, 9 and 10 into evidence.

14 THE COURT: Any objections?

15 MR. MEETZE: No, Your Honor.

16 THE COURT: Seven, eight and nine and ten are  
17 into evidence without objection.

18 (WHEREUPON, State's Exhibits Nos. 7, 8, 9 and 10  
19 were admitted into evidence.)

20 BY MR. MCEACHIN:

21 Q Now, Agent Collins, what's the significance of  
22 State's 7 and 8 why did you collect those?

23 A In my experience anybody takes part in selling drugs,  
24 they take these digital scales to weight out their product  
25 to see the weight, how much they going to get for it.

1 Q And in your experience as a law enforcement officer  
2 are drugs sold by weight?

3 A Well, some are sold by weight and some are sold by  
4 mostly grams weight wise small amounts, large amounts.

5 Q And these two items are found in the kitchen?

6 A Yes, sir.

7 Q Okay. And with regard to State's Number 9, explain  
8 to the jury why you collected those?

9 A These blue baggies they match the ones that found  
10 them in the bedroom, in the bathroom, but also these are  
11 used to put their product in and sell to whoever wants to  
12 purchase.

13 Q Is that why you collected that piece of evidence?

14 A I did.

15 Q And you said those were consistent with the ones you  
16 found in the bathroom?

17 A Yes, sir.

18 Q Okay. And then finally State's Exhibit Number 10 you  
19 already identified that explain to the jury what that is?

20 A This is a grinder. They put their weed -- the weed  
21 usually comes in and it's packaged, sealed tight. They  
22 break it off. They put it in a grinder and they grind it  
23 up to where they can put in one of those little baggies  
24 for sell.

25 Q Is that why you collected that piece of evidence?

1 A It is.

2 Q All right. So because we're talking about controlled  
3 substances if you would just mark with this green pen  
4 where you found the evidence? The scales how about the  
5 scales?

6 A The scales, baggie and all that were found like on  
7 the kitchen table. Kitchen table and there was a dresser  
8 right here. Some of the baggies, I think, came out of the  
9 dresser, but everything else the scales were on the table,  
10 the kitchen table here.

11 Q So that's where those items came from?

12 A Yep.

13 Q Okay. Now, once you collected that evidence out of  
14 kitchen, where was the next place?

15 A Next place that I went was in the bedroom over here.

16 Q Okay. And just so we're clear on this this was a  
17 bedroom, correct?

18 A Yes, sir.

19 Q And you say this is a bedroom as well?

20 A Yes, sir. This is a bedroom. This is a bedroom.

21 Q Okay. Now, after you went in the kitchen, you went  
22 to this bedroom?

23 A Yeah, I went to this bedroom here look like a storage  
24 room. There was a bed in there, but there was no sheets  
25 on the bed or anything that was just boxed up, with boxes

1 different stuff.

2 Q Okay. Did -- what about the bed in this room have  
3 sheets -- was it made up and everything?

4 A Yes, that room look like somebody was staying in  
5 there every night.

6 Q There were a bunch of boxes and stuff in this room?

7 A Yes.

8 Q All right. What did you do when you searched that  
9 room?

10 A Started -- went in this bedroom I saw some jackets in  
11 a closet and I start searching the jackets to see if  
12 anything was in the jackets and located a -- I call it a  
13 rainbow colored jacket Ralph Lauren jacket and it  
14 contained some narcotics in a pocket of that jacket.

15 Q I'm going to show you what's been marked as State's  
16 Exhibit 6 can you identify that?

17 A Yes.

18 Q Okay. And take a look at all those photographs what  
19 is State's Exhibit 6?

20 A That is a jacket that was located in that closet.

21 Q So that was the jacket located in this bedroom here?

22 A Uh-huh.

23 Q Okay.

24 THE COURT: Is that a yes or a no?

25

1 BY MR. MCEACHIN:

2 Q Sorry. You have to answer yes or no?

3 A Yes.

4 Q That was the jacket located in that closet and you  
5 stated you found some items in that jacket?

6 A I did.

7 Q Okay. And to the best of your knowledge, what did  
8 those items appear to be?

9 A In the jacket, it appeared to be off-white-rock-like  
10 substance consistent with cocaine base, white powder  
11 substance consistent with cocaine, some greenish leafy  
12 substance consistent with marijuana and some different  
13 colored pills that consistent with ecstasy.

14 Q And ---

15 MR. MCEACHIN: Beg the Court's indulgence. Your  
16 Honor, I move State's 6 into evidence.

17 THE COURT: Any objections?

18 MR. MEETZE: No, Your Honor.

19 THE COURT: Number six is into evidence without  
20 objection.

21 (WHEREUPON, State's Exhibit No. 6 was admitted  
22 into evidence.)

23 BY MR. MCEACHIN:

24 Q And these items that you found in State's Exhibit 6  
25 did you also collect these items?

1 A I did.

2 Q Okay. If you would just so the jury knows just put  
3 an X where you found the jacket where the substance that  
4 you believe to be a control substance? All right. Now,  
5 after you -- did you continue searching that room?

6 A I did.

7 Q All right. And after you finished searching that  
8 room, did you search in other rooms?

9 A I went to this room here.

10 Q Did you find anything of any evidentiary value in  
11 that one?

12 A I found two plastic baggies containing green leafy  
13 substances consistent with marijuana.

14 Q And when you say plastic baggies, you talking about  
15 like the blue baggies or like bigger baggies or what?

16 A Little blue baggies.

17 Q Okay. And just make an X where you located that at.  
18 At that point was -- did you search the entire premises or  
19 location?

20 A Yes, that's complete.

21 Q And once you completed your search of the whole  
22 residence, what did you do with all the evidence that you  
23 collected at these various spots?

24 A After I collected all of them, we placed it on the  
25 kitchen table right here in the evidence bags.

1 Q Okay. And you were the one handed those evidence  
2 bags?

3 A I was.

4 Q Okay. Did anybody else ever have possession of those  
5 evidence bags?

6 A No, sir.

7 Q All right. Once you had them all in evidence bags,  
8 what did you do with them?

9 A Put all the narcotics in the best bag, but we did  
10 that at the office.

11 Q Okay. So who would have transported all of this  
12 evidence from this location to your office?

13 A I would have.

14 Q Okay. It was always in your possession?

15 A Always.

16 Q And then once you got to the office, what did you do  
17 with it?

18 A Wrote everything out that was collected, wait, then  
19 we placed it in a SLED best bag so it can be sent to  
20 Columbia.

21 (WHEREUPON, State's Exhibit No. 11 was marked  
22 for identification only.)

23 BY MR. MCEACHIN:

24 Q Agent Collins, I'm going to have you take a look at  
25 State's Exhibit Number 11. Can you identify that?

1 A Yes, sir.

2 Q Okay. And what is State's 11?

3 A This is -- contains a best bag with all of the  
4 narcotics that I sent to SLED to be analyzed.

5 Q Okay. And that was packaged you actually put  
6 together and sent to SLED?

7 A Yeah.

8 Q All right.

9 A This is the best bag here and everything's in that  
10 best bag. And when you seal it, you can't open the back  
11 up and that's placed in the drug vault. And then we take  
12 it out the drug vault, which I took it out the drug vault  
13 and transported to Columbia to SLED.

14 Q Okay. And you harped on it a little bit. The best  
15 bag what is that?

16 A The best bag an evidence bag that was sent to us from  
17 SLED that we have to put all our narcotics in that we send  
18 up there for analysis.

19 Q Okay. And once it's sealed, who opens it out for it  
20 to be sealed?

21 A The chemist.

22 Q At?

23 A At SLED.

24 Q Okay. So once you got it back that morning, you put  
25 all the items you believe to be narcotics in that best

1 bag?

2 A I did.

3 Q All right. And once you sealed up that best bag what  
4 did you do with it?

5 A Put it in a drug vault which is located in our  
6 office.

7 Q Okay. Who has access to the drug vault?

8 A Myself and Agent Cribb.

9 Q Y'all the only two that have access to it?

10 A Yes, we have a two-way lock system. We have two  
11 locks on it. I have a key to one lock. He has the key to  
12 another lock and we can never get into it by ourself.

13 Q And the function behind that is, the reason behind  
14 that is?

15 A Make sure nobody else gets into it.

16 Q Okay. Was that best bag ever removed from y'all's  
17 evidence?

18 A Yes, by me.

19 Q And you removed it?

20 A Uh-huh.

21 THE COURT: Is that a yes or a no?

22 A Yes, I removed it.

23 Q Once you removed it, what did you do with it?

24 A Transported it to Columbia to SLED headquarters to be  
25 tested.

1 Q And that was going to be my follow-up question why do  
2 you send those things to SLED?

3 A To test it to find out what the source is.

4 Q Okay. And when you deliver to SLED, where did you  
5 deliver or did you deliver it to?

6 A There's a -- we usually carry it into SLED. And we  
7 give it to the in-take person, but now the system has been  
8 switched up as that when we go into SLED you have to get  
9 an ID. An ID gets you in a closed room and you have to  
10 date it and stamp it -- step time and you put it in a  
11 locker. And then when you put it in that locker you put a  
12 sticker on it and then you leave. And then one of the  
13 in-take workers come to that locker and get it out.

14 Q That's what you did that day?

15 A That's what I did that day.

16 Q Placed it in the locker?

17 A Yeah.

18 Q Sealed the locker?

19 A Yeah.

20 Q And then other than that one, do you have any other  
21 involvement with State's Exhibit Number 11? Other than  
22 bringing it to court?

23 A That's it.

24 Q Okay.

25 MR. MCEACHIN: It is for identification purposes

1 only, Your Honor.

2 BY MR. MCEACHIN:

3 Q Okay. And while we're on it does State's Exhibit 11  
4 contain all of the evidence you believe to be drug or  
5 narcotics evidence, does it contain everything you  
6 collected from the defendant's residence?

7 A Everything that was collected out Erick Willard's  
8 residence is in that best bag.

9 Q All right. Now, let's go back to that night now  
10 we've established what happened with all the substances.  
11 After you completed the search of the residence, what did  
12 you do?

13 A After we completed the search, all five individuals  
14 were in the den. At that time I explain to them about the  
15 search warrant. And then I explain to all of them about  
16 their Miranda rights.

17 Q I will let you step back and sit back down on the  
18 stand. Now, when you say you explain to them their  
19 Miranda rights, why did you do that?

20 A We do that to anybody that we arrest -- that is  
21 arrested.

22 Q Okay. All these individuals consider five total  
23 individuals in the residence?

24 A Yes.

25 Q Okay. And tell the jury what transpired when you

1 went back in the den? Maybe, I should ask that question a  
2 little differently. When you went into the den to speak  
3 with these individuals, you indicated you read them their  
4 Miranda rights?

5 A I did.

6 Q Okay. Tell the jury which rights you read them?

7 A I pulled out the card that was issued by the police  
8 academy that has their Miranda rights on them. I advised  
9 which they were all together and I read them all their  
10 rights. And when came to two parts -- at the end of it  
11 there's a two-part question where they have to answer and  
12 I went to each individual when it came to that question  
13 and they all acknowledged and then the second part of that  
14 question I did the same thing and each individual  
15 acknowledged.

16 Q And not to embarrass you, Agent Collins, I'm going to  
17 need you to read the Miranda rights that you read to those  
18 individuals that night?

19 A This is the card that we always have on us suspect  
20 rights, Miranda warning. If you have the right to remain  
21 silent, anything you say can and will be used against you  
22 in a court of law. You have the right to talk to an  
23 attorney and have him or her present with you while you  
24 are being questioned. If you cannot afford to hire an  
25 attorney, one will be appointed to represent you before

1 any questioning if you want. You can decide at any time  
2 to exercise these rights and not answer any questions or  
3 make statements. Do you understand these rights I've  
4 explained to you? And that was the question that ask I  
5 each individual that was in the room which they said they  
6 stated, yes, they understood their rights.

7 Q Was Mr. Willard one of those individuals? ..

8 A Yes, he was.

9 Q Did he indicate he understood his rights?

10 A He did.

11 Q Was there anything about Mr. Willard that caused you  
12 concern to think that he didn't understand what you were  
13 telling him?

14 A No, sir.

15 Q Okay. So after you read him the rights, you said  
16 there was a second part to it?

17 A Yes. The last question having these rights in mind  
18 do you wish to talk to us now. Then I went to all five  
19 subjects and they all stated, yes, they wish to speak to  
20 law enforcement.

21 Q Okay. And that at that point in time what was the  
22 next thing that happened?

23 A At that time Mr. Willard spoke up ---

24 MR. MEETZE: Your Honor, I'm going to renew my  
25 previous objection with regards to that.

1 THE COURT: Overruled.

2 BY MR. MCEACHIN:

3 Q Mr. Willard spoke up and said?

4 A Mr. Willard spoke up and said that he was taking  
5 ownership of everything in the house and outside of the  
6 house because he didn't want anybody else to go to jail.

7 Q All right. And when you say Mr. Willard said that,  
8 you're talking about this fellow in the white shirt right  
9 here?

10 A Yeah, Mr. Erick Willard.

11 Q He said that it all was his?

12 A Yes.

13 Q All right. Once he said that, what did you do?

14 A Then we were notified that one of the individuals  
15 that was in the house was wanted for a child support bench  
16 warrant. And then a vehicle that had pulled up outside  
17 who was also in the residence was also arrested for ---

18 MR. MEETZE: Object to the relevance of that.

19 THE COURT: How is it relevant?

20 MR. MCEACHIN: Well, Your Honor, simply setting  
21 forth -- I think it would be relevant if you give me one  
22 more minute.

23 A There was two other people arrested besides  
24 Mr. Willard and they were transported to the jail.

25 Q And did that have anything to do -- those two arrest

1 have anything do with what was located in the house or  
2 where Agent Crawford showed us this stuff was located  
3 outside of the house?

4 A No, no. Mr. Willard took ownership of everything  
5 that was inside the house and outside the house.

6 Q So everything that we marked on here, Mr. Willard  
7 took?

8 A Ownership of it.

9 Q Ownership of it. Okay. As a result of him taking  
10 ownership, what did you do?

11 A He was charged accordingly.

12 Q Okay. What about the other individuals in the house?

13 A They were not charged.

14 Q And would -- I'm sorry go ahead.

15 A They were not charged with anything in the house  
16 because Mr. Willard spoke up and took ownership of  
17 everything that was located inside the house and outside  
18 the house.

19 Q Okay. And if you hadn't done that, they been  
20 arrested as well?

21 A Yes.

22 Q Okay. So because of him admitting to you that  
23 everything was in the house and outside the house was his,  
24 he was the only one arrested?

25 A Yes, he was.

1 Q Okay. Thank you. And I know we kind of backtracked  
2 a little bit and we talked about everything you did  
3 afterwards by taking the stuff to SLED and doing all that,  
4 that morning after y'all finished with the search warrant  
5 was there any other part of the investigation that took  
6 place in this case?

7 A The search warrant Mr. Willard was given a copy of  
8 the search warrant of everything taken that was seized  
9 from his residence. It was turned over to him at the jail  
10 by Agent Cribb.

11 Q Okay. And he received a copy of all that?

12 A Yes, he did.

13 Q Okay. Any other involvement y'all had with regard to  
14 this specific case?

15 A No.

16 MR. MCEACHIN: Thank you. Please answer any  
17 questions the defense may have for you.

18 MR. MEETZE: Thank you. May it please the  
19 Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. MEETZE:

23 Q Agent Collins, you just testified that Mr. Willard  
24 made a statement claiming all the substance both inside  
25 and outside the residence, correct?

1 A I did.

2 Q You also testified that had he done that that  
3 everybody located in the house would have been arrested,  
4 correct?

5 A That is correct.

6 Q And charged with all the same substances, correct?

7 A Correct.

8 Q And in fact you had advised everybody of that?

9 A No, sir, I didn't.

10 Q You never told everybody that unless somebody claims  
11 it everybody would be arrested?

12 A No, because before I even mentioned that Mr. Willard  
13 spoke and said I'm taking ownership of everything. He  
14 didn't give me time to say that to anybody.

15 Q And you also told Mr. Willard that it was his house  
16 so the stuff would be his anyway so to speak, correct?

17 A No, sir.

18 Q You never told him that?

19 A No, sir.

20 Q Okay. But you certainly do admit here even though  
21 you didn't say that have somebody not claimed it everybody  
22 would have been arrested?

23 A Yes, sir.

24 Q Okay. Now, you also testified a little earlier that  
25 -- well, let me back up I apologize. As you testified you

1 are the lead agent in this particular case, correct?

2 A Yes, sir.

3 Q Which means you have the most responsibility of  
4 anybody there, correct?

5 A I did.

6 Q You got everybody together, but was going to  
7 participate in this -- I can't think of my words ---

8 A Search warrant.

9 Q Search warrant.

10 A I did.

11 Q Made -- you let everybody know what their  
12 responsibilities would be?

13 A Yes, sir.

14 Q And you were in charge of executing a search warrant?

15 A I was.

16 Q And you collected all of the evidence?

17 A I did.

18 Q Maintained control of that?

19 A I did.

20 Q Now, as part of that and even going further back you  
21 been in law enforcement for a long time, correct?

22 A Yes, sir.

23 Q And as a law enforcement agent you go through a lot  
24 of training, correct?

25 A I do.

1 Q And that starts right out of the gate, correct?

2 A Yes, sir.

3 Q Go to the academy when you first start, correct?

4 A Yes, sir.

5 Q And you continue being educated throughout your  
6 career, correct?

7 A I do.

8 Q And because law enforcement -- the job of being  
9 being a law enforcement officer laws change, correct?

10 A Correct.

11 Q You have to be trained on changes in the law,  
12 correct?

13 A We do.

14 Q Different law enforcement techniques whether it be  
15 with chases or anything like that if there's any sort of  
16 update in how things are done and any kind of protocol  
17 that y'all would use or change you have to be educated in  
18 all of that, correct?

19 A That's correct.

20 Q And, of course, really probably the most important  
21 aspect at least I would submit such with regards to a job  
22 such as yours is learning on the job is probably where you  
23 learn more than anything, correct?

24 A In the courtroom.

25 Q Sure. And part of what you do as the lead-agent is

- 1 not only collect the evidence, correct?
- 2 A That's correct.
- 3 Q Preserve the evidence, correct?
- 4 A Yes, sir.
- 5 Q You interview any witnesses, correct?
- 6 A Yes, sir.
- 7 Q And you are responsible for moralizing everything in  
8 what is called an incident report, correct?
- 9 A That's correct.
- 10 Q And an incident report is a typed document, correct?
- 11 A Yes, sir.
- 12 Q Which y'all use certain forms for all your incident  
13 reports, correct?
- 14 A It's basic.
- 15 Q Basic form, but you use the same one each time?
- 16 A Yes, sir.
- 17 Q With different spots to fill in names of witnesses  
18 and suspects and different things like that, correct?
- 19 A Correct.
- 20 Q And, of course, the biggest portion of the incident  
21 report is what would be called the narrative, correct?
- 22 A Yes, sir.
- 23 Q The narrative is what happened?
- 24 A Yes, sir.
- 25 Q Is that right? And it's important for an incident

1 report narrative to be as detailed as possible, correct?

2 A Try to make it detailed as possible.

3 Q Right. And that's common sense, correct?

4 A Yes.

5 Q A lot people are going to be reviewing and reading  
6 the incident report, correct?

7 A Well, just myself and Agent Cribb. We're the only  
8 ones at the drug unit, so we look at each other reports  
9 and make sure everything is there to try to do it to the  
10 best our ability to make sure everything is in the report  
11 is correct.

12 Q But Mr. McEachin's going to review it, correct?

13 A Yes, but we make sure everything's there before we  
14 send it off.

15 Q Sure. But what I'm saying is eventually more than  
16 just you and Agent Cribb are going to read your incident  
17 report or whoever does the incident report, correct?

18 A That's correct. It just starts at our office and  
19 then it moves up the chain.

20 Q Sure. And as it moves up the chain a lot of the  
21 folks that are going to be reading that incident report  
22 weren't there?

23 A That's true.

24 Q So that's why it needs to be as detailed as possible  
25 so the folks that would be involved in the case that

1 weren't there have an accurate picture as possible,  
2 correct?

3 A We try to do it the best of our ability.

4 Q Sure. Now, you testified earlier that -- well, again  
5 I'm getting ahead of myself again. Of course, the  
6 incident reports are done and these things are done months  
7 before cases would go to trial, correct?

8 A That's correct.

9 Q So you need an incident report to be as detailed as  
10 possible to be able to refresh your memory as to what  
11 happen, correct?

12 A That's correct.

13 Q Because as time goes on our memories don't get  
14 better, correct?

15 A That's true.

16 Q As time passes our memories fade a bit, correct?

17 A Yes, sir.

18 Q So incident reports can help us refresh our  
19 recollection of things that happened a long time ago,  
20 correct?

21 A Yes, sir.

22 Q And did you review your incident report prior to this  
23 trial not necessarily this morning, but as things were  
24 leading up to this trial, you reviewed your incident  
25 report, correct?

1 A I did.

2 Q And because you wanted to refresh any recollection of  
3 things, correct?

4 A (No response).

5 Q Now, you testified that you entered -- and if I get  
6 any of this wrong feel free to correct me, but when you  
7 entered the residence you entered through the front door  
8 and went into a bedroom there to the left as you walked  
9 in, correct?

10 A That's correct.

11 Q And you testified that when you went into that  
12 bedroom Mr. Willard was coming out of the bathroom?

13 A Yeah, Mr. Willard was coming out the bathroom.

14 Q Okay. Now, did you put that in your incident report  
15 anywhere?

16 A I have to look and see.

17 Q Sure, take all the time you like.

18 A Yes, it is. Agent Mark Collins explained to Erick  
19 Willard, who was in his bedroom, about the search warrant  
20 of his residence.

21 Q Specifically that you saw him coming out of the  
22 bathroom is the question I asked?

23 A Yes. The bathroom and his bedroom are connected,  
24 it's like the master bedroom of the residence.

25 MR. MEETZE: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 BY MR. MEETZE:

4 Q See if we looking at the same thing.

5 A Right here. The bedroom -- I didn't go in the  
6 bedroom without the search warrant.

7 Q Correct. I understand that, but my question to you a  
8 little bit ago was you testified earlier that when you  
9 went into his bedroom you saw Mr. Willard exiting his  
10 bathroom?

11 A Yes, he was -- when he was exiting the bathroom, we  
12 told him to get on the ground in his bedroom.

13 Q I understand. My question specifically is does it  
14 say in your incident report that as you walked into his  
15 bedroom you saw him exiting his bathroom.

16 A No, just the bathroom and bedroom up in there, so he  
17 was apprehended in the bedroom.

18 Q I understand. But the answer to my question is no  
19 you didn't put that in your incident report?

20 A I have the bedroom that's where he was...

21 Q I mean, I don't want to beat around the bush. I'm  
22 asking one question right now. You testified that when  
23 you went in you saw him coming out of the bathroom?

24 A It's not in the report.

25 Q It's not in the report. Okay. Now, and you also

1 testified that Agent Crawford indicated to you that he had  
2 seen a hand out the window?

3 A He observed.

4 Q That he observed, right, because you collect  
5 information from everybody to make your report, correct?

6 A Yeah.

7 Q You don't say anywhere in here that Agent Crawford  
8 relayed to you that he saw someone throw objects out of  
9 the bedroom window, correct?

10 A It's not in the report, but that don't mean it didn't  
11 happen. When you're typing up these reports and this is a  
12 long report, you forget to put stuff in that happened, but  
13 majority of everything that I'm testifying to that you  
14 hear testimony it happened.

15 MR. MEETZE: I don't have anything further,  
16 Judge.

17 THE COURT: Redirect.

18 MR. MCEACHIN: Beg the Court's indulgence just a  
19 moment.

20 (WHEREUPON, a pause in the proceedings.)

21 MR. MCEACHIN: No further questions from the  
22 State.

23 THE COURT: You may step down.

24 (WHEREUPON, the witness leaves the witness  
25 stand.)

1 THE COURT: Call your next witness.

2 MR. MCEACHIN: Thank you. I call Agent Aurelius  
3 Cribb to the stand.

4 THE CLERK: Do you solemnly swear to tell the  
5 truth, the whole truth and nothing but the truth so help  
6 you God?

7 THE WITNESS: I do.

8 WHEREUPON,

9 Aurelius Cribb,

10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MCEACHIN:

13 Q Agent Cribb, if you would please state your full name  
14 for the record speak up now.

15 A Aurelius Cribb.

16 Q All right. If you would please tell the jury who are  
17 you currently employed with?

18 A I'm employed with the Marion County Sheriff's Office.

19 Q Okay. And in what capacity are you employed with the  
20 sheriff's office?

21 A I'm with the Marion County Combine Drug Unit.

22 Q All right. Are you an agent with that unit?

23 A Yes, sir.

24 Q Okay. We already heard Major Crawford and Agent  
25 Collins tell us what the drug unit does, but y'all are in

1 the business of doing drugs investigations?

2 A Yes, sir.

3 Q All right. How long have you been doing that?

4 A Sixteen years.

5 Q All right. And in addition to that how long -- I  
6 should just ask this question. How much total law  
7 enforcement experience do you have?

8 A Seventeen years.

9 Q All right. So for the majority of your law  
10 enforcement career you engaged in some sort of drug  
11 investigations?

12 A Yes, sir.

13 Q Okay. Now, were you employed with Marion County  
14 Combine Drug Unit back -- I keep saying drug unit meaning  
15 both the sheriff's office and the drug unit back in March  
16 of 2017 of this year?

17 A I was employed with Marion Police Department for 17  
18 years and then I went to the sheriff's office in February.

19 Q And so if you went there in February you would have  
20 been with the drug unit?

21 A Right.

22 Q And Agent Collins indicated to us that the drug unit  
23 was made up of different entities like Marion Police  
24 Department will send an agent. Mullins Police Department  
25 will send an agent. Sheriff's office has an agent; is

1 that accurate?

2 A Yes, sir.

3 Q So prior to leaving Marion Police Department did you  
4 previously been an agent with the combine drug unit?

5 A Yes, sir.

6 Q Okay. Now, March of 2017 this year you had switched  
7 over to the sheriff's office and you were working with the  
8 drug unit?

9 A Yes, sir.

10 Q Okay. And were you part of the group that went and  
11 conducted a search warrant on March the 3rd?

12 A Yes, sir.

13 Q Okay. And if you don't mind tell the jury what you  
14 were doing that day, what was your function on that  
15 particular day?

16 A My function that day we went into residence. We  
17 apprehended everyone that was in the residence and then I  
18 helped search the residence.

19 Q Okay. Did you go through the front door or the back  
20 door?

21 A Front door.

22 Q All right. So once you went in the front, where did  
23 you go first?

24 A I went through the living room and then to the  
25 kitchen.

1 Q All right. Did you help secure or detain the  
2 individuals that were in the residence?

3 A Yes, sir.

4 Q All right. And once you did that, that's when you  
5 went into the kitchen?

6 A Yes, sir.

7 Q All right. And in the kitchen -- and just so we're  
8 sure, I'll get you to step down just a minute if you don't  
9 mind, Agent Cribb, come on down for me. Make sure you  
10 stand where everybody can still see. You indicated you  
11 made entry into the front door?

12 A Yes, sir.

13 Q And then the individuals were all in here?

14 A Yes, sir.

15 Q Was there anybody not in this room that was detained  
16 that day?

17 A Just one person.

18 Q Who was that?

19 A Mr. Willard.

20 Q Mr. Willard?

21 A Yes, sir.

22 Q Can you -- do you see Mr. Willard in the courtroom?

23 A Yes, sir.

24 Q And where is he?

25 A Right over there.

1 Q What color shirt is he wearing?

2 A White shirt.

3 MR. MCEACHIN: Please have the record indicate  
4 the witness has identified the defendant.

5 BY MR. MCEACHIN:

6 Q All right. So there were four other individuals that  
7 were in the den that day?

8 A Yes, sir.

9 Q Okay. Once those individuals were secured, you then  
10 went where?

11 A I went over here.

12 Q In the kitchen?

13 A Yes, sir.

14 Q All right. And what did you do while you were in the  
15 kitchen?

16 A I started searching and located some items.

17 Q Okay. And what items did you locate?

18 A I located a grinder, some marijuana blunts, a razor  
19 blade, some baggies and some scales.

20 Q I will let you sit back in the witness stand. And  
21 having been involved in this type of investigation in 16  
22 years, why did you think those items were important? I  
23 tell you what let's start with the scales Plaintiff's  
24 Exhibit excuse me -- State's Exhibit 7 and 8 why were the  
25 scales significant? Why did you decide that those were

1 important and y'all needed to collect them?

2 A Normally, the people we deal with usually have scales  
3 to weigh out the drugs that they're selling to other  
4 people.

5 Q Okay. And you thought -- that's why y'all collected  
6 those?

7 A Yes, sir.

8 Q The same with regard to the grinder and the baggies?

9 A Yes, sir, they usually all go together.

10 Q Now, once you located these items, what did you do?

11 A I informed Agent Collins, so he could come and take  
12 pictures and gather them.

13 Q Okay. So was Agent Collins the one who ultimately  
14 collected those items?

15 A Yes, sir.

16 Q Okay. Now, after he came in there, did you stay with  
17 the items until he collected them?

18 A Yes, sir.

19 Q After he collected the items, what was the next thing  
20 you did?

21 A After I collected the items, we checked the rest of  
22 the area and then Mr. Collins came and read everybody  
23 their Miranda rights?

24 Q Okay. So were you present -- and I want to make sure  
25 the jury hears this, Aurelius, so make sure you speak up.

1 Were you present in the den when Agent Collins read the  
2 Miranda rights to the defendant and the other four  
3 individuals?

4 A Yes, sir.

5 Q Okay. You were present for that?

6 A Yes, sir.

7 Q How far away were you standing from -- and you tell  
8 me when to stop. When I get as close to you as Agent  
9 Collins when he read those Miranda rights, you tell me to  
10 stop okay?

11 A Right there.

12 Q Right there?

13 A Yes, sir.

14 Q So from me to you when he was reading the rights to  
15 the them?

16 A Yes, sir.

17 Q All right. Mr. Willard was in the room with them?

18 A Yes, sir.

19 Q All right. You heard him read the rights?

20 A Yes, sir.

21 Q Okay. Same rights he read today?

22 A Yes, sir.

23 Q All right. And once he got through reading those  
24 rights, did everybody seem to indicate they understood  
25 them?

- 1 A Yes, they did.
- 2 Q What was Mr. Willard's indication?
- 3 A He indicated he understood.
- 4 Q He indicated he understood the rights?
- 5 A Yes, sir.
- 6 Q All right. And then after the rights were read, was  
7 another question asked to them?
- 8 A Yes, sir.
- 9 Q And what was that?
- 10 A Well, before that, Mr. Willard took responsibility  
11 for the items that was in the residence.
- 12 Q Okay. So after the rights were read to them and they  
13 were asked if anybody wants to speak to law enforcement,  
14 he said everything belong to him?
- 15 A Yes, sir.
- 16 Q Now, this is important, Aurelius. Did Agent Collins  
17 or you or any other law enforcement officer ask any  
18 questions of Mr. Willard before he made that statement?
- 19 A No, sir.
- 20 Q He just made that statement?
- 21 A Yes, sir.
- 22 Q Okay. And Agent Collins indicated that -- and you  
23 were in here for his testimony that as a result of that  
24 the only person charged with all these drugs was  
25 Mr. Willard?

1 A Yes, sir.

2 Q Okay. And what is your practice if he wouldn't have  
3 done that, if he didn't claim them?

4 A If he didn't claim them, everyone in the residence  
5 would have been arrested for it.

6 Q Okay. And that's because why?

7 A Constructive possession.

8 Q Okay. After y'all finished up with them in the den  
9 area, the living room area, Agent Collins took all the  
10 evidence, did you have any other involvement in this case?

11 A Yes, sir.

12 Q What did you do?

13 A I fill the return out on the search warrant.

14 Q Okay. And that was your involvement in this case?

15 A And I served the arrest warrant also.

16 Q You served the warrants in this case on Mr. Willard?

17 A Yes, sir.

18 Q Any other involvement?

19 A No, sir.

20 MR. MCEACHIN: Please answer any questions  
21 Mr. Meetze or Mr. Chandler has.

22 CROSS-EXAMINATION

23 BY MR. CHANDLER:

24 Q Good morning, Agent Cribb.

25 A Good morning.

1 Q How long you been a member of the drug unit before  
2 the search occurred?

3 A Sixteen years.

4 Q Sixteen years, okay. Was his admission recorded?

5 A No, sir, it wasn't.

6 Q Do y'all have the ability to audio record?

7 A We don't usually record.

8 Q But do you have the ability to record a confession?

9 A Yes, sir.

10 Q Okay, just making sure. And y'all didn't record it  
11 that night?

12 A No, sir.

13 Q Okay. And you were present when the Miranda rights  
14 were read?

15 A Yes, sir.

16 Q And you were present when the admission was made?

17 A Yes, sir.

18 Q Okay. And you stated earlier that you would have  
19 arrested everyone at the residence had he not taken  
20 ownership of the drugs, correct?

21 A Yes, sir.

22 Q But you also stated that you never told him that  
23 until or you never told him that; is that correct?

24 A Yes, sir.

25 Q So you expect this jury to believe that Mr. Willard

1 owned up to all the drugs in the home without any kind of  
2 threat so you're going to charge other people who resided  
3 there?

4 A Yes, sir.

5 Q Okay. And you never said that not once? Keep in  
6 mind you're under oath -- let me take that back no one in  
7 the drug unit ever threatened to charge anyone else in the  
8 house other than Mr. Willard?

9 A No, sir.

10 MR. CHANDLER: Okay, thank you. No further  
11 questions.

12 THE COURT: Redirect.

13 REDIRECT EXAMINATION

14 BY MR. MCEACHIN:

15 Q Agent Cribb, Mr. Chandler was just asking you about  
16 recording devices and all that. At this point in time had  
17 body cameras been issued to the department?

18 A They hadn't been issued out yet.

19 Q They hadn't been issued to the department?

20 A No, sir.

21 Q So nobody -- it's just haven't been issued?

22 A Yes, sir.

23 Q You all have them now?

24 A Not yet.

25 Q Didn't have them at the time?

1 A We still don't have them.

2 Q So still don't have them. So you still don't have  
3 them, but didn't have them at the time?

4 A No, sir.

5 Q So it's not a situation where y'all had something  
6 that y'all aren't provided? Y'all just didn't have them?

7 A Just didn't have them at the time.

8 Q Okay. But you witnessed everything that Agent  
9 Collins said to Mr. Willard?

10 A Yes, sir.

11 Q You witness Mr. Willard respond to those questions?

12 A Yes, sir.

13 Q And you witness Mr. Willard accept responsibility for  
14 the drugs in the house?

15 A Yes, sir.

16 MR. MCEACHIN: Nothing further.

17 THE COURT: Recross?

18 MR. CHANDLER: Nothing.

19 THE COURT: You may step down.

20 (WHEREUPON, the witness leaves the witness  
21 stand.)

22 THE COURT: Call your next witness.

23 MR. MCEACHIN: Your Honor, based on witnesses,  
24 we need just a short break.

25 THE COURT: All right. Members of the jury,

1 step into the jury room. Do not discuss the case.

2 (WHEREUPON, the jury retire to the jury room.)

3 (WHEREUPON, a break was taken.)

4 THE COURT: Why don't we go ahead and bring out  
5 the jury.

6 (WHEREUPON, the jury came into open court.)

7 THE COURT: State call your next witness.

8 MR. MCEACHIN: Your Honor, the State would call  
9 Ashley Bell to the stand.

10 THE CLERK: Do you swear or affirm to tell the  
11 truth, the whole truth, and nothing but the truth so help  
12 you God?

13 THE WITNESS: Yes, ma'am.

14 WHEREUPON,

15 Ashley Bell,

16 after first having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MCEACHIN:

19 Q Good morning, Ashley.

20 A Good morning.

21 Q If you would please state your full name for the  
22 record?

23 A Ashley Bell.

24 Q Ashley, where you currently employed?

25 A The South Carolina Law Enforcement Division. It's

1 common referred to as SLED.

2 Q And what do you do at SLED?

3 A I'm a forensic scientist in the drug analysis  
4 department.

5 Q Okay. And tell the jury how you came to be a  
6 forensic scientist in the drug analysis department at  
7 SLED?

8 A I applied for a job and I was hired on.

9 Q I probably didn't ask that appropriately. Let's talk  
10 a little bit about your education first. Where did you go  
11 to school?

12 A Washington and Lee University.

13 Q And did you get your degree in?

14 A I have a bachelor of science degree in bio-chemistry.

15 Q Okay. In addition to that, you have any other  
16 educational training that's pertinent to what you do at  
17 SLED?

18 A Yes. I successfully completed extensive in-house  
19 training at SLED under a court qualified expert in  
20 forensic drug analysis. I successfully completed  
21 competency testing, supervise case work, written  
22 examinations and oral examinations. I also successfully  
23 completed online course with West Virginia University and  
24 forensic drug chemistry and forensic math micrometry  
25 (sic).

1 Q I imagine you have to complete all that stuff before  
2 they cut you loose and let you come to court and start  
3 testifying?

4 A Yes, we have to undergo extensive training before we  
5 allowed to do independent case work.

6 Q Okay. And with regard to the work you do, if you  
7 don't mind just explain to the jury on a daily basis what  
8 do you do?

9 A We analyze items of evidence for the presence or  
10 absence of a control substance. We document the results  
11 of our analysis. We generate reports based upon our  
12 findings and results and we testify to those reports.

13 Q And from the time you got out of school through up  
14 until today how many different drug analysis or chemical  
15 analysis do you believe you completed?

16 A Since, I been in the drug analysis department, I have  
17 completed 100's if not thousands of chemical testing and  
18 confirmatory testing.

19 Q Okay. And the purposes of testing again is to  
20 determine the chemical makeup of particular substances?

21 A It's to determine if a control substance is present  
22 or absent in an item of evidence submitted.

23 Q Have you ever been qualified before as an expert in  
24 the State of South Carolina?

25 A Yes, I have.

1 Q And were you qualified as expert in, I guess,  
2 forensic science with specificity in chemical analysis?

3 A Yes, sir.

4 MR. MCEACHIN: At this time, Your Honor, I would  
5 like to qualify Ms. Bell as an expert in forensic science  
6 and chemical analysis.

7 THE COURT: Any objection?

8 MR. MEETZE: No objection, Judge.

9 THE COURT: Motion is granted.

10 BY MR. MCEACHIN:

11 Q Ms. Bell, as a forensic scientist do you -- and  
12 especially with chemical analysis do you have occasion to  
13 go to crime scenes?

14 A No, sir.

15 Q Okay. How does evidence come to you?

16 A Evidence is submitted to SLED by the submitting  
17 agency into our evidence control department.  
18 Specifically, we have lockers within that department where  
19 submitting agencies can drop off their evidence. And a  
20 evidence control technician will retrieve that evidence  
21 and store it away in the long term storage and evidence  
22 control.

23 Q Now, I want to talk to you a little bit about that  
24 why is that important, why is that necessary for what  
25 y'all do?

1 A It holds together the chain of custody of the items  
2 of evidence submitted.

3 Q And so the jury understands we've heard that term  
4 chain of custody before what does that mean?

5 A An actual chain custody is a business document. It's  
6 documenting the transfer of evidence between individuals  
7 for a particular case or item of evidence.

8 Q And would it be fair to say that it notes anybody --  
9 it suppose to note anybody who's come in contact with  
10 whatever it is you're testing?

11 A That is correct.

12 Q Okay. Now, we're here today based on a case stemming  
13 from Marion County back on March the 3rd 2017. Did you  
14 have occasion to become involved in this case?

15 A Yes, sir.

16 Q Okay. And did you have occasion to conduct some  
17 chemical analysis on items sent to you by the Marion  
18 County Sheriff's Office?

19 A Yes, sir.

20 Q Okay. I'm going to start by showing you what's been  
21 marked for identification purposes as Defendant's Exhibit  
22 11. Can you identify Defendant's Exhibit 11?

23 A It appears to be the packaging that I repackaged the  
24 best kit and the evidence items into.

25 Q And at the top there's some writing on that. What's

1 that writing? Is that something you would have done?

2 A Yes, there's the date and my initials on it and that  
3 would be any time -- so once I completed my analysis on  
4 the items of evidence and the best kit, it was repackaged  
5 into here. And this dated and my initials -- that  
6 represents when I sealed the evidence into this K-pack  
7 pouch. Any subsequent times I had to go back into the  
8 heat seal bag. I would cut it open, do the date and my  
9 initials and then reseal it.

10 Q So that's to ensure that you know nobody else has  
11 gone into the package?

12 A That's correct.

13 Q Okay.

14 MR. MCEACHIN: Your Honor, at this time I move  
15 State's 11 into evidence.

16 THE COURT: Any objection?

17 MR. MEETZE: No, Your Honor.

18 THE COURT: State's Exhibit 11 is into evidence.

19 (WHEREUPON, State's Exhibit No. 11 was admitted  
20 into evidence.)

21 BY MR. MCEACHIN:

22 Q Now, contained within State's 11 there were some  
23 other items and I'm gone start with State's Exhibit 11P  
24 for identification purposes. Can you identify State's  
25 Exhibit 11P?

1 A Yes, I can.

2 Q And what State's Exhibit 11P?

3 A It is a best kit.

4 Q And could you explain to the jury what a best kit is  
5 used for?

6 A Yes, as best stands for best evidence sample testing.  
7 It allows the seasoned officer to collect the best  
8 evidence, seal it inside of this best kit and submit it  
9 for forensic analysis. The best kit is designed with two  
10 tamper evidence security features better design to make  
11 appear in any evidence of tampering. There's a sealable  
12 top as well as cut and tear marks along the sides that  
13 make it easier to detect tampering after this best kit has  
14 been sealed. There's also two unique numbers that come  
15 with best kits submitted to SLED. First is this  
16 controlled number you see here that starts with a B,  
17 that's given to each best bag during the manufacturing  
18 process. The other is the unique SLED lab number that you  
19 see here. This is given to each case that is submitted to  
20 SLED. Both numbers can be used to track the evidence  
21 placed within this bag as well as any associated  
22 documents. And these two numbers are both documented on  
23 everything that I generated documentation wise.

24 Q And the best bag itself is that the bag that any sort  
25 of evidence would come to you in?

1 A Yes, sir.

2 Q And law enforcement will be the initial ones to fill  
3 that out?

4 A The submitting agency, yes, sir.

5 Q Okay. Now, when you got that particular best bag if  
6 you don't mind, would you tell the jury who you received  
7 it from?

8 A I went down to our evidence control department and I  
9 received it from evidence control technician Charlotte  
10 Crow (sic).

11 Q Okay. And where would Charlotte had received it  
12 from?

13 A She would have received it from our drug in-take  
14 storage.

15 Q Okay. And how would it have gotten into y'all drug  
16 in-take storage?

17 A The submitting agency would have submitted the best  
18 kit into our evidence lockers and evidence control  
19 technician retrieves the best kit from the evidence  
20 lockers and placed it into the evidence in-take storage.

21 Q And who was the forensic technician that would have  
22 taken this particular item and put it into storage?

23 A That would have been forensic technician Amy Stevens.

24 Q Okay. Now, you indicated that there were several  
25 items, I believe, that came inside of this particular best

1 bag. When you received it, did it appear that it would  
2 have been tampered with in any way?

3 A No, sir.

4 MR. MCEACHIN: Your Honor, at this time I move  
5 State's Exhibit 11P into evidence.

6 THE COURT: Any objections?

7 MR. MEETZE: No, Your Honor.

8 THE COURT: Eleven P is into evidence.

9 (WHEREUPON, State's Exhibit No. 11P was admitted  
10 into evidence.)

11 BY MR. MCEACHIN:

12 Q All right. I'm going to try to do this with you as  
13 quickly as possible. And I will ask you because there's  
14 so much to go over here, there's certain test you run  
15 depending on the type of substance; is that fair to say?

16 A Yes.

17 Q Okay. And I'll let you clarify for the jury when the  
18 time comes, but it just depends maybe on what the  
19 substance is?

20 A That's correct.

21 Q Okay. I'm going to hand you what's been marked as  
22 State's Exhibit 11. Can you identify that?

23 A Yes, I can. It has our SLED lab number on it item  
24 number and my initials.

25 Q Did you conduct a chemical or forensic analysis on

1 that item?

2 A I would have performed a presumptive or preliminary  
3 chemical test that is used to tentatively indicate what  
4 control substance may possibly be present in the item.

5 Q Okay. And what were the results of that test?

6 A I then followed up that presumptive testing with  
7 confirmatory testing and the results came back as cocaine  
8 base crack C2 found in the sample tested one tested.

9 Q And what was the weight of the testing?

10 A 2.56 plus or minus 0.01 grams.

11 Q All right. So explain to the jury if you don't mind,  
12 we understand certainly the 2.56, but what's the plus or  
13 minus that you just indicated or spoke about?

14 A Any measurement that is taking comes with some degree  
15 of variability. There is a measurement of uncertainty  
16 that we attached to each weight of an item that is taken  
17 that takes into account that variability and it quantifies  
18 it for us, that's what the plus or minus 0.01 represents.

19 Q So in this case, I guess, what we're saying is it can  
20 technically be 2.57 or 2.55?

21 A That is correct.

22 Q Okay. And this is what you actually tested?

23 A Yes, sir.

24 Q Thank you.

25 MR. MCEACHIN: I move State's Exhibit 11A into

1 evidence.

2 THE COURT: Objections?

3 MR. MEETZE: No, Your Honor.

4 THE COURT: 11A is into evidence.

5 (WHEREUPON, State's Exhibit No. 11A was admitted  
6 into evidence.)

7 MR. MCEACHIN: May I publish, Your Honor.

8 THE COURT: Yes.

9 BY MR. MCEACHIN:

10 Q You said this was positive for cocaine base or crack  
11 cocaine?

12 A Yes, sir.

13 Q I'm now going to hand you what's been marked for  
14 identification purposes as State's Exhibit 11 and State's  
15 Exhibit B, C, D and ask if you can identify those items?

16 A Yes, I can. Again, I recognize the SLED lab number,  
17 item number and my initial on the evidence item.

18 Q Okay. And what type of analysis did you do on those  
19 items?

20 A I would have begin with presumptive or preliminary  
21 chemical testing once again and then I would have followed  
22 up my presumptive testing with confirmatory testing using  
23 our GCMS instrumentation.

24 Q Okay. And with regard to the items contained in 11  
25 specifically 11B, C and D what were your results on those

1 tests?

2 A State's Exhibit 11B, which is my item 1.2.1 was  
3 cocaine C2 found on the sample tested one tested. State's  
4 Exhibit 11C is cocaine C2 found in the sample tested one  
5 tested. In State's Exhibit 11D is cocaine C2 found in the  
6 sample tested one tested.

7 Q Okay. And with regard to that you keep saying C2  
8 explain to the jury what C2 means if you don't mind?

9 A Certain control substances are scheduled in South  
10 Carolina code of laws given either schedule one, schedule  
11 two, schedule three, schedule four, schedule five where  
12 it's placed within that scheduling varies on certain  
13 factors. Cocaine is designated as a schedule two or C2  
14 substance.

15 Q Okay. So when you say C2 you're just designating it  
16 as a schedule two control substance?

17 A That is correct.

18 Q Okay. Now, with regard to the weights of those items  
19 with regard to 11B what was the weight of 11B?

20 A The weight of 11B net weight 13.43 plus or minus 0.01  
21 grams.

22 Q And 11C?

23 A Net weight 3.50 plus or minus 0.1 grams.

24 Q And finally 11D?

25 A Eleven D net weight 4.93 plus or minus 0.01 grams.

1 Q And we also had, I believe, 11 O; is that correct?

2 A That's correct.

3 Q What is 11 O just so the jury knows?

4 A 11 O is what we at SLED refer to as the parent items.  
5 So when the evidence item was submitted to me within the  
6 best kit, it was within State's Exhibit 11 O this zip lock  
7 bag, within this zip lock bag where individual packaging  
8 that contained these three items.

9 Q So 11 O was actually the packaging you would have  
10 received from the department that was presenting?

11 A That's correct.

12 Q Okay.

13 MR. MCEACHIN: Your Honor, at this time I move  
14 11 O, 11B, 11C and 11D into evidence.

15 THE COURT: Any objections?

16 MR. MEETZE: No, Your Honor.

17 THE COURT: 11 O, B, C and D are into evidence.

18 (WHEREUPON, State's Exhibit Nos. 11B, C, D and O  
19 were admitted into evidence.)

20 BY MR. MCEACHIN:

21 Q I'm now going to hand you what's been marked as  
22 State's Exhibit 11. Can you identify that? I'm sorry  
23 11E.

24 A Yes, I can. I recognize it because of our unique  
25 SLED lab number, item number and my initials.

1 Q And what is or, I guess, what analysis did you do on  
2 11E?

3 A Item -- State's Exhibit 11E was plant material and  
4 the analysis for plant material is slightly differently  
5 then the previous items we just discussed. Plant material  
6 undergoes a preliminary or presumptive chemical test and  
7 it is followed by a microscopic exam both test together  
8 confirm the presence of suspected marijuana if both test  
9 are present or positive excuse me.

10 Q And what were the results with regard to 11E?

11 A Marijuana C1 found in the sample tested one tested.

12 Q Okay. and that be schedule one control substance?

13 A That's correct.

14 Q And what was the weight of the testing amount?

15 A Net weight 27.91 plus or minor 0.01 grams.

16 MR. MCEACHIN: Your Honor, I move State's  
17 Exhibit 11 into evidence.

18 THE COURT: Any objection?

19 MR. MEETZE: No, Your Honor.

20 THE COURT: 11E is into evidence.

21 (WHEREUPON, State's Exhibit No. 11E was admitted  
22 into evidence.)

23 BY MR. MCEACHIN:

24 Q Now, I'm also going to hand you what's been marked as  
25 State's Exhibit 11F if you can identify that for me?

1 A I do. I recognize it by the lab number, item number  
2 and my initials.

3 Q Okay. And did you conduct any analysis on 11F?

4 A Yes, I did.

5 Q What analysis did you conduct?

6 A I did a preliminary or presumptive chemical test as  
7 well as a microscopic examination.

8 Q Okay. And what were the results of your examination?

9 A Marijuana C1 found in the sample tested two tested.

10 Q And what was the weight?

11 A The total net weight was 1.27 plus or minus 0.01  
12 grams.

13 Q Okay. And did you -- you prepared a report as part  
14 of this?

15 A Yes, sir.

16 Q Okay. In addition to the weight you found with  
17 regard to that marijuana, was there any in additional  
18 information with regard to item -- well, I guess, State's  
19 Exhibit 11F that was pertinent to your evaluation in the  
20 case?

21 A Yes, sir.

22 Q And what was that?

23 A So again this is the original zip lock bag that the  
24 evidence was submitted in. And there were actually six  
25 total zip lock bags within this larger zip lock bag. The

1 total net weight that I read out for you is the net weight  
2 of only two of those zip lock bags. The remaining zip  
3 locks are here and they were not tested.

4 Q Were they weighed?

5 A They were weighed. A gross weight was taken.

6 Q Okay. And why is it that y'all don't necessarily  
7 test all of them why would it just be what you would test  
8 too?

9 A In this particular case, it was due to a weight  
10 threshold being achieved.

11 Q Okay. And what was the weight threshold for your  
12 analysis?

13 A For marijuana the weight threshold for possession  
14 with intent to distribute is 28 grams and I needed to test  
15 two bags to achieve that weight.

16 Q All right. So based on the fact that you had  
17 previously receive the weight from 11E plus the two  
18 additional bags, you met the threshold of 28 grams there  
19 were no further need to test; is that correct?

20 A That's correct.

21 Q Okay. Thank you.

22 MR. MCEACHIN: Your Honor, I like to move  
23 State's Exhibit 11F into evidence.

24 THE COURT: Any objections?

25 MR. MEETZE: No, Your Honor.

1 THE COURT: Eleven F is into evidence.

2 (WHEREUPON, State's Exhibit No. 11F was admitted  
3 into evidence.)

4 BY MR. MCEACHIN:

5 Q I'm going to hand you what's been marked as State's  
6 Exhibit 11G. Can you identify that?

7 A Yes, I can. Identify the SLED lab number, item  
8 number and my initials on it.

9 Q What is State's Exhibit -- well, what analysis did  
10 you perform on 11G?

11 A On this item I performed a presumptive or preliminary  
12 chemical test followed by confirmatory testing with our  
13 instrumentation.

14 Q Okay. And what were the results of that testing?

15 A Cocaine C2 found in the sample tested one tested.

16 Q And what was your weight?

17 A Net weight was 0.14 plus or minus 0.01 grams.

18 Q And I note on your report that you have the same  
19 caveat at the bottom of that. Would you explain to the  
20 jury why that is?

21 A There were -- again, this is the original zip lock  
22 bag all the items of evidence came in. There were four of  
23 these pink zip lock bags total inside of this large one.  
24 I only tested one and achieved the net weight on it, the  
25 net weight on it which is -- the net weight is going to be

1 the weight of the item minus the packaging. The remaining  
2 three bags I took a gross weight on. The gross weight is  
3 the weight of the item of evidence plus the packaging  
4 that's immediately touching.

5 Q Okay. And with regard to that item is there a reason  
6 you didn't test the other -- other than the one.

7 A Again, for achieving weight threshold purposes, I  
8 only had to test one item.

9 Q Okay. And at this point you already met that weight  
10 in the threshold?

11 A Yes, sir, I believe so.

12 Q Okay.

13 MR. MCEACHIN: Your Honor, move State's Exhibit  
14 11G into evidence.

15 THE COURT: Any objection?

16 MR. MEETZE: No, Your Honor.

17 THE COURT: Eleven G is into evidence.

18 (WHEREUPON, State's Exhibit No. 11G was admitted  
19 into evidence.)

20 BY MR. MCEACHIN:

21 Q State's Exhibit 11F can you identify that?

22 A Yes, I can.

23 Q And what is State's Exhibit 11F -- excuse me should  
24 be saying I. What is State's Exhibit H excuse me State's  
25 H. What is State's H?

1 A Cocaine base crack C2 found in the sample tested, one  
2 tested.

3 Q And did you do the same analysis and same testing on  
4 that that you had previously indicated with the others?

5 A Correct.

6 Q Okay. Thank you. And what was the weight you found  
7 on that one?

8 A Net weight 3.22 plus or minus 0.01 grams.

9 MR. MCEACHIN: Your Honor, I move State's  
10 Exhibit 11H into evidence.

11 THE COURT: Any objections?

12 MR. MEETZE: No, Your Honor.

13 THE COURT: Eleven H is into evidence.

14 (WHEREUPON, State's Exhibit No. 11H was admitted  
15 into evidence.)

16 BY MR. MCEACHIN:

17 Q All right. I'm going to hand you what's been marked  
18 for identification purposes as State's Exhibit 11 I. Can  
19 you identify State's Exhibit 11 I?

20 A Yes, sir.

21 Q And what is State's Exhibit 11 I?

22 A You want to know what substance it is?

23 Q I'm sorry. Is that a substance that you tested?

24 A Yes, sir, it is.

25 Q Okay. You conducted the same analysis that you

1 previously indicated to the jury?

2 A Yes, sir.

3 Q What substance did you find in 11 I?

4 A Eleven I is broken up into two sub items. So again  
5 this is the original zip lock bag that everything came  
6 submitted in and with SLED and how we do our itemization,  
7 there were two zip lock bags both of which contain a rock  
8 substance and cocaine base crack C2 found in the sample  
9 tested, two tested of what was identified in the those two  
10 zip locks. I'm sorry.

11 Q Go right ahead, I'm sorry I was going to interrupt  
12 you. Go ahead?

13 A The second item that was found within this larger zip  
14 lock was a plastic corner bag that cocaine rock substance  
15 and cocaine base crack C2 was found in the sample tested  
16 one tested.

17 Q Okay. And did you get weights for those items?

18 A Yes, I did.

19 Q And if you would please relay to the jury what  
20 weights of those items were?

21 A The blue zip lock bags the total net weight was 1.01  
22 plus or minus 0.01 grams. For the plastic corner bag, the  
23 net weight was 0.81 plus or minus 0.01 grams.

24 MR. MCEACHIN: Your Honor, at this time I'd move  
25 State's Exhibit 11 I into evidence.

1 THE COURT: Any objections?

2 MR. MEETZE: No, Your Honor.

3 THE COURT: Eleven I is into evidence.

4 (WHEREUPON, State's Exhibit No. 11I was admitted  
5 into evidence.)

6 BY MR. MCEACHIN:

7 Q All right. Eleven J what do we have here? Can you  
8 identify that?

9 A Yes, I could identify it.

10 Q Okay. And with regard to 11J, did you conduct the  
11 same test that we previously talked about to the jury?

12 A Yes, I did.

13 Q And what were the results of that testing with regard  
14 to 11J?

15 A So once again this is the larger zip lock bag that  
16 all of these individual bags came submitted in. The first  
17 item was a compressed powder substance, which is this  
18 baggie right here. The second item was this baggie here  
19 and this substance was found in a plastic corner bag and  
20 the last item was this one right here on top and this  
21 substance was found in a plastic sandwich bag.

22 Q And did -- what substance did you determine that was?

23 A In item 1.9.1 which is this first bag here only  
24 presumptive preliminary testing was done on this item. At  
25 SLED whenever you have a case and there's multiple items

1 submitted into that case when the maximum weight threshold  
2 has been reached and a control substance has been  
3 confirmed present an item or several items, subsequent  
4 items that are found within the case that presumptively  
5 test positive for that particular control substance, do  
6 not have to be subjected to confirmatory testing. And so  
7 that's why on this baggie you see here only presumptive  
8 testing was done on this item no confirmatory testing.

9 Q Okay. What about the other item?

10 A This item cocaine C2 found in the sample tested, one  
11 tested was excuse me -- was what was found.

12 Q And what weight did you gain or attribute to that  
13 particular item?

14 A Net weight 13.93 plus or minus .07 grams.

15 Q That was 13.93 plus or minus .01 grams?

16 A Yes, sir.

17 Q Okay. Thank you.

18 MR. MCEACHIN: Your Honor, at this time I move  
19 11J into evidence.

20 THE COURT: Any objections?

21 MR. MEETZE: No, Your Honor.

22 THE COURT: Eleven J is into evidence.

23 (WHEREUPON, State's Exhibit No. 11J was admitted  
24 into evidence.)

25

1 BY MR. MCEACHIN:

2 Q All right. State's Exhibit 11K can you identify  
3 that?

4 A Yes, I can.

5 Q And what is State's Exhibit 11K?

6 A It appears to be tablets methadone C2 was found in  
7 the sample tested one tested.

8 Q Okay. Same testing you would have done with regard  
9 to the previous items?

10 A It's a little bit different with tablets. There's no  
11 presumptive or preliminary chemical testing done. We used  
12 what's called published literature to -- as our  
13 preliminary test. It tells us what this tablet should be.  
14 We then follow up that preliminary search of what this  
15 tablet should be with confirmatory testing to conform  
16 actually what this tablet is.

17 Q And you tested one of the items, but there were a  
18 total of 10; is that correct?

19 A That is correct.

20 Q And that tested positive for methadone?

21 A That's correct.

22 Q Thank you very much.

23 MR. MCEACHIN: I move State's Exhibit 11K into  
24 evidence.

25 THE COURT: Any objection?

1 MR. MEETZE: No, Your Honor.

2 THE COURT: Eleven K is into evidence.

3 (WHEREUPON, State's Exhibit No. 11K was admitted  
4 into evidence.)

5 BY MR. MCEACHIN:

6 Q State's Exhibit 11L can you identify that?

7 A Yes, I can.

8 Q And what is State's Exhibit 11L.

9 A It is plant material. Both of these items were  
10 submitted inside of this larger zip lock and I only did  
11 presumptive or preliminary testing on this item.

12 Q And is that based on the fact the weight had already  
13 been met with regard to this case?

14 A Yes, sir.

15 MR. MCEACHIN: At this time I would move ---

16 BY MR. MCEACHIN:

17 Q And I'm sorry based on your -- based on your  
18 preliminary presumptive preliminary testing, did you  
19 receive any result as a -- I guess the best way for me to  
20 ask that question is pursuant to presumptive testing what  
21 would show you as oppose to further testing?

22 A The presumptive testing just tells me tentatively  
23 what may possibly be present. And my presumptive test  
24 match -- it was a positive match for another presumptive  
25 test that I did for other items in the case that did test

1 positive for marijuana.

2 Q Okay. Thank you.

3 MR. MCEACHIN: At this time, Your Honor, I move  
4 State's Exhibit 11L into evidence.

5 THE COURT: Any objections?

6 MR. MEETZE: No, Your Honor.

7 THE COURT: Eleven L is into evidence.

8 (WHEREUPON, State's Exhibit No. 11L was admitted  
9 into evidence.)

10 BY MR. MCEACHIN:

11 Q And State's Exhibit 11M can you identify that?

12 A Yes, I can.

13 Q And what is State's Exhibit 11M?

14 A It appears to be plant material.

15 Q And was that presumptive testing only done on that?

16 A Presumptive testing only done on this item.

17 Q And that was based on the fact that the threshold  
18 weight for marijuana had already been reached in this  
19 case?

20 A That's correct.

21 Q Thank you. And the presumptive testing was  
22 consistent with the other items that you tested positive  
23 for marijuana?

24 A The presumptive test on this item and the previous  
25 one, the presumptive test was positive which was

1 consistent with the presumptive test for the item that was  
2 confirmed for presumptive -- well, it was confirmed  
3 presumptively and confirmatory, yes.

4 Q Okay.

5 MR. MCEACHIN: I move State's Exhibit 11M into  
6 evidence.

7 THE COURT: Any objections?

8 MR. MEETZE: No, Your Honor.

9 THE COURT: Eleven M is into evidence.

10 (WHEREUPON, State's Exhibit No. 11M was admitted  
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 11N was marked  
13 for identification only.)

14 MR. MCEACHIN: Thank you.

15 BY MR. MCEACHIN:

16 Q Finally, I would show you what's been marked as  
17 State's Exhibit 11N. Can you identify State's Exhibit  
18 11N?

19 A Yes, I can.

20 Q Okay. And with regard to that item explain to the  
21 jury what you had to do with regard to testing that item?

22 A This item again it was tablets that were submitted.  
23 There were no markings on the tablet, so I sort of skipped  
24 the presumptive testing on this. There was no publish  
25 literature that would match just tablets with no markings.

1 So I tested one tablet, performed confirmatory testing on  
2 it and no control substance was found.

3 Q Okay. So no control substance with regard to 11N?

4 A That's correct.

5 Q Okay. Other than 11N, 11A through M control  
6 substance was found with regard to all of those; is that  
7 correct?

8 A That's correct.

9 Q Okay. Simply 11N no control substance found?

10 A That's correct.

11 Q It could be a vitamin or any number of things just no  
12 control substance in them?

13 A All I know is no control substance was found.

14 Q Now, once you completed all of your testing and  
15 analysis, did you prepare a report?

16 A Yes, sir.

17 Q Okay. I'm going to hand you what's been marked as  
18 State's Exhibit 12. Can you identify State's Exhibit 12?

19 A Yes, sir, it appears to be a modified copy of my  
20 report.

21 Q And that's a modified copy of your report that you  
22 prepared for this case?

23 A Yes, sir.

24 Q And does that report indicate everything that you  
25 previously testified to with regard to the types of

1 substances and weight of substances in this case?

2 A Yes, sir.

3 Q And that's a report that you prepared?

4 A Yes, sir.

5 Q Thank you.

6 MR. MCEACHIN: At this time I move State's  
7 Exhibit 12 into evidence, Your Honor.

8 THE COURT: Any objections?

9 MR. MEETZE: No, Your Honor.

10 THE COURT: Twelve is into evidence.

11 (WHEREUPON, State's Exhibit No. 12 was admitted  
12 into evidence.)

13 MR. MCEACHIN: Beg the Court's indulgence for  
14 just a moment.

15 (WHEREUPON, a pause in the proceedings.)

16 MR. MCEACHIN: Nothing further, Your Honor.

17 THE COURT: Cross.

18 CROSS-EXAMINATION

19 BY MR. MEETZE:

20 Q I'm sorry I don't want to disrespect you at all, but  
21 your name is it Ashley Bell is it Agent Bell, Mrs. Bell,  
22 is there -- my -- I would prefer to call you Ms. Bell not  
23 knowing anything otherwise is that acceptable I suppose?

24 A That's good, yes, sir.

25 Q Very good. You came and testified today as far as

1 what your responsibilities are at SLED with regards to the  
2 cases that you handle, correct?

3 A That's correct.

4 Q And you testified that it's your responsibility to  
5 accept substances that are submitted to your laboratory,  
6 correct?

7 A Yes, sir.

8 Q And that you test those substances for the presence  
9 of control substances, correct?

10 A That's correct.

11 Q The presence or absence of control substances?

12 A That's correct.

13 Q And the weights?

14 A That's correct.

15 Q And that's your involvement outside of the occasions  
16 when along with those tests you need to come to court from  
17 time to time, correct?

18 A That's correct.

19 Q So in other words you weren't involved in the actual  
20 investigation of the case, correct?

21 A I had no involvement with the investigation of the  
22 case.

23 Q So you got no personal knowledge about what happened,  
24 where all that kind of thing, correct?

25 A No, sir.

1 Q So in other words as far as that goes you don't have  
2 any dog in that fight, correct?

3 A I don't know anything outside of the evidence that  
4 was submitted to me.

5 MR. MEETZE: I don't have any further questions.

6 THE COURT: Redirect.

7 MR. MCEACHIN: No redirect, Your Honor.

8 THE COURT: You stay may step down. Thank you.

9 (WHEREUPON, the witness leaves the witness  
10 stand.)

11 THE COURT: Call your next witness.

12 MR. MCEACHIN: Your Honor, the State rest.

13 THE COURT: All right. Members of the jury,  
14 we're going to take a lunch break. If you would be back  
15 at 2:30 and we'll conclude this trial this afternoon. As  
16 I told you before, do not discuss the case with anybody  
17 including among yourselves. Do not research the case,  
18 just go relax, get some lunch, come back and we'll finish  
19 up. Everybody else remain seated and the jury is excused.

20 (WHEREUPON, the jury excused for lunch.)

21 THE COURT: Any motions from the defense at this  
22 time?

23 MR. MEETZE: Judge, at this point in time we  
24 make a motion for a directed verdict based on all of the  
25 charges that have been levied against Mr. Willard. We

1 make that motion the State having failed to meet their  
2 burden and failing to present any substantial  
3 circumstantial evidence or direct evidence to support the  
4 charges and on that basis we would move for a directed  
5 verdict.

6 THE COURT: I'm going to deny the motion. Any  
7 other motions?

8 MR. MEETZE: At this point in time we do not  
9 have any further motions.

10 THE COURT: Anything from the State?

11 MR. MCEACHIN: Your Honor, and it may be a  
12 little bit premature at this point. I know I indicated to  
13 the Court that we had no intentions of introducing some  
14 evidence that came into existence last night. I would  
15 preserve that position depending on any evidence that may  
16 be presented by the defense if any evidence is presented  
17 by the defense using in rebuttal otherwise, no, Your  
18 Honor, I was just making the Court aware of that.

19 THE COURT: All right. See you back around  
20 2:30.

21 (WHEREUPON, a lunch break was taken.)

22 THE COURT: It's my understanding everybody has  
23 looked at the charge and the verdict form?

24 MR. MEETZE: Yes, Your Honor.

25 THE COURT: And we've made the addition from the

1 State.

2 MR. MCEACHIN: Thank you, Your Honor.

3 THE COURT: Does the State agree with the charge  
4 and the verdict form?

5 MR. MCEACHIN: The State is, Your Honor.

6 THE COURT: How about the defense?

7 MR. MEETZE: No objection.

8 THE COURT: All right. And does your client  
9 wish to testify?

10 MR. MEETZE: He indicate he does not.

11 THE COURT: All right. You want me to go over  
12 his constitutional rights with him just to make sure he  
13 knows exactly what he's doing?

14 MR. MEETZE: Sure.

15 THE COURT: All right. Ms. Clerk, if you will  
16 swear him real quick.

17 THE CLERK: Place your left hand on the Bible  
18 and raise your right hand. You solemnly swear to tell the  
19 truth, the whole truth, and nothing but the truth so help  
20 you God?

21 THE DEFENDANT: I do.

22 THE COURT: All right. Mr. Willard, I want you  
23 to understand that this is your trial and you have the  
24 right to come over here, be sworn in, take this witness  
25 stand and testify if you would like. You can tell your

1 side of the story any way that you and your lawyer see  
2 fit. However, it's important to understand that if you do  
3 testify, you may be cross-examined on any and all relevant  
4 issues in connection with your case. Furthermore, if you  
5 have a criminal record and it involves crimes of  
6 dishonesty or false statements or crimes that carry  
7 punishment of more than one year, the Court determines  
8 that the probative value of admitting your record  
9 outweighs its prejudicial effect and your criminal record  
10 will be introduced to attack your creditability. You  
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Also, I want you to understand that  
14 you don't have to testify because you have the  
15 constitutional right to remain silent. If you chose to  
16 exercise that right, I would tell the jury they cannot use  
17 that against you in anyway. I will tell the jury the fact  
18 that you do not testify is to have absolutely no prejudice  
19 against you. I would even go so far as to tell them they  
20 cannot talk about that in the jury room. Do you  
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any questions about your  
24 rights to remain silent?

25 THE DEFENDANT: No, sir.

1 THE COURT: Or your right to testify?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you talk with your lawyer about  
4 it?

5 THE DEFENDANT: Correct.

6 THE COURT: Has he answered all of your  
7 questions?

8 THE DEFENDANT: Correct.

9 THE COURT: Have you had enough time with your  
10 lawyer in that regard?

11 THE DEFENDANT: Correct.

12 THE COURT: All right. Do you wish testify or  
13 not?

14 THE DEFENDANT: No.

15 THE COURT: All right. Thank you very much.  
16 I'll make a finding that he made that decision freely,  
17 intelligently and with advice of competent counsel. I  
18 assume you not going to call any other witnesses or  
19 anything either?

20 MR. MEETZE: No, sir, Your Honor.

21 THE COURT: All right. Do you all want to go  
22 ahead and bring the jury out and then you rest on the  
23 record and we can assume all of your motions have been  
24 renewed and denied and just move right into closings?

25 MR. MEETZE: As long as it's on the record that

1 our motions are preserved and all that, I don't have any  
2 objection to that.

3 THE COURT: That will be good. I'll just put it  
4 on the record. And then we're going to have the State go  
5 first, defense and then me?

6 MR. MEETZE: Perfect.

7 THE COURT: Correct?

8 MR. MCEACHIN: Yes, sir, Judge.

9 THE COURT: All right. Go ahead and bring out  
10 the jury.

11 (WHEREUPON, the jury came into open court.)

12 THE COURT: All right. Defense is recognize  
13 call your first witness.

14 MR. MEETZE: Judge, at this time the defense  
15 would rest.

16 THE COURT: Thank you very much. The State is  
17 recognize for your closing statement.

18 MR. MCEACHIN: Thank you very much, Your Honor.  
19 May it please the Court, defense counsel. Madam forelady  
20 and ladies and gentlemen of the jury, as promised a fairly  
21 short trial today. And again don't let the shortest of  
22 trial make you feel like it's any less significant to  
23 face. I told you at the beginning of this trial there  
24 were two questions you were going to have to answer. And  
25 Ms. Bell in her testimony I think thoroughly summarized

1 and answered question number one which is what are all  
2 these substances. She answered that question. She  
3 testified based on her analysis of what these substances  
4 were. And they were controlled substances narcotics all  
5 with the exception of one of the substances which was no  
6 control substance found in those green pills. So we know  
7 the answer to question one we got crack cocaine. We got  
8 powder cocaine and cocaine. We got methadone and we got  
9 marijuana. And as you may recall at the beginning of the  
10 trial, I told you those were really the four controlled  
11 substances we're dealing with when we're talking about the  
12 indictment in this case.

13 The second question I told you had to be  
14 answered was who is responsible or who owns drugs or who  
15 possesses these drugs. And defense counsel through their  
16 cross-examination and I'll be it that's their job to try  
17 to poke holes in the State's case and that's what they're  
18 suppose to do, that's what they're suppose to try to do is  
19 to poke holes in the State's case. But let's go over the  
20 testimony. I know y'all were all here. We heard it all  
21 this morning. Let's go over the testimony very briefly to  
22 show why Erick Willard is the one who possesses all this  
23 stuff, okay.

24 Starting at the beginning the search warrant was  
25 executed at where his house, conducted at Erick Willard's

1 home. First and foremost that's where it happened.  
2 Second thing and one of the most important things I want  
3 you folks to remember is when you're thinking about this  
4 whole search warrant execution process in your heads, I  
5 want you to think about how it transpired. Major Crawford  
6 was our first witness who testified and this was a joint  
7 effort and prior to entry being made through the front  
8 door, he said he was right there. And at the time the  
9 search warrant was executed drugs came out the window and  
10 simultaneously if you remember Agent Collins testimony,  
11 they were coming through the front door at that time and  
12 where did he go. He went immediately to right here. Well  
13 guess what, everybody else in that house was in the  
14 building. There's only one person right here in close  
15 proximity to those drugs that are outside and that's Erick  
16 Willard. That's where he was caught, only person not in  
17 the den. The only person would have time to throw drugs  
18 out of the window.

19 All of this evidence is what's known as  
20 circumstantial evidence. The Court's going to talk to you  
21 or explain to y'all what circumstantial evidence is. It's  
22 evidence that if you add it all up and you come up with a  
23 conclusion, what's pretty good chance that that conclusion  
24 mattered, a conclusion to come up with. In addition and  
25 probably the most important piece of all of this evidence

1 is that you heard from both Agent Cribb and Agent Collins  
2 after he was made aware of his rights, his right to remain  
3 silent, his right to have an attorney present. After he  
4 was made aware of those rights, didn't even wait for any  
5 questions to be asked, he immediately said, look  
6 everything's mine, don't arrest these other fellows, it's  
7 all mine. I'm taking responsibility for it. It would be  
8 disingenuous for him to get up here today and say, no,  
9 it's not mine now. It's not mine now that it's time to  
10 pay the piper. It's not mine now when everything's on the  
11 line. It's just mine back then when I didn't want other  
12 people to get arrested. He admitted the drugs were his.  
13 It was his house. He was located in close proximity to  
14 the vast majority of drugs in that house and right outside  
15 that house. That's evidence folks. And that's evidence  
16 of guilt.

17 Now, with regards to the charges in the case, I  
18 want to talk to you a little bit again. The judge is  
19 going to talk to you about this as well. With regard to  
20 the charges in their case, there's a couple things about  
21 the law you need to understand. First with the charge of  
22 trafficking cocaine, my obligation to you is to prove that  
23 he had more than ten grams, okay. The way I'm going to do  
24 that it's going to be real simple because y'all going to  
25 get to take this back here with y'all and y'all can do the

1 math too, but I'm going to let y'all do the math too. And  
2 you'll look at Ms. Bell's report and it says on the report  
3 by every item it says what the drug is and it says what  
4 the amount is except in those limited circumstance where  
5 she said look we reached the threshold of weight. We got  
6 enough. We don't need to weigh any more because we got so  
7 much weight. In those instances, you'll read on there  
8 where she says we met the threshold of weight, but in all  
9 the other instances, you can take these numbers and you  
10 can add them up. But I'm going to show you the numbers I  
11 came up with real quick because they're relevant to the  
12 charges the crimes he's charged with.

13 First with regards to the cocaine, if you look  
14 at Ms. Bell's report these coincide directly with that and  
15 one of the items he had 2.56 grams, 13.43 grams, 3.5  
16 grams, 4.93 grams, .14 grams, 13.93 grams, 5.45 grams.  
17 And that's not counting the ones they didn't weigh because  
18 they met the threshold of weight. If you add that up, you  
19 get 43.94 grams of cocaine. In order to establish  
20 trafficking, I have to show you that he had ten grams,  
21 four times, four times the amount that's required to  
22 traffic is what he possessed, what he had.

23 Next, you have cocaine base also known as crack  
24 cocaine. It'll be listed as both on State's Exhibit  
25 Number 12 3.22 grams, 1.01 grams, and .81 grams for a

1 total of 5.04 grams. The judge will tell you that you can  
2 draw an inference based on the weight of the cocaine base  
3 that was found, that it was enough to be considered  
4 possession with intent to distribute, means he intended to  
5 sell it. That inference amount is anything more than one  
6 gram. Cocaine's got four times the required amount of  
7 crack and five times the requirement.

8 Finally with regard to the marijuana in the  
9 case, Ms. Bell only tested two items of marijuana because  
10 she met the threshold weight one was 27.91 grams, which  
11 was State's Exhibit 11, I believe, that's E, State's  
12 Exhibit 11E and the other one is 1.27 grams. For a total  
13 of 29.18 grams. And just like with crack an inference can  
14 be drawn on marijuana it got more than 28 grams. So in  
15 this case he did, he had 29.18 grams, but weight alone  
16 folks is not what I'm asking you to base these charges on.  
17 And methadone, the methadone he had ten pills, okay. So  
18 the methadone to a certain extent speak for itself. He  
19 had ten pills. They were tested. Ms. Bell told me what  
20 they were, but again the weight alone is just something  
21 you and the jurors can use in the case.

22 The other evidence that she suggest to you that  
23 these drugs were traffic and these drugs were possessed  
24 with intent to distribute is the other evidence that was  
25 located at the residence. The scales, the small baggies

1 which I don't know what you use those things for if you're  
2 not trying to put small quantities of drugs in them. You  
3 can't fit a sandwich in there. And you got your grinder  
4 for the marijuana.

5           The reason scales are important I'll give you a  
6 little example. Last week I went to the supermarket to  
7 get some hamburger meat to cook for my wife, son and me.  
8 And I went there and went to the meat counter, I said you  
9 mind if I get a pound of hamburger meat about a pound and  
10 a half is what I think I got. And he said no problem,  
11 pulled it out, patted it up, stuck on the scale, weighed  
12 it out, sold it to me. How is that relevant in this case.  
13 It's relevant in this case the person buying isn't the  
14 person who's bringing the scales to the transaction. It's  
15 the person who's selling it brings the scales to the  
16 transaction. Those scales were located in his residence.  
17 Those scales were used to weigh these drugs. Those scales  
18 were used to distribute these drugs as with the baggies.

19           The case is not complicated. The evidence is  
20 not complicated. You have an individual who accepted  
21 responsibility for the drugs that were found. He said  
22 they were his. And we're asking y'all to hold him  
23 accountable for that. The defense knows it's trafficking.  
24 He's guilty of possession with intent to distribute  
25 cocaine base. He's guilty of possession with intent to

1 distribute methadone. And he's guilty of possession with  
2 intent to distribute marijuana. Erick Willard is a drug  
3 dealer, look at all these drugs. You can look at them,  
4 that is a massive amount of drugs. And all he was doing  
5 was selling them, that's why we're asking you to find him  
6 guilty. Thank you.

7 THE COURT: Thank you. The defense is  
8 recognized.

9 MR. MEETZE: Your Honor, may it please the  
10 Court. Mr. McEachin. Ladies and gentlemen, I spoke with  
11 you yesterday when this whole process got started when  
12 everybody was out there going through the qualification  
13 process introduce myself then. I will introduce myself  
14 again. My name is Vick Meetze and I work in the public  
15 defender's office. We represent Erick Willard in this  
16 case and we're proud to do that. Mr. Chandler spoke to  
17 you in the opening statement and he mention to you that an  
18 important principle in our law which is proof beyond a  
19 reasonable doubt and that proof, that's the burden placed  
20 on the State to prove someone guilty in criminal court  
21 here in South Carolina and anywhere throughout the United  
22 States. And you gone hear the judge talk about reasonable  
23 doubt and what that is and define that for you and give  
24 you some guidance in that regard. So certainly whatever  
25 the judge charges you when I'm done here, that's what you

1 need to go with. But I'm going to speak to you about it  
2 in a little bit because it's important and it's extremely  
3 important in our law because that's like I said the burden  
4 of proof in a criminal case because in a criminal case  
5 it's not like a civil lawsuit where a couple of folks get  
6 into a wreck and you need to have jurors and court systems  
7 to determine who maybe at fault. If so, how much money  
8 you pay somebody for injuries they may have had and all  
9 that kind of stuff. And that's important don't get me  
10 wrong. Nobody likes to depart with their money if they  
11 don't have to be and that's -- I don't want to down play  
12 that, but in criminal court, in general sessions court,  
13 you dealing with something much more important than that.  
14 You're dealing with people's very liberties. You're  
15 dealing with their very lives. And it doesn't get any  
16 more important than that. The stakes don't get any higher  
17 than that. That's why in criminal court the burden of  
18 proof is much higher. It's the civil court scenario that  
19 I was telling you where you got a wreck or somebody falls  
20 in a store or something like that, you have jury trials in  
21 there too. There's a burden of proof in civil court it's  
22 called by a preponderance of the evidence or more likely  
23 than not. And in that burden what has to happen is when  
24 both sides present their evidence in a case, you think of  
25 the scales of justice and you got two the sides of the

1 scales and both sides put the evidence on there. If the  
2 scales tip every so lightly towards one side, then that  
3 would be the side that the jury would have rendered the  
4 verdict in favor of. In criminal court where proof is  
5 beyond a reasonable doubt, it's much more important. The  
6 State's got to pile on evidence and pile on evidence until  
7 you are all firmly convinced of someone's guilt and that's  
8 an extremely high burden. It does rise to the level of  
9 where proof of -- of beyond any and all doubt, but it's a  
10 level that comes up not too far short of that.

11 Now, and reasonable doubt is at the heart of  
12 every criminal case and that's no difference here. One  
13 thing I want you to think about is and, you know,  
14 understand folks say this or they say that and can  
15 belittle it in some ways, but I think it's very important  
16 that some of the key evidence that was testified to on  
17 this stand did not appear in the law enforcement incident  
18 report. And I'm talking about Agent Crawford who is  
19 stationed out back and he says he saw bags which was  
20 eventually tested and determined to be cocaine saw  
21 somebody throw that out the window and actually saw them  
22 throw it and saw the hand out there. Well, that's what  
23 was testified to here on the stand today, but it was  
24 nothing in the incident report about that. Nothing in the  
25 incident report says he told the lead Agent Mark Collins

1 about it. Mark Collins said that, yes, Agent Crawford  
2 told me about that, but it didn't make the incident  
3 report. And you heard them all say our memories don't get  
4 better as time goes on. Our memory are best when things  
5 are fresh. When everything's most fresh in this case,  
6 that didn't make it in the incident report, okay. And  
7 that's a key piece of evidence because as you heard Mr.  
8 McEachin just say Agent Collins came in went to the  
9 bedroom and testified here that he saw Erick Willard  
10 walking out of the bathroom timing fits up perfectly.

11 Everything works out perfect for that testimony,  
12 problem with that testimony is that's not in the incident  
13 report. That's not there. That was heard for the first  
14 time right on this stand today by any of us. And that  
15 calls into question exactly how that happened because  
16 certainly a lot goes in the incident report. And they try  
17 to do the best they can and try and put as much in there  
18 as they can, but that's not a minor thing. You know, it's  
19 one thing if a minor detail is not put into an incident  
20 report, but that's a big detail, two big details that  
21 links up together and can be very incriminating if true,  
22 but we don't know if it's true. We don't know if it was  
23 true. We know it was testified to. We know that it  
24 wasn't in the incident report neither one of those things  
25 and that raises a reasonable doubt as to how that happened

1 and what occurred at all.

2 I will also tell you that as Mr. McEachin said  
3 you got these inference levels with regards to the  
4 possession with intent to distribute methadone and  
5 marijuana and cocaine base. And that's all those are with  
6 those threshold levels that they talk about inference  
7 levels, inferences means that you can infer based on the  
8 weight that someone has with intent to distribute, but it  
9 takes more than that. It takes more evidence to convict  
10 somebody to find somebody to prove guilty beyond a  
11 reasonable doubt. And they want to come up here and show  
12 you a grinder and show you some scales and things like  
13 that.

14 You heard a lot about presumptive test and  
15 things like that. There's no evidence presented to you  
16 today that any presumptive test or anything were done on  
17 any of this determine if there's any kind of residue on  
18 there or anything like that to corroborate to present more  
19 evidence to determine whether or not those scales weigh  
20 any kind of substance legal or illegal. These scales are  
21 not illegal. They can be used for things that are  
22 illegal, but we don't know what those were used for at  
23 all. We don't have any idea. There was nothing done.  
24 They just brought into court and they want you to believe  
25 their side of story without any corroborating evidence.

1 And in this country we don't convict people on  
2 speculation. We don't do it. We convict them on evidence  
3 and facts and proof. And evidence in this case does not  
4 rise to it.

5 Now, I also say with regards to the inference  
6 levels and I think you will be charged in regard to this  
7 they tell you this is Erick Willard's house. He was  
8 living there. Well, that's what they testified to. They  
9 didn't bring anything, any documentation, any kind of --  
10 anything license anything with an address mail found at  
11 the house anything to show you that. There were four  
12 other people at the house that night when they went in  
13 there. They didn't even talk to those folks read them  
14 their rights. They all said they wanted to talk, but they  
15 didn't talk to any of them, that's how you get  
16 corroborating evidence, you know. They tell you that Mr.  
17 Willard claimed everything inside and outside of the house  
18 and that was it, case closed. We got our guy. Well,  
19 that's what they testified to. Also testified to there's  
20 nothing -- they don't have that recorded. They didn't  
21 take any statement in writing. They didn't do anything to  
22 corroborate to bring into this court to support that other  
23 than testimony and I submit to you that that raises a  
24 reasonable doubt.

25 They found drugs outside. They found drugs in

1 the sink. They found some in the jacket, a rainbow  
2 colored jacket in another bedroom in a closet. The  
3 bedroom was not Mr. Willard's. They want you to think  
4 that's his. They hadn't told you who else lives in that  
5 house, if anybody else lives at that house. We know four  
6 other people were there. We know they weren't spoken to.  
7 They didn't bring the jacket in. What size is the jacket  
8 did it fit Mr. Willard, do we know any of this, no.

9           You going to hear that mere presence where drugs  
10 are found doesn't make somebody guilty. You got to have  
11 more than that. You got to have more than that. This  
12 case doesn't have one. This case has speculation and mere  
13 presence and that's it. And in this country we don't  
14 convict people on that kind of evidence. It takes more.  
15 It takes much more. And this case just don't have it.  
16 And, you know, all those people wanted to talk what would  
17 they have said, we don't know. We don't know. They  
18 weren't spoken to. We don't know what they would have  
19 said.

20           Reasonable doubt as I said I keep coming back to  
21 it, but that's at the heard of every criminal case. And a  
22 reasonable doubt can be found not just from the evidence  
23 that you do see and do hear. It can be found from  
24 evidence that you don't. And there's a lot of evidence in  
25 this case that y'all haven't gotten to hear because things

1 weren't followed up on, wasn't done. They didn't talk to  
2 these folks. They didn't find out anything about what was  
3 going on that night at this house. This was 4:30 in the  
4 morning. There were four people plus Mr. Willard, so five  
5 people in the house when they got there. Was anybody in  
6 the house before that. Had they had a group of folks  
7 over. What all do you know. There's still a lot of  
8 questions, too many questions for somebody to be found  
9 guilty beyond a reasonable doubt in this case. They don't  
10 have enough to get anything more than an inference on  
11 these drugs as far as intent to distribute. They got  
12 testimony that he made a statement without any other  
13 corroboration. They got other witnesses that weren't  
14 spoken to. They testified other law enforcement people  
15 were there. What -- I can't remember what they call it,  
16 but essentially he said it was basically what Marion  
17 County used as a SWAT team they were there. Those folks  
18 didn't come to testify. There's a lot out there that you  
19 don't get to know. And you have the right to ask why.  
20 And based on that you have a right to have a reasonable  
21 doubt in this case. There's reasonable doubt all over and  
22 a just verdict in this case is a verdict of not guilty.  
23 And that's what we're asking you to bring back not guilty.  
24 Thank you.

25 THE COURT: Members of the jury, it is now my

1 duty to instruct you on the law applicable to this case.  
2 In that regard, it is your duty as jurors to accept and  
3 apply the law as I now state it to you. Furthermore, it  
4 is your exclusive duty to decide all of the issues of fact  
5 in this case and to determine the effect, the value and  
6 weight of the evidence presented. Both the State and the  
7 defendant have the right to expect that you will carefully  
8 consider and evaluate the evidence and apply the law of  
9 this case to it so that in the end both the State of South  
10 Carolina and this defendant will have received a fair and  
11 impartial trial. I want you to understand that when I use  
12 the word defendant, I refer to Erick Maurice Willard.

13           The State in this case alleges several different  
14 offenses against the defendant. The charges are count one  
15 trafficking in cocaine, count two possession with intent  
16 to distribute cocaine base, count three possession with  
17 intent to distribute methadone, count four possession with  
18 intent to distribute marijuana. Each charge is a separate  
19 and distinct offense. You must decide each charge  
20 separately on the evidence and the law applicable to it  
21 uninfluenced by your decision as to any other charge. The  
22 defendant may be convicted or acquitted on any or all of  
23 the offenses charged. You will be asked to write a  
24 separate verdict of guilty or not guilty for each charge.

25           To these charges, the defendant has entered a

1 plea of not guilty. These pleas of not guilty places the  
2 burden of proof on the State of South Carolina to prove  
3 the guilt of the defendant to you beyond a reasonable  
4 doubt on each and every charge. It is vital to understand  
5 that the defendant is presumed under the law to be  
6 innocent of the charges. It is a fundamental rule of our  
7 law that the defendant regardless of the seriousness of  
8 the charges against him is always presumed innocent of the  
9 crimes for which he is charged unless and until he has  
10 been proven by evidence that satisfies you beyond a  
11 reasonable doubt. The presumption of innocence is not a  
12 mere legal theory or legal phrase a presumption of  
13 innocence is very important and you need to understand  
14 that this presumption accompanies the defendant from the  
15 time of his arrest and appearance in this court and  
16 continues with the defendant even after you retire to jury  
17 room to deliberate. In other words, the defendant  
18 receives the benefit of the presumption of innocence until  
19 the very end of this trial. When you, the jury, will  
20 deliberate upon the evidence and decide whether the State  
21 has proved his guilt on each and every charge beyond a  
22 reasonable doubt.

23           During this trial, you and I have separate  
24 duties to perform. As the trial judge, it is my  
25 responsibility to preside over this trial. Therefore, I

1 have the duty to rule upon the admissibility of the  
2 evidence offered during the trial. In this regard, you  
3 are to consider only the evidence before you. Thus, you  
4 are to consider only the testimony which has been  
5 presented from this witness stand together with any  
6 exhibits admitted into the record of this case.

7           Furthermore, I have the additional duty to  
8 charge you on the law applicable to this case and in that  
9 regard it is your duty to accept and apply the law as I  
10 know now state it to you. If you have any preconceived  
11 ideas as to what the law is or what you think the law  
12 ought to be, then you are obligated under your oath to  
13 abandon these preconceptions and accept the law as I now  
14 state it to you.

15           In this trial, you are the sole and exclusive  
16 judge of the facts. I am in turn the judge of the law.  
17 Do not infer that I have any opinion about the facts of  
18 this case from anything I have said or done during the  
19 course of this trial. In this regard, the law simply does  
20 not permit me to have an opinion about the facts. As  
21 jurors, it is your duty alone to determine the effect,  
22 value and weight of the evidence presented during the  
23 course of this trial. Furthermore, it is your job as  
24 jurors to determine the credibility and believability of  
25 the witnesses who have testified in this trial. You must

1 evaluate the evidence and determine which evidence  
2 convinces you. In determining the believability of  
3 witnesses who have testified in this trial, you may  
4 believe one witness over many or many over one. You may  
5 believe apart of the testimony of a witness and reject the  
6 remaining part. You may believe the testimony of a  
7 witness in its entirety or reject it in full. You may  
8 consider whether the witness has an interest in the result  
9 of the trial, whether the witness is prejudice toward  
10 either party, the opportunity for the witness to have seen  
11 the matters and things about which the witness may  
12 testify. And the way the witness acts on the witness  
13 stand.

14 Evidence may be direct or circumstantial  
15 evidence. Direct evidence is testimony by a witness about  
16 what the witness personally saw or heard or did.  
17 Circumstantial evidence is indirect evidence, that is it  
18 is proof of one or more facts from which one can find  
19 another fact. You are to consider both direct and  
20 circumstantial evidence. The law permits you to give  
21 equal weight to both, but it is for you to decide how much  
22 weight to give to any evidence.

23 Proof beyond a reasonable doubt is proof that  
24 leaves you confirmly convinced of the defendant's guilt.  
25 There are few things in this world that we know with

1 absolute certainly, so even in criminal cases the law does  
2 not require proof that overcomes every possible doubt.  
3 However, if based on your consideration of the evidence  
4 you are firmly convinced that the defendant is guilty of  
5 the crimes charged, you must find him guilty. If on the  
6 other hand you think there's a real possibility that he is  
7 not guilty, you must give him the benefit of the doubt  
8 and find him not guilty. Please understand that  
9 reasonable doubt may arise from evidence which has been  
10 presented in this case or from the lack of evidence in the  
11 case. It is your responsibility to determine whether or  
12 not reasonable doubt exist as to the guilt of this  
13 defendant on each and every charge. I charge you that the  
14 defendant is entitled to every reasonable doubt arising in  
15 the whole case. If upon any issue of fact essential to  
16 conviction and a verdict of guilty, you have a reasonable  
17 doubt as to how that issue would be resolved. It would be  
18 your duty to resolve that reasonable doubt in favor of the  
19 defendant. Thus, in summary it is important to  
20 understand, the defendant is not required to prove his  
21 innocence. Instead, the State is required by law to prove  
22 every essential element of the crimes against the  
23 defendant by evidence which satisfies you of his guilt  
24 beyond a reasonable doubt, only then can you convict the  
25 defendant and find him guilty.

1           Also please understand that a statement alleged  
2 to have been made by the defendant has been admitted into  
3 evidence in this case. While the Court has determined  
4 that the statement is admissible, I instruct you that you  
5 make the ultimate decision of whether or not the defendant  
6 made the statement. If the defendant did make the  
7 statement, you must determine whether the statement was  
8 made by the defendant voluntarily and of his own freewill.  
9 This means that the statement was not caused by pressure,  
10 force, fear, threats, coercion or intimidation or by hope  
11 of a promise or leniency or a reward of any kind. In  
12 determining whether the statement was voluntary, you  
13 should consider both the characteristics of the defendant  
14 and the details of the questioning. Some of the factors  
15 that you must consider are the age of the defendant, the  
16 defendant's education or lack of education, the  
17 defendant's mental ability or capacity, the defendant's IQ  
18 or intelligence, the defendant's background and  
19 environment, the place and length of detention and nature  
20 of the questioning and the advice or lack thereof to the  
21 defendant of his constitutional rights including but not  
22 limited to his right to remain silent. If any statement  
23 could be used against him in a court of law, the right to  
24 have a lawyer present and if he could not afford a lawyer,  
25 a lawyer would be appointed to represent him without any

1 costs and that he could stop making a statement at any  
2 time. You must carefully consider all of the surrounding  
3 circumstances before you give any weight to an allege  
4 statement.

5 The State has the burden of proving beyond a  
6 reasonable doubt that the allege statement was voluntary.  
7 If you determine that it was, you may give the statement  
8 any further consideration that you deem proper. You must  
9 decide what weight, if any, should be given to the allege  
10 statement. If you determine the alleged statement was not  
11 the free and voluntary statement of the defendant, you  
12 should not consider the statement at all.

13 I further instruct you the fact that the  
14 defendant in this trial did not testify was on behalf --  
15 is not a factor to be considered by you in anyway during  
16 your deliberations or in your consideration on the  
17 question of guilt or innocence. In this regard, the  
18 defendant has the constitutional right to remain silent.  
19 And the exercise of this right must not be considered by  
20 you in your deliberations. The fact that the defendant  
21 did not testify should not even be discussed in the jury  
22 room.

23 The burden of proof as I have already stated to  
24 you is on the State. The defendant has no obligation to  
25 prove his innocence. The burden of proof remains with the

1 State to prove the defendant's guilt beyond a reasonable  
2 doubt. And the fact that the defendant did not testify is  
3 not a factor to be considered by you in deciding the guilt  
4 or innocence of the defendant.

5 Furthermore, the rules of evidence ordinarily do  
6 not permit witnesses to give their opinions or  
7 conclusions. An exception to this rule exist for  
8 witnesses we call expert witnesses. A witness who by  
9 education and experience has become an expert in some art,  
10 science, profession or calling may state an opinion as to  
11 the relevant matters of which the witness claims to be an  
12 expert. And they also state the reasons for the opinion.  
13 You may consider any expert's opinion received in evidence  
14 in this case and like any other evidence give it the  
15 weight you think it deserves.

16 The defendant is charged with trafficking  
17 cocaine. The State must prove beyond a reasonable doubt  
18 that the defendant knowingly sold, manufacture,  
19 cultivated, delivered, purchased, brought into this state,  
20 provided financial assistance or otherwise aided, abetted,  
21 attempted or conspired to sell, manufacture, cultivate,  
22 deliver, purchase or bring into this state a knowingly,  
23 actual or constructive possession, knowingly attempted to  
24 become an actual or constructive possession of cocaine.

25 The State must also prove beyond a reasonable

1     doubt that the amount of cocaine or any mixture containing  
2     cocaine was ten grams or more but less than 28 grams. The  
3     defendant is also charged with possession with intent to  
4     distribute cocaine base. The State must prove beyond a  
5     reasonable doubt that the defendant possess cocaine base  
6     with the intent to distribute it. To prove possession,  
7     the State must prove beyond a reasonable doubt that the  
8     defendant had both the power and the intent to control the  
9     disposition or use of the cocaine base. Possession may be  
10    either actual or constructive. Actual possession means  
11    the cocaine base was in the actual physical custody of the  
12    defendant. Constructive possession means that the  
13    defendant had dominion and control or the right to  
14    exercise dominion or control over either the cocaine base  
15    itself or the property on which the cocaine base was  
16    found.

17             Mere presence at the scene where the drugs were  
18    found is not enough to prove possession. The defendant's  
19    knowledge and possession may be inferred when a substance  
20    is found on the property under the defendant's control.  
21    However, this inference is simply an evidentiary fact to  
22    be take into consideration by you along with the other  
23    evidence in the case and to be given the weight you decide  
24    it should have.

25             Two or more persons may have joint possession of

1 a drug. The State must also prove beyond a reasonable  
2 doubt that the defendant intended to distribute the  
3 cocaine base. Distribute means to deliver other than by  
4 administering or dispensing a drug. Intent may be shown  
5 acts and conduct of the defendant and other circumstances  
6 from which you may naturally and reasonably infer intent.

7 In determining whether the defendant had the  
8 intent to distribute the cocaine base, you may consider  
9 the circumstances surrounding the defendant's alleged  
10 possession. You may consider the amount of the substance  
11 alleged to have been possessed, the manner in which it was  
12 allegedly possessed, and the place where it was alleged  
13 possessed and other factors which you consider to be  
14 important. You must find that the defendant did not  
15 intend to have the cocaine base solely for his own use.  
16 Possession of one or more grams of cocaine base creates an  
17 inference that the defendant possessed the cocaine base  
18 with intent to distribute it. This inference does not  
19 relieve the State from proving beyond a reasonable doubt  
20 that the defendant had the intent to distribute. It is  
21 simply an evidentiary fact to be taken into consideration  
22 by you along with the other evidence in the case and to be  
23 given the weight you decide it should have.

24 The defendant is also charged with the  
25 possession with the intent to distribute methadone. The

1 State must prove beyond a reasonable doubt that the  
2 defendant possess methadone with the intent to distribute  
3 it. To prove possession, the State must prove beyond a  
4 reasonable doubt that the defendant had both the power and  
5 the intent to control the disposition or use of the  
6 methadone. Possession may either be actual or  
7 constructive. Actual and constructive possession has  
8 previously been explained to you in this charge two or  
9 more persons may have joint possession of a drug. The  
10 State must prove beyond a reasonable doubt that the  
11 defendant intended to distribute the methadone.. Intent to  
12 distribute also been previously explained to you in this  
13 charge.

14 Also the defendant is charged with possession  
15 with intent to distribute marijuana. The State must prove  
16 beyond a reasonable doubt that the defendant possessed  
17 marijuana with the intent to distribute it. To prove  
18 possession, the State must prove beyond a reasonable doubt  
19 that the defendant had both the power and the intent to  
20 control the disposition or use of the marijuana.  
21 Possession may either be actual or constructive. As  
22 stated before, actual and constructive possession had been  
23 explained to you previously have been explained to you in  
24 this charge. Two or more persons may have joint  
25 possession of a drug. The State must also prove beyond a

1 reasonable doubt that the defendant intended to distribute  
2 the marijuana. Again intent to distribute has been  
3 previously explained to you in this charge. Also you must  
4 find the defendant did not intend to have the marijuana  
5 solely for his own use. Twenty-eight grams or one ounce  
6 of marijuana or more creates an inference that the  
7 defendant possessed the marijuana with the intent to  
8 distribute it. This inference does not relieve the State  
9 from proving beyond a reasonable doubt that the defendant  
10 had the intent to distribute it. It is simply an  
11 evidentiary fact to be taken into consideration by you  
12 along with the other evidence in the case and to be given  
13 the weight you decide it should have.

14 Mr. Bailiff, if you're over there, is he down  
15 there. Would you hand that to the forelady please, sir.  
16 Ladies and gentlemen, I'm now drawing near the end of my  
17 charge and want you to clearly understand that you are not  
18 partisans or advocates for the State or the defendant.  
19 You do not serve as jurors to reward your friends or  
20 punish your enemies. In this regard, you have been  
21 selected by both the State and the defendant to be fair  
22 and impartial jurors. It is your duty by your joint  
23 deliberations to determine the facts in this case giving  
24 the defendant the benefit of every reasonable doubt on  
25 each and every issue. Then to the facts that you

1 determine to be correct. You should take and apply the  
2 law which has been given to you by this court and thus  
3 arriving at a verdict. When you have accomplished these  
4 responsibilities, you will have satisfied your oath as  
5 jurors and you will have discharged your duty to this  
6 court.

7 Now, Ms. Forelady, I have handed you the verdict  
8 form. When you arrive at a verdict in this case, you will  
9 write your verdict on the form. For the charges that the  
10 State has failed to prove the guilt of the defendant  
11 beyond a reasonable doubt, of course, your verdict will be  
12 two words not guilty. However, should the State have  
13 proved their case against the defendant beyond a  
14 reasonable doubt, then your verdict will be one word  
15 guilty. Ms. Forelady, once the decision has been made,  
16 just check whichever choice is your verdict on each and  
17 every charge. Also please understand that even though I  
18 have given the verdict form to the forelady, it is not her  
19 verdict alone. It is the verdict of all 12 of you and I  
20 emphasize again that your verdict must be unanimous.

21 Now, you will retire to the jury room. However,  
22 I would ask that you do not begin your deliberations at  
23 this time. The law requires that I consult with the  
24 attorney's first. After I have done so, the bailiff will  
25 bring in the items of evidence and instruct you to begin

1 your deliberations at that time. Also should you have any  
2 questions during your deliberations, you must put them in  
3 writing and send them to me by way of the bailiff. The  
4 Court bailiff will be placed immediately outside the jury  
5 room door to provide security and assistance for you  
6 during your deliberations. Once you have reached your  
7 verdict, please knock on the jury room door and ask the  
8 bailiff to advise the Court that you have reached a  
9 verdict and we will return you to the courtroom as  
10 promptly as possibly thereafter. Thank you. You may  
11 retire to the jury room, but again do not begin your  
12 deliberations until told to do so.

13 (WHEREUPON, the jury retire to the jury room.)

14 THE COURT: All right. Any objections from the  
15 State to the charge?

16 MR. MCEACHIN: None from the State, Your Honor.

17 THE COURT: How about the defense?

18 MR. MEETZE: No, Your Honor.

19 THE COURT: How about you all take a look at the  
20 items that are into evidence and see if they're in order.  
21 If they are, let me know, and we'll send them back.

22 MR. MCEACHIN: Please the Court, Your Honor, the  
23 State would ask that all control substances be kept in the  
24 courtroom. If they want to look at them, we don't have a  
25 problem with that. We just don't want to send those back

1 there.

2 THE COURT: Don't want them to have a party back  
3 there. That's fine with me.

4 MR. MCEACHIN: Judge, we reviewed the evidence  
5 and we're sending everything back with the exception of  
6 State's Exhibit Numbers 11 and the subsections of 11.

7 THE COURT: Okay, go ahead and give that to the  
8 jury and tell them to begin and bring out the alternates  
9 and let them know if they want to see the drugs they can  
10 come back into courtroom and see the drugs.

11 (WHEREUPON, the jury the began deliberations at  
12 3:24.)

13 THE COURT: I want to let the two alternates  
14 know your job is complete for the day. We need you back  
15 at three o'clock tomorrow afternoon to pick another jury,  
16 but I do want to let you know you had to sit through the  
17 whole trial. You were our second string. Should somebody  
18 on the football team get hurt, we would have to send you  
19 in, but we couldn't send you in if you didn't sit through  
20 the whole game or the whole trial. So that was your job,  
21 your job is complete and you can go. I'll see you back at  
22 three tomorrow.

23 (WHEREUPON, the alternate jurors were  
24 dismissed.)

25 (WHEREUPON, the jury had a question at 4:20 pm.)

1 THE COURT: Appears we have one sheet of paper  
2 with several questions on it. One of them is did he or  
3 did he not take responsibility? Was the other parties  
4 involved family?

5 MR. JEPERTINGER: What was that?

6 THE COURT: Was the other parties involved  
7 family? How do we know that it was property of the  
8 "house"? Where did the bag on the ground come from?  
9 Where is the picture of the counter top with the drugs on  
10 them showing the scale? Where is the kitchen table?

11 MR. MCEACHIN: They're all questions of fact,  
12 Judge.

13 MR. MEETZE: I think that they just have to  
14 recall the evidence the way they recall it.

15 THE COURT: You have received and heard all of  
16 the evidence continue.

17 MR. MCEACHIN: Please.

18 THE COURT: Ms. Court Reporter, you want to mark  
19 this.

20 (WHEREUPON, Court's Exhibit No. 1 was marked for  
21 the record.)

22 THE COURT: Tell the jury to continue  
23 deliberation.

24 (WHEREUPON, the jury continued deliberation at  
25 4:22.)

1 THE COURT: Go ahead and bring the jury out.

2 (WHEREUPON, the jury came into open court with a  
3 verdict at 4:46 pm.)

4 THE COURT: Madam forelady, has the jury reached  
5 a verdict?

6 FORELADY: Yes.

7 THE COURT: You be so kind as to hand it to the  
8 bailiff. Thank you. I find the verdict form in order the  
9 clerk will publish.

10 THE CLERK: State of South Carolina Marion of  
11 County in the Court of General Sessions Twelfth Judicial  
12 Circuit, indictment 2017-GS-33-0322, The State of South  
13 Carolina vs. Erick Maurice Willard defendant, verdict as  
14 to the charge of trafficking cocaine, we, the jury,  
15 unanimously find the defendant guilty. As to the charge  
16 of possession with the intent to distribute cocaine base,  
17 we, the jury, unanimously find the defendant guilty. As  
18 to the charge of possession with intent to distribute  
19 methadone schedule five sorry -- four, we, the jury,  
20 unanimously find the defendant guilty. As to the charge  
21 of possession with the intent to distribute marijuana, we,  
22 the jury, unanimously find the defendant guilty. Dated  
23 11-14-2017 Monica Sanders. If this is your verdict please  
24 signify by raising your right hand?

25 (WHEREUPON, all the jurors' hands were raised.)

1 THE COURT: All right. Thank you. Need for  
2 further polling from the defense.

3 MR. MEETZE: No, Your Honor.

4 THE COURT: All right. Thank you very much  
5 jurors you completed your job in reference to this case.  
6 I'm going to dismiss you for the day. And I need you back  
7 at three o'clock tomorrow afternoon. Everybody else  
8 remain seated while the jury is executed. You are excused  
9 until three o'clock tomorrow.

10 (WHEREUPON, the jury is dismissed.)

11 THE COURT: All right. Any motions from the  
12 defense?

13 MR. MEETZE: Judge, at this point in time we  
14 make a motion for a new trial based on the evidence  
15 presented not being sufficient to sustain the jury's  
16 verdict. We also renew any previous motion we made.

17 THE COURT: Those motions are denied.

18 The State ready to go forward with sentencing?

19 MR. MCEACHIN: Your Honor, I ask if we can do it  
20 tomorrow. We're bringing a document from Horry County.  
21 We were suppose to have it in today. I've spoken with  
22 their Solicitor's office. It won't be available until  
23 9:15 in the tomorrow morning. Gary Streett with our  
24 office is going to pick up it for us. We'll be ready to  
25 proceed maybe a little before noon tomorrow.

1 THE COURT: All right. Is that okay with you?

2 MR. MEETZE: Sure.

3 THE COURT: All right, sounds good sentencing  
4 will be tomorrow at noon.

5 MR. MEETZE: Thank you, Your Honor.

6 MR. MCEACHIN: Thank you, Judge.

7 THE COURT: Thank you.

8 (WHEREUPON, the proceedings were concluded for  
9 the day to be reconvened on November 15, 2017.)

10 (WHEREUPON, Court's Exhibits Nos. 1, 2 and 3  
11 were marked for the record.)

12 THE COURT: I'm ready when you are.

13 MR. MCEACHIN: Thank you, Your Honor. Your  
14 Honor may it please the Court.

15 THE COURT: Yes, sir.

16 MR. MCEACHIN: Standing before you is Erick  
17 Maurice Willard. He's before the Court on indictment on  
18 2017-GS-33-322. Mr. Willard was tried by a jury of his  
19 peers yesterday and convicted on all four counts of that  
20 indictment. We here for sentencing today. I'm handing  
21 the Court the sentencing sheet. The defendant was  
22 convicted of trafficking cocaine ten grams to 28 grams.  
23 This is a third or subsequent offense. He was convicted  
24 of possession with intent to distribute cocaine base that  
25 is also a third or subsequent offense. He was convicted

1 of PWID -- it's actually PWID methadone third or  
2 subsequent offense. And then he was convicted of  
3 possession with intent to distribute marijuana that would  
4 actually be a second offense.

5 Your Honor, I have previously had the court  
6 reporter mark as Court's Exhibit 1, 2 and 3. These are  
7 certified copies of the defendant's prior convictions for  
8 enhancement purposes. Two of the convictions stem from  
9 Marion County one being a possession with intent to  
10 distribute marijuana that the defendant pled guilty to on  
11 8-13-2014. The other being possession of cocaine base  
12 first offense that the defendant pled guilty to earlier  
13 this year on February the 14th of 2017. And then final  
14 offense, Your Honor, being a conviction out of Horry  
15 County on 9-14-2004 for a possession with intent to  
16 distribute cocaine first offense. Again, Your Honor, I've  
17 made these court's exhibits they will need to be or remain  
18 with the court's file for sentencing purposes.

19 THE COURT: All right. And what's the position  
20 of law enforcement in regards to this individual?

21 MR. MCEACHIN: Your Honor, with regard to the  
22 individual, certainly based on the offense of trafficking  
23 cocaine third or greater, the defendant's range on that is  
24 the Court cannot give him less than 25 years no more than  
25 30 years. The Court must give him a \$50,000 fine on that.

1 Other than that, Your Honor, I beg the Court's indulgence  
2 for just one moment.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. MCEACHIN: Your Honor, the only other thing  
5 I would mention is the defendant did have some other  
6 indictments for distributions. As a result of the  
7 sentencing here today, the State will be dismissing -- the  
8 officers did want me to let the Court know that he was out  
9 on bond for those matters when he was subsequently revoked  
10 and brought back before the Court, but otherwise we leave  
11 it in the Court's discretion with regards to sentencing in  
12 this matter.

13 THE COURT: Mr. Meetze.

14 MR. MEETZE: Thank you, Your Honor. May it  
15 please the Court. Your Honor, Mr. Willard is 37 year old.  
16 He's got one 14 year old child that has been in his  
17 custody and has been in his custody because that child's  
18 mother unfortunately and tragically passed away.

19 Judge, you know, obviously Mr. Willard exercised  
20 his right to his trial. You certainly presided over that  
21 and understand know the facts of that case. Mr. McEachin  
22 presented to you the certified convictions for enhancement  
23 purpose. I'll just note with regards to that that one of  
24 those is a possession level offense as far as what  
25 enhances the trafficking. The other is a PWID as oppose

1 to a distribution charge. So and certainly distribution  
2 with PWID are punished under the same statute section, but  
3 certainly and I don't think I'm speaking incorrectly.  
4 They're thought of as differently from a seriousness level  
5 an actually hand to hand distribution versus a possession  
6 with intent to distribute even though they can be punished  
7 similarly. They're treated differently by our prosecutors  
8 and many times by our judges. And I'll make the Court  
9 aware of that and put that on the record. Judge, I'm  
10 going to find out for you how much time he has done since  
11 he had his bond revoked in what he has done on this  
12 charge. But, Judge, obviously the mandatory minimum  
13 sentence on the trafficking is an extremely severe  
14 sentence in and of itself. And I think that with that  
15 being the least he can get and the Court would have no  
16 discretion to give it any less than that. We're certainly  
17 asking for that sentence and that everything else not be  
18 any more than that and to run everything concurrently and  
19 certainly from a punishment standpoint for what he's done,  
20 for what his prior record is that in my opinion would  
21 certainly more than satisfy a just punishment in this case  
22 and that's what we are asking for. Otherwise, we'll let  
23 you know how much time he's done. 101 days.

24 THE COURT: 101 days?

25 MR. MEETZE: Yes, sir.

1 THE COURT: Okay.

2 MR. MEETZE: Judge, he is a graduate of Mullins  
3 High School, went two and a half years of tech studied CPU  
4 service repair there. And again just asking for whatever  
5 mercy the Court can extend.

6 THE COURT: In reference to the trafficking  
7 sentence of the Court is 30 years and a \$50,000 fine.  
8 I'll give him 101 days credit. In reference to the PWID  
9 cocaine, 30 years, 101 days credit, concurrent. And in  
10 reference to 00322, ten years, 101 days credit,  
11 concurrent. And in reference to 00322, 20 years  
12 concurrent, 101 days credit.

13 MR. MCEACHIN: Thank you, Your Honor.

14 MR. MEETZE: Thank you, Judge.

15 END OF REQUESTED TRANSCRIPT  
16  
17  
18  
19  
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21  
22  
23  
24  
25



**Post-Conviction Relief Application Intake Sheet**

Applicant: Erick Maurice Willard SCDC #: 265040 or Fed ID: \_\_\_\_\_

Facility: Leiber Docket #: 2020-CP-33-248

Application received on: 5/7/20 Application filed on: 5/6/20

PLEA  TRIAL Sentence Date: 11/15/17

Indictment (s): 2017-GS-33-00322

Offense(s): Trafficking Cocaine; PWID Cocaine Base; PWID Methadone; PWID Marijuana

Judge: William H. Seals, Jr. Witness: W. Vickery Meetze Court Reporter: Keisha T. Reed

Additional Witness(es): Frank Chandler

- No previous cases Maxton Order in file #: \_\_\_\_\_
- Pending Direct Appeal File #: \_\_\_\_\_
- Closed Direct Appeal File #: 20177355 Remittitur: 5/5/2020
- Open PCR file (same circuit) File #: \_\_\_\_\_
- Closed PCR file (same circuit) File #: \_\_\_\_\_
- Open PCR Appeal (same circuit) File #: \_\_\_\_\_
- Closed PCR Appeal (same circuit) File #: \_\_\_\_\_
- Open Federal Habeas file File #: \_\_\_\_\_
- Closed Federal Habeas file File #: \_\_\_\_\_

- Create File** New AG File #: 20202114
- Order closed Direct Appeal Emailed request on: \_\_\_\_\_
- Order closed PCR file(s) Emailed request on: \_\_\_\_\_
- Order closed PCR Appeal(s) Emailed request on: \_\_\_\_\_
- Order closed Federal Habeas file(s) Emailed request on: \_\_\_\_\_
- Order Transcript Letter mailed: \_\_\_\_\_ 60 day follow-up: \_\_\_\_\_
- Request Clerk's Records Letter mailed: \_\_\_\_\_  With Application
- Request Appointment of Counsel Letter mailed: 7.22.2020  Retained: \_\_\_\_\_
- Order SCDC Records Letter mailed: 6.15.2020
- Send Witness Letter Letter mailed: 7.22.2020
- Calendar Return due date  Prob. Revocation (60)  Habeas  Plea (60)  Trial (90)
- Motion to Dismiss  Plea (60)  Trial (90)

Intake sheet completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Calendar date: 8/5/20

STATE OF SOUTH CAROLINA

FILED

2020-CP-33248

IN THE COURT OF COMMON PLEAS

County of Marion

2020 MAY -6

AM 7:39

Erick Maurice Willard # 265040

Full name and prison number (if any) of Applicant

MARION COUNTY SC  
CLERK OF COURT

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber C.I.

---

2. Name and location of Court which imposed sentence The Court of General Sessions, Marion County, S.C.

---

3. Name(s) of co-defendant(s) (if any) None

---

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) Please "See Attached"
  - (b) \_\_\_\_\_

198 (c) \_\_\_\_\_

5. The date upon which sentence was imposed and the terms of the sentence:  
(a) Please see Attached  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_

6. Check whether a finding of guilty was made:  
(a) after a plea of guilty \_\_\_\_\_  
(b) after a plea of not guilty  \_\_\_\_\_  
(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?  
yes

8. If you answered "yes" to (7), list:  
(a) the name of each Court to which you appealed:  
i. S.C. Court of Appeals  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:  
i. Appeal Dismissed  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

(c) the date of each such result:  
i. March 11, 2020  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:  
i. unpublished Opinion No. 2020-UP-062  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:  
(a) \_\_\_\_\_  
(b) \_\_\_\_\_

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Trial Counsel
- (b) Ineffective Trial Counsel
- (c) Ineffective Trial Counsel
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Please see Attached.
- (b) Please see Attached
- (c) Please see Attached
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Ineffective counsel, procedural process "P.C.R."
- (b) Ineffective Counsel, procedural process "P.C.R."
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
NO, ProSe
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Vick Meetze, Franklin Chandler  
Marion County Public Defender
- ii. Vick Meetze, Franklin Chandler  
Marion County Public Defender
- iii. Kathrine Hudgins  
Indigent Defense, Columbia
- (b) the proceedings at which each such attorney represented you:
- i. Arrestment  
Plea
- ii. Trial  
Sentencing
- iii. Appeals Court

19. State clearly the relief you seek in filing this application:

Vacate sentence, set aside the verdict,  
New Trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA )  
County of Marion )

VERIFICATION

I, Eric M. Willard, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

x Eric Willard

SWORN to and subscribed before me this 29th day of April, 2020.

Linda K. B (L.S.)  
Notary Public

My Commission Expires: 6-20-26

FILED  
2020 MAY -6 AM 7:39  
MARION COUNTY SC  
CHRISTY M. GRAY  
CLERK OF COURT

FILED 203

2020 MAY -6 AM 7:39

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

MANICHO COUNTY SC  
JUDICIAL DISTRICT M. GRAY  
CLERK OF COURT

I, Eric Willard, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

x Eric Willard  
Applicant

SWORN or affirmed to and subscribed before me this  
29<sup>th</sup> day of April, 2020.

[Signature]  
Notary Public

My Commission Expires: 6-20-26

FILED

2020 MAY -6 AM 7:39

MARION COUNTY SC  
CHRISTY M. GRAY  
CLERK OF COURT

Question 4

Indictment # 2017-GS-33-0322

- (a) Count One; Trafficking Cocaine 10-28 grams,  
Sentence; 30 years imprisonment.
- (b) Count two; P.W.I.D. Cocaine base,  
Sentence; 30 years imprisonment (concurrent)
- (c) Count three; P.W.I.D. Methadone schedule IV,  
Sentence; Ten years imprisonment (concurrent)
- (d) Count Four; P.W.I.D. marijuana,  
Sentence; 20 years imprisonment (concurrent)

\*\*\*

Each count was given 101 days  
jail credit.

## Question 5

- (a) November 15, 2017, 30 years imprisonment.
- (b) November 15, 2017, 30 years concurrent.
- (c) November 15, 2017, 10 years concurrent.
- (d) November 15, 2017, 20 years concurrent.

\*\*\* All which recieved 101 days  
of jail credit.

## Question 11, (a)

Trial counsel was ineffective assistance of counsel, for failing to object and preserve for appellate review. Inconsistent testimony by Agent Bobby Crawford. On direct Examination Tr. 57. 17-19, Agent Crawford said that he saw someone throw something out of the window. And it was still dark at 4:30 am. And on Tr. 58. 3-6, he states that he could see part of a hand throw something out of the window.

Now, on cross examination Tr. 68. 6-25, Agent Crawford testified that the incident report that was prepared immediately after the incident occurred stated that the drugs were laying on the ground. And he didn't say he saw anyone throw anything out of the window. The state either knew or should have known that this was improper testimony. And by letting it go uncorrected created bias as to make one's trial so fundamentally unfair it

## Question 11, (a)

would clearly deprive one of their Due Process right to a fair trial. And as a matter of law the S.C. Rule of Evidence, Rule 602, Lack of Personal Knowledge; A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may but need not, consist of the witness' own testimony. The incident report proved that Agent Crawford had no personal knowledge that anything was thrown out of the window. And pursuant to Strickland v. Washington, Counsel was deficient for not objecting to improper testimony. And the prejudice will be bias so bad that one could not overcome the prejudicial effect of the false testimony. That clearly implemented Agent Crawford's willingness to give more favorable

## Question 11, (a)

testimony to help bolster the State's case. The trial court's duty is to rule on the existence of evidence. However, the appellate court should rule on the weight of the evidence.

## Question 11, (b)

Trial counsel rendered ineffective assistance of counsel by failing to object to the state's key witnesses continually giving perjurious testimony. (Mooney v. Holohan, And in Agurs.)

Early on Agent Crawford testified to a ton of so called facts that were just simply not supported by the incident reports filed right after the incident occurred. And then Agent Collins (Tr. 75. 5-6) clearly states that "we used a distraction device at the front". Now Agent Crawford gave all this drawn out testimony as to how this device was deployed in the back yard and how it supposedly enabled him to witness part of a hand throw something out of the window.

Tr. 95. 16-17, Agent Collins testifies that applicant was exiting the bathroom upon his entry. Tr. 108-110, on cross examination again the incident report clearly says applicant was in his bedroom upon the Agents entry.

## Question 11, (b)

These Agents were giving more favorable testimony to bolster the State's theory that applicant threw something out of the window. I have clearly shown the Agents willingness to be dishonest and pursuant to S.C. Code ANN. 16-9-10, is clear and unambiguous.

"Perjury and Subornation of Perjury"; whoever, either by the subornation, unlawful procurement, sinister persuasion, or means of any other person, or by his own act or agreement or consent, shall willfully and corruptly commit any manner of willful perjury, by his deposition in any of the Courts of this State, or being examined ad perpetuam, reu memoriam, and being thereof duly convicted, shall be Fined in the sum of one hundred dollars, and shall suffer imprisonment by the space of six months, and the oath of such person shall not be recieved in any court of record of this State. Not to mention conspiracy against public policy.

## Question 11, (b)

The Supreme Court has repeatedly said that when a conflict of law exist, that statutory law will override all. The statute is clear here. The Agents drastically changed their testimony at trial from their initial detailed incident report simply to bolster their case and to procure a conviction. This clearly would constitute perjury and would deny one of a fair trial. A conviction obtained by the use of perjured testimony cannot stand. (U.S.C.A., 5, 14)

## Question 11 (c)

Trial counsel was ineffective assistance, by failing to pursue all available defenses, available to the applicant. First off one of the key elements of trafficking and possession of illegal drugs is knowingly bring into the state or have in ones possession, custody, or control etc etc.

Applicant contends that he took possession of the stuff found inside his bedroom "his imminent domain". And it was clear that 141 Aster Rd. was in fact a multi-resident residence. When the police gained entry everybody was handcuffed and placed in the living room while the Agents conducted their search. Nowhere in the record does it say that the applicant was told where the drugs were found in the residence. It just says Agent Collins searched the entire residence and placed the drugs on the kitchen table as they were located. So at the time of the search applicant

## Question 11, (c)

had no way of knowing what or where anything was found. When it became evident (Tr. 88-89) that the other bedroom looked like someone else was living in there every night it should have been apparent right there that this room was occupied by someone other than the applicant and anything in there would not have been known of by the applicant. The room mate was at my trial willing to take the blame for what was his but, my attorney refused to put him on the stand. The Agents knew the drugs found in the other bedroom didn't belong to the applicant. The failure to correct false evidence is not only clear error but causes bias to the extent that one cannot overcome its prejudicial effect. IN (Riddle v Ozmint 631 S.E.2d 70, 75 (2006).) (Reversal was required because "The failure to correct false evidence

## Question 11, (c)

is as reprehensible as its presentation.). Pursuant to (Strickland v Washington), Trial Counsel was deficient for not pursuing this defense. And applicant was prejudiced by being charged with illegal drugs that were seized from a Co-resident's imminent domain. As far as the stuff outside was probably clumped by the ones that ran when they seen the police were coming.



ALAN WILSON  
ATTORNEY GENERAL

October 28, 2020

The Honorable Christy M. Gray  
Marion County Clerk of Court  
PO Box 295  
Marion, SC 29571

FILED  
2020 NOV -2 AM 10:58  
MARION COUNTY SC  
CLERK OF COURT  
OLENA R. FOSTER

**Re: Erick Maurice Willard, #265040 v. State of South Carolina**  
**2020-CP-33-0248**

Dear Ms. Gray:

Enclosed please find the original **Return** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

s/ Michael D. Davidson

Michael D. Davidson  
Assistant Attorney General

MDD/kw  
Enclosure

cc: Joshua A. Bailey, Esquire

STATE OF SOUTH CAROLINA )  
 COUNTY OF MARION )  
 )  
 Erick Maurice Willard, #265040, )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 FOR THE TWELFTH JUDICIAL CIRCUIT

Case No.: 2020-CP-33-0248

**RETURN**  
**(Counsel Appointed)**

2020 NOV -2 AM 10:58  
 MARION COUNTY S.C.  
 CLERK OF COURT  
 FILED

In response to Erick Maurice Willard’s (Applicant) action for post-conviction relief (PCR) commenced May 6, 2020, the State makes this return:

**I. Procedural History**

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Marion County Clerk of Court. Applicant was indicted at the July 2017 term of the Marion County Grand Jury for trafficking in cocaine—third offense; possession with intent to distribute cocaine base—third offense; possession with intent to distribute methadone—third offense; and possession with intent to distribute marijuana—second offense (2017-GS-33-00322). Applicant was represented by Assistant Public Defenders Vick Meetze and Franklin Chandler. Assistant Solicitor Fitzlee H. McEachin prosecuted the case.

Applicant’s case proceeded to a jury trial November 13–15, 2017, before the Honorable William H. Seals, Jr.. The jury convicted Applicant as indicted. Judge Seals sentenced Applicant to serve concurrent terms of: thirty years for trafficking cocaine; thirty years for possession with intent to distribute cocaine; twenty years for possession with intent to distribute methadone; and ten years for possession with intent to distribute marijuana. Additionally, Judge Seals ordered Applicant to pay a fine of fifty thousand dollars for the trafficking in cocaine conviction. Applicant appealed.

Appellate Defender Katherine H. Hudgins perfected Applicant's appeal by filing an *Anders*<sup>1</sup> brief to the court of appeals presenting the following issue:

1. Did the trial judge err in refusing to suppress a purported statement made by Appellant claiming ownership of drugs when the purported statement was not recorded or corroborated by any other evidence other than the testimony of another agent?

The court of appeals dismissed the appeal in an unpublished decision. *Willard v. State*, 2020-UP-062 (filed March 11, 2020). The case was remitted back to the circuit court May 5, 2020.

## II. Facts

In the early morning hours of March the 3rd of this year 2017, agents with the Marion County Combine Drug Unit as well as the Marion County SWAT executed a search warrant at Applicant's residence, in Marion County. Trial Tr. 48. Major Crawford was securing the back of the home as other agents were initiating execution of the search warrant. Trial Tr. 56. Major Crawford observed someone inside the residence throw something out of a window in the back of the house. Trial Tr. 58. Major Crawford secured the objects, including two bags filled with a white substance and waited for Agent Collins, the agent leading the search, to collect them. Trial Tr. 61.

Meanwhile, other agents entered the residence and found five suspects, including Applicant. Agent Collins noticed some money and a napkin containing some white pills on Applicant's bedside table. Trial Tr. 77. Agent Collins then entered Applicant's bathroom and found a white powdery substance on the sink. Trial Tr. 77. Agent Collins found a knife and small blue baggies in the sink and an off-white-rock-like substance, consistent with cocaine base crack, stuck down in the drain of the sink. Trial Tr. 77. Agent Collins also found marijuana inside a coat

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<sup>1</sup> *Anders v. California*, 386 U.S. 738 (1976).

in Applicant's bedroom closet. Trial Tr. 82. Agent Collins searched the rest of the home and found narcotics in various other places as well as drug paraphernalia consistent with selling drugs. Trial Tr. 85. Once all of the evidence was seized, Agent Collins went to the den, where the five suspects were located and read them their *Miranda* rights. Trial Tr. 98. After affirming they understood their rights and wished to speak to Agent Collins, Applicant spoke up and took "ownership of everything in the house and outside of the house because he didn't want anybody else to go to jail." Trial Tr. 98–99.

### III. Current Application

Applicant timely commenced this PCR action on May 6, 2020. Applicant asserts he is being held in custody unlawfully, alleging:

1. Ineffective assistance of counsel:
  - a. "Trial counsel was ineffective . . . for failing to object and preserve for appellate review. Inconsistent testimony by Agent Bobby Crawford."
  - b. "Trial counsel rendered ineffective assistance of counsel by failing to object to the State's key witnesses continually giving perjurious [sic.] testimony (*Mooney v. Holohan*, and in *Agurs*.)"
  - c. "Trial counsel was ineffective . . . [for] failing to pursue all available defenses, available to the applicant."

Applicant requests relief in the form of a new trial.

Attached herewith and incorporated herein are the Marion County Clerk of Court records regarding the subject conviction, Applicant's SCDC records, the trial transcript, the appellate records (including the record on appeal), and the records of this PCR action. The State reserves the right to amend this Return upon receipt of any relevant materials

### IV. Response to Allegation of Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of trial counsel are without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's

performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989).

“The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

*Strickland* requires trial counsel must be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. *Strickland*, 466 U.S. at 688–689. “Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.” *Id.* at 691. Therefore, judicial scrutiny of counsel's performance must be highly deferential. *Id.* at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. *Roseboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1996); *Underwood v. State*, 309 S.C. 560, 425 S.E.2d 20 (1992); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). In making a fair assessment of attorney performance, a court must make every effort to “eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged

conduct, and to evaluate the conduct from counsel's perspective at the time." *Strickland*, 466 U.S. at 689.

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. *Id.*

Here, Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

#### V. Any Future Amendments and Invocation of Discovery

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the

last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to section 17-27-150 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

**VI. Any and All other Allegations**

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

**VII. Conclusion**

WHEREFORE, the State requests an evidentiary hearing be held on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

MICHAEL D. DAVIDSON  
Assistant Attorney General

By: s/Michael D. Davidson  
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211

October 28, 2020

STATE OF SOUTH CAROLINA )  
 COUNTY OF MARION )  
 Erick Maurice Willard, #265040 )  
 Applicant, )  
 v. )  
 State of South Carolina )  
 Respondent, )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 FOR THE TWELFTH JUDICIAL CIRCUIT

Case No.: 2020-CP-33-0248

Certificate of Service by Mail

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Joshua A. Bailey, Esquire**  
**Snow & Bailey Law Firm, P.A.**  
**PO Box 555**  
**Florence, SC 29503**

DATED this 28<sup>th</sup> day of October, 2020.

  
 \_\_\_\_\_  
 Katie Wade, Legal Assistant  
 For Respondent

MARION COUNTY SC  
 CLERK OF COURT  
 2020 NOV -2 AM 10:58  
**FILED**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	TWELFTH JUDICIAL CIRCUIT
	)	DOCKET NO.: 2020-CP-33-248
ERICK MAURICE WILLARD, # 265040,	)	
	)	AMENDED APPLICATION FOR
PETITIONER,	)	POST-CONVICTION RELIEF
	)	
-vs-	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT.	)	

Petitioner, by and through counsel, submits the following:

1. **Place of Detention:** Ridgeland Correctional Institution.
2. **Name and Location of Court Which Imposed Sentence:** Twelfth Circuit Court of General Sessions for Marion County.
3. **Name(s) of Co-Defendant(s):** None.
4. **The Indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:**
  - (a) Indictment Number: 2017-GS-33-322. Trafficking Cocaine 10-28g, PWID Cocaine Base, PWID Schedule IV, and PWID Marijuana.
5. **The Date upon which sentence was imposed and the terms of the sentence:**
  - (a) Petitioner was sentenced on November 15, 2017, to 30 years, 30 years, 10 years and 20 years all of which were concurrent with credit for 101 days.
6. **Check whether a finding of guilty was made:**
  - (a) After a plea of guilty \_\_\_\_\_
  - (b) After a plea of not guilty       x
  - (c) After a plea of nolo contendere \_\_\_\_\_
7. **Did you appeal from the judgment of conviction or the imposition of sentence?**
  - (a) Yes.

- FILED  
2020 MAR 11 PM 4:11  
CLERK OF COURT
8. **If you answered “yes” to (7), list:**
- (a) **Name of each Court to which you appealed:** SC Court of Appeals
  - (b) **The result in each such Court to which you appealed:** Dismissed.
  - (c) **The date of each result:** March 11, 2020
  - (d) **If known, citations of any written opinion or orders entered pursuant to such results:** 2020-UP-062.
9. **If you answered “no” to (7), state your reasons for not so appealing:** N/A
10. **State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:**
- (a) Petitioner’s right to the effective assistance of counsel, as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, §§ 3 and 14 of the South Carolina Constitution was violated by Petitioner’s plea counsel when he failed to argue that Petitioner’s statement should be suppressed as involuntary on the grounds of an implied threat.
  - (b) Petitioner’s right to the effective assistance of counsel, as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, §§ 3 and 14 of the South Carolina Constitution was violated by Petitioner’s plea counsel when failed to move to suppress any drugs found outside of Petitioner’s bedroom.
11. **State concisely and in the same order the facts which support each of the grounds set out in (10):**
- (a) At the time of Petitioner being detained, four (4) other individuals were detained. All detained individuals were placed in the living room. Law enforcement alleges that all individuals were mirandized and Agent Collins testified that “Mr. Willard spoke up and said that he was taking ownership of everything in the house and outside of the house because he didn’t want anybody else to go to jail.” Petitioner’s

alleged statement was made based upon the implied threat by law enforcement that everyone was going to be charged and arrested unless someone claimed ownership of the drugs. The implied threat rendered Petitioner's alleged statement involuntary.

- (b) Petitioner avers that there was no evidence, other than the testimony of law enforcement, that the residence belonged to Petitioner. Petitioner avers that his alleged statement was related to any drugs found in his bedroom where he was located by law enforcement. Petitioner's trial counsel failed to move to suppress the drugs found outside of his bedroom as he lacked dominion or control over said areas.

**12. Prior to this application have you filed with respect to the conviction:**

- (a) **Any petition in State Court under South Carolina Law:** Yes
- (b) **Any petition in State or Federal Court for habeas corpus or post-convictions relief:** No.
- (c) **Any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)?** No.
- (d) **Any other petitions, motions or applications in this or any other Court?** No.

**13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:**

- (a) **The specific nature thereof:**
- i. Direct Appeal
- (b) **The name and location of the Court in which each was filed:**
- i. South Carolina Court of Appeals
- (c) **The disposition thereof:**
- i. Dismissed.

FILED

2020-03-11 PM 4:12

CHRISTY M. GRAY  
CLERK OF COURT

(d) **The date of each such disposition:**

i. March 11, 2020

(e) **If known, the citations of any written opinions or ordered entered pursuant to each such disposition:**

i. 2020-UP-062

14. **Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No.**

15. **If you answered "yes" to (14) identify:**

(a) **Which grounds have been presented:**

i. N/A

(b) **The proceedings in which each ground was raised:**

i. N/A

16. **If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:**

(a) Petitioner's Application for Post-Conviction Relief is the first proceeding in which he may allege ineffective assistance of counsel.

17. **Were you represented by an attorney at any time during the course of:**

(a) **Your arraignment and plea? N/A**

(b) **Your trial, if any? Yes.**

(c) **Your Sentencing? Yes.**

(d) **Your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.**

(e) **Preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No.**

18. If you answered "yes" to one or more parts of (17), list:

(a) The name and address of each attorney who represented you:

- i. William V. Meetze, Marion County Public Defender's Office
- ii. Kathrine H. Hudgins, Division of Appellate Defense

(b) The proceedings at which each such attorney represented you:

- i. Trial and sentencing
- ii. Direct Appeal

19. State clearly the relief you seek in filing this application:

(a) Vacate conviction and sentence and for a new trial to be ordered.

20. Are you now under sentence from any other court that you have not challenged?

(a) Petitioner is not under any other sentence.

Dated this 28<sup>th</sup> day of November, 2022 at Florence, South Carolina.

Respectfully submitted,



**JOSHUA A. BAILEY**  
 SC Bar No.: 76965  
 Attorney for the Petitioner

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State of South Carolina	)	In the Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Marion	)	Case No. 2020-CP-33-00248
	)	
Erick M. Willard,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

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December 14, 2022  
Florence, South Carolina

B E F O R E:

The Honorable George M. McFaddin, Jr., Judge

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

Joshua Bailey, Esquire  
Attorney for the Applicant

D. Russell Barlow II, Esquire  
Attorney for the Respondent/State

Krystal J. Smith  
Official Circuit Court Reporter III

I N D E X

3	<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
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9	W. Vickery Meetze	
10	Direct by Mr. Barlow.....	17
11	Cross by Mr. Bailey.....	23
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13	State Rests.....	26
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes --	intentional or purposeful interruption
	or change in thought
ellipses . . .	trailing off
[ph]	phonetically written
[sic]	written as said

1 DECEMBER 14, 2022

2 (WHEREUPON, the proceedings began at 11:15 a.m.)

3 THE COURT: All right, sir.

4 MR. BARLOW: Thank you, Your Honor. May it please the  
5 Court. Russ Barlow on behalf of the State of South Carolina.  
6 This is the post-conviction relief matter of Erick M. Willard  
7 versus the State, Case Number 2020-CP-33-248 out of Marion  
8 County.

9 Applicant was indicted at the July 2017 term of the  
10 Marion County Grand Jury for trafficking in cocaine, third  
11 offense; possession with intent to distribute cocaine base,  
12 third offense; possession with intent to distribute methadone,  
13 third offense; and possession with intent to distribute  
14 marijuana, second offense. Indictment Number 2017-GS-33-  
15 00322.

16 Applicant was represented by Assistant Public Defenders  
17 Vick Meetze and Franklin Chandler, and Assistant Solicitor  
18 Fitzlee H. McEachin prosecuted the case. Applicant's case  
19 proceeded to a jury trial November 13th through the 15th,  
20 2017, before the Honorable William H. Seals, Jr.

21 The jury convicted applicant as indicted. Judge Seals  
22 sentenced applicant to serve concurrent terms of 30 years for  
23 trafficking cocaine, 30 years for possession with intent to  
24 distribute cocaine, 20 years for possession with intent to  
25 distribute methadone, and 10 years for possession with intent

1 to distribute marijuana. Additionally, Judge Seals ordered  
2 applicant to pay a fine of \$50,000 for the trafficking in  
3 cocaine conviction.

4 Applicant appealed. Appellate defender Kathrine H.  
5 Hudgins perfected applicant's appeal by filing an Anders brief  
6 to the Court of Appeals presenting a single issue, and the  
7 Court of Appeals dismissed the appeal in an unpublished  
8 decision, Willard v. State, 2020-UP-062, filed March 11th,  
9 2020. The remittitur was returned to the Circuit Court on May  
10 5th, 2020.

11 Applicant timely filed this PCR action on May 6th, 2020,  
12 and applicant in his original application asserted multiple  
13 allegations of ineffective assistance of counsel. Respondent  
14 filed its return on November 2nd, 2020, and on November --  
15 excuse me -- November 28th, 2022, counsel for applicant  
16 amended the PCR application.

17 So at this time, Your Honor, we would just ask  
18 applicant's counsel to state for the record which allegations  
19 he anticipates moving forward with, and I have the packet for  
20 you, Your Honor.

21 THE COURT: All right, sir.

22 MR. BARLOW: I apologize for not handing that up earlier.

23 THE COURT: That's okay.

24 Mr. Bailey?

25 MR. BAILEY: Thank you, Your Honor. May it please the

## ERICK WILLARD - DIRECT BY MR. BAILEY

1 Court.

2 Judge, as indicated in the amended application for post-  
3 conviction relief, a copy of which I believe has just been  
4 handed up to you, the first allegation is that Mr. Willard  
5 alleges his constitutional rights were violated when his  
6 counsel failed to argue that his statement should be  
7 suppressed based upon an implied threat by law enforcement.

8 And number two, Your Honor, that his counsel failed to  
9 move to suppress any of the drugs located outside of the  
10 applicant's bedroom in the house where the incident took  
11 place.

12 THE COURT: Okay. All right. I'm ready, sir.

13 MR. BAILEY: Your Honor, at this time, our first witness  
14 will be Mr. Willard.

15 THE CLERK: Mr. Willard, if you'll put your left hand on  
16 the Bible. Raise your right hand as much as you can. Do you  
17 swear or affirm that the testimony you give will be the truth,  
18 the whole truth, and nothing but the truth, so help you God?

19 THE APPLICANT: I do.

20 THE COURT: Proceed, sir.

21 MR. BAILEY: Thank you, Your Honor. May it please the  
22 Court.

23 ERICK WILLARD, being first duly  
24 sworn, testified as follows:

25 DIRECT EXAMINATION

## ERICK WILLARD - DIRECT BY MR. BAILEY

1 BY MR. BAILEY:

2 Q: Mr. Willard, if I may, you're kind of soft spoken.

3 A: Right.

4 Q: And this is a big courtroom. You've got the judge over  
5 here, and we've got the State over here. If you'll just  
6 please keep your voice up so we can all hear you. Okay?

7 A: Okay.

8 Q: For the record, sir, will you please state your South  
9 Carolina Department of Corrections identification number?

10 A: Erick Willard, 265040.

11 Q: And, Mr. Willard, you are currently in the Department of  
12 Corrections; correct?

13 A: Correct.

14 Q: And you heard the assistant attorney general place on the  
15 record the charges that you were convicted of and the  
16 sentences you received for those?

17 A: Yes.

18 Q: Are those accurate?

19 A: Yes.

20 Q: And you were sentenced as the result of a trial; correct?

21 A: Correct.

22 Q: Do you recall who represented you at trial, sir?

23 A: Mr. Meetze and Mr. Chandler.

24 Q: Okay. And were those retained counsel or did you obtain  
25 their services through the Public Defender's Office?

- 1 A: The Public Defender.
- 2 Q: And this was a drug search case at your -- at a  
3 residence; is that correct?
- 4 A: Correct.
- 5 Q: Can you tell the Court about this residence, how many  
6 bedrooms there were? Who were the occupants?
- 7 A: It was three bedrooms. The occupants was Jonathan  
8 Reeves, Leroy Owens, and Jean Curtis McBride, and myself.
- 9 Q: And the lease agreement or the rental agreement for this  
10 house, was it in your name?
- 11 A: No. No.
- 12 Q: Were you just staying in a bedroom? Did you have a -- is  
13 it a multi-story house? Did you have a whole floor?
- 14 A: No, I had a bedroom. I was just -- just there.
- 15 Q: Okay.
- 16 A: Basically, just there.
- 17 Q: Okay. So you were just a tenant; is that correct?
- 18 A: Yeah.
- 19 Q: Were any of the -- the bills for the house -- were they  
20 in your name?
- 21 A: No. No, none of the bills.
- 22 Q: Was there anything other than you staying in a bedroom  
23 that tied you to this residence?
- 24 A: That's it.
- 25 Q: And can you tell the Court briefly about how the search

## ERICK WILLARD - DIRECT BY MR. BAILEY

1 came about, what happened during the search?

2 A: I remember it was early in the morning. I was in the bed  
3 asleep, and I hear, boom, boom, sheriff office. They kicked  
4 in the door, threw a -- I think, I guess a flash grenade bomb  
5 or whatever, and -- and it went off, and the sheriffs came in  
6 my room and secured me or something, you know.

7 Q: Okay. And when they detained you, did they place you in  
8 handcuffs?

9 A: At first, yeah, they did.

10 Q: Okay.

11 A: Yeah.

12 Q: Where did they take you inside the residence?

13 A: They took me to the living room.

14 Q: Okay. And were there any other occupants of the house in  
15 the living room?

16 A: Yes. Everybody that was in the house that night, that  
17 morning was in the living room.

18 Q: Okay. Were they also in handcuffs?

19 A: Yes, sir.

20 Q: Now, one of the issues that came up in your trial was a  
21 statement that you made?

22 A: Right.

23 Q: Do you recall what your statement was?

24 A: Yeah, I do.

25 Q: What was the statement that you made?

## ERICK WILLARD - DIRECT BY MR. BAILEY

1 A: I remember -- I think it was Agent Collins. Yeah, Agent  
2 Collins. He asked me about some drugs. I said I ain't know  
3 nothing about no drugs in the house. I know about everything  
4 that's in my room. Whatever was in my room was mine. I don't  
5 know nothing about no other drugs.

6 Q: When you were taken into the living room, were you under  
7 the impression that the other members of the household were  
8 being arrested?

9 A: Yeah, because everybody was in handcuffs. So yeah.

10 Q: And your statement about taking ownership of the drugs in  
11 the house, why did you make that statement?

12 A: Because I -- the stuff that was in my room, it wasn't --  
13 it was a small amount. So that's why I took ownership. So  
14 that's so.

15 Q: Okay. And did your attorneys file or move to suppress  
16 your statement?

17 A: I don't think so.

18 Q: Did they ever make a motion to suppress your statement  
19 based upon --

20 A: Yes, they did.

21 Q: -- an implied threat?

22 A: They did. They had a *Jackson v. Denno* hearing, I guess,  
23 outside of the -- the jury, and that -- right.

24 Q: Do you recall if your attorneys argued that it should be  
25 suppressed based upon an implied threat by law enforcement?

## ERICK WILLARD - DIRECT BY MR. BAILEY

1 A: No.

2 THE COURT: So let me ask it. Was there a *Jackson v.*  
3 *Denno* hearing?

4 MR. BAILEY: There was, Your Honor.

5 THE COURT: Okay.

6 BY MR. BAILEY:

7 Q: Did your attorneys make any types of motions to suppress  
8 the drugs that were found outside of your bedroom that you had  
9 claimed ownership of?

10 A: No.

11 Q: Would you have wanted your attorneys to make those  
12 motions on your behalf?

13 A: Most definitely, yeah.

14 Q: And did they have any discussions with you about making  
15 these motions on your behalf?

16 A: No.

17 Q: Is there anything else that you would like to tell Judge  
18 McFaddin about these allegations this morning, Mr. Willard?

19 A: No. I just wanted a fair trial, man. That's all I  
20 wanted, and I didn't get it.

21 Q: And you're asking the Court to vacate your conviction and  
22 award you a new trial; correct?

23 A: Exactly.

24 MR. BAILEY: Please answer any questions that the State  
25 has for you or that Judge McFaddin may have for you. Okay?

## ERICK WILLARD - CROSS BY MR. BARLOW

1 THE COURT: Mr. Barlow?

2 MR. BARLOW: Thank you, Your Honor. May it please the  
3 Court.

4 CROSS-EXAMINATION

5 BY MR. BARLOW:

6 Q: Good -- it's still morning. Good morning, Mr. Willard.  
7 How are you doing today?

8 A: All right.

9 Q: And you're here today alleging that your trial counsel  
10 was ineffective; correct?

11 A: Correct.

12 Q: And I just want to confirm for the record that you  
13 understand that the relief that this Court can grant you is a  
14 new trial. You go back to day one, all indictments come back  
15 on, and you can be retried for everything that you were  
16 indicted on initially?

17 A: Okay.

18 Q: Okay. What was the sentence that you received?

19 A: 30 years concurrent.

20 Q: Okay. And so you were charged with trafficking cocaine,  
21 third offense. Do you know what the -- what the maximum is  
22 for that?

23 A: I think 25.

24 Q: That's the minimum mandatory; right? 30 is the max. How  
25 about possession with intent to distribute cocaine base, third

## ERICK WILLARD - CROSS BY MR. BARLOW

1 offense?

2 A: 20, maybe. No, 30.

3 Q: It's 30 years.

4 A: Yeah.

5 Q: Possession with intent to distribute methadone, third  
6 offense?

7 A: 20? 10?

8 Q: 20 years.

9 A: Okay.

10 Q: And possession with intent to distribute marijuana,  
11 second offense?

12 A: 10 years.

13 Q: Correct. And if the solicitor chose though, you were  
14 exposing yourself to 90 years versus the 30 that you got at  
15 your first trial?

16 A: Okay.

17 Q: And you still wish to proceed with this?

18 A: Yes.

19 Q: Knowing that you're facing 90 -- a potential 90 years?

20 A: Yes.

21 Q: Okay. Explain to me what you meant by a fair trial.

22 What was unfair in your trial?

23 A: I asked him to suppress those -- the drugs and the  
24 statement, and he didn't. I had witnesses that was coming to  
25 testify.

## ERICK WILLARD - CROSS BY MR. BARLOW

1 Q: Who? Well, let me stop you right there. Let's start  
2 with the first item here, that you asked him to suppress the  
3 evidence. What evidence was that again?

4 A: The drugs.

5 Q: Okay. Which drugs?

6 A: The drugs they found in the house.

7 Q: Okay. And do you recall that he did object and motioned  
8 the Court to suppress that evidence? Do you recall having a  
9 *Jackson v. Denno* hearing? How about that?

10 A: I do.

11 Q: Okay. And do you recall that he objected in there to the  
12 --

13 A: The statement.

14 Q: Yeah, your statement; right? And then --

15 MR. BARLOW: I beg the Court's indulgence. Let me  
16 withdraw that question.

17 BY MR. BARLOW:

18 Q: How about this? You wanted him to have the drugs  
19 suppressed; correct?

20 A: Uh-huh.

21 Q: Okay. And the drugs that were found in the house or in  
22 your bedroom?

23 A: In the house.

24 Q: Okay. So the house? In the totality of the house;  
25 correct?

## ERICK WILLARD - CROSS BY MR. BARLOW

1 A: Right.

2 Q: Okay. And how would he have gone about doing that?

3 A: Filed a motion, I guess.

4 Q: Okay. How about the drugs found inside your bedroom?

5 A: I took ownership of that.

6 Q: Okay. So you wanted him to move to suppress only the  
7 drugs that were not found in your bedroom?

8 A: Right, absolutely. I took ownership of that.

9 Q: Okay.

10 A: I didn't know nothing about nothing else that was found  
11 around the house or whatever.

12 Q: Okay.

13 A: It was multiple people in there.

14 Q: And what was your statement to police when you were in  
15 the living room?

16 A: I think they was kind of asking me whose drugs is it. I  
17 said I don't know nothing about no other drugs but what's in  
18 my room.

19 Q: Okay. And what did --

20 A: He was, like -- what did he say? He said this is your  
21 residence and you guys have -- this is your residence and the  
22 drugs are yours, and he said if you don't take ownership, then  
23 everybody goes to jail and things like --

24 Q: Are you --

25 A: Huh?

## ERICK WILLARD - CROSS BY MR. BARLOW

1 Q: Are you familiar with the hand of one is the hand of all?

2 A: No.

3 Q: This was your third offense on multiple cases. So you --  
4 you've had previous law enforcement interact -- interactions;  
5 correct?

6 A: Yeah. It was years ago.

7 Q: Okay. Do you know what constructive is versus actual  
8 possession?

9 A: I think constructive is I -- if I possessed a million of  
10 them, like residents or whatever, like an area, that's  
11 constructive. It actually was.

12 Q: My last question is the investigator in this, he -- or  
13 the officer, he -- he made a statement in your -- in the  
14 *Jackson v. Denno* hearing that you said that you would take all  
15 the drugs after he told you that -- that everyone was going to  
16 jail unless someone took ownership of those drugs, and you  
17 said that you would take ownership of all the drugs. Did you  
18 say that?

19 A: No. I said I would take ownership of the drugs in my  
20 room.

21 Q: Okay. So the officer was incorrect?

22 A: Yeah.

23 Q: Okay.

24 MR. BARLOW: No further questions, Your Honor.

25 THE COURT: Mr. Bailey?

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 MR. BAILEY: I have no follow-up questions for Mr.  
2 Willard, Your Honor.

3 THE COURT: All right. Mr. Willard, you may step down.  
4 Thank you.

5 Mr. Bailey, anything else?

6 MR. BAILEY: Nothing on behalf of the applicant, Your  
7 Honor.

8 THE COURT: All right, sir.

9 Mr. Barlow?

10 MR. BARLOW: Yes, sir. We'd call Vick Meetze, please.

11 THE CLERK: Do you swear or affirm that the testimony you  
12 give will be the truth, the whole truth, and nothing but the  
13 truth, so help you God?

14 THE WITNESS: I do.

15 THE COURT: Proceed, sir.

16 MR. BARLOW: Thank you, sir.

17 W. VICKERY MEETZE, being first  
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BARLOW:

21 Q: Good morning, Mr. Meetze. How are you?

22 A: I'm well, thank you.

23 Q: So how long have you been practicing law?

24 A: 23 years.

25 Q: And how much of that has been criminal law?

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 A: 20 years. Oh. Excuse me. I'm sorry. All 23 is  
2 criminal law, 20 as a criminal defense lawyer.

3 Q: And were you appointed or retained to represent applicant  
4 in this case?

5 A: Appointed.

6 Q: Okay. And roughly how long before his trial were you  
7 appointed?

8 A: Well, our office was appointed I would imagine from the  
9 start. I didn't really get involved in it until probably the  
10 week before the trial.

11 Q: Okay. Well, during the time that you represented him,  
12 did you review discovery?

13 A: Yes. We went over discovery. And Franklin Chandler,  
14 who's our full-time attorney in the Marion office, of course,  
15 had spoken with him prior to that, but --

16 Q: But you did review discovery with him?

17 A: Correct.

18 Q: Okay. And can you give us a brief overview -- overview  
19 of your understanding of the State's evidence in this case?

20 A: The Marion County Combined Drug Unit had a search warrant  
21 issued for that address based on controlled purchases of drugs  
22 from that residence over the recent past or, you know, a  
23 little before the -- the search warrant was served. I think  
24 they had a number of drug buys that they'd listed in their  
25 affidavit that where Mr. Willard was the individual on video

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 that had sold drugs to confidential informants. They got a  
2 search warrant based on that.

3 They issued the search warrant early in the morning on a  
4 particular morning. There were a number of folks in the  
5 residence, Mr. Willard included. I want to say, like, five or  
6 so folks were there. Law enforcement indicated that they  
7 gathered everyone up into one room in the house. I think they  
8 indicated that they explained the search warrant to Mr. --  
9 when I say they, I mean Agent Mark Collins explained the  
10 search warrant to Mr. Willard and conducted a search of the  
11 house.

12 A lot of the search was focused on -- well, they searched  
13 the whole house, but they found a number of different things  
14 in what was purported to be Mr. Willard's bedroom. They found  
15 cell phones, a tablet. They found some drugs in a jacket in a  
16 closet. Agent Collins found some crack cocaine that appeared  
17 to have been tried to be shoved down a bathroom sink, I  
18 believe.

19 When Mr. Collins was searching maybe the bathroom, he  
20 heard one of the agents that was outside the house indicate  
21 that they had located substances outside of the house. Agent  
22 Collins noticed at that time that the bathroom that he was in  
23 the window was open. He went out there and could see. And  
24 then he went outside the house himself and collected that  
25 evidence as well. I think that was the cocaine -- not

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 cocaine, but I think that was the powder cocaine that was  
2 located in bags outside of the residence.

3       And after all of the substances that they ended up  
4 finding and marking as evidence and putting in the appropriate  
5 evidence bags was found, Agent Collins indicated that he  
6 addressed all of the occupants of the house, went over all of  
7 their Miranda rights with them, asked them if they understood  
8 those rights, and asked them if they wished to -- they all  
9 indicated that they did understand their rights. He asked  
10 them if anybody wished to speak, and that Mr. Willard said he  
11 did wish to speak and that Mr. Willard's statement --  
12 according to law enforcement, nothing was recorded through  
13 audio or video recording. It was recorded in an incident  
14 report, but nothing that we could see or hear.

15       That his statement was that he was claiming all of the  
16 drugs, both inside and outside of the residence, and that he  
17 did not want anyone else to go to jail. And that was the --  
18 primarily the -- the evidence in the case.

19 Q:   Okay. Thank you. And based on that evidence, were you  
20 able to craft a defense strategy?

21 A:   Well, I mean, it was a reasonable doubt strategy. I  
22 mean, I don't -- I don't think Mr. Willard testified. So Mr.  
23 Willard never indicated to me -- I didn't see any sort of  
24 coercion. I didn't see any kind of intimidation or anything  
25 like that based on the testimony that was presented.

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 Q: So in your -- in your opinion as an attorney, a criminal  
2 -- or an attorney for as long as you've been, that an officer  
3 informing someone in a house that they are going to arrest  
4 everyone if -- if someone doesn't take ownership of these  
5 drugs, that was not -- that was not an implied threat in your  
6 opinion?

7 A: I don't think so. I think that's pretty normal. And  
8 that's -- that's something that does happen quite often. We  
9 get cases all the time where a group of folks that were in one  
10 vehicle where drugs were found in there and all of them were  
11 arrested. So --

12 Q: And -- and that kind of falls under the hand of one is  
13 the hand of all law?

14 A: It -- it can. I mean, you know, there's -- there's a lot  
15 to that law other than just those words.

16 Q: Right.

17 A: But it can.

18 Q: Right.

19 A: It can be applied. It can be an accomplice liability  
20 situation. But I didn't -- I didn't see any -- in my mind any  
21 viable suppression motion to get the drugs suppressed. I  
22 thought the search warrant was valid. I didn't see anything  
23 out of the ordinary or out of -- or unusual about the way he  
24 questioned the occupants of the house and obtained the  
25 statement. The -- the drugs that were found were found in

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 places that would have been reasonable to search.

2 I didn't see a basis for suppressing that evidence. We  
3 did try to suppress Mr. Willard's statement, but that was  
4 obviously not successful.

5 Q: And you -- and so you did that at the *Jackson v. Denno*  
6 hearing?

7 MR. BARLOW: And that would be -- Your Honor, that's page  
8 42, lines 7 through 14.

9 BY MR. BARLOW:

10 Q: And you also -- do you recall you renewed that objection  
11 at page 98, Your Honor [*sic*]?

12 A: Yes.

13 Q: Do you recall doing that?

14 A: Yes, sir.

15 Q: Okay. Let me ask you, do you believe that you would have  
16 been successful if you had moved to suppress the drugs found  
17 outside of petitioner's bedroom?

18 A: I do not.

19 Q: Okay. And was that your strategic reason for not  
20 objecting or --

21 A: I mean, I --

22 Q: -- moving to suppress those?

23 A: I didn't necessarily -- it wasn't necessarily strategy.  
24 I didn't see a basis for it, outside of frivolity, and I just  
25 -- and I didn't -- I didn't make a motion to suppress the

## W. VICKERY MEETZE - DIRECT BY MR. BARLOW

1 evidence based on not feeling like there was a basis for  
2 making that motion.

3 Q: Do you stand by your representation of Mr. Willard?

4 A: I do.

5 MR. BARLOW: Thank you. Nothing further, Your Honor.

6 THE COURT: Mr. Bailey?

7 MR. BAILEY: Thank you, Your Honor. May it please the  
8 Court.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. BAILEY:

12 Q: Good morning, Mr. Meetze.

13 A: Good morning, sir.

14 Q: The State just asked you about the *Jackson v. Denno*  
15 hearing?

16 A: Yes.

17 Q: It is true that you did not move to exclude his statement  
18 or suppress his statement on the ground of an implied threat;  
19 is that correct?

20 A: That is correct.

21 Q: And so that issue was not preserved for appeal?

22 A: It was not. It wasn't raised nor preserved.

23 Q: The drug issue. I understand you did not file a motion  
24 to suppress the drugs outside of Mr. Willard's bedroom or that  
25 were found outside of the house; correct?

## W. VICKERY MEETZE - CROSS BY MR. BAILEY

1 A: Correct.

2 Q: You could have argued that it was constructive possession  
3 at a minimum for Mr. Willard since he claims ownership of the  
4 drugs in his bedroom?

5 A: Well, the evidence at trial was that he claims evidence  
6 of all of the drugs inside of the house and outside of the  
7 house.

8 Q: Did you and Mr. Chandler explain to him actual and  
9 constructive possession of the drugs?

10 A: I can't remember whether we specifically did or not. We  
11 probably did. I mean, this was clearly a constructive  
12 possession case. So --

13 Q: Did you research any case law to support the position  
14 about drugs being found in common areas where there are  
15 multiple tenants of a residence?

16 A: I don't recall. No, I don't think we researched any case  
17 law in regards to that.

18 Q: Okay. And if you wanted to file the motion to suppress  
19 the drugs outside of Mr. Willard's bedroom, you would have  
20 informed him that he would have had to have testified to  
21 support that; correct?

22 A: Yeah. I mean, had we done -- filed such a motion, then  
23 -- and if at any time it would have been necessary for him to  
24 testify, we would have informed him of that.

25 Q: And did you all discuss with him his ability or his right

## W. VICKERY MEETZE - CROSS BY MR. BAILEY

1 to testify?

2 A: Yes.

3 Q: Even in a suppression hearing?

4 A: I don't know. We didn't have a suppression hearing. So  
5 I'm sure we didn't talk to him about the right to testify at a  
6 suppression hearing because we never filed a motion for a  
7 suppression hearing.

8 Q: All right.

9 MR. BAILEY: Thank you, Mr. Meetze. I don't have any  
10 further questions.

11 MR. BARLOW: Very briefly, Your Honor.

12 THE COURT: Yes, sir.

13 REDIRECT EXAMINATION

14 BY MR. BARLOW:

15 Q: Mr. Meetze?

16 A: Yes, sir.

17 Q: Did Mr. Willard ever admit to the drugs being his?

18 A: Not to me, not that I can recall.

19 Q: Okay.

20 A: Now, there was evidence presented at trial that he  
21 admitted to them being his, but I wasn't in that room at that  
22 address on that evening. But he never admitted to me that the  
23 drugs were his.

24 MR. BARLOW: Thank you. Nothing further.

25 THE COURT: Mr. Bailey?

1 MR. BAILEY: Nothing further, Your Honor.

2 THE COURT: All right. Thank you, sir. Thank you.

3 MR. BARLOW: Your Honor, I beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 MR. BARLOW: Your Honor?

6 THE COURT: Yes, sir.

7 MR. BARLOW: No further witnesses.

8 THE COURT: Okay. All right.

9 Mr. Willard, I'm hearing a lot of these cases this week.  
10 It's going to be a few days before I issue a ruling. I just  
11 want you to know that I'm not going to do it right now. All  
12 right?

13 THE APPLICANT: Thank you, sir.

14 THE COURT: Thank y'all.

15 (WHEREUPON, the proceedings ended at 11:44 a.m.)

16

17 --- END REQUESTED TRANSCRIPT ---

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ALAN WILSON  
ATTORNEY GENERAL

September 24, 2024

Marion County Clerk of Court  
The Honorable Christy M. Gray  
PO Box 295  
Marion, SC 29571

Re: Erick M. Willard, #265040 v. State of South Carolina  
Case No: 2020-CP-33-00248

Dear Ms. Gray:

Enclosed please find the original Order of Dismissal with Prejudice signed by the Honorable George M. McFaddin, Jr., in the above-captioned case, for filing in your office.

In addition, please forward proof of service and a time stamped copy back to our office for our file.

Should you need anything additional, please do not hesitate to contact me.

Sincerely,

D. Russell Barlow, II  
Assistant Attorney General

DRB/scc

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARION	)	FOR THE TWELFTH JUDICIAL CIRCUIT
	)	
Erick M. Willard, #265040,	)	CASE NO. 2020-CP-33-00248
	)	
Applicant,	)	
	)	
v.	)	<b>ORDER OF DISMISSAL</b>
	)	<b>WITH PREJUDICE</b>
State of South Carolina,	)	
	)	
Respondent.	)	

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Presiding Judge:	Hon. George M. McFaddin, Jr.
Applicant's Attorney:	Joshua A. Bailey, Esq.
Respondent's Attorney:	D. Russell Barlow, II, Esq.
Trial Counsel:	W. Vickery Meetze, Esq. Franklin Chandler, Esq.
Appellate Counsel:	Katherine H. Hudgins, Esq.
Solicitors:	Fitzlee H. McEachin, Esq.
Date of Hearing:	December 14, 2022
Court Reporter:	Krystal J. Smith

This matter comes before the Court by way of Erick M. Willard's (Applicant) application for post-conviction relief (PCR) filed on May 6, 2020. Respondent, the State of South Carolina, made its Return on October 28, 2020, requesting an evidentiary hearing to resolve the claims as set forth in the application. On November 28, 2022, Applicant, through appointed post-conviction relief counsel, Joshua A. Bailey, Esquire (PCR Counsel), filed an Amendment to Post-Conviction Relief Application asserting additional claims of ineffective assistance of Trial Counsel.

An evidentiary hearing was convened on December 14, 2022, at the Florence County Courthouse before the Honorable George M. McFaddin, Jr. Applicant was present and represented by PCR Counsel. Assistant Attorney General D. Russell Barlow, II, represented Respondent. At the hearing, Applicant proceeded forward on the claims set forth in his amended application and withdrew the allegations within his initial PCR application. In support of these claims, Applicant

testified on his own behalf, and Respondent presented testimony from W. Vickery Meetze, Esquire.

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

#### **PROCEDURAL HISTORY**

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Marion County Clerk of Court. Applicant was indicted at the July 2017 term of the Marion County Grand Jury for Trafficking Cocaine, Possession with the Intent to Distribute Cocain Base, Possession with the Intent to Distribute Methadone Schedule IV, and Possession with the Intent to Distribute Marijuana (2017-GS-33-00322). Applicant was represented by Twelfth Circuit Assistant Public Defenders W. Vickery Meetze and Franklin Chandler, Esquires. Fifth Circuit Assistant Solicitor Fitzlee H. McEachin, Esquire, prosecuted the case.

Applicant proceeded to a jury trial from November 13–14, 2017, before the Honorable William H. Seals, Jr. The jury convicted Applicant as indicted. Judge Cole sentenced Applicant to thirty (30) years imprisonment for Trafficking Cocaine, thirty (30) years imprisonment for Possession with the Intent to Distribute Cocaine Base, twenty (20) years imprisonment for Possession with the Intent to Distribute Methadone Schedule I-V, and ten (10) years imprisonment for Possession with the Intent to Distribute Marijuana. Additionally, Judge Seals ordered Applicant to pay a fine of fifty thousand (\$50,000) dollars for the Trafficking Cocaine conviction.



Applicant filed a timely Notice of Appeal. Appellate Defender Katherine H. Hudgins perfected Applicant's appeal by filing an Anders<sup>1</sup> brief to the South Carolina Court of Appeals on the following issue:

Did the trial judge err in refusing to suppress a purported statement made by Appellant claiming ownership of drugs when the purported statement was not recorded or corroborated by any other evidence other than the testimony of another agent?

The case was submitted on briefs to the South Carolina Court of Appeals on November 15, 2018.

On March 11, 2020, the South Carolina Court of Appeals affirmed Applicant's convictions and sentences. State v. Erick M. Willard, Op. No. 2019-UP-062 (S.C. Ct. App. filed March 11, 2020).

The Remittitur was returned to the circuit court on May 5, 2020.

#### FACTS GIVING RISE TO THE CONVICTION

In the early morning hours of March 3, 2017, agents with the Marion County Combine Drug Unit, as well as the Marion County SWAT, executed a search warrant at the Applicant's residence in Marion County. (Trial Tr. p. 48). Major Crawford was securing the back of the home as other agents were initiating the execution of the search warrant. (Trial Tr. p. 56). Major Crawford observed someone inside the residence throw something out of a window in the back of the house. (Trial Tr. p. 58). Major Crawford secured the objects, including two bags filled with a white substance, and waited for Agent Collins, the agent leading the search, to collect them. (Trial Tr. p. 61).

Meanwhile, other agents entered the residence and found five suspects, including Applicant. Agent Collins noticed some money and a napkin containing some white pills on Applicant's bedside table. (Trial Tr. p. 77). Agent Collins then entered Applicant's bathroom and

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<sup>1</sup> Anders v. California, 386 U.S. 738 (1976).

found a white powdery substance on the sink. (Trial Tr. p. 77). Agent Collins found a knife and small blue baggies in the sink and an off-white-rock-like substance, consistent with cocaine base crack, stuck down in the drain of the sink. (Trial Tr. p. 77). Agent Collins also found marijuana inside a coat in Applicant's bedroom closet. (Trial Tr. p. 82). Agent Collins searched the rest of the home and found narcotics in various other places as well as drug paraphernalia consistent with selling drugs. (Trial Tr. p. 85). Once all of the evidence was seized, Agent Collins went to the den, where the five suspects were located, and read them their Miranda<sup>2</sup> rights. (Trial Tr. p. 98). After affirming they understood their rights, Applicant spoke up and took "ownership of everything in the house and outside of the house because he didn't want anybody else to go to jail." (Trial Tr. p. 98–99).

#### CURRENT ACTION BEFORE THIS COURT

In his application for post-conviction relief, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel:
  - a. ~~"Trial counsel was ineffective . . . for failing to object and preserve for appellate review. Inconsistent testimony by Agent Bobby Crawford."~~
  - b. ~~"Trial counsel rendered ineffective assistance of counsel by failing to object to the State's key witnesses continually giving perjurous [sic.] testimony (Mooney v. Holohan, and in Agurs.)"~~
  - c. ~~"Trial counsel was ineffective . . . [for] failing to pursue all available defenses, available to the applicant."<sup>3</sup>~~

On November 28, 2022, Applicant, through PCR Counsel, amended his PCR application adding the following additional claims for relief:

<sup>2</sup> Miranda v. Arizona, 384 U.S. 436 (1966).

<sup>3</sup> Applicant withdrew the allegations from his initial application at the evidentiary hearing. (PCR Tr. p. 6).

- d. Trial Counsel failed to move to suppress Applicant's statement as involuntary on the grounds of an implied threat.
  - i. The implied threat was that everyone would be charged and arrested unless someone claimed ownership.
- e. Trial Counsel failed to move to suppress any drugs found outside of Applicant's bedroom.
  - i. Applicant contends his statement was meant for only the drugs in his bedroom, and Trial Counsel failed to move to suppress the drugs outside his bedroom where he lacked dominion and control.

Applicant requests relief in the form of vacation of his conviction and sentence and for a new trial to be ordered.

Before this Court is the Marion County Clerk of Court records from the underlying convictions and sentences, Applicant's SCDC records, the trial transcript, the appellate records, and the records of this PCR action.

#### STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act<sup>4</sup> (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

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<sup>4</sup> S.C. Code Ann. §§ 17-27-10 to -160.



S.C. Code Ann. § 17-27-20(A).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable." (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. When analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption "by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." Kimmelman v. Morrison, 477 U.S. 365, 384 (1986); cf. Cullen v. Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate that "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden,



counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18, 386 S.E.2d at 625; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different."). Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." Richter, 562 U.S. at 112.

Finally, the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel's trial tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both Strickland components is heavy in light of the strong presumption that counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690. Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Id. at 686; see Nix v. Whiteside, 475 U.S. 157, 175 (1986) (noting that under Strickland, the "benchmark" of the right to counsel is the "fairness of the adversary proceeding"); cf. United States v. Morrow, 977 F.2d 222, 229 (6th Cir. 1992) ("[T]he threshold issue is not whether [the applicant's] attorney was inadequate; rather, it is whether he was so *manifestly* ineffective that defeat was snatched from the hands of probable victory.").



**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility. See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) ("In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment."); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) ("The trial judge who hears the witnesses live, observes their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.").

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:



*INITIAL FINDINGS*

This Court further finds applicable the strong presumption that at all stages of Trial Counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

*INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL ALLEGATIONS ON THE MERITS*

- Allegation 1d:** Trial Counsel failed to move to suppress Applicant's statement as involuntary on the grounds of an implied threat.
- Allegation 1b:** Counsel failed to move to suppress any drugs found outside of Petitioner's bedroom.
- Allegation:** Failure to preserve for appeal.<sup>5</sup>

Applicant alleged Trial Counsel was constitutionally ineffective for failing to move to suppress his statement as involuntary on the grounds of an implied threat. Specifically, Applicant contends that the implied threat was from law enforcement that everyone was going to be charged and arrested unless someone claimed ownership. Additionally, Applicant avers Trial Counsel was constitutionally ineffective for failing to move to suppress the drugs found outside Applicant's bedroom. Lastly, Applicant contends Trial Counsel failed to preserve these issues for appellate review. This Court finds these allegations are without merit.

An ineffective assistance claim based on a failure to object is tied to the admissibility of the underlying evidence." Hough v. Anderson, 272 F.3d 878, 898 (7th Cir. 2001). "If evidence

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<sup>5</sup> This allegation was raised at the evidentiary hearing and not within Applicant's pleadings.

admitted without objection was admissible, then the complained of action fails both prongs of the Strickland test: failing to object to admissible evidence cannot be a professionally 'unreasonable' action, nor can it prejudice the defendant against whom the evidence was admitted." Id.; see Miller v. Kceney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence). Also, "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691.

The "use and timing of objections at trial is a quintessential matter of strategy and discretion on the part of the trial attorney, and will very seldom constitute objectively deficient representation." United States v. Nguyen, 379 F. App'x 177, 181 (3d Cir. 2010); see Humphries v. Ozmint, 397 F.3d 206, 234 (4th Cir. 2005) (Luttig, J., concurring) ("[I]t is well established that failure to object to inadmissible or objectionable material for tactical reasons can constitute objectively reasonable trial strategy under Strickland."); cf. Bergmann v. McCaughtry, 65 F.3d 1372, 1380 (7th Cir. 1995) (noting that deciding when to object is a matter of trial strategy that a lawyer has to make on the spot.).

When analyzing counsel's performance, the reviewing court will "strong[ly] presume[e] that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than sheer neglect. Yarborough, 540 U.S. at 8 (internal quotation marks omitted); cf. Higgs v. United States, 711 F. Supp. 2d 479, 515 (D. Md. 2010) ("Defense counsel constantly must decide what questions to ask and how much time to spend on a particular witness. These are precisely the types of tactical decisions a court is not supposed to second guess.") (citing Byram v. Ozmint, 339 F.3d

203, 209 (4th Cir. 2003)); Sallie v. North Carolina, 587 F.2d 636, 640 (4th Cir. 1978) (Strickland standard was not developed "to promote judicial second-guessing on questions of strategy as basic as the handling of a witness.").

Also, "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To establish prejudice, Applicant is required to show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694.

To show prejudice where counsel fails to preserve an issue, an applicant must show the trial court would have sustained an objection and the unpreserved issue would have been successful on appeal. Milledge v. State, 422 S.C. 366, 811 S.E.2d 796 (2018). A PCR court must view the trial court's ruling on an issue through the same lens applied on appeal, giving appropriate deference to the trial court's findings. Milledge, 422 S.C. at 380, 811 S.E.2d 804.

### Trial

At trial during opening statements, Trial Counsel presented the following to the jury:

Again, you're not going to see a recording of that initially, no dash cam, no body cam, no audio recording. And the reason why is they don't want you to see the context of that admission. They don't want you to know that they threatened Mr. Willard. They charge everyone in the house with the same crime innocent or not unless someone took ownership. Being it was Mr. Willard's residence, felt he had to.

(Trial Tr. p. 52).

During the Jackson v. Denno<sup>6</sup> hearing, the following occurred:

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<sup>6</sup> Jackson v. Denno, 378 U.S. 368 (1964).



MR. MEEITZE: Judge, for the record, we would make the motion that the statement that attributes Mr. Willard be excluded. There's no corroborating evidence in regards to that statement having been made with regards to any kind of audio or video recording or anything like that. No other statements from anybody else in the location. And based on that for the record, we object to it being entered as evidence.

THE COURT: All right. I'm going to find that the defendant was properly Mirandized and he gave the statement freely and voluntarily. Certainly, you can cross-examine to the great detail in the regard.

(Trial Tr. p. 42).

Q: And not to embarrass you, Agent Collins, I'm going to need you to read the Miranda rights that you read to those individuals that night?

A: This is the card that we always have on us suspect rights, Miranda warning. If you have the right to remain silent, anything you say can and will be used against you in a court of law. You have the right to talk to an attorney and have him or her present with you while you are being questioned. If you cannot afford to hire an attorney, one will be appointed to represent you before any questioning if you want. You can decide at any time to exercise these rights and not answer any questions or make statements. Do you understand these rights I've explained to you? And that was the question that ask I each individual that was in the room which they said they stated, yes, they understood their rights.

Q: Was Mr. Willard one of those individuals?

A: Yes, he was.

Q: Did he indicate he understood his rights?

A: He did.

Q: Was there anything about Mr. Willard that caused you concern to think that he didn't understand what you were telling him?

A: No, sir.

Q: Okay. So after you read him the rights, you said there was a second part to it?

A: Yes. The last question having these rights in mind do you wish to talk to us now. Then I went to all five subjects and they all stated, yes, they wish to speak to law enforcement.

Q: Okay. And that at that point in time what was the next thing that happened?

A: At that time Mr. Willard spoke up --

MR. MEETZE: Your Honor, I'm going to renew my previous objection with regards to that.

THE COURT: Overruled.

Q: Mr. Willard spoke up and said?

A: Mr. Willard spoke up and said that he was taking ownership of everything in the house and outside of the house because he didn't want anybody else to go to jail.'

(Trial Tr. pp. 97-99).

### PCR Evidentiary Hearing

On direct examination, Applicant testified that he and three other persons shared a home with three bedrooms. (PCR Tr. p. 8). Applicant testified that his name was not on the rental agreement and he just had a bedroom. Id. Applicant testified that none of the bills in the home were in his name, and nothing but the bedroom tied him to the residence. Id. Applicant testified that he told Agent Collins that he did not know anything about any drugs in the house and "whatever was in [his] room was [his]." (PCR Tr. p. 10). Applicant testified that he made the statement of ownership of the drugs in the house because he knew the stuff in his room was just a small amount. Id. Applicant testified that they did have a Jackson v. Denno hearing, but Trial Counsel did not move to suppress based on an implied threat.

Applicant testified that Trial Counsel did not move to suppress the drugs outside his bedroom. (PCR Tr. p. 11, ll. 14-16).

On cross-examination, Applicant testified that he asked Trial Counsel to suppress the drugs and the statement because he had witnesses coming to testify. (PCR Tr. p. 13). Applicant testified that he only took ownership of the drugs in his bedroom and not the rest of the house. (PCR Tr. p. 16).

On direct examination, Trial Counsel testified that his strategy at trial was a reasonable doubt strategy as Applicant never indicated any sort of coercion or intimidation to him. (PCR Tr.

p. 20). Trial Counsel testified that he did not think the statement by law enforcement that if no one takes ownership of the drugs, then everyone is being arrested was an implied threat. (PCR Tr. p. 21). Trial Counsel testified that the statement was pretty normal and that law enforcement can and does arrest everyone on scene at times. Id. Trial Counsel testified that he did not see a viable suppression motion to have the drugs suppressed. Id. Trial Counsel testified that they did attempt to suppress the statement, but the places they searched for the drugs was reasonable. (PCR Tr. pp. 21–22). Trial Counsel testified he did not move to suppress the drugs because he did not think there was a basis for it. (PCR Tr. pp. 22–23). Trial Counsel testified that he stood by his representation. (PCR Tr. p. 23).

On cross-examination, Trial Counsel testified that he did not move to suppress the statement on the grounds of implied threat. (PCR Tr. p. 23). Trial Counsel testified that ~~he~~ did not move to suppress the drugs outside Applicant's bedroom. (PCR Tr. pp. 23–24).

### Findings

As an initial matter, this Court finds Trial Counsel's testimony on this matter **credible** and Applicant's testimony **not credible** and **not persuasive**. This Court finds that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, *supra*. This Court further finds Applicant has failed to overcome his burden in proving Trial Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*. Notably, Applicant provided no legal authority to support his allegations. Further, this Court finds that any motion to suppress the drugs based on an implied threat or a motion to suppress the drugs outside Applicant's bedroom would have been non-meritorious. See Miller v. Keeney, 882 F.2d 1428, 1434 (9th Cir. 1989) (noting that if a petitioner challenges a



futile objection, he fails both Strickland prongs); U.S. ex rel. Link v. Lane, 811 F.2d 1166, 1170 (7th Cir. 1987) (finding there is no prejudice from the failure to object unless there is a legally supportable argument for exclusion of the evidence).

Additionally, while this was not pleaded within Applicant's initial PCR application or his amended application, there was testimony elicited from Trial Counsel that he did not preserve the issue of failure to move to suppress the drugs outside Applicant's bedroom for direct appeal. In the context of a direct appeal, this Court must determine if this issue had been preserved, would it have been successful on appeal? This Court finds that even if this issue had been preserved, it would not have been successful on appeal. Applicant's statement to law enforcement that all the drugs were his was admitted over objection. Any objection to drugs outside of the bedroom would clearly have been overruled as well. Also, this Court cannot determine a legal basis Trial Counsel would have utilized to exclude the drugs outside Applicant's bedroom based on the admitted statement that all the drugs—including those outside Applicant's bedroom—belonged to Applicant. This Court need not address the issue of preservation on the statement because Trial Counsel did argue for suppressing it and contemporaneously objected at trial.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test—that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland—that he was prejudiced by Trial Counsel's performance.



Accordingly, this Court finds Applicant has failed to establish any deficiency by Trial Counsel or any prejudice flowing therefrom. Thus, these allegations must be **DENIED** and **DISMISSED**.



[CONCLUSION PAGE FOLLOWS]

CONCLUSION

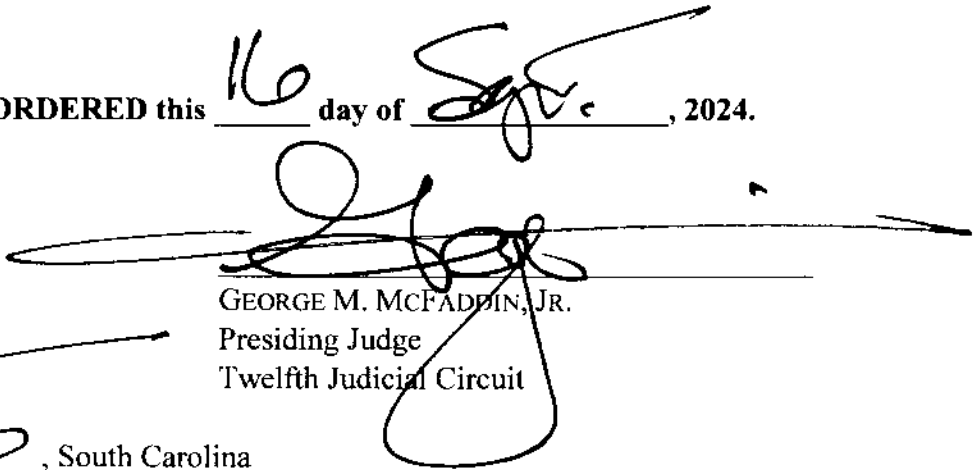
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE.**

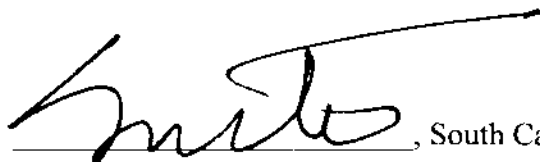
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 16 day of Sept, 2024.

  
 GEORGE M. MCFADDIN, JR.  
 Presiding Judge  
 Twelfth Judicial Circuit

  
 \_\_\_\_\_, South Carolina

WITNESSES

MARK COLLINS Marion County Combined Drug Unit

275

Fitzlee H McEachin

ARREST WARRANT NUMBER

2017A3310100122 ✓ 2017A3310100123 ✓  
2017A3310100125 ✓  
2017A3310100124 ✓

ACTION OF GRAND JURY

TRUE BILL

*Britney D. James*  
Foreperson of Grand Jury

Date: 7/27/2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-33-00322

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

JULY TERM 2017

THE STATE

vs.

ERICK MAURICE WILLARD

Indictment for

TRAFFICKING COCAINE,  
POSSESSION WITH THE INTENT TO  
DISTRIBUTE COCAINE BASE,  
POSSESSION WITH THE INTENT TO  
DISTRIBUTE METHADONE SCHEDULE  
SCHEDULE 1-V  
AND  
POSSESSION WITH THE INTENT TO  
DISTRIBUTE MARIJUANA

MARION COUNTY SC  
CHRISTY MORAY  
CLERK OF COURT

2017 JUL 27 PM 2:07

FILED

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF MARION )

INDICTMENT FOR  
 TRAFFICKING COCAINE,  
 POSSESSION WITH THE INTENT TO  
 DISTRIBUTE COCAINE BASE,  
 POSSESSION WITH THE INTENT TO  
 DISTRIBUTE METHADONE SCHEDULE I-V  
 AND  
 POSSESSION WITH THE INTENT TO DISTRIBUTE  
 MARIJUANA

At a Court of General Sessions, convened on JULY 27, 2017 the Grand Jurors of MARION County present upon their oath:

**COUNT ONE- TRAFFICKING COCAINE**

That **ERICK MAURICE WILLARD** did in Marion County on or about March 3, 2017, knowingly, sell, deliver, purchase or bring into this State, or did aid, abet, attempt, or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than ten (10) grams, but less than twenty-eight (28) grams, the same being a controlled substance, all within the meaning of Section 44-53-370, et.seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of Section 44-53-370(e)(2), S. C. Code of Laws, 1976, as amended, for the crime of Trafficking.

**COUNT TWO- POSSESSION WITH THE INTENT TO DISTRIBUTE COCAINE BASE**

That **ERICK MAURICE WILLARD** did in Marion County on or about March 3, 2017, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of Cocaine Base, a controlled substance under the provisions of Section 44-53-110, et.seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-375(B), S. C. Code of Laws, 1976, as amended.

**COUNT THREE - POSSESSION WITH THE INTENT TO DISTRIBUTE METHADONE  
 SCHEDULE I-V**

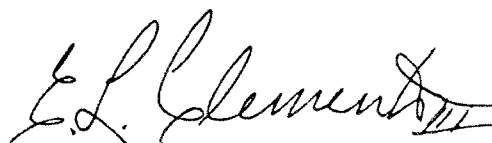
That **ERICK MAURICE WILLARD** did in Marion County on or about March 3, 2017, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of Methadone, a controlled substance under the provisions of Section 44-53-110, et.seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-370(B), S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR TRAFFICKING COCAINE, POSSESSION WITH THE INTENT TO DISTRIBUTE COCAINE BASE, POSSESSION WITH THE INTENT TO DISTRIBUTE METHADONE SCHEDULE I-V AND POSSESSION WITH THE INTENT TO DISTRIBUTE MARIJUANA, WITH THE AFORESAID NAMES(S) OF ERICK MAURICE WILLARD SHOWN THEREON:

**COUNT FOUR- - POSSESSION WITH THE INTENT TO DISTRIBUTE MARIJUANA**

That **ERICK MAURICE WILLARD** did in Marion County on or about March 3, 2017, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of Marijuana, a controlled substance under the provisions of Section 44-53-110, et.seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-370(B), S. C. 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.



---

**E.L. Clements, III**  
TWELFTH CIRCUIT SOLICITOR

(5-20 yrs. and/or \$0-20,000)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marion
STATE VS. Erick Maurice Willard
AKA:
Race: Black Sex: M Age: 36
DOB:
Add:
City:
DL#:

INDICTMENT/CASE#: 2017-GS-33-00322
A/W#: 2017A3310100125
Date of Offense: 3/3/2017
S.C. Code §: 44-53-0370(b)(2)
CDR Code #: 0188

SENTENCE SHEET

2017 NOV 16
FILED
NOV 16 2017
11:59 AM

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam, w.i.t.d. - 3rd or sub. offense (Methadone)

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0188
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: McEachin, Fitzlee H SC Bar# 75437 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: today
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 101 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 8.25. TOTAL \$ 283.25

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Christ M. Gray
Court Reporter: Kisha Renee
SCCA/217 (07/2016)

Presiding Judge: [Signature]
Judge Code: 2157
Sentence Date: 11/15/17

(10-30 yrs. and/or \$0-\$50,000 fine)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marion
STATE VS. Erick Maurice Willard
AKA:
Race: Black Sex: M Age: 36
DOB:
Address:
City, St:
DL#:

INDICTMENT/CASE#: 2017-GS-33-00322
A/W#: 2017A3310100123
Date of Offense: 3/3/2017
S.C. Code §: 44-53-0375(B)(3)
CDR Code #: 3039

SENTENCE SHEET

2017 NOV 16 AM 10:00 FILED

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Drugs / P.W.I.D. cocaine base, 3rd or sub. Offense

CONVICTED OF or PLEADS

in violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3039
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: McEachin, Fitzlee H Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*: the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: today
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 101 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:

Set by SCDPPPS
Recipient:
\*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 61.6 (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 250
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$ 8.25

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other:
Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk Christy M. Gray
Court Reporter: Kisha T. Reed
SCCA/217 (07/2016)

Presiding Judge Judge Code: 2157
Sentence Date: 11/15/17

(0-10 yrs. and/or \$0-10,000)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Marion
STATE VS. Erick Maurice Willard
AKA:
Race: Black Sex: M Age: 36
DOB:
Address:
City, State:
DL#:

INDICTMENT/CASE#: 2017-GS-33-00322
A/W#: 2017A3310100124
Date of Offense: 3/3/2017
S.C. Code § : 44-53-0370(b)(2)
CDR Code #: 0187

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.t.d. - 2nd offense (Marijuana)

CONVICTED OF or PLEADS

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0187
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: McEachin, Fitzlee H Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: today
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 101 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk: Christa Mey
Court Reporter: Keisha
SCCA/217 (07/2016)

Presiding Judge: [Signature]
Judge Code: 2157
Sentence Date: 4/15/17

STATE OF SOUTH CAROLINA

COUNTY OF Marion
STATE VS. Erick Maurice Willard
AKA:
Race: Black Sex: M Age: 36
DOB:
Address:
City, State:
DL#:

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Trafficking in cocaine, 10g or more, but less than 28g - 3rd or sub. offense

in violation of 44-53-0370(e)(2)(a)3 of the S.C. Code of Laws, bearing CDR Code # 0147
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) 17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: McEachin, Fitzlee H SC Bar# 75437 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ 50,000; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code 24-13-40 to be calculated and applied by the State Department of Corrections. 101 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code 17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with 3 columns: Description, Amount, Total. Includes items like \*Fine: \$50,000.00, § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(I) (Vehicle Assessment) \$40/ca, 3% to County (if paid in installments) \$3,120.75. TOTAL \$107,145.75

Clerk of Court/ Deputy Clerk Christy M. Gray
Court Reporter: Keisha T Reed
SCCA/217 (07/2016)

(25-30 yrs. & \$50,000 fine) IN THE COURT OF GENERAL SESSIONS 289
INDICTMENT/CASE#: 2017-GS-33-00322
A/W#: 2017A3310100122
Date of Offense: 3/3/2017
S.C. Code § : 44-53-0370(e)(2)(b)3
CDR Code #: 0148

SENTENCE SHEET

FILED
2017 NOV 16 AM 9:06

CONVICTED OF or PLEADS TO:
in violation of 44-53-0370(e)(2)(a)3 of the S.C. Code of Laws, bearing CDR Code # 0147
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) 17-25-45 w/minor 1st or Lewd Act
The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ 50,000; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code 24-13-40 to be calculated and applied by the State Department of Corrections. 101 days

SPECIAL CONDITIONS:
RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge 2/5/17
Judge Code: 2/57
Sentence Date: 11/15/17