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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYQUAN JAMAR JOHNSON,

APPELLANT

APPELLATE CASE NO 2024-000112

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

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STATE’S EXHIBIT NO. 16 (SPEARS BODYCAM)

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	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2023-GS-21-00377
	)	Case No. 2023-GS-21-00378
	)	Case No. 2023-GS-21-00379
	)	Case No. 2023-GS-21-01976
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Tyquan Johnson,	)	
	)	
Defendant.	)	
	)	

January 8, 10-12, 2024
Florence, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge; and a jury

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

John Jepertinger, Esquire
David Richardson, Esquire
Attorneys for the Plaintiff/State

Ralph Wilson, Sr., Esquire
Attorney for the Defendant

Krystal J. Smith
Official Circuit Court Reporter III

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21	dashes --	intentional or purposeful interruption		
22		or change in thought		
23	ellipses . . .	trailing off		
24	[ph]	phonetically written		
25	[sic]	written as said		

1 JANUARY 8, 2024

2 (WHEREUPON, the proceedings began at 11:24 a.m.)

3 THE COURT: All right. Very good. Anything from the
4 State before we proceed?

5 MR. JEPERTINGER: No, sir. We just need the jury in.

6 THE COURT: Anything from defense?

7 MR. WILSON: I don't have anything, Your Honor, in
8 regards to selecting of the jury, but obviously we have some
9 motions and things that we'd like to have.

10 THE COURT: Yes. We're going to -- we're going to
11 dedicate the whole afternoon to that.

12 MR. WILSON: All right.

13 THE COURT: But we just want to go ahead and get -- get
14 the jury selected and --

15 MR. WILSON: Yes, sir.

16 THE COURT: -- and go from there.

17 MR. JEPERTINGER: My understanding is five and five.

18 THE COURT: That's correct. And do you have any
19 indication otherwise?

20 MR. WILSON: No, sir.

21 THE COURT: I think the only ones that are ten are
22 murder, manslaughter, burglary, arson, criminal sexual
23 conduct, armed robbery, grand larceny, breach of trust,
24 perjury, and forgery, and none of those apply.

25 All right. We're ready for the jury.

1 MR. WILSON: Yes, sir. Just before you do that --

2 THE CLERK: Hang on. Hang on.

3 MR. WILSON: Just so I'm clear, I know -- I understand
4 that we're going forward on the trafficking of
5 methamphetamine. Now, to my understanding there were two
6 indictments. There was originally an indictment for 200 grams
7 of or more. I think there was 200 but less than 400. And
8 then there is a second indictment which was issued by -- in
9 July of 2023 for 400 or more grams. So I guess my question
10 is, which of those indictments are we going forward on?

11 MR. JEPERTINGER: We are going forward on the one that's
12 400 grams or more. We're not going forward on the one between
13 200 and 400 grams.

14 MR. WILSON: All right. Then if we're going forward on
15 the one that's 200 -- 400 or more, my understanding is that
16 indictment has not been served on this defendant that I'm
17 aware of.

18 MR. JEPERTINGER: I don't -- I don't think it has to be
19 served on him. It's served on his counsel.

20 THE COURT: Well --

21 MR. JEPERTINGER: It has been presented to the grand
22 jury.

23 MR WILSON: Well, Judge, when -- when a defendant -- when
24 a new indictment is issued, then it has to be served the same
25 way as a warrant would be served. I don't know that they can

1 be served on counsel for the defendant --

2 THE COURT: All right.

3 MR. WILSON: -- without the defendant's knowledge. I
4 mean, I don't think serving it on counsel is the same as
5 serving it on the defendant.

6 THE COURT: All right. Well, I'll tell you what. And I
7 want to hear from both of y'all, but really, the essence of an
8 indictment is, is the defendant informed of what he's being
9 charged with, and -- and I would suggest that Mr. Jepertinger
10 take this opportunity right now to serve him.

11 MR. WILSON: Well -- well, Your Honor, you know, my -- my
12 objection to that would be, I mean, we're -- we're here at
13 trial, and I understand that -- that -- that -- I understand
14 what the Court is saying. My concern is there is a huge
15 difference in an indictment for 200 grams or more but less
16 than 400 grams and then 400 grams or more, and the penalty is
17 substantially greater. And to wait until the day of trial to
18 serve an indictment on the defendant for that new charge I
19 think is a little unfair, and --

20 THE COURT: How -- how would your defense be different?
21 My question to you, probably more appropriately, would be how
22 are you prejudiced?

23 MR. WILSON: Well, we're prejudiced in the sense that the
24 defendant loses the benefit of -- if he wanted to plead guilty
25 to the -- to the 200 to 400 grams, that's a huge difference

1 than if he wants to plead to 400 or more grams. So -- so it
2 deprives him of the opportunity to do that, to plead to that
3 old indictment if -- if that's -- you know, if -- if he wanted
4 to do that. And I'm not suggesting that he does, I'm just
5 saying. But that is a substantial prejudice, because you're
6 taking away from him the opportunity to plead to a
7 substantially lesser charge than what he is now going to be
8 facing, you know, at trial.

9 THE COURT: Well, Mr. Jepertinger, what do you have to
10 say about that?

11 MR. JEPERTINGER: Judge, first of all, I agree with you
12 that the indictment only serves as a notice document. And
13 obviously, in his conversations with his client, he's aware
14 that he was charged with this preceding indictment.

15 THE COURT: And -- and Mr. Wilson obviously was aware of
16 it. You were aware of it because you brought it to my
17 attention. I was not aware that there were two different
18 indictments. Have you discussed the higher amount with your
19 client?

20 MR. WILSON: Well, yes, sir, but -- but, Your Honor,
21 because I just got this case in October of last year. He had
22 a prior counsel. So when -- when that new -- that new
23 indictment came out, I didn't get it because I wasn't his
24 attorney at that point. I was appointed I think in October,
25 mid or late October of last year, and so when I was going

1 through my file to do my preparation, I saw that second
2 indictment. Now, I don't even have the whole indictment. I
3 do have the -- the -- I don't have the back of it where the
4 foreman signs and all of that. I don't have that.

5 What I do have is the face of the -- of the July
6 indictment, the July 23 indictment. I do have the face of
7 that which delineates the actual charge. I do have that, but
8 I don't have the --the -- the part where the foreman signs
9 indicating that that is the decision of the grand jury.

10 THE COURT: I'll tell you what we're going to do is we're
11 not going to swear the jury when we select them. We're going
12 to take -- you know, we've got -- how many jurors do we have
13 out there? Eighty or so?

14 MR. JEPERTINGER: Yes, sir.

15 THE CLERK: Sixty-one.

16 THE COURT: Sixty-one sitting out there waiting, and it's
17 approaching lunch. Nobody's going to be prejudiced by us
18 selecting the jury. We're not going to swear them, and we're
19 going to take up these matters.

20 MR. WILSON: Yes, sir.

21 THE COURT: And if -- if you don't waive the serving of
22 the indictment, then we'll take that opportunity to do that,
23 and then we'll discuss whether or not there's any substantial
24 prejudice.

25 MR. WILSON: Yes, sir.

1 THE COURT: All right.

2 MR. WILSON: Thank you, Your Honor.

3 THE COURT: All right. And that would -- and we're going
4 to take care of these motions and other motions this
5 afternoon, and we're going to have the benefit of Tuesday to
6 engage in any plea negotiations that y'all might want to
7 engage in, but he's entitled to a trial, and we're fixing to
8 give him one.

9 MR. WILSON: I understand, Your Honor.

10 THE COURT: And we're going to do that, and I think we're
11 ready for the jury at this time.

12 MR. WILSON: Yes, sir. We're ready.

13 THE COURT: Very good.

14 (WHEREUPON, there was a pause in the proceeding as the
15 jury panel entered the courtroom, after which the
16 proceedings resumed as follows.)

17 THE COURT: Mr. Jupertinger, you're recognized.

18 MR. JEPERTINGER: May it please the Court, Your Honor.

19 The State would call the State versus Tyquan Johnson,
20 charged with trafficking in methamphetamine, possession of a
21 weapon during the commission of a violent crime, and
22 possession of a stolen pistol.

23 THE COURT: All right. Mr. Wilson, I'm going to ask if
24 you could have Mr. Johnson stand and face the jury pool.

25 (WHEREUPON, the defendant and counsel complied.)

1 THE COURT: Thank you, sir.

2 Ladies and gentlemen of the jury pool, I have in my hand
3 three separate and distinct indictments against Mr. Tyquan
4 Jamar Johnson, and you've heard the solicitor delineate each
5 one of these. And I hold in my hand the indictments, and they
6 bear absolutely no evidentiary value whatsoever. As a matter
7 of fact, Mr. Johnson as he's sitting right there is presumed
8 to be just as innocent as me or you. We start from that frame
9 of reference.

10 You have been introduced to Mr. Johnson. Is anyone
11 related by blood or marriage, do you have a close social,
12 business, or personal relationship with Mr. Johnson? If so,
13 please stand.

14 No response.

15 I'm going to list potential witnesses that could be
16 called in this case. I'm going to ask you once again, are you
17 related by blood or marriage, do you have any close social,
18 business, or personal relationship with any of these potential
19 witnesses? Pay very close attention.

20 Cpl. Kevin Buxton, Florence Police Department.

21 Lt. Kendrick Spears, Florence Police Department.

22 Sgt. Andron Brown, Florence Police Department.

23 Cpl. Shannon McKenzie, Florence Police Department.

24 Lt. John Davis, Florence Police Department.

25 Sgt. Sam Ervin, Florence Police Department.

1 Cpl. Justin Feagin, Florence Police Department.
2 Lt. Justin Head, Florence Police Department.
3 MR. JEPERTINGER: Lance Corporal.
4 THE COURT: Lance Cpl. Leigh Manley, Florence Police
5 Department.
6 Sgt. Tim Matthews, Florence Police Department.
7 Cody Jordan, formerly of the Florence Police Department.
8 Edward Sieben or Sieben? How do you say that? Sieben?
9 MR. JEPERTINGER: Sieben, Your Honor.
10 THE COURT: Sieben.
11 Frank Mizell, formerly of the Florence Police Department.
12 Willie C. Smith, SLED.
13 And Treyvion High.
14 Edna Bryan.
15 Michelle Johnson.
16 Harvey Allen.
17 Lorenzo Johnson.
18 Officer Blackmon, Florence Police Department.
19 Officer Matthias, Florence Police Department.
20 Is anyone related by blood or marriage or do you have a
21 close social, business, or personal relationship with any of
22 these potential witnesses? If so, please stand.
23 No response.
24 The allegations which give rise to this -- this case took
25 place on May 4th, 2022, and it's at the 500 block of West

1 Marion Street here in Florence. It's just north of Darlington
2 Street.

3 Having been armed with that information, does anybody
4 know anything about this particular incident? Have you read
5 anything about it, have you heard anything about it, or did
6 you witness anything concerning this matter? If so, please
7 stand.

8 No response.

9 All right. Mr. Jepertinger, I'm going to ask if you
10 could stand, identify yourself, and the members of your office
11 who are going to be participating in this case.

12 MR. JEPERTINGER: Good morning, everyone. My name is
13 John Jepertinger. I'm a deputy solicitor here in Florence
14 County. David Richardson will be helping me try the case. Of
15 course, these are -- in addition to David Richardson, I have
16 Ms. Vicky Singletary. She's a victim advocate in our circuit.
17 And Roxanne Love also with my office. She's an investigator
18 with our office.

19 THE COURT: All right. Is anyone related by blood or
20 marriage or do you have a close social, business, or personal
21 relationship with any of these members of the Solicitor's
22 Office? Mr. Jepertinger has been engaged in the private
23 practice of law for a period of time. Has he ever represented
24 you? If so, please stand.

25 All right. No response.

1 Mr. Wilson?

2 MR. WILSON: My name is Ralph Wilson, Sr. I'm a
3 practicing attorney in Conway, Horry County, Georgetown, and
4 Florence.

5 THE COURT: All right. Thank you, Mr. Wilson.

6 Is anyone related by blood or marriage or do you have a
7 close social, business, or personal relationship with Mr.
8 Wilson? If so, please stand. Has he represented you in the
9 past, or do you have an ongoing case with him at this time?
10 If so, please stand.

11 No response.

12 Has any member of the jury panel formed or expressed an
13 opinion about any issue or matter involved in this case? If
14 so, please stand.

15 No response.

16 Is any member of the jury panel aware of any bias or
17 prejudice toward either the State or the defendant in this
18 case? If so, please stand.

19 No response.

20 Is there any member of the jury panel who served on the
21 grand jury that indicted this case? If so, please stand.

22 No response.

23 Is there any member of the jury panel who is a member or
24 contributor to any group whose primary concern is the
25 promotion of law enforcement? There's a number of different

1 organizations, Mothers Against Drunk Driving, better known as
2 SADD -- MADD. SADD, which is Students Against Drunk Driving,
3 CAV, Citizens Against Violent Crime. Virtually every
4 sheriff's department in -- in South Carolina have a sheriff's
5 department association. Is there anybody who is a member of
6 these or do you contribute to any such organization? If so,
7 please stand.

8 No response.

9 Does any member of the jury panel know of any reason
10 whatsoever why you should not serve as a juror in this case,
11 with particular emphasis being placed on your ability to be
12 fair and impartial to both the State and the defendant? If
13 so, please stand.

14 Any additional questions from the State?

15 MR. JEPERTINGER: Your Honor, may we approach one second?

16 THE COURT: Yeah. Oh, I'm sorry. Yes. If you could
17 come forward. And, counsel, feel free to come forward.

18 THE BAILIFF: Juror 67.

19 (WHEREUPON, a bench conference was held with Juror 67 as
20 follows.)

21 JUROR NUMBER 67: [Inaudible] interest.

22 THE COURT: Say that again.

23 JUROR NUMBER 67: There is a conflict of interest for me.

24 THE COURT: How's that?

25 JUROR NUMBER 67: It's really hard for me to say.

1 THE COURT: Well, you know, I've seen you deal with,
2 like, children, child victims and that sort of thing.

3 JUROR NUMBER 67: Yes.

4 THE COURT: Okay. Well, this has to do with drugs and
5 guns. And do you deal with drugs and guns?

6 JUROR NUMBER 67: In what way, sir?

7 THE COURT: What I'm saying is that you're --

8 JUROR NUMBER 67: I deal with adults, the adults and
9 professionals and like that.

10 THE COURT: How do they come to you?

11 JUROR NUMBER 67: Through referrals.

12 THE COURT: What organization do you work with?

13 JUROR NUMBER 67: I'm in -- I'm in private practice.

14 THE COURT: All right.

15 JUROR NUMBER 67: Community counselor.

16 THE COURT: Why could you not be fair and impartial is my
17 question for you? Would you be more -- would you be in favor
18 of the State, the defense, or I'm going to ask him why you
19 can't be fair.

20 JUROR NUMBER 67: That issue is a confidential one.

21 THE COURT: Okay. I'll tell you what I'm going to do is
22 I'm going to transfer you to a term of Common Pleas, and you
23 will receive a notice of when to show back up and you --
24 you'll be able to serve on that.

25 JUROR NUMBER 67: Okay.

1 THE COURT: Very good. Thank you.

2 (WHEREUPON, Juror Number 67 exited the bench conference,
3 and the bench conference continued as follows.)

4 MR. JEPERTINGER: This next lady, I know. We go to
5 church together.

6 (WHEREUPON, Juror Number 141 joined the bench
7 conference.)

8 THE COURT: Yes, ma'am.

9 MR. JEPERTINGER: We'll see if she says I'm a nice guy, I
10 hope.

11 JUROR NUMBER 141: I don't remember my number.

12 THE COURT: Okay. And your name?

13 JUROR NUMBER 141: Denise Shaw.

14 THE COURT: Denise Shaw.

15 JUROR NUMBER 141: I attend church with Mr. Jepertinger.
16 It's not a close relationship, but I have known him for years.

17 THE COURT: Okay.

18 MR. JEPERTINGER: Now I'm hurt.

19 THE COURT: The question -- the question is not whether
20 or not you knew him. Has he ever been to your house and had
21 dinner?

22 JUROR NUMBER 141: No.

23 THE COURT: Have you ever been to his house and had
24 dinner?

25 JUROR NUMBER 141: No.

1 MR. JEPERTINGER: We've had dinners together.

2 JUROR NUMBER 141: We've had dinners together.

3 THE COURT: Okay. In view of that, I'm going to -- I'm
4 going to excuse you for the purpose of this trial, given that
5 close relationship. I'm going to do that, and you're --
6 you're excused for the purposes of this trial, but not -- not
7 the balance of it for the week.

8 JUROR NUMBER 141: All right.

9 THE COURT: So we just ask that you have a seat and
10 follow the instructions.

11 JUROR NUMBER 141: Okay.

12 THE COURT: Okay.

13 (WHEREUPON, Juror Number 141 exited the bench conference,
14 and the bench conference continued as follows.)

15 MR. JEPERTINGER: There's another individual by the name
16 of Buddy Dunklin, who worked as an arbitrator for our office
17 for a time.

18 THE COURT: Okay.

19 (WHEREUPON, the bench conference ended, and the
20 proceedings resumed as follows.)

21 MR. JEPERTINGER: Mr. Dunklin.

22 THE COURT: Mr. Dunklin.

23 (WHEREUPON, a bench conference was held with Juror Number
24 47 as follows.)

25 THE COURT: All right.

1 JUROR NUMBER 47: I have an affiliation with both. Of
2 course, I'm happy to --

3 MR JEPERTINGER: The Solicitor -- the Solicitor's Office.

4 JUROR NUMBER 47: For 15 months.

5 THE COURT: Okay.

6 JUROR NUMBER 47: And I don't know if I would be excused
7 due to that.

8 THE COURT: Okay. What I'm going to do is I'm going to
9 -- I'm going to excuse you from this term of court. We're
10 going to assign you to a term of Common Pleas. You're going
11 to do Common Pleas.

12 JUROR NUMBER 47: Okay.

13 THE COURT: Thank you.

14 (WHEREUPON, the bench conference ended, and the
15 proceedings resumed as follows.)

16 THE COURT: Okay. Mr. Jepertinger, once again, is there
17 any additional questions from the State?

18 MR. JEPERTINGER: Nothing. Nothing further from the
19 State, Your Honor.

20 THE COURT: Any from defense?

21 MR. WILSON: Nothing further, Your Honor.

22 THE COURT: All right. And we'll ask the clerk to give
23 us a jury.

24 Ladies and gentlemen of the jury panel, the clerk is
25 running this -- the names of all of the jurors through the

1 computer and getting a random selection. And then once that's
2 done, then we're going to share that list with the lawyers,
3 and then we'll begin the jury selection process.

4 (WHEREUPON, there was a pause in the proceedings, after
5 which the proceedings resumed as follows.)

6 THE COURT: Madam Clerk, you're recognized.

7 THE CLERK: Thank you, Judge.

8 THE COURT: We're going to ask when your name is called
9 to come and stand in front of this podium here and face the
10 back of the courtroom and bring your belongings with you.

11 THE CLERK: David Casey.

12 (WHEREUPON, a white male came forward.)

13 THE CLERK: What say the State?

14 MR. JEPERTINGER: Please present the juror.

15 THE CLERK: What say defendant?

16 MR. WILSON: Seat the juror.

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

18 THE COURT: And the strikes are five and five.

19 THE CLERK: Francis Padgett.

20 (WHEREUPON, a white female came forward.)

21 THE CLERK: What say the State?

22 MR. JEPERTINGER: Please present the juror.

23 THE CLERK: What say defendant?

24 MR. JEPERTINGER: I said yes.

25 MR. WILSON: Seat the juror.

1 THE CLERK: Please have a seat in the jury box, ma'am.
2 Christopher McJunkin.
3 (WHEREUPON, a white male came forward.)
4 MR. WILSON: What number, ma'am?
5 THE CLERK: 107.
6 What say the State?
7 MR. JEPERTINGER: Please present the juror.
8 THE CLERK: What say defendant?
9 MR. WILSON: Please excuse this juror from the trial of
10 this particular case.
11 THE CLERK: You've been excused for this trial only. You
12 may return to your seat.
13 132, Kelli Rose.
14 (WHEREUPON, a black female came forward.)
15 THE CLERK: What say the State?
16 MR. JEPERTINGER: Please present the juror.
17 THE CLERK: What say defendant?
18 MR. WILSON: Seat the juror.
19 THE CLERK: Please have a seat in the jury box.
20 130, Scottie Roberts.
21 (WHEREUPON, a white male came forward.)
22 THE CLERK: What say the State?
23 MR. JEPERTINGER: Please present the juror.
24 THE CLERK: What say defendant?
25 MR. WILSON: Please excuse the juror from the trial of

1 this particular case.

2 THE CLERK: You've been excused for this trial only, sir.

3 You may return to your seat.

4 171, Wendy Wilson.

5 (WHEREUPON, a black female came forward.)

6 THE CLERK: What say the State?

7 MR. JEPERTINGER: We'd excuse this juror for the purposes

8 of this trial only.

9 THE CLERK: You've been excused for this trial only,

10 ma'am. You may return to your seat.

11 7, Chanae Abson.

12 MR. JEPERTINGER: 1?

13 THE CLERK: Yes.

14 (WHEREUPON, a black female came forward.)

15 THE CLERK: What say the State?

16 MR. JEPERTINGER: Please present the juror.

17 THE CLERK: What say defendant?

18 MR. WILSON: Seat the juror.

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

20 75, Ana Hernandez Concepcion. Number 75?

21 THE COURT: Here she comes.

22 THE CLERK: You were hiding.

23 (WHEREUPON, an Hispanic female came forward.)

24 THE CLERK: What say the State?

25 JUROR NUMBER 75: South Carolina. I'm sorry.

1 MR. JEPERTINGER: That's okay. That's okay. We'd excuse
2 this juror for the purpose of this trial only.

3 THE CLERK: You've been excused for this trial only. You
4 may return to your seat.

5 JUROR NUMBER 75: Thank you.

6 THE CLERK: 105, Ada McCray.

7 (WHEREUPON, a black female came forward.)

8 THE CLERK: What say the State?

9 MR. JEPERTINGER: Please present the juror.

10 THE CLERK: What say defendant?

11 MR. WILSON: Seat the juror.

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

13 136, Francheska Russell.

14 (WHEREUPON, a black female came forward.)

15 THE CLERK: What say the State?

16 MR. JEPERTINGER: Please present the juror.

17 THE CLERK: What say defendant?

18 MR. WILSON: Seat the juror.

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

20 154, Lindsey Strickland.

21 (WHEREUPON, a white female came forward.)

22 THE CLERK: What say the State?

23 MR. JEPERTINGER: Please present the juror.

24 THE CLERK: What say defendant?

25 MR. WILSON: Seat the juror.

1 THE CLERK: Please have a seat in the jury box.
2 106, Kayley McDaniel.
3 (WHEREUPON, a white female came forward.)
4 THE CLERK: What say the State?
5 MR. JEPERTINGER: Please present the juror.
6 THE CLERK: What say defendant?
7 MR. WILSON: We'd excuse the juror from the trial of this
8 particular case.
9 THE CLERK: You've been excused for this trial only. You
10 may return to your seat.
11 40, Kimberly Coxe.
12 (WHEREUPON, a white female came forward.)
13 THE CLERK: What say the State?
14 MR. JEPERTINGER: Please present the juror.
15 THE CLERK: What say defendant?
16 MR. WILSON: Seat the juror.
17 THE CLERK: Please have a seat in the jury box.
18 6, Philip Barr.
19 (WHEREUPON, a black male came forward.)
20 THE CLERK: What say the State?
21 MR. JEPERTINGER: We'd excuse the juror for the purposes
22 of this trial only.
23 THE CLERK: You've been excused for this trial only, sir.
24 You may return to your seat.
25 104, Malachi McClain.

1 (WHEREUPON, a black male came forward.)
2 THE CLERK: What say the State?
3 MR. JEPERTINGER: Please present the juror.
4 THE CLERK: What say defendant?
5 MR. WILSON: Seat the juror.
6 THE CLERK: Please have a seat in the jury box.
7 29, Hayley Caulder.
8 (WHEREUPON, a white female came forward.)
9 THE CLERK: What say the State?
10 MR. JEPERTINGER: Please present the juror.
11 THE CLERK: What say defendant?
12 MR. WILSON: Seat the juror.
13 THE CLERK: Please have a seat in the jury box.
14 9, Gwen Bazen.
15 (WHEREUPON, a white female came forward.)
16 THE CLERK: What say the State?
17 MR. JEPERTINGER: Please excuse this juror for purposes
18 of this trial only.
19 THE CLERK: You've been excused for this trial only. You
20 may return to your seat.
21 128, Hunter Powell.
22 (WHEREUPON, a white male came forward.)
23 THE CLERK: What say the State?
24 MR. JEPERTINGER: Please present this juror.
25 THE CLERK: What say defendant?

1 MR. WILSON: Please excuse the juror from the trial of
2 this particular case.

3 THE CLERK: You've been excused for this trial only, sir.
4 You may return to your seat.

5 MR. WILSON: Madam Clerk, what number was that?

6 THE CLERK: 128.
7 152, Christopher Steger.

8 (WHEREUPON, a white male came forward.)

9 THE CLERK: What say the State?

10 MR. JEPERTINGER: Please present the juror.

11 THE CLERK: What say defendant?

12 MR. WILSON: Seat the juror.

13 THE CLERK: Please have a seat in the jury box.
14 170, Jermaine Williams.

15 (WHEREUPON, there was no response.)

16 THE CLERK: 170, Jermaine Williams. He's been
17 transferred? He was transferred. Sorry about that.
18 100, Riley Marsh.

19 (WHEREUPON, a white male came forward.)

20 THE CLERK: What say the State?

21 MR. JEPERTINGER: Please present the juror.

22 THE CLERK: What say defendant?

23 MR. WILSON: Seat the juror.

24 THE CLERK: Please have a seat in the jury box.
25 That's twelve, Judge.

1 THE COURT: It'll be -- we're going to have two
2 alternates, and the strikes will be one and two on each juror.

3 THE CLERK: 60, Travis Goodman.

4 (WHEREUPON, a black male came forward.)

5 THE CLERK: What say the State?

6 MR. JEPERTINGER: Please present the juror.

7 THE CLERK: What say defendant?

8 MR. WILSON: Seat the juror.

9 THE CLERK: Please have a seat box in the jury box.

10 142 -- this is for alternate two. 142, Regina Shaw.

11 (WHEREUPON, a white female came forward.)

12 THE CLERK: What say the State?

13 MR. JEPERTINGER: We'd excuse this juror for the purposes
14 of this trial only.

15 THE CLERK: You've been excused for this trial only,
16 ma'am. You may return to your seat.

17 71, Shelia Harley.

18 (WHEREUPON, a black female came forward.)

19 THE CLERK: Does the State wish to challenge this juror
20 for cause?

21 MR. JEPERTINGER: No. Please present.

22 THE CLERK: What say defendant?

23 MR. WILSON: Seat the juror.

24 THE CLERK: Please have a seat in the jury box.

25 THE COURT: Any objection with regard to the jury

1 selection process from the State?

2 MR. JEPERTINGER: Not from the State, Your Honor.

3 THE COURT: Any from defense?

4 MR. WILSON: Your Honor, yes, that there is an issue I
5 would like to take up with the Court.

6 THE COURT: All right. I'm going to ask that the juror
7 -- the jury be taken to the jury room, if we could.

8 THE BAILIFF: Okay.

9 THE COURT: And do not -- y'all don't know anything about
10 the case, but you know the subject matter. But there'll be no
11 discussion about the case whatsoever. Y'all can talk about
12 the weather, you can talk about the storm that's coming
13 tomorrow. You can talk about anything you want to talk about,
14 but you can't talk about the case, the witnesses or the
15 lawyers or the defendant. You can discuss anything you would
16 like. I'm going to ask that you return to the jury room.

17 (WHEREUPON, the jury exited the courtroom at 12:09 p.m.)

18 THE COURT: All right. The balance of the jury pool,
19 we're going to ask that y'all retire to the hallway once
20 again. Do not leave. Stay out there, refresh ourselves, and
21 we will call you back in momentarily. Thank you.

22 (WHEREUPON, there was a pause in the proceedings as the
23 jury pool exited the courtroom at 12:10 p.m., after which
24 the proceedings resumed as follows.)

25 THE COURT: All right. Mr. Wilson, you're recognized.

1 MR. WILSON: Yes, sir. Thank you, Your Honor.

2 Your Honor, my concern is that in -- even though the
3 State, as I understand it, only used four of their five
4 strikes, the -- three of them were all used to -- to remove or
5 strike African-Americans from the jury panel. And I'm not
6 sure -- I think that -- that as far as I know, I don't
7 remember them striking any white people from the jury.

8 THE COURT: All right.

9 MR. WILSON: And I'm just concerned about whether or not
10 that complies with *Batson* when -- when -- when all of the
11 strikes that they exercised were used to remove African-
12 Americans.

13 THE COURT: The fact that you have raised the issue of
14 race, then it's incumbent upon the State to give a racially
15 neutral reason for -- for the strike. And I don't think
16 there's anything in *Batson* that says that you can't use all of
17 your strikes on whites or black people. The question is, what
18 -- what was his motivation?

19 MR. WILSON: That's correct.

20 THE COURT: But the first thing that I think is important
21 to set out for the record is that the -- ultimately, the jury
22 that was selected, it's either five or six African-Americans.

23 Is that correct, Mr. Jepertinger?

24 MR. JEPERTINGER: It is.

25 THE COURT: Why don't we count them up? Let's put that

1 on the record.

2 MR. JEPERTINGER: One, two, three, four, five --

3 THE COURT: It's either five or six.

4 MR. JEPERTINGER: Six on the main panel and two
5 alternates are African-American.

6 THE COURT: Okay. All right. I think that's important
7 for the record to reflect that there were six on the main jury
8 and two alternates who were African-American, and the State
9 had strikes left, but it's incumbent upon the solicitor to
10 give a racially neutral reason as to why they struck each one.

11 Let's see. The first strike by the State -- was that
12 Wendy Wilson perhaps?

13 MR. JEPERTINGER: 171. Yes, sir.

14 THE COURT: Right.

15 MR. JEPERTINGER: The reason I struck her, she said she
16 takes care of her grandkids. I just think that her mind might
17 be on the grandchildren while she's serving on jury duty.

18 THE COURT: All right.

19 MR. JEPERTINGER: So that -- that was the reason I struck
20 her.

21 THE COURT: All right. And the second one -- and would
22 you like to be heard on that, Mr. Wilson?

23 MR. WILSON: No, sir.

24 THE COURT: All right. The second one was maybe --

25 MR. JEPERTINGER: A Hispanic female.

1 THE COURT: Yes.

2 MR. JEPERTINGER: I struck her for the very reason when
3 she said, "What says the State?" and she said South Carolina.
4 I just thought that was a very stupid response to me.

5 THE COURT: Okay.

6 MR. JEPERTINGER: That's why I struck her.

7 THE COURT: All right. What do you have to say about
8 that, Mr. Wilson?

9 MR. WILSON: I have nothing.

10 THE COURT: But she did -- she did have sort of an
11 unusual -- unusual response, and she had seen other jurors be
12 seated. So I think that perhaps is a racially neutral reason.

13 Let's see. The next one was --

14 MR. JEPERTINGER: Mr. Barr.

15 THE COURT: -- Philip Barr.

16 MR. JEPERTINGER: Yes. We had him arrested for two times
17 for CDV, which was not guilty and one nolle prossed. So based
18 that even though there were no convictions --

19 THE COURT: Yes, sir.

20 MR. JEPERTINGER: -- I struck him because of that.

21 THE COURT: Did it have anything to do with race?

22 MR. JEPERTINGER: Nothing.

23 THE COURT: Okay. Mr. Wilson?

24 MR. WILSON: I have nothing further, Your Honor.

25 THE COURT: All right.

1 MR. JEPERTINGER: Finally, the last one is Ms. Bazen.
2 During jury selection, she did come up raising a concern about
3 raising a grandson.

4 THE COURT: Right.

5 MR. JEPERTINGER: So that's why I struck her, and she was
6 -- she was a white female.

7 THE COURT: All right. Okay.

8 MR. WILSON: I have nothing further on that regard.

9 THE COURT: Okay. Anything you would like to add to any
10 of that, Mr. Jepertinger?

11 MR. JEPERTINGER: No, I think those are my reasons.

12 THE COURT: I think they -- they -- it's clear that his
13 use of peremptory strikes were not racially motivated, and the
14 composition of the jury seems to indicate that and, therefore,
15 I'm not sure if that was really a motion or an inquiry, but
16 would you like to say anything further, Mr. Wilson?

17 MR. WILSON: No, sir.

18 THE COURT: All right. Well, I do indeed find that the
19 jury selection is not violative of Batson.

20 And before we bring the jury back in, have we made a
21 determination as to whether or not Kimberly Barr and Kevin
22 Hope were able to get together on a jury trial?

23 MR. JEPERTINGER: And what is the verdict?

24 THE CLERK: Judge, I just went to ask, and he said they
25 continued that case.

1 THE COURT: Okay.

2 THE CLERK: So I asked about the jury, and probably the
3 best thing right now would be for them to call --

4 THE COURT: Just call back.

5 THE CLERK: -- after six tomorrow.

6 THE COURT: Okay.

7 THE CLERK: Just to be on the safe side by tomorrow.

8 THE COURT: All right. Very good. Well --

9 THE CLERK: They don't think they have anything, but just
10 to be safe.

11 THE COURT: All right. Well, let's bring the jury -- the
12 jury in.

13 THE CLERK: As long as they -- we need to give them the
14 slip with numbers --

15 THE COURT: Okay.

16 THE CLERK: -- when they walk out, but --

17 THE COURT: Okay.

18 (WHEREUPON, the jury pool entered the courtroom at 12:16
19 p.m., after which the proceedings resumed as follows.)

20 THE COURT: Ladies and gentlemen of the jury panel, we're
21 going to excuse you until -- we're going to ask that you call
22 back after 6 o'clock tomorrow. There will -- we will not need
23 your services tomorrow morning, but before you lay your head
24 down on the pillow tomorrow night, I want you to call the
25 Clerk's Office -- you'll be provided that number -- and follow

1 the instructions given to you on that number.

2 It's very important for y'all to call that number
3 tomorrow after six. Your jury service has not been discharged
4 yet, so be sure to call tomorrow evening and -- and follow the
5 instructions. Let's not everybody call right at six or it'll
6 be busy, but before you lay your head down on the pillow,
7 let's call, and the message won't go away. It'll be the same
8 thing, but call and be here and be here on time if required to
9 do so. Thank you very much.

10 (WHEREUPON, the jury pool exited the courtroom at 12:18
11 p.m.)

12 THE COURT: All right. I think we're going to come back
13 at 2:30 to resolve the pretrial motions, but I think since
14 we're already into the issue with regard to the indictment,
15 let's resolve that. Then we'll come back for the balance of
16 the motions. How long do y'all anticipate these motions
17 taking?

18 MR. WILSON: It's going to be a minute.

19 MR. JEPERTINGER: They are -- in terms of the *Jackson v.*
20 *Denno* that I know, because although Mr. Wilson didn't file a
21 motion for it, we'll need to have a *Jackson v. Denno* hearing.
22 There was some video in regards to that. That would probably
23 be about 15 minutes would be my guess in terms of the *Jackson*
24 *v. Denno* issue.

25 In terms of -- he wants to move to suppress the search

1 warrant and everything being fruit of the poisonous tree.
2 That may take a little longer. You know, obviously this is
3 case driven.

4 THE COURT: Right.

5 MR. JEPERTINGER: The type of motions that factor in.

6 THE COURT: All right.

7 MR. WILSON: Your Honor, I have copies of the motions
8 that I have. And if I could pass them up --

9 THE COURT: Yes.

10 MR. WILSON: -- to the Court? I provided a copy to the
11 State.

12 MR. JEPERTINGER: He did.

13 MR. WILSON: Yes, sir.

14 THE COURT: Okay. Well, before we leave for lunch, let's
15 address the issue with regard to the indictment.

16 MR. WILSON: Yes, sir.

17 THE COURT: Mr. Wilson?

18 MR. WILSON: Yes, sir.

19 THE COURT: Go ahead.

20 MR. WILSON: Thank you, Judge.

21 Your Honor, as I said, I was appointed to this case in I
22 think mid-October of last year and, unfortunately, at the time
23 I was also trying a couple of cases, one in Horry County and I
24 think one in Georgetown, if I'm not mistaken. But anyway, I
25 know I had two trials right during that immediate time, and so

1 it took me some time to get to go meet with the defendant and
2 talk to him, and then I think we had subsequent conversation
3 by phone either once or twice.

4 But be that as it may, when I was going through my file
5 and looking through it, I realized that there was an
6 indictment which had been -- the original indictment was
7 issued in '22, in 2022. And when I went back and I was
8 looking through the file, then I realized that there was
9 another or subsequent indictment, which was issued in July of
10 '23 by the grand jury here in Florence County. The first
11 indictment was for 200 but not less than -- but more than 200
12 but less than 400 grams.

13 The new indictment, which came out in July, says 400
14 grams or more, which changed the penalty for what he is
15 facing, unfortunately, and because as far as I understand, the
16 only drug record that he has, there was a possession of
17 marijuana or something some while back, but other than that,
18 there is no drug record that I'm aware of anyway based on what
19 I have received.

20 My -- my concern is, is that because I didn't know that,
21 I certainly haven't had the opportunity to discuss with him in
22 any significant detail, and I certainly would have if I had
23 known that he had 200 grams or more and that he was then going
24 to get indicted or re-indicted for the 400 grams, I -- if it
25 were me and if I were his lawyer at that point, I would have

1 said, hey, look, you might want to take this offer, and at
2 least giving him the opportunity to make that decision before
3 that new indictment came down. Of course, I didn't know that.

4 The other point that I make is, is that, as far as I
5 know, that indictment has never been served on him. Now, the
6 way I've always seen it done -- and I'm not saying that this
7 is an exclusive way, but normally a defendant is brought --
8 when there is a direct indictment, that defendant is brought
9 in front of the Court, and that indictment is served upon him
10 in the presence of the Court. That's how I've always seen it
11 done. I'm not saying that that's an exclusive way, but I know
12 that that's certainly a correct way to do it. As far as I
13 know, that was not done in this particular case.

14 And as far as prejudice to the defendant, the problem is
15 it deprives him because, obviously, if he is facing 400 grams
16 or more and he knows that he had the opportunity to take 200
17 grams, you know, and if he's thinking about pleading, that
18 would certainly be something that he would want to consider in
19 -- in making any kind of a plea bargain, and -- and that
20 opportunity is no longer available to him based on the new
21 indictment.

22 THE COURT: All right.

23 MR. WILSON: Because it has a -- a substantial -- was it
24 25 to 30 -- 30 -- minimum mandatory 30.

25 MR. JEPERTINGER: The -- the difference between the two,

1 Your Honor, the 400 or more carries 25 to 30. The 200 to 400
2 carries a mandatory minimum of 25. I did tell Mr. Wilson that
3 the State would accept 25 years from this defendant, which
4 would be the mandatory minimum under 200 or the mandatory
5 minimum under 400 or more.

6 THE COURT: Okay. So that's still -- as a matter of
7 fact, that's still -- that offer is still available?

8 MR. JEPERTINGER: It is available.

9 THE COURT: Okay. Well, what do you think about that
10 alleviating any prejudice?

11 MR. WILSON: Well, I mean, I would be happy to talk with
12 him about it. I mean, obviously the decision is his and --
13 but for the record, so that -- so that I don't waive any
14 issue, you know, my position is still the same because we're
15 at trial now, and -- and I will certainly during the lunch
16 break sit with him and have a discussion about that as to
17 whether or not he's interested in doing that and whether he
18 wants to do that.

19 THE COURT: We'll also have the --

20 MR. WILSON: But I do question -- I do seriously question
21 the service of -- of the new indictment. I do. I just don't
22 -- I've never seen it done that way. When a -- when a direct
23 indictment comes out, it's like a warrant. It has to be
24 served on the defendant. And -- and I know when we say, well,
25 yeah, but he knows that he's charged with drug charges, this

1 is true, and I'm not disputing that part. But what I'm saying
2 is the process requires that when -- when -- when a direct
3 indictment comes from the grand jury, that that indictment has
4 to be served on the defendant

5 And -- and for due process purposes, it's my
6 understanding that that hasn't happened. So -- so from a due
7 process point of view, I would submit to the Court that he has
8 not been properly served with the 400 grams or more
9 indictment, and so that's the issue that I'm raising from a
10 procedural perspective. But anyway, that's just my position
11 on -- on the indictment.

12 THE COURT: All right. Mr. Jepertinger, what do you have
13 to say about that?

14 MR. JEPERTINGER: When Mr. White had this case for my
15 office, back on October 3rd, 2023, the copy of the
16 indictments, which were also inclusive of this 2023-1976, the
17 superseding indictment, it was provided to or sent to Mr.
18 Wilson, Sr. I cannot speak as to whether he was served in
19 court with a new warrant, but I don't think it's a necessity
20 under *State v. Gentry*, Your Honor.

21 The indictment serves as a notice document. Anything
22 over 10 grams is trafficking in methamphetamine, even though
23 it changes the -- the penalty. I understand that based on
24 weight, the -- the evidence would conform with this
25 indictment. That he was, in fact, indeed trafficking more

1 than 400 grams.

2 I think Mr. Wilson was also aware of it, Judge, because
3 on his motions to quash, I guess, the search warrant, he's
4 included this 1976 indictment in all his motions provided to
5 you. So he was aware back in October. And Mr. -- Mr. Wilson
6 is one of the finest attorneys in the state of South Carolina.
7 I know he's busy, Judge, but he was provided with the
8 indictment.

9 THE COURT: All right.

10 MR. JEPERTINGER: And I think he would have had a chance
11 to discuss that with Mr. Johnson.

12 THE COURT: All right. Might counsel approach the bench
13 for a moment?

14 (WHEREUPON, a bench conference was held off the record,
15 after which the proceedings resumed as follows.)

16 THE COURT: I do indeed find that the defendant was given
17 notice of -- of the charge, and although it was not formally
18 served on him, I think he understands what the charges are,
19 and really the change in the indictment really only affects
20 the -- the amount of drugs and the sentence to a small extent.
21 And by virtue of that, I'm -- I'm going to allow the State to
22 proceed on the subsequent indictment.

23 I do note that it was actually Mr. Wilson who brought up
24 the fact that there was a second superseding indictment. He
25 was aware of it, I'm sure, and he had indicated earlier that

1 he had discussed it with his lawyer.

2 And as a practical matter, it's not going to affect the
3 sentence whatsoever. Although the potential penalty is more,
4 it's not going to affect the sentence whatsoever. So I indeed
5 find that there is no prejudice to the defendant. It's --
6 there's a minimum mandatory 25 regardless.

7 So that's what -- that's what we -- that's how we're
8 going to proceed and how I'm ruling, but you're protected on
9 the record in all respects.

10 MR. WILSON: Thank you, Your Honor.

11 THE COURT: Any -- we're going to recess until 2:30, and
12 anything from the State before we recess?

13 MR. JEPERTINGER: No, sir. Thank you.

14 THE COURT: Anything from the defense? Yes?

15 MR. WILSON: Yes, Your Honor, just one last thing, and
16 I'm not sure that it's relevant to any issue, but he wanted
17 the Court to be aware that the feds have indicted him on
18 similar charges, in fact the same charges that he has here.
19 I've certainly explained that they are two separate
20 jurisdictions, but that they can -- they can do that.

21 THE COURT: As a matter of fact, they can. In 1989, I
22 tried a case in Williamsburg County very similar to this, but
23 it had to do with crack cocaine. They found him not guilty in
24 Williamsburg County, and they indicted him in federal court
25 and -- and on that charge and other charges and used the drugs

1 that he was convicted on to enhance his penalty, although he
2 was found not guilty of it. And the difference is
3 preponderance of the evidence versus proof beyond a reasonable
4 doubt. I learned that after I came back from -- from
5 Richmond. So it was an expensive lesson.

6 MR. WILSON: Right.

7 THE COURT: But they can do that. It doesn't seem right,
8 but they can do it.

9 MR. WILSON: They can do it. There's -- I have no doubt
10 about that, and I've explained that to him.

11 THE COURT: Right. All right. Anything further?

12 MR. JEPERTINGER: I think we're good.

13 THE COURT: All right.

14 MR. JEPERTINGER: We'll do the motions at 2:30.

15 THE COURT: All right. Let's --let's have a seat, and
16 we'll bring the jury out. I'm going to go ahead and swear
17 them in, actually.

18 (WHEREUPON, the jury entered the courtroom at 12:35 p.m.)

19 THE COURT: All right. Ms. Francheska Russell, I'm going
20 to ask that you serve as the forelady of this jury, and I'm
21 going to ask that you change chairs with this young lady right
22 here.

23 THE FORELADY: Okay.

24 THE COURT: Yes. Let's let her have it. There you go.

25 All right. Ms. Russell, you, like everyone else when it

1 comes time to deliberate, you're going to have a vote just
2 like everybody else, but you're going to be given additional
3 responsibilities, one of which is that when I give you
4 instructions to begin deliberations, you're going to be in
5 charge of presiding over the deliberation process.
6 Essentially, that means that you're to ensure that everybody's
7 voice is heard.

8 In addition to that, throughout the trial of this case,
9 there might be questions or concerns that develop amongst the
10 jurors. And if that be the case, we're going to ask that they
11 communicate that concern to you, you reduce it to writing, and
12 give it to the bailiff. If it's something I can help you
13 with, I'll be happy to do that.

14 In addition to that, this is perhaps one of the more
15 important roles as the foreman of the jury is that when you're
16 in the jury room, there will be times throughout the trial of
17 this case you'll be in the jury room when you come in, before
18 we start in the morning, when we take breaks, take up legal
19 matters. There are going to be periods of time where you're
20 in the jury room waiting on us, and it's going to be your
21 responsibility to ensure that there be no discussion about
22 this case because in order for you to begin deliberations, you
23 have to hear all of the evidence, and it's improper to do
24 that. You can't talk about the witnesses. You can't talk
25 about the testimony. You can't talk about the lawyers. Talk

1 about anything else.

2 And I'm going to put you in charge of enforcing that
3 rule. Will you do that?

4 THE FORELADY: Yes.

5 THE COURT: All right. Very good. We're going to recess
6 until 9:30 on Wednesday. We're not going to hold court
7 tomorrow for a number of different reasons, one of which is we
8 might be prohibited from doing that because of the storm.
9 Apparently, we're going to have some wind tomorrow.

10 But nonetheless, regardless of whether we have a storm or
11 whether we're closed, this case is not going to resume until
12 9:30 Wednesday morning, not tomorrow. Y'all don't have to do
13 anything, but y'all need to report Wednesday morning at 9:30.
14 Wednesday morning, 9:30. Does everybody understand that?

15 THE JURORS: Yes, sir.

16 THE COURT: Be here. Let's be here and be here on time.
17 Everybody's going to be here ready to roll at 9:30. Let's be
18 courteous of other people and their -- and their time and be
19 here so we can start on time.

20 I -- yes?

21 A JUROR: Outside the court here? Back there? Where?

22 THE COURT: Anywhere.

23 A JUROR: In this courtroom?

24 THE COURT: Anywhere, and particularly --

25 A JUROR: Anywhere in this building?

1 THE COURT: Pardon?

2 A JUROR: Anywhere in this building Wednesday at 9:30 or
3 we meet outside this courtroom door?

4 THE COURT: Where do y'all get the jury to come to meet?

5 THE BAILIFF: They'll come up to the third floor down at
6 the end down there where the elevator -- they get off the
7 elevator.

8 THE COURT: And you'll show them?

9 THE BAILIFF: And I'll be there. One of us will be down
10 there to -- to get them.

11 THE COURT: Okay.

12 THE CLERK: They'll recognize them, Judge, because of
13 their --

14 THE BAILIFF: Yeah.

15 THE CLERK: -- tags. The bailiffs will find them.

16 THE COURT: Yes.

17 THE BAILIFF: Yes. Wear your tags.

18 THE COURT: Okay.

19 THE CLERK: We'll find you.

20 THE COURT: All right. Well, be here. Be here and be
21 here on time.

22 Y'all don't know anything about the case, but I bet you
23 when you go home, your significant other or spouse is going to
24 say tell me what's going on with your jury service. This is
25 one time where you don't have to answer them. As a matter of

1 fact, I'm going to order that you not do it because it might
2 be they know something about this case. It might be that they
3 have some opinion about this type of litigation. It would be
4 improper to do that.

5 Do not do any independent investigation. I told you
6 where these allegations arose. Don't go out and do any
7 independent -- independent investigation to look at the site
8 of where this might or might not have taken place. Don't do
9 that.

10 There's not anything that you can't look up on the Google
11 nowadays. You can look up events, you can look up people, you
12 can look up personalities. Don't do that because you need to
13 base your decision on what transpires here in this courtroom.
14 Do not do that. I'm going to order that you not do that.

15 There's also -- I hear tell there's a thing called social
16 media, Facebook, Tweeter, and LinkedIn, and Snapchat, and
17 Instagram. Those are the only ones I've heard of. But that
18 has no place in our judicial system, and I'm going to order
19 that you not put anything about your service on social media.
20 After the verdict -- rendering the verdict, you can put on
21 Facebook, tweet or do whatever you want to do, but you can't
22 do that until then. Does everybody understand that?

23 THE JURORS: Yes, sir.

24 THE COURT: All right. And I'm going to ask that y'all
25 -- the bailiff will take you out, and she might show y'all

1 where to meet in the morning. All right. Well, good.

2 Everyone remain seated as the jury exits the courtroom.

3 Yeah. We'll -- let's -- excuse me just one minute.

4 We're going to go ahead and ask that you stand and raise your
5 right hand as the clerk administers the oath.

6 THE CLERK: Please stand.

7 THE COURT: Stand and raise your right hand.

8 THE CLERK: You shall well and truly try and a true
9 deliverance make between the --

10 THE COURT: Hang on. Hang on just one second.

11 Might counsel approach the bench?

12 (WHEREUPON, a bench conference was held as follows.)

13 MR. JEPERTINGER: We've got his motion to suppress the
14 search warrant and all that. I mean, if they -- if you rule
15 in his favor, I mean, we can't go forward. So do you want to
16 swear the jury now or wait?

17 THE COURT: Well, I've always done that. What would be
18 the logic behind not doing that?

19 MR. JEPERTINGER: I'm not sure.

20 THE COURT: I don't -- I don't see any reason why we
21 should not.

22 MR. JEPERTINGER: Okay.

23 THE COURT: Let's do that.

24 MR. JEPERTINGER: All right. Very good.

25 (WHEREUPON, the bench conference ended, and the

1 proceedings resumed as follows.)

2 THE COURT: Yes.

3 THE CLERK: Please raise your right hand. You shall well
4 and truly try and a true deliverance make between the State of
5 South Carolina and the defendant at bar, whom you shall have
6 in your charge, and a true verdict render according to the law
7 and evidence, so help you God.

8 Thank you. You may be seated.

9 THE COURT: All right. That concludes your service for
10 today. Let's be back Wednesday at 9:30, 9:30 sharp. Thank
11 you.

12 Everyone remain seated as the jury exits the courtroom.

13 (WHEREUPON, the jury exited the courtroom at 12:44 p.m.)

14 THE COURT: We'll reconvene at 2:30.

15 MR. JEPERTINGER: Thank you, Your Honor.

16 MR. WILSON: Thank you, Your Honor.

17 (WHEREUPON, there was a break in the proceedings from
18 12:44 p.m. until 2:33 p.m., after which the proceedings
19 resumed as follows.)

20 THE COURT: All right. Yes, sir.

21 MR. JEPERTINGER: If it please the Court, we've got two
22 issues this afternoon. I think the first one would be the
23 simplest one to do. Do that first, the *Jackson v. Denno*
24 motion. It wasn't written, but I know Mr. --

25 MR. WILSON: Wilson.

KEVIN BUXTON - DIRECT BY MR. JEPERTINGER

1 MR. JEERTINGER: -- Wilson -- thank you so much, I had a
2 senior moment -- has made it orally, Judge, and we'd like to
3 go forward on that.

4 THE COURT: All right. Good.

5 MR. JEPERTINGER: We'd call Kevin Buxton to the stand.

6 THE COURT: Mr. Buxton, if you could, please come forward
7 and place your left hand on the Bible and raise your right
8 hand as the clerk administers the oath.

9 THE CLERK: Do you swear or affirm the testimony you give
10 in this case will be the truth, the whole truth, and nothing
11 but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Please be seated.

14 THE COURT: Officer Buxton, I ask that you have a seat
15 there in the witness chair. Pull up real close to that
16 microphone. Speak loudly, clearly, and slowly in order that
17 we can hear everything that you have to say, and let's start
18 with your full name, please, sir.

19 THE WITNESS: Kevin Buxton.

20 THE COURT: Thank you, Mr. Buxton.

21 MR. JEPERTINGER: Okay.

22 KEVIN BUXTON, being first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. JEPERTINGER:

KEVIN BUXTON - DIRECT BY MR. JEPERTINGER

1 Q: Officer Buxton, you work for the Florence Police
2 Department?

3 A: Yes, sir, I do.

4 Q: And what were -- what was your role here on May the 4th,
5 2022, in regards to the defendant, Tyquan Johnson?

6 A: On that date, I was the case agent for a search warrant
7 that we executed at [REDACTED] West Marion Street, which is in the
8 city of Florence and also Florence County.

9 Q: All right. And it's my understanding -- and correct me
10 if I'm wrong -- that your emergency response team responded to
11 help in the execution of that search warrant?

12 A: That is correct.

13 Q: And that emergency response team would include several
14 officers that are armed and for officer safety; is that
15 correct?

16 A: That's correct.

17 Q: And upon arrival to [REDACTED] West Marion Street, did the
18 officers locate several individuals at that residence or
19 around that residence?

20 A: Yes, sir, we did.

21 Q: Okay. And three individuals were subsequently detained;
22 is that correct?

23 A: That's correct.

24 Q: One would be, I guess, a Harvey Allen?

25 A: That's correct.

KEVIN BUXTON - DIRECT BY MR. JEPERTINGER

- 1 Q: Another individual would have been Lorenzo Johnson?
- 2 A: That's correct.
- 3 Q: And the third individual would be who?
- 4 A: The defendant, Mr. Tyquan Johnson.
- 5 Q: Okay. And at this stage, were -- I guess, Mr. Lorenzo
- 6 Johnson and Mr. Tyquan Johnson were brought from the backyard
- 7 of the residence?
- 8 A: That's correct.
- 9 Q: Okay. And they were taken to the front porch area of the
- 10 residence?
- 11 A: Yes.
- 12 Q: Okay. And I believe you were armed with a body-worn
- 13 camera at that time? Not armed, but outfitted?
- 14 A: Wearing one.
- 15 Q: Outfitted with a body-worn camera at the time, and you've
- 16 had a chance to review what's in Court's Exhibit 1; is that
- 17 correct?
- 18 A: That's correct.
- 19 Q: Okay. And is this the video of your dealings on that
- 20 day?
- 21 A: That's the disk, correct.
- 22 Q: Okay. And inclusive of this is you around the general
- 23 area; correct?
- 24 A: Correct.
- 25 Q: Speaking to the homeowner; correct?

KEVIN BUXTON - DIRECT BY MR. JEPERTINGER

1 A: Correct.

2 Q: Reading the search warrant to the homeowner?

3 A: That's correct.

4 Q: Or resident. I guess it's a rental property, but reading
5 to the -- the lessee of the property, reading that warrant;
6 correct?

7 A: That's correct.

8 Q: And then I believe that you had an opportunity to read
9 the Miranda warnings to all three individuals on that porch,
10 Harvey Allen, Lorenzo Johnson, and the defendant in this case,
11 Tyquan Johnson?

12 A: That's correct.

13 Q: And that was all captured by video; is that correct?

14 A: That is correct.

15 MR. JEPERTINGER: At this time, Your Honor, I would ask
16 to play the portion of him reading the Miranda warnings to the
17 accused in this case.

18 THE COURT: Any objection from the defense?

19 MR. WILSON: I have no objection to it.

20 THE COURT: Very good. Thank you. You may.

21 MR. JEPERTINGER: Can you publish it?

22 MR. RICHARDSON: I am doing that right now.

23 (WHEREUPON, a portion of Court's Exhibit Number 1, Buxton
24 body-worn camera video, was played and then stopped. Not
25 transcribed herein.)

KEVIN BUXTON - DIRECT BY MR. JEPERTINGER

1 MR. JEPERTINGER: All right.

2 BY MR. JEPERTINGER:

3 Q: When you read Tyquan Johnson his rights, did he appear to

4 understand those rights?

5 A: He did.

6 Q: Did he appear to be intoxicated in any way, shape, or

7 form?

8 A: He did not.

9 Q: Did he ever exercise his rights not to speak with you?

10 A: He did not.

11 Q: All right. And afterwards, did he speak to both you and

12 Officer Spears?

13 A: Correct.

14 Q: All right. About the location of things found?

15 A: That's correct.

16 Q: And also directed you to a quantity of methamphetamine;

17 isn't that correct?

18 A: That is correct.

19 Q: All right. And that would have been captured also on, I

20 believe, Officer Spears' video; is that correct?

21 A: That's correct.

22 Q: At any time, did you make any promises to him about any

23 leniency or any of that -- any of that business in terms of

24 him not understanding his Miranda warnings?

25 A: No, I did not.

KEVIN BUXTON - DIRECT BY MR. JEPERTINGER

1 Q: All right. Did any officer in your presence do that?

2 A: No.

3 Q: Did anybody say you can't go to the bathroom or you can't
4 have water or can't have your handcuffs on or whatever way to
5 overcome his will in speaking to you?

6 A: No.

7 Q: All right.

8 MR. JEPERTINGER: Thank you. That's all I have.

9 THE COURT: All right. Mr. Wilson?

10 MR. WILSON: Yes, sir. Thank you.

11 CROSS-EXAMINATION

12 BY MR. WILSON:

13 Q: Officer, let me ask you, at the time that this happened,
14 it's daytime; right?

15 A: Yes, sir.

16 Q: And he's in the backyard and he's brought around to the
17 front of the house and put on the porch?

18 A: That's correct.

19 Q: All right. And also present in the yard or at least in
20 the front yard was -- could have been his mother and his wife
21 and there were two kids there as well; right?

22 A: That's correct.

23 Q: And did you read the Miranda warnings to those
24 individuals, as well as to him?

25 A: I did.

KEVIN BUXTON - CROSS BY MR. WILSON

1 Q: All right. And were you present at any point in time
2 when one of the officers, you or either one of the other
3 officers, said to him or to the guys on the porch that if
4 nobody admitted to these drugs that everybody was going to be
5 charged or could be charged?

6 A: We did do that, but that's something we do in all of our
7 search warrants --

8 Q: All right.

9 A: -- too, because we don't want to put innocent people in
10 jail for something that doesn't belong to them.

11 Q: All right. And -- and -- and in telling them that, it's
12 -- is it after that that he admits or says to you that
13 everything's mine?

14 A: I believe so. I don't remember exactly when that was
15 done. I believe he started to tell me about some things
16 before that.

17 Q: All right. So prior to your mirandizing him?

18 A: No.

19 Q: All right. Was there any statement from him prior to him
20 being mirandized, a statement against his interest that is,
21 saying that he was the owner of either a gun or marijuana or
22 pills or any illegal substance?

23 A: No.

24 Q: All right. So any statement that he made to you would
25 have been after he had been mirandized?

KEVIN BUXTON - CROSS BY MR. WILSON

1 A: Correct.

2 Q: And it would have been after he told you or after the
3 officer -- one of the officers told him that -- and it wasn't
4 just to him. I think it was told to all three of the
5 defendants who were sitting on the porch that if somebody
6 didn't admit to these things, then everybody who was there was
7 going to be arrested or could be arrested?

8 A: They could be, correct.

9 Q: Right. All right. And now, did you know that the lady
10 who -- Ms. Edna, you spoke to her; right?

11 A: I did.

12 Q: And did you know that that was his mother?

13 A: I didn't know that at the time. When I was originally
14 speaking with her, I did not.

15 Q: Okay. Did you know that the young lady who was sitting
16 on the car was his wife?

17 A: I didn't know that at the time. I figured there was some
18 connection with the last name.

19 Q: Okay. And in fact, she told you that they had just
20 gotten married or had recently gotten married, I think, in her
21 statement to you; right?

22 A: Okay.

23 Q: All right. And so it's after these events that -- that
24 he then starts to tell you, okay, well, everything's mine and
25 -- and -- and I'll just admit to everything, and he tells you

KEVIN BUXTON - CROSS BY MR. WILSON

1 where all these things are, a gun, some pills, and some
2 marijuana?

3 A: Right.

4 Q: Okay. Now, do you consider that telling -- do you
5 consider that, as an officer who's there, that that was some
6 kind of intimidation to say to him that these other people,
7 his mother, his girlfriend or wife might very well be arrested
8 if -- if somebody doesn't admit to this?

9 A: None whatsoever.

10 Q: Okay. All right. And -- but there's no question that
11 the admissions came after that?

12 A: Yes.

13 Q: All right.

14 MR. WILSON: I don't have any other questions. Thank
15 you.

16 THE COURT: Any redirect?

17 MR. JEPERTINGER: No, sir.

18 THE COURT: All right.

19 MR. JEPERTINGER: We'd call Kendrick Spears.

20 THE COURT: You may step down.

21 MR. JEPERTINGER: Kendrick Spears to the office.

22 THE COURT: Yes, sir. Please come forward. I'm going to
23 ask, if you could, to place your left hand on the Bible, raise
24 your right hand as the clerk administers the oath.

25 THE CLERK: Do you swear or affirm that the testimony you

KENDRICK SPEARS - DIRECT BY MR. JEPERTINGER

1 give in this case will be the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please be seated.

5 THE COURT: Pull up real close to that microphone and
6 speak loudly, clearly, and slowly, in order that we can hear
7 everything that you have to say. Let's start with your full
8 name, please, sir.

9 THE WITNESS: Kendrick Spears.

10 THE COURT: Thank you.

11 KENDRICK SPEARS, being first
12 duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. JEPERTINGER:

15 Q: Okay. Officer Spears, who do you work for?

16 A: City of Florence Police Department.

17 Q: What are your responsibilities there?

18 A: Overseeing the daily operations of the Special
19 Investigations Unit.

20 Q: So would I be correct in calling you the head narcotics
21 officer for the city?

22 A: That's correct.

23 Q: Okay. And in this case, I guess, Officer Buxton would
24 work under you; is that correct?

25 A: That's correct.

KENDRICK SPEARS - DIRECT BY MR. JEPERTINGER

1 Q: All right. Even though he's a case agent on this case,
2 you're his supervisor, for lack of a better term?

3 A: Yes.

4 Q: Okay. And you were present at the execution of the
5 search warrant on 5/4/2022 at [REDACTED] West Marion Street?

6 A: That's correct.

7 Q: Okay. Were you outfitted with a body-worn camera as well
8 that day?

9 A: Yes, I was.

10 Q: All right. And after the three individuals were placed
11 on the porch, did you have an opportunity to speak with this
12 defendant, Tyquan Johnson?

13 A: Yes, I did.

14 Q: And was this after Officer Buxton had given him his
15 Miranda warnings?

16 A: That's correct.

17 Q: All right. And your video that is on Court Exhibit 2 --
18 and you've had a chance to see this?

19 A: Yes, I have.

20 Q: All right. It would have captured that conversation with
21 him?

22 A: Correct.

23 Q: All right. Among other things; is that correct?

24 A: Yes.

25 Q: All right.

KENDRICK SPEARS - DIRECT BY MR. JEPERTINGER

1 MR. JEPERTINGER: At this time, I would ask to play the
2 portion of his conversation with Tyquan Johnson.

3 THE COURT: Any objection, Mr. Wilson?

4 MR. WILSON: No, sir.

5 THE COURT: All right. You may proceed.

6 (WHEREUPON, Court's Exhibit Number 2, Spears body-worn
7 camera footage, was played and then stopped. Not
8 transcribed herein.)

9 MR. JEPERTINGER: All right.

10 BY MR. JEPERTINGER:

11 Q: And obviously, your video continued on with other
12 responsibilities at that time; correct?

13 A: Yes.

14 Q: All right. And as a result of his directing you to the
15 trash can, I believe Officer Buxton found this quantity of
16 methamphetamine for which he's on trial in that trash can; is
17 that correct?

18 A: That's correct.

19 Q: All right.

20 MR. JEPERTINGER: Thank you so much.

21 THE WITNESS: All right.

22 MR. JEPERTINGER: Please answer any questions that Mr.
23 Wilson has.

24 THE COURT: Mr. Wilson.

25 MR. WILSON: Thank you, Your Honor.

KENDRICK SPEARS - CROSS BY MR. WILSONCROSS-EXAMINATION

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BY MR. WILSON:

Q: Officer Spears, let me ask you, when you says to him everybody's going to go for it, you meant -- and that would mean his mother and his wife as well; right?

A: Yes, those.

Q: If nobody admitted to what was found?

A: That was on the premises, correct.

Q: All right. And -- and was it your understanding that he understood that? That -- that if -- if he didn't admit or if somebody didn't admit to those drugs, that that would mean that everybody there could be arrested and charged with those drugs, even though they may or may not have had anything else to do with it?

A: That's correct.

Q: If they were in that house?

A: Yes.

Q: All right. And let me ask you, were you present when Officer Buxton read him his Miranda?

A: Yes, I was on scene.

Q: All right.

A: Correct.

Q: No. My question was, were you present when he read him his Miranda? That is, were you in his immediate presence when the Miranda warnings were read to the defendant?

KENDRICK SPEARS - CROSS BY MR. WILSON

1 A: Yes. I was in proximity, but not directly on the porch.

2 Q: Okay. Did you overhear him read the content of the

3 Miranda warnings to the defendant?

4 A: I could visually see what he was doing. So I knew that's

5 the process that he was going through --

6 Q: Okay.

7 A: -- with reading of the rights.

8 Q: Did you at any point in time ask the defendant if he had

9 been mirandized and if he understood his Miranda warnings?

10 A: No, I did not.

11 Q: All right. All right. And -- but you then questioned

12 him about the drugs and where they were located?

13 A: Yes. I verified through Cpl. Buxton that he was read his

14 Miranda rights before going through the process of

15 questioning.

16 Q: Okay. So you -- you did have a conversation with Officer

17 Buxton, who you were a supervisor for?

18 A: Yes. Yes.

19 Q: Before you did the questioning?

20 A: Yes.

21 Q: All right.

22 MR. WILSON: I don't think I have any other questions,

23 Your Honor. Thank you.

24 THE COURT: Any redirect?

25 MR. JEPERTINGER: No, sir.

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

2 MR. JEPERTINGER: Your Honor, that's all we have in terms
3 of the *Jackson v. Denno* issue.

4 THE COURT: All right.

5 MR. JEPERTINGER: I -- for sake of argument, Judge, I
6 think we have the case of *State against Hoyle*, which is the
7 classic case, and it was a 2012 case of what's required for a
8 valid Miranda.

9 And the four things I think were all listed on that
10 video. That he had the right to remain silent. Anything he
11 said could be used against him in a court of law. He had the
12 right to an attorney, and if he could not afford an attorney,
13 one would be appointed for him prior to questioning. I think
14 those rights were read to him verbatim.

15 THE COURT: All right. Mr. Wilson?

16 MR. WILSON: Your Honor, I don't really question the fact
17 that the officer read him his Miranda rights or even whether
18 he understood those rights. The real issue for me is, is that
19 -- was he -- was this some kind of coercion or duress?

20 When -- when your wife and your mother are going to be
21 arrested and you -- you know, which was made very clear to him
22 that if -- if somebody didn't admit to those drugs, then his
23 mother and his wife would or could have been arrested for
24 those drugs. I think that places some kind of duress to keep
25 them from -- keep them out of harm's way.

1 So that's my real issue with this is whether or not he
2 did these things under duress or under some kind of compulsion
3 to prevent his mother and his wife from being -- from being --
4 being charged. And so I think that even if Miranda was
5 appropriately given, then I still think that that issue still
6 remains as to whether or not any statements he made were under
7 duress or under some kind of compulsion in order to avoid his
8 -- his mother and his wife from being arrested.

9 THE COURT: All right.

10 MR. WILSON: So -- so that that's my issue, Your Honor.

11 THE COURT: All right. I specifically find that he was
12 indeed in custody and it did trigger the Miranda rights, but
13 you can see on the video and it speaks for itself that the
14 Miranda rights were indeed given.

15 And the question really is whether or not the will of the
16 defendant was overborne by the activity of the police
17 officers. And it's kind of -- I think whoever makes this
18 decision, myself and some appellate entity, would have to look
19 at the video itself, and it's clear that there was no abusive
20 conduct and, essentially, he was -- he was stating what the
21 law is. It's constructive possession. If you're -- if you're
22 there and in the presence of the drugs, then you can charge
23 them with that. I think he was just stating what the law was.

24 As a matter of fact, I think he indicated he was trying
25 to be fair, that he wasn't going to lock everybody up if

1 whoever it belonged to would own up to it. I don't think
2 that's coercive. I think it speaks for itself. The facts are
3 on the record with regard to the video.

4 I specifically find that there was no coercion. They
5 didn't threaten him. They did not withhold any food. They
6 didn't tell him they were going to punish him in a particular
7 way if he didn't own up to it, but the video speaks for
8 itself. But I do indeed find that the statement was a
9 voluntary one and it was given pursuant to Miranda, and -- but
10 you're protected in all respects with regard to your
11 objection.

12 MR. WILSON: Thank you, Your Honor.

13 MR. JEPERTINGER: The next matter, Judge, is the -- Mr.
14 Wilson -- and I remember his name now. He had a motion to
15 quash the search warrant and then to produce and reveal
16 confidential -- information about the confidential informant.

17 Your Honor, I'm going to mark -- I've got a copy of the
18 search warrant that it's been provided to the defense
19 attorney.

20 Correct?

21 MR. WILSON: Uh-huh.

22 MR. JEPERTINGER: I'm just going to make this a Court's
23 exhibit so you can look at it as well, Judge.

24 THE COURT: Okay.

25 MR. JEPERTINGER: Thank you.

1 (WHEREUPON, Court's Exhibit Number 3, search warrant, was
2 marked and admitted.)

3 MR. JEPERTINGER: Your Honor, the -- in looking at the
4 motion to quash the search -- search warrant, the first point
5 was that the defendant's home was searched pursuant to an
6 invalid search warrant. The category --

7 THE COURT: I'm sorry. Speak up again.

8 MR. JEPERTINGER: He said that the defendant's home was
9 searched pursuant to an invalid search warrant. That's a
10 general statement. I would say that it was a valid search
11 warrant.

12 The next thing it says that the search warrant affidavit
13 failed to name the informant. I don't think it is required
14 for an informant who is a mere tipster to be named. I mean,
15 that's kind of black letter law here in the state of South
16 Carolina, whether it's *State v. Bultron* or *State v. Jenkins*.

17 When the person is a mere tipster -- and based on the
18 affidavit of the search warrant, you had an individual that
19 saw a quantity of marijuana in there, which is illegal in the
20 state of South Carolina, within the last 72 hours had seen a
21 quantity of marijuana in that house, and the reliability of
22 the -- of that individual has led to the arrest of other
23 individuals in working with the Florence Police Department.

24 I've got a case here. It's called *State v. Dill*. It was
25 decided on December 13th, 2017, and on the head notes, it says

1 -- under the portion that says confidential informants,
2 identity of informants, is an informant's identity need not be
3 disclosed where he possesses only a peripheral knowledge of
4 the crime or is a mere tipster who supplies a lead to law
5 enforcement.

6 THE COURT: And it might be different if he participated
7 in a buy or something like that.

8 MR. JEPERTINGER: That -- that is correct. And the
9 affidavit in this case, Your Honor, merely states that the
10 individual, whoever it is, observed a quantity of marijuana on
11 the premises, and marijuana being illegal, within the past 72
12 hours.

13 Then in terms of reliability, which is another key issue
14 in these search warrant cases, this informant has proven to be
15 reliable in the recent past by providing information to agents
16 which resulted in the seizure of drugs and arrest of drug
17 dealers.

18 THE COURT: All right.

19 MR. JEPERTINGER: So I think that would go in terms of --
20 I don't think we have to have more to establish the
21 credibility of the informant. I think that was included in
22 the affidavit. I do not think that the magistrate, in finding
23 probable cause to issue the warrant, has to be aware of any
24 criminal history of alleged confidential informant. I don't
25 think the -- the affidavit has to show whether the

1 confidential informant has pending criminal charges or has
2 some known bias or prejudice against this defendant. I think
3 the magistrate can look at the four corners of the document in
4 this case provided, and I think the language that's been
5 provided in this warrant goes along with prior case law.

6 I have a case here called *State v. Freddie Williams*.
7 It's a 1989 case. And in that particular case, it says in the
8 affidavit underlying the warrant here, the investigating
9 officer stated he had been told by an informant that
10 appellant's residence contained illegal drugs, that the
11 informant had seen the drugs in appellant's residence within
12 72 hours of the swearing of the affidavit, that the informant
13 had provided the Sheriff's Department with information in the
14 past, and that this information had proven true and led to
15 arrests and convictions.

16 And then they said we have previously ruled that a
17 similarly worded affidavit established probable cause under a
18 pre-*Illinois v. Gates* analysis. We hold that the totality of
19 the circumstances here provided the issuing magistrate a
20 substantial basis upon which to make the probable cause
21 determination.

22 THE COURT: Do you intend on calling this tipster?

23 MR. JEPERTINGER: No.

24 THE COURT: Okay.

25 MR. JEPERTINGER: Not at all.

1 THE COURT: Okay. Obviously, if you were, you would be
2 entitled -- they would be entitled to get his record and any
3 deals that might have been offered and -- and the particulars
4 of the -- of his involvement with law enforcement. But that's
5 not the case here today, is it?

6 MR. JEPERTINGER: Not at all, Judge. This individual, as
7 my understanding is from the warrant, was not a participant in
8 the crime. It was an observer tipster.

9 THE COURT: All right. Mr. Wilson, I'll be glad to hear
10 from you.

11 MR. WILSON: Yes, sir. First of all, Your Honor, I think
12 that there is a distinction, a legal distinction, between a
13 tipster and a confidential informant. A tipster is normally a
14 person who has no real relationship with law enforcement but
15 sees something and then reports that thing to law enforcement
16 and then law enforcement acts on it.

17 Whereas here, this individual is called a reliable and
18 confidential informant, and the officer goes to great length
19 to say that this person has done other work for or with law
20 enforcement prior to this particular incident. Now, he does
21 not say that he did any work on this particular case, other
22 than he was at this location and saw what he says was some
23 drugs or illegal drugs in -- in the house.

24 So I think that there is -- first of all, there's a
25 distinction between the tipster, because this is not a

1 tipster. This is a confidential and reliable informant who
2 the police had been using. When that happens, my
3 understanding is -- and this is from *United States v. Charles*
4 *Clyburn*, defendant, and this is a 1994 case that was decided.
5 And the Supreme Court says in making a probable cause
6 determination, a magistrate must use a totality of the
7 circumstances analysis that considers the informant's
8 reliability and the basis of the informant's knowledge.

9 Now, I haven't heard anything where the magistrate has
10 determined that this informant was reliable, other than what's
11 in that little snippet in the affidavit, and it -- it does not
12 go into any detail about whether or not this informant is
13 reliable, because that's -- they have to convince the
14 magistrate that the informant is reliable, not just that
15 they've used him, and I have not heard anything to suggest
16 that he's reliable.

17 And so, yes, is it important? If this -- if this -- when
18 you're looking at the totality of circumstances and you're
19 trying to get a search warrant in front of a magistrate, it is
20 important. If the -- if the informant, say, is in jail and
21 you're letting him out -- which is exactly what the facts were
22 in this particular case, the informant was in jail. They let
23 him out on a bond so that he could go to the house and make a
24 call and get information about this particular defendant.

25 My point simply is, of course, what they did in that case

1 was they said, well, it's okay, because he supplemented it
2 with the magistrate by giving the magistrate all of this
3 information orally, even though it's not in the affidavit. I
4 haven't heard any testimony that there was any supplementing
5 of the affidavit to the magistrate. That all you have here is
6 a bald-faced, bald-plated kind of statement that this
7 informant is reliable. Nothing has been said that this
8 magistrate -- that was told to this magistrate.

9 Does this defendant have a criminal record? Does he know
10 this guy? Does he hate him? Does he have some relationship
11 with him? Does he have some reason to be biased? All those
12 things affect the totality of circumstances under which the
13 magistrate is to act in deciding whether or not the informant
14 is, in fact, reliable.

15 So let's suppose, for the sake of argument here, that
16 this informant had just had a fight with -- with this
17 defendant over something. I'm not saying he did. I'm just
18 saying. But -- and the officers have used him in the past,
19 but they don't tell the magistrate that. Then absolutely not.

20 The magistrate is entitled to know those things so that
21 the magistrate can make a determination for himself. The
22 determination is not made by the officer as to whether or not
23 the -- the informant is confidential and reliable. That is
24 not his job. That is the job of the magistrate, and only upon
25 information provided by these officers to the magistrate can

1 the magistrate make that determination.

2 That has not been done. There is no suggestion other
3 than these bald-faced words that, oh, he's confidential,
4 reliable, and we've used him in the past. That is
5 insufficient to -- if that's all the magistrate had, I submit
6 to this Court that that is certainly insufficient.

7 THE COURT: All right. What do you have to say about
8 that, Mr. Jepertinger?

9 MR. JEPERTINGER: Judge, I just took a look at some of
10 this case law. I got *State v. Clifton*, and it was overruled
11 on other grounds because they charged *State v. King*, which was
12 overruled in *Brighton v. State*, but this language is still
13 applicable.

14 In this warrant in *Clifton*, it said within the past ten
15 days, a confidential and reliable informant of the Richland
16 County Sheriff's Department has observed crack stored in the
17 above location. Within the past 72 hours, this source has
18 received verbal confirmation that crack is presently being
19 stored at the location. Due to the totality of information,
20 agents believed that crack is currently stored in the above-
21 described residence.

22 Information -- informant is reliable in that it has
23 furnished information on five occasions which has led to one
24 arrest, which is almost identical to the language we have
25 here, except our -- our search warrant didn't include the

1 number of times arrests were made.

2 And then this is the language. In deciding whether to
3 issue a search warrant, the task of the magistrate is to make
4 a practical -- a practical, common-sense decision whether
5 under the totality of the circumstances set forth in the
6 affidavit, including the veracity of the person's -- veracity
7 of the person supplying the information and the basis of his
8 or her knowledge, there is a fair probability that evidence of
9 a crime will be found in a particular place.

10 The task of the Court reviewing its decision to issue a
11 search warrant is simply to decide whether the issuing
12 magistrate had a substantial basis for concluding that
13 probable cause existed. And I think, based on the affidavit
14 in this warrant, that the magistrate had a substantial basis
15 for concluding that probable cause existed.

16 THE COURT: Let me see that last case you were quoting
17 from.

18 MR. JEPERTINGER: This was -- Ralph, this was *State v.*
19 *Clifton*. Okay?

20 (WHEREUPON, there was a pause in the proceedings as
21 counsel conferred off the record and the Court reviewed
22 documents, after which the proceedings resumed as
23 follows.)

24 THE COURT: I specifically find that the affidavit states
25 facts sufficient to establish probable cause. I think it's

1 important to note that the informant actually saw illegal
2 drugs at the premises, and the affidavit categorizes him as
3 reliable.

4 I don't find that there needs to be any other showing or
5 delineation of what all he's done. The affidavit was
6 submitted that he was indeed reliable and had given
7 information to the police in the past, and I find the
8 affidavit provides justification in concluding that at least a
9 fair probability that drugs and illegal substances would be on
10 the premises. And in this particular case, I think the drugs
11 were seen some ten days before, but in this case, it was
12 certainly more fresh than that.

13 But under those circumstances, I do indeed find that
14 there was sufficient probable cause set forth in the
15 affidavit, but the search warrant itself is going to be made a
16 part of the record. Your objection is made a part of the
17 record, and you're protected for appellate purposes.

18 MR. WILSON: Thank you. Your Honor, I would ask the
19 Court to allow me to make a part of the record my actual
20 motion in this. And I would also -- and I cited or at least I
21 -- I started with the citation from the *United States of*
22 *America v. Charles Clyburn*, which is what I referred to
23 earlier, which is 24 F.3d 613. That -- that was the case in
24 which I relied on in providing the information, and also on
25 *State v. Willie Lee Johnson*, which is a South Carolina case, a

1 1990 case. Those are the cases that I relied on in -- in my
2 presentation, but I would ask that this motion be made a part
3 of the record.

4 THE COURT: All right. Any objection from the defense?

5 MR. JEPERTINGER: No, none whatsoever.

6 THE COURT: It's a part of the record, and you're
7 protected in all respects.

8 (WHEREUPON, Court's Exhibit Number 4, motion to quash,
9 was marked and admitted.)

10 THE COURT: The search warrant itself is a part of the
11 record, isn't it?

12 MR. JEPERTINGER: I made it a Court's exhibit.

13 THE COURT: Good. That's -- yeah, that's good. All
14 right.

15 MR. JEPERTINGER: The second portion of his motion dealt
16 with the identity of the confidential informant. So I'm just
17 putting that on the record.

18 THE COURT: Okay.

19 MR. JEPERTINGER: I don't think we have to disclose that.

20 THE COURT: All right.

21 MR. WILSON: Yes, sir. And can I be heard on that issue?

22 THE COURT: You sure can.

23 MR. WILSON: Your Honor, the -- and the two motions are
24 really kind of tied in the motion to quash the indictment.
25 And then the motion to reveal the -- the informant, I think,

1 are connected in the sense that if -- if -- if there is no way
2 to know who the informant is or have any information about the
3 informant, there is no way to determine if the search warrant
4 and the information provided to the magistrate is, in fact,
5 accurate or -- or -- or forthright and -- and there's no way
6 to -- for the defense, in any case, to challenge that
7 representation that's made by law enforcement to the
8 magistrate.

9 So it denies the defendant his Fourth, Fifth, and Sixth
10 right under the 14th Amendment under the -- under the
11 Constitution in order to challenge the veracity of the
12 informant or the information for that matter that's been
13 provided. There'd be no way ever.

14 If -- if the State doesn't have to produce any of that
15 information that we've asked for, they don't have to tell us
16 his name, they don't have to tell us his criminal record, they
17 don't have to tell us the circumstances under which these
18 things were done or found, or how he had access to the house.
19 If they don't have to tell us any of that ever, then how in
20 the world would any defendant ever be able to challenge a
21 search warrant when the officer does an affidavit saying,
22 well, he's confidential and reliable and that's all that we
23 know? Because that's -- that's what we have here.

24 And -- and my point is, Your Honor, is to do that
25 deprives the defendant of due process, deprives him the right

1 to challenge the veracity of this informant, because we have
2 nothing to challenge him with because we don't know anything
3 about him or her.

4 And -- and -- and this could be -- let's suppose, just
5 for the sake of argument, this was all made up. There is no
6 informant. How would we ever be able to defend that? How?
7 That's my point, and that is why I can't understand how a
8 search warrant can be issued, which is a legal document, and a
9 magistrate can act on it. We can try a defendant for 25, 30
10 years on it, but we can't know who it came from and the
11 circumstances under which it was derived.

12 That -- that is some kind of fundamental -- I mean, it's
13 -- it's -- it's not fundamentally sound to suggest that that
14 is how the law is because if that's how the law is, we've got
15 a real problem, not just with this defendant, but with every
16 defendant who comes into this court if there is never a right
17 to know that, to be able to challenge that warrant, and the
18 only possible way we could do that is to get information from
19 the State. There's no other way.

20 THE COURT: One of the distinctions I see is that
21 probable cause is a real low standard. And of course, in
22 order for the State to prove him guilty, they're going to have
23 to prove it beyond a reasonable doubt. And I think the State
24 of the law is -- is -- is as I previously stated, and Mr.
25 Jепertinger has as well, that -- I have made the determination

1 that, based on the affidavit that was submitted to the
2 magistrate, it's sufficient probable cause.

3 But he's -- you say how can you ever defend it? Now's
4 the time. When they empanel a jury, you're going to have wide
5 range of cross examination --

6 MR. WILSON: Yes, sir.

7 THE COURT: -- and you can question all aspects of the
8 case.

9 MR. WILSON: Well, Your Honor, see, I can't because I --
10 I don't even know who the informant is. How can I challenge
11 him? He's not going to be here to testify, so I can't cross-
12 examine him. I don't know who he is.

13 And I understand the Court's ruling that -- that as a
14 legal matter, the Court has ruled that -- that the affidavit
15 provided probable cause. I understand the Court's ruling with
16 that, and that's -- I don't have an argument with that.

17 What my argument is, now that we're at this stage, if I
18 want to convince this jury that -- that this person who made
19 up all of this story -- because at -- when we get through this
20 trial, when we start the trial, I will have the right, if this
21 defendant decides to testify or not testify, to -- to -- to
22 talk about whether or not there is any bias or prejudice by
23 law enforcement against this defendant. Did they make all
24 this up?

25 Well, I don't know the answer to -- to any of those

1 questions, and I'm not suggesting law enforcement did that
2 here. I am not suggesting that. I'm simply pointing out to
3 the Court that that's a possibility in some case where law
4 enforcement decides, look, we don't like this guy. We know
5 he's up to no good. We just don't have -- so we do an
6 affidavit. We say, okay, and then you're saying that -- that
7 there's nothing that can be done about that. You can't ever
8 know. It's just done.

9 THE COURT: What do you have to say about that, Mr.
10 Jepertinger?

11 MR. JEPERTINGER: Judge, I mean, once again, I think the
12 case law is pretty clear when -- if -- if the individual is an
13 active participant in the crime, then obviously whether it's,
14 you know, drugs being passed from the individual to the
15 informant, then he has a right to know who the informant is.
16 I agree a hundred percent with that. But when the informant,
17 once again, is merely a tipster and -- but the interesting
18 thing is, in terms of the search warrant, they never mentioned
19 Tyquan Johnson. Okay?

20 The only thing that they mentioned in the affidavit is
21 that they saw drugs at -- let me see here -- [REDACTED] West Marion
22 Street, that they observed a quantity of marijuana on the
23 premises within the past 72 hours. Nothing dealing with
24 Tyquan Johnson. I mean, it -- really, it's we saw drugs here.
25 This is a trip -- this is a tip. It -- this person has been

1 reliable in the past, and law enforcement at that stage goes
2 to the magistrate and says we have a -- we have a tip from a
3 reliable informant.

4 You know, there was a good possibility Tyquan Johnson
5 wouldn't have been at that residence. Also, he --

6 THE COURT: And under those circumstances, you're saying
7 it's very unlikely that these law enforcement officers had a
8 vendetta against him or it would have been done a different
9 way?

10 MR. JEPERTINGER: That's exactly right. I mean, if -- if
11 they had shown up and found -- and here is the thing, if they
12 were looking -- it looked like they were looking for marijuana
13 because that's what they saw. And it was just by happenstance
14 he points out to the officers I got pills in a trash can.

15 THE COURT: Right.

16 All right. Mr. Wilson?

17 MR. WILSON: The thing is, Your Honor -- and you asked
18 the question whether or not law enforcement wouldn't have
19 necessarily known that he was there. Well, they did know he
20 was there because he's on house arrest for a pending charge.
21 So --

22 THE COURT: At that residence?

23 MR. WILSON: At that -- at that residence.

24 THE COURT: What do you have to say about that, Mr.
25 Jepertinger?

1 MR. JEPERTINGER: What was that again, Mr. Wilson?

2 MR. WILSON: He was on house arrest for the -- I think it
3 was the murder charge. Yeah, for the murder charge.

4 MR. JEPERTINGER: Once again, it's a question because
5 when they arrested him, if it was house arrest that he had to
6 be in the house, he was not in the house when he was arrested.
7 He was on the premises, but there was no information that he
8 was the individual with marijuana. They saw marijuana on the
9 premises.

10 You know, we've got this case. Is this *Robinson*? This
11 is *Humphries*. The Court has discretion in whether to reveal
12 an informant's identity. If informant is an active
13 participant in the criminal transaction or material witness on
14 the issue of guilt or innocence, disclosure of his identity
15 may be required depending on facts and circumstances, but an
16 informant's identity may not be disclosed where he possesses
17 only -- this is what I've stated before -- only a peripheral
18 knowledge of the crime or is a mere tipster, and the burden is
19 on the defendant to show the facts and circumstances entitling
20 him to the disclosure, and I don't think Mr. Wilson has done
21 that.

22 THE COURT: All right. And I did fail to state earlier,
23 but I do indeed find under these circumstances, although he
24 was classified as a confidential informant, I think that under
25 these circumstances, he was a tipster, and he was not an

1 active participant in the crime.

2 But anything further, Mr. Wilson? I'd be glad to hear
3 from you.

4 MR. WILSON: Just one thing, Your Honor, and I won't --
5 I'm not going to belabor this.

6 My point is, for instance, the Court is saying -- is
7 ruling that -- that he is a tipster. Well, based on the
8 affidavit, he is a confidential and reliable informant, not a
9 tipster.

10 And secondly, if -- there would be no way for -- for us
11 to know whether he was an active participant in this crime,
12 whether he bought drugs from there, because that's not put in
13 the affidavit. It doesn't mean it didn't happen. It just
14 means that it's not in the affidavit and -- and so we don't
15 know that. We don't know that and -- and so, you know, again,
16 I understand the Court's ruling, and I obviously -- you know,
17 we accept the Court's ruling. Even though we disagree with
18 it, we certainly accept the Court's ruling.

19 THE COURT: All right. Very good. Well, you're
20 protected on the record in all respects.

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: All right. Very good.

23 MR. JEPERTINGER: Anything else, Ralph?

24 MR. WILSON: No. That's it.

25 MR. JEPERTINGER: I think that's it. I was asking if he

1 had any other motions. The State doesn't have any other
2 motions in regards to this case.

3 THE COURT: All right. Well, we will reconvene Wednesday
4 at 9:30. And I understand everybody is -- is not -- there's
5 going to be no court tomorrow. Is that correct?

6 MR. JEPERTINGER: That's my understanding.

7 THE COURT: All right. All right. Well, I -- you all
8 have my number. If something comes up, if you need me, you've
9 got my number.

10 MR. JEPERTINGER: Yes, sir.

11 THE COURT: Call me, and I'm right close. So I'll be
12 here if anybody needs me.

13 Mr. Wilson, do you have my cell phone number as well?

14 MR. WILSON: I think I do somewhere. Yes, sir.

15 THE COURT: All right.

16 MR. WILSON: At the office, I'm sure I do.

17 THE COURT: All right.

18 MR. JEPERTINGER: If he doesn't, I'll give it to him.

19 THE COURT: All right. Very good. All right. Thank
20 you.

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: And if y'all need to call, just get the other
23 lawyer on the phone and give me a holler.

24 MR. JEPERTINGER: Yes, sir.

25 THE COURT: Thank you.

1 (WHEREUPON, the proceedings adjourned for the day at 3:26
2 p.m.)

3 JANUARY 10, 2024

4 (WHEREUPON, the proceedings resumed at 9:37 a.m.)

5 THE COURT: Anything from the State before we proceed?

6 MR. RICHARDSON: Yes, sir. Your Honor, as part of the
7 State's case, we're going to have several videos, and a couple
8 of those you've seen already where they have audio with the
9 Miranda rights and questioning.

10 A couple of the others have the -- the importance of them
11 is basically what you see on the video, and there's hearsay
12 and various other things going on in the background, and we
13 would intend to play those portions on mute and just wanted to
14 make the Court aware of that. And -- and if we have a -- just
15 an explanation to the jury that through either agreement of
16 parties or court ruling that the evidence is being presented
17 to them this way to avoid any inadmissible evidence.

18 THE COURT: Okay. All right. Anything from defense?

19 MR. WILSON: Your Honor, the only issue I have is -- and
20 I know the Court's already made its ruling about the -- the
21 search warrant. In my questioning of the officers when they
22 testify, how much leeway do I have in questioning them about
23 the efficacy of the search warrant?

24 THE COURT: I'll be glad to hear from the defense. I
25 mean, from the State.

1 MR. JEPERTINGER: Judge, I think since once you ruled
2 that there was admissibility in terms of that search warrant,
3 I don't think we can get into it. I don't think the State can
4 get into it because it puts a prior bad act in of at least the
5 house, that there was marijuana located there within the last
6 72 hours. And I think that's a prior bad act, and I just
7 don't think that he should be allowed to go into the details
8 of the search warrant. We can say that they entered the house
9 with a search warrant.

10 THE COURT: All right. Well, I think that's purely a
11 question of law, and I'm going to ask -- ask the State to pay
12 very close attention. If something is objectionable, I ask
13 that you stand up and object. All right?

14 But as a general rule, I don't think that you can -- I
15 don't think that you can argue to the jury that the -- that
16 the search warrant was invalid. Some of the -- some of the
17 other aspects of it maybe.

18 MR. WILSON: And I understand, and I just wanted to be
19 clear because I didn't want to get out there too far. That's
20 why I'm asking the question now.

21 THE COURT: All right.

22 MR. WILSON: And as long as I'm protected for the record,
23 I'm good.

24 THE COURT: Okay. Very good. All right. We're -- yes?

25 MR. JEPERTINGER: Judge, one more thing. Under agreement

1 of the parties, the aerial map, which is State's Exhibit 1, is
2 in evidence.

3 MR. WILSON: I have no objections to that map.

4 (WHEREUPON, State's Exhibit Number 1, large aerial map,
5 was admitted into evidence.)

6 THE COURT: Very good. All right. We're ready for the
7 jury.

8 THE BAILIFF: All right.

9 (WHEREUPON, the jury entered the courtroom at 9:46 a.m.)

10 THE COURT: Madam Forelady and ladies and gentlemen of
11 the jury, thank you for being here, and we're about to begin
12 the trial of the State versus Tyquan Jamar Johnson. And you
13 are taking part in General Sessions court, which you're
14 certainly aware of by now, that the defendant has been accused
15 of committing a crime, and this is, indeed, criminal court.

16 And I point that out because many of you have probably
17 served on a civil jury before where you were dealing with
18 civil matters. A good example of that would be an automobile
19 accident, medical malpractice, products liability, where the
20 issues involved were having to do with money.

21 And if you were to sit at the back of this courtroom and
22 look at this setup, you really couldn't tell. If you didn't
23 hear what they were talking about and the subject matter, it'd
24 be difficult to discern the difference between civil and
25 criminal court because, in both courts, you have a jury who

1 listens to the evidence to determine what the facts are and
2 apply it to the law. A judge presides. You have advocates on
3 both sides.

4 But the similarities really stop there because this is
5 criminal court, and it's different. And there are certain
6 constitutional safeguards that come into play when we're
7 dealing with criminal court, the first of which is the
8 defendant, Mr. Johnson, as he's seated right there, he's
9 presumed to be just as innocent as me or you. That's the
10 frame of reference we start from.

11 And I envision that as being a protective cloak that
12 guards all of us as American citizens, and that presumption
13 follows him throughout the trial and on into the
14 deliberations. That's an important constitutional right, and
15 I ask that you pay very close attention to that.

16 The second constitutional safeguard is that the State has
17 the burden of proof. There are some practical reasons for
18 that because the State has all of the resources to gather the
19 evidence. They're the ones that are making the charge. They
20 have an army of deputies, policemen, SLED, all the resources
21 to gather the evidence to submit to you, and they're required
22 to meet their burden of proof.

23 You know, in some third world countries, you can be
24 accused of a crime and hauled before a court and be required
25 to prove your innocence. That's not the way it is in the

1 United States of America. It never has been and never will
2 be. The State has the burden of proof, and the defendant need
3 not testify. And you think about that, you know, in our
4 everyday lives, we've been accused of things where it's
5 absolutely impossible to prove your innocence, and a defendant
6 in a criminal case is not required to do that.

7 And the third constitutional safeguard is that the State
8 not only has to prove the case, they have to meet the highest
9 burden of proof known to our judicial system, proof beyond a
10 reasonable doubt. It's more than a mere preponderance. It's
11 beyond a reasonable doubt. And reasonable doubt is the type
12 of doubt that would cause a reasonable juror to hesitate to
13 act. I will define reasonable doubt in greater detail at the
14 conclusion of the case.

15 I want to talk to you about how this trial is going to
16 progress. First of all, these very fine lawyers for the
17 State, one of them will stand up and give you an opening
18 statement. They'll talk to you about what this case is about.
19 They might talk to you a little bit about the law and their
20 theory of the case.

21 And the defendant will have an opportunity to give an
22 opening statement. They're not required to because they don't
23 have the burden of proof, but they'll be given an opportunity
24 to give an opening statement and, in that, they might talk
25 about the law. They might talk about various defenses that

1 they might have. Pay very close attention.

2 Then we will begin the trial in earnest, where the State
3 has the burden of proof. They go first. They'll call one
4 witness right after the other. They will ask them questions.
5 The defense will have an opportunity to ask them cross-
6 examination questions. They will call one witness right after
7 the other until their case is concluded.

8 And then the defense will be given an opportunity to
9 present any evidence if they choose to do so. They have
10 absolutely no obligation to do that. The defendant is
11 presumed to be innocent and need not testify, need not present
12 any evidence. But if they are -- if they do that and they do
13 present evidence, then the State will have -- since they have
14 the burden of proof, will have an opportunity to present reply
15 testimony.

16 After the presentation of evidence in the case, then the
17 lawyers will have an opportunity to give closing arguments.
18 They're very similar in form to the opening statements which
19 you are about to hear, but they're very different in a very
20 real way. And at that point in time, all of the evidence will
21 have been presented, and they will be able to point to the
22 evidence that supports their relative theory of the case. But
23 what they have to say is not evidence, but it will aid you
24 immensely in your deliberation process.

25 You and I are just getting involved in this case. These

1 lawyers have been dealing with it for a long time. They're
2 very fine advocates on both sides. So it will aid you
3 immensely. So pay very close attention to what they have to
4 say in the closing arguments. After that, I will charge you
5 the substance of the law, the substantive law.

6 I'll remind you that you and I have certain roles to
7 fulfill. I'm the arbiter of the law. I preside over the
8 proceeding. I rule on what evidence is admissible and what
9 evidence you are to hear, and I also charge you the law at the
10 conclusion of the case.

11 And you are judges in a very different way. You're the
12 ones that listen to the evidence and determine what the truth
13 is. In every case that's tried in this court, there's always
14 a question of fact, and you are to resolve that. And you in
15 your collective wisdom can listen to the evidence and
16 determine what the truth is.

17 I do want to point out that if I make an error with
18 regard to my role as the trier -- as the arbiter of the law,
19 those errors are easily corrected. However, if you make an
20 error in the findings of fact, quite often, that never can be
21 corrected. So I'm going to ask that you pay very close
22 attention as we proceed throughout this trial.

23 Necessarily in your role as the triers of fact, you're
24 going to be called upon to weigh the credibility of witnesses,
25 and that essentially means their believability. You know, in

1 our everyday lives, we do that every day. We sort of
2 throughout our daily experience and our common sense are able
3 to tell whether or not someone's telling us the truth.

4 When a witness testifies, ask yourself what opportunity
5 they had to see and hear and feel the experiences which they
6 are testifying to. Ask yourself whether or not this witness
7 has any interest, bias, or prejudice. I'll tell you from the
8 very outset you can believe one witness against many, many
9 against one. You can believe all of what a witness says, a
10 portion of what a witness says, or none of what a witness
11 says.

12 The law says that you have the opportunity to evaluate a
13 person's demeanor. You know, all of us who have children or
14 grandchildren, sometimes it's -- it's important to listen to
15 what they have to say, but also how they say it, and the law
16 allows you to take that into consideration. Use your good
17 common sense.

18 You're participating in a time-tested system. This is an
19 important case. It's an important case to the State of South
20 Carolina. It's an important case to the defense. It's an
21 important case to you because you've taken a solemn oath that
22 you'll listen to the evidence that's presented from this
23 witness stand to determine what the truth is and -- and apply
24 it to the law.

25 Mr. Jepertinger, Mr. Richardson, you're recognized.

1 MR. JEPERTINGER: Thank you, Your Honor. We'll get this
2 set up.

3 OPENING STATEMENT ON BEHALF OF THE STATE

4 MR. JEPERTINGER: First of all, good morning, everyone.

5 Tyquan Johnson was living life at the end of a lightning
6 bolt, and when you live life at the end of a lightning bolt,
7 you're going to get burned eventually. On May 4th, 2022,
8 police executed a search warrant. They came in mass. They
9 started down Tingen Alley. Some of them got out of the
10 vehicle that they were in and came through this yard.

11 This was the house that they had the search warrant for.
12 It's [REDACTED] West Marion Street. The house next to it is [REDACTED].
13 It's a burned uninhabitable residence, completely burned on
14 the inside. This house here is [REDACTED] West Marion Street. The
15 police came, pulled up here, but they executed the search
16 warrant. In the house were two women and two children.

17 Cody Jordan, the gentleman in the blue shirt there, when
18 he was getting to that location and he was driving, he saw two
19 individuals run this way and throwing things. We're going to
20 find out that the things that were thrown, for the most part,
21 were weapons.

22 They executed the search warrant and find things in the
23 house that Johnson claims. And ultimately, they find trash
24 cans right here, and when they questioned Johnson about what
25 type of drugs he may or may not have, he said he had pills in

1 one of the trash cans.

2 And those pills, ladies and gentlemen, were over 2,000
3 methamphetamine pills. He said they were there. They didn't
4 even have to search for it. He volunteered. He also
5 volunteered after his Miranda warnings -- you know, the right
6 to remain silent and all that business -- that all the guns
7 they found were his.

8 Now, there were two individuals that they brought to the
9 porch and one that was found at [REDACTED]. Okay? That gentleman
10 wore a black shirt. His name is Harvey Allen. He doesn't
11 play into this story other than he was there. The other
12 gentleman in a blue shirt was Lorenzo Johnson. Same last
13 name. He doesn't play too much into this story, but Tyquan
14 Johnson does.

15 He was living life at the end of a lightning bolt, and I
16 appreciate so much what Judge Nettles told you about the
17 presumption of innocence. But, folks, in this case we have
18 facts that will prove the guilt of Mr. Tyquan Johnson beyond a
19 reasonable doubt. We will meet our burden, and all we ask you
20 to do is keep an open mind and give the State a fair trial, as
21 well as his defense. But at the end of the day, Tyquan
22 Johnson got burned on May the 4th, 2022.

23 THE COURT: Thank you, Mr. Jepertinger.

24 Mr. Wilson, you're recognized.

25 MR. WILSON: Thank you, Your Honor.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

MR. WILSON: Madam Forelady and ladies and gentlemen, I know that when each of you received your summonses to come to jury duty, you thought of a thousand other things that you would rather do than to be sitting here this day or this week, but let me say at the outset, this is an important process.

It's the defendant's only opportunity to be heard by an impartial jury. The State gets an opportunity when they send the police out to arrest you. They get an opportunity to indict you. They get an opportunity to hold you in jail until you can make bond. They had all those opportunities. The defendant only gets one. That's when he comes in here in front of the twelve of you, now the fourteen of you.

It's his opportunity to receive justice. And you -- as His Honor has already instructed you, you are going to be the fact finders in this case. You will decide. Not the solicitor, not the police, you. You will decide what happened on May the 4th at [REDACTED]. You will make that decision.

You can indict anybody. It doesn't take anything other than somebody who writes something on a piece of paper and come out and arrest you. That's it. The other thing His Honor told you -- well, let me rephrase that. The other thing that I would tell you is this. Simply because somebody is arrested does not mean that they are guilty. It does not mean that.

1 The State has the burden of proof. What does that mean?
2 That means that the State must bring you evidence. Whether
3 it's through testimony, through exhibits, they must bring you
4 evidence, and they must prove to you not that it may have
5 happened, not that it's possible, not that it's likely, but
6 that it happened exactly as they say it happened beyond a
7 reasonable doubt. Beyond a reasonable doubt. And if they
8 cannot meet that burden, your job would be to find the
9 individual not guilty.

10 Now, every defendant -- I don't care how minute the
11 charge might be. I don't care how serious the charge might
12 be. Every single individual who comes into this courtroom,
13 whether they're charged with shoplifting or murder, it doesn't
14 matter, they are presumed to be innocent of the charges which
15 have been levied against them.

16 That is true in this case, and that's not just because
17 Ralph Wilson says that's a good way to do it. That's because
18 the law of this state and every state in this union, as far as
19 I'm aware, has that same rule. It's a constitutional right
20 that we all enjoy.

21 More importantly, let me say this to you. You're going
22 to hear testimony from this witness stand. You're going to
23 hear some videos I think the solicitor mentioned too. So
24 you'll be able to see some of what's going on out there. And
25 what you're going to see, which is why it's important that you

1 pay close attention, is that the police tell this defendant if
2 nobody admits to these drugs, I'm going to arrest everybody
3 out here, including your mama and your children -- well, not
4 your children, but your wife, and we're going to arrest
5 everybody out here.

6 Now, you can decide for yourself if that's a threat or if
7 that's an intimidation or if that's just a way to force
8 somebody to admit to something. That's what happened.
9 There's no dispute about that. So you either admit to it or
10 your mama and your wife get arrested. What a place to be.

11 So I'm just asking you to listen, nothing more at this
12 point. Listen to the evidence because sometimes it's not what
13 people say. It's what they don't say or how they say it that
14 makes all the difference in the world.

15 As these witnesses testify, you're going to get to hear
16 them. Judge their credibility. Credibility is just another
17 big fancy word for believability. That's all it means. You
18 are the judges of the facts, and you're the judges of the
19 credibility of these witnesses as well when they testify. Are
20 they confused about what they say they are saying? Are they
21 making inconsistent statements when they talk? Do they seem
22 anxious and nervous about what they're saying?

23 All those things are important, you know, and you know
24 how to judge people. Think about it, those of you who have
25 children. I have four, and they're all grown now, but every

1 time when something would happen and they'd be arguing, you
2 could always tell the guilty one; right? You could always
3 tell. You know it because you know your kids; right? And you
4 know when they're telling you the truth and you know when
5 they're not, even before they say it.

6 Same principle when witnesses are on this stand. You're
7 listening to what they're saying, and you're judging their
8 credibility, their believability.

9 Lastly, I simply ask you to do this. Be patient. This
10 is a long process. It's not -- probably not going to be over
11 today. Maybe not even tomorrow. I don't know. But be
12 patient with us as we go through this process, and I simply
13 ask you to pay close attention. Thank you so much.

14 THE COURT: Thank you, Mr. Wilson.

15 Mr. Richardson, you may call your first witness.

16 MR. RICHARDSON: Thank you, Your Honor. We would call
17 Cody Jordan.

18 THE COURT: All right. Mr. Jordan, please come forward.
19 I'm going to ask you, if you could, to place your left hand on
20 the Bible and raise your right hand as the clerk administers
21 the oath.

22 THE CLERK: Do you swear or affirm the testimony you give
23 in this case will be the truth, the whole truth, and nothing
24 but the truth, so help you God?

25 THE WITNESS: I do.

CODY JORDAN - DIRECT BY MR. RICHARDSON

1 THE CLERK: Please be seated and state your name for the
2 record.

3 THE COURT: Watch your step there. It's sort of a
4 slanted area. I'm going to ask, if you could, to have a seat
5 in the witness chair, pull up real close to that microphone,
6 and speak loudly, clearly, and slowly in order that we can
7 hear everything that you have to say. And let's start with
8 your full name, please, sir.

9 THE WITNESS: Robert Cody Jordan.

10 THE COURT: Mr. Richardson.

11 MR. RICHARDSON: Thank you, Your Honor.

12 CODY JORDAN, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q: Mr. Jordan, back in May of 2022, where were you employed?

17 A: City of Florence Police Department.

18 Q: And what was your job there?

19 A: Several. I was a lieutenant for the ERT team, as well as
20 a patrol commander.

21 Q: Okay. And what is the ERT team?

22 A: It's essentially known as a SWAT team. It's Emergency
23 Response Team, used for help with service of warrants and
24 other things.

25 Q: Okay. So would it be commonplace in that role for you to

CODY JORDAN - DIRECT BY MR. RICHARDSON

1 assist with service of search warrants on properties?

2 A: Yes, sir. That's primarily what we did.

3 Q: Okay. And on May the 4th of '22, did you assist in the
4 service of a search warrant on Marion Street here in Florence?

5 A: Yes, sir, we did.

6 Q: And do you recall the address?

7 A: ■ West Marion in the city of Florence.

8 Q: Okay. And what county is that in?

9 A: Florence County.

10 Q: All right. And what was your particular role?

11 A: Again, I was the commander of the team, so I was
12 basically in charge of those guys. They would create a plan.
13 I would essentially sign off on it, make sure everybody was
14 safe and we did the job properly.

15 Q: And did you go to the scene that day?

16 A: I did. I was the driver of the van that day.

17 Q: Okay. And I'll show you what's already in evidence as
18 State's Exhibit 1. If you could -- well, would you step down
19 here for a second? Make sure everybody can see, so we'll
20 stand far enough back. If you can speak loudly because the
21 court reporter is behind you.

22 THE COURT: It might be good if you could stand on that
23 side so you'd be facing the -- facing the court reporter.
24 That helps a little bit.

25 MR. RICHARDSON: All right.

CODY JORDAN - DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q: Can you see on this map, State's 1, the area in which you
3 all served this warrant?

4 A: Yes, sir. I believe the middle house here, [REDACTED]. That's
5 [REDACTED], if I'm not mistaken, and that's [REDACTED].

6 Q: All right. And you were driving a vehicle?

7 A: Yeah. We have a -- essentially a white van we use to
8 transport the team different places.

9 Q: And from which direction did you approach the house that
10 was the subject of the warrant?

11 A: So the plan today -- that day was to drop off a group of
12 officers from Tingen Alley that would come from the rear to
13 approach the residence. Then we came around Chase Street and
14 we pulled up to the front door.

15 Q: So you would have pulled up between the middle house,
16 which is [REDACTED]?

17 A: Yes, sir.

18 Q: And this house next door, which was [REDACTED]?

19 A: [REDACTED], right.

20 Q: Okay. So you would have pulled up from this direction up
21 between these two houses?

22 A: Yes, sir.

23 Q: All right. You can have a seat back in the witness
24 stand.

25 When you pulled up to those houses and pulled up between

CODY JORDAN - DIRECT BY MR. RICHARDSON

1 those two in the roadway --

2 A: Yes, sir.

3 Q: -- what did you observe happening?

4 A: There were two male subjects between the houses. One was
5 wearing a white t-shirt and a blue t-shirt. They saw us,
6 recognized who we were, eventually attempted to run towards
7 the back. While they were doing that, they were reaching in
8 their clothes, and then I started seeing items flying in the
9 air towards the residence.

10 Q: Okay. And was this when they were -- were they running?
11 Were they going in the opposite direction of you when this --

12 A: Yes, sir.

13 Q: -- was happening?

14 A: Yes, sir.

15 Q: And was that more towards the front of the property or
16 the rear of the property?

17 A: Rear of the property.

18 Q: All right. So did you -- at that time, you're still in
19 the vehicle?

20 A: Yeah. I was not in a great spot. I was in the driver's
21 seat and pretty exposed to them.

22 Q: Did you let other officers know eventually what you had
23 observed?

24 A: Yes, sir. On the radio.

25 Q: Okay. And were you -- did you take part in going back

CODY JORDAN - DIRECT BY MR. RICHARDSON

1 there to the back of the property to -- to look for things?

2 A: I didn't look for the things, but eventually I made it
3 back to them, and I relayed what I saw to the investigators
4 that were on scene, that I had witnessed both of them throwing
5 items over to the next residence.

6 Q: Okay. And were you present when those items were
7 located?

8 A: Yes, sir.

9 Q: And do you recall what those items were?

10 A: A couple of guns and a sausage, which kind of stood out,
11 from a convenience store. We made a laugh about it and some
12 other things, I believe.

13 Q: Okay. Now, in terms of your role there, once -- once you
14 got on scene and assisted, was that basically the conclusion
15 of your job?

16 A: Yeah. Essentially, the team is a tool for investigators.
17 Once we secure the scene and everybody there, we're just a
18 support role while they do any questioning or collection of
19 evidence or anything.

20 Q: Okay.

21 MR. RICHARDSON: I beg the Court's indulgence.

22 Please answer any questions that Mr. Wilson may have.

23 THE WITNESS: Yes, sir.

24 THE COURT: Mr. Wilson.

25 MR. WILSON: Thank you, Your Honor.

CODY JORDAN - CROSS BY MR. WILSON

CROSS-EXAMINATION

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BY MR. WILSON:

Q: Officer Jordan?

A: Yes, sir.

Q: How many officers are involved in this raid or execution of a search warrant that we're doing?

A: I think at the time we might have had ten on the team.

Q: Okay. And were all ten of those in the same van that you were operating?

A: No, sir.

Q: All right. So how did the other officers come?

Q: We -- as I said, we dropped off some behind the residence and let them come from the rear. Some were still left in the van, and I think there were some others in other vehicles.

Q: Okay. So you had -- how many officers did you have in your vehicle?

A: Probably five or six.

Q: Okay. And did each of those five or six officers in your vehicle have body cameras on?

A: The team uses helmet cameras.

Q: Okay.

A: But I believe they should have. Yes, sir.

Q: Helmet cameras?

A: Yes, sir.

Q: Instead of body cameras?

CODY JORDAN - CROSS BY MR. WILSON

1 A: Right.

2 Q: They had some kind of cameras?

3 A: Yes, sir.

4 Q: All right. And did you have an opportunity later to go

5 back and look at those body cameras --

6 A: Yeah.

7 Q: -- from the people that you were supervising?

8 A: I believe so. Yes, sir.

9 Q: All right. And -- and you said to the solicitor that --

10 and I think -- I assume this is your testimony that somebody

11 was throwing some items?

12 A: That's what I observed. Yes, sir.

13 Q: Okay. And is that captured on your video?

14 A: You can see them running. I don't know if you can see

15 good enough to actually see them throwing items in the air.

16 Q: Well, now, you've looked at that video multiple times,

17 I'm sure, prior to coming in here today, because this is what?

18 Two years ago?

19 A: Yeah. I believe so.

20 Q: All right. And -- and -- and what I'm asking you is

21 after reviewing that video, did you see on that video where

22 any item was being thrown?

23 A: No, sir. I don't believe you can see it on the video.

24 Q: Okay. All right. So even though you told the other

25 officers that --

CODY JORDAN - CROSS BY MR. WILSON

1 A: Uh-huh.

2 Q: -- there is nothing on that video to substantiate the
3 fact that anybody is throwing anything, is it?

4 A: No. Just my observed observation and my word.

5 Q: All right. And you had a camera; right?

6 A: Yes. That's actually my camera that you can see.

7 Q: Right. And with -- with -- and you said it's on your
8 helmet?

9 A: Yes, sir.

10 Q: All right. And so -- but you can see it with your eyes,
11 but whatever you see doesn't show up on that camera; right?

12 A: No, sir.

13 Q: Right. All right. Now, let's talk about this whole idea
14 of -- you said you were there to execute a search warrant;
15 right?

16 A: Correct.

17 Q: Did you procure the search warrant or did someone else
18 procure it?

19 A: Someone else.

20 Q: All right. And who is that?

21 A: One of the narcotics investigators.

22 Q: All right. And do you know his name or her name?

23 A: I believe it was Investigator Buxton's warrant that day.

24 Q: All right. Now, after you come up and you say you let
25 some of the officers out at the very beginning so that they

CODY JORDAN - CROSS BY MR. WILSON

1 could come up what? Through the back?

2 A: Yes, sir.

3 Q: All right. And then you took some around to what? The
4 side?

5 A: Right.

6 Q: All right. And -- and -- and the other officers who were
7 in the other vehicles, were you all having some kind of
8 coordinated effort where they knew where you were going to be
9 and you knew where they were going to be?

10 A: Correct.

11 Q: All right. So who was doing the coordinating?

12 A: We were all doing it on the -- the -- the plan at the
13 time was to let the rear team off, and then they would make
14 their way through this open area. And by the time we made it
15 to the front, the idea being when they see us, they would run
16 to the back, and then our officers are at the back so they
17 can't run away.

18 Q: Okay. Now, my understanding is there are three houses.
19 I think you said 13, 15, and 17?

20 A: Correct.

21 Q: All right. And -- and one of those houses -- because
22 these houses are little row houses and they're all right there
23 together; right?

24 A: Yes, sir.

25 Q: In fact, you can almost stand out, put your hands like

CODY JORDAN - CROSS BY MR. WILSON

1 this, and touch both houses; right? That's how close they are
2 together; right? Maybe a foot more; right?

3 A: They're pretty close.

4 Q: Yeah. You wouldn't disagree with that that they're not
5 more than eight -- seven, eight feet apart?

6 A: Correct.

7 Q: All right. And there are little alleyways between each
8 of the three houses; right?

9 A: Yes, sir.

10 Q: All right. And there are trash cans in the alleyways
11 which go to the various houses; right? These green trash cans
12 that the City or the County or whoever picks up; right?

13 A: Yes, sir.

14 Q: All right. And -- and how many trash cans -- for the
15 three houses that we're talking about that are right there
16 together, how many trash cans did you see?

17 A: I honestly don't recall how many trash cans I saw. I was
18 more focused on the guys running to the back.

19 Q: Well, but you -- now, you've had an opportunity to go
20 back and look at your videos; right?

21 A: I looked at mine two days ago.

22 Q: Okay. And you at some point came around the front;
23 right?

24 A: Multiple times probably.

25 Q: Right.

CODY JORDAN - CROSS BY MR. WILSON

1 A: Yeah.

2 Q: And -- and -- and those trash cans, in fact, you have to
3 pass. If you're coming from the back and you're coming up
4 through the alleyways, you've got to pass these trash cans in
5 order to get to the front of the house; right?

6 A: Yes, sir.

7 Q: All right. Now -- but you don't remember how many trash
8 cans there were?

9 A: I could guess, but I couldn't tell you for sure how many
10 there are.

11 Q: That's fair enough. All right. But let me ask you then,
12 one of the houses is an abandoned house; right?

13 A: Yes, sir.

14 Q: All right. And that -- not only is it abandoned, but
15 that house is partially burned?

16 A: Yes, sir.

17 Q: All right. And now, that's [REDACTED]? What number is that
18 house?

19 A: I believe that is -- the burned house is [REDACTED], I believe.

20 Q: Okay. [REDACTED]. And did you have the opportunity to go into
21 [REDACTED]?

22 A: I don't believe I did, but members of the team did clear
23 it.

24 Q: Okay. Did you have an opportunity to review the video
25 footage of the team that cleared [REDACTED], the abandoned, burned

CODY JORDAN - CROSS BY MR. WILSON

1 house?

2 A: I had the opportunity, but I did not.

3 Q: You had the opportunity, but you did not?

4 A: Yeah.

5 Q: All right. So you don't know?

6 A: I don't know. No, sir.

7 Q: Do you know whether or not there were any drugs found in

8 [REDACTED]?

9 A: I don't recall.

10 Q: You don't recall?

11 A: No, sir.

12 Q: All right. Now, what about [REDACTED]? Do you know whether or

13 not any drugs were found in the dwelling that is inside the

14 house of [REDACTED]?

15 A: I don't remember that either. I was mainly on the

16 outside dealing with those two.

17 Q: All right. Now, well, help me here a minute. My

18 understanding is you're the supervisor and you're the

19 coordinator?

20 A: Uh-huh.

21 Q: And you're serving a search warrant on [REDACTED], which is

22 the -- which is where you're looking for drugs; right?

23 A: Yes, sir.

24 Q: And you don't know whether or not you found any drugs in

25 the house of [REDACTED]?

CODY JORDAN - CROSS BY MR. WILSON

1 A: Again, we're a support role. Once we secure a residence
2 and secure the people in it, we don't do any searching or
3 interviewing of people or interrogating or anything like that.

4 Q: Well, but you do collect evidence; right?

5 A: No, the team does not collect any evidence.

6 Q: Who collects the evidence?

7 A: That would be the investigators.

8 Q: All right. So -- but I -- maybe I'm missing something
9 because I thought that you told me earlier that you were the
10 commander and that you were the person coordinating this
11 event?

12 A: Of the team and the execution of the warrant. Yes, sir.

13 Q: All right.

14 A: They have their own supervision.

15 Q: All right. So even though you were the coordinator,
16 you're not in the loop? You don't know what was found?

17 A: No. My job is to safely secure the area and the people
18 on it. And once that's done, we're essentially just there to
19 support them in any way we can.

20 Q: Okay. All right. Now, you guys had some pretty big guns
21 out there too, didn't you?

22 A: We had some standard issue rifles. Yes, sir.

23 Q: Yeah. Automatic weapons?

24 A: No, I don't believe they're automatic.

25 Q: They're not automatic?

CODY JORDAN - CROSS BY MR. WILSON

1 A: No.

2 Q: Well, semi-automatic?

3 A: Yes, sir.

4 Q: Right? And -- and with scopes and all kinds of stuff;

5 right?

6 A: They had red dots on them, yes, sir.

7 Q: Right. And not only that, when you showed up, you said

8 that somebody was trying to run; right?

9 A: Yes, sir.

10 Q: Well, because you threw -- what is that thing throw and

11 it makes a lot of noise and smoke? What is it called?

12 A: It's a flashbang.

13 Q: A flashbang? You threw a flashbang in the back yard or

14 somebody threw it in the back yard, and then that's when

15 people started to run; right?

16 A: That is correct.

17 Q: Right. And is that unusual? If you come in here and

18 throw a flashbang, don't you think most of the people in here

19 are going to jump up and run?

20 A: Probably.

21 Q: Right. Probably. Right. So the fact that somebody ran

22 when you threw a flashbang, which is this loud noise and

23 smoke, that wouldn't be unusual; right?

24 A: No.

25 Q: Okay. All right. Now let me ask you -- and then I'm

CODY JORDAN - CROSS BY MR. WILSON

1 going to be done.

2 A: Yes, sir.

3 Q: With regards to the front of the house, that is the front
4 of [REDACTED], was there ever a point when you were on the porch of
5 [REDACTED]?

6 A: Probably. I was walking around the scene for a while.
7 We were out there for a good -- good while.

8 Q: Okay. But you did not go into the interior of [REDACTED]?

9 A: I don't believe so.

10 Q: All right. Did you go into the interior of [REDACTED], the
11 burned house?

12 A: I don't believe so either.

13 Q: Okay. And now the other house, [REDACTED], were there people
14 living in [REDACTED]?

15 A: Yes, sir.

16 Q: In fact, there were people on the porch of [REDACTED] while
17 y'all were conducting this raid or search warrant or whatever;
18 right?

19 A: Yes, sir.

20 Q: How many people were on the porch of [REDACTED] while you were
21 there that you saw?

22 A: Maybe three, two or three.

23 Q: All right. And did you or did someone in your group
24 detain at least one or two of the people who were at [REDACTED]?

25 I'm sorry, [REDACTED].

CODY JORDAN - CROSS BY MR. WILSON

1 A: I believe so.

2 Q: Yeah. In fact, do you agree with me that there's this
3 individual who was placed on the ground with his hands behind
4 his back, and he told you that he had just come from work?

5 A: I don't remember that, but --

6 Q: You don't remember that?

7 A: -- that's possible, yes, sir.

8 Q: All right. But you wouldn't deny that?

9 A: No, sir.

10 Q: All right.

11 MR. WILSON: I don't think I have any other questions.

12 Thank you, sir.

13 THE COURT: Redirect?

14 MR. RICHARDSON: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. RICHARDSON:

17 Q: Mr. Jordan, you indicated that you had reviewed your
18 helmet cam footage?

19 A: Yes, sir.

20 Q: Is that right? I want to show you State's Exhibit 33 for
21 identification. If you'd take a look at that and let me know
22 what that is?

23 A: It's a DVD of my helmet cam.

24 Q: Okay.

25 MR. RICHARDSON: And, Your Honor, I would ask for State's

CODY JORDAN - REDIRECT BY MR. RICHARDSON

1 33 to be entered into evidence and to play the limited portion
2 that was discussed on cross-examination.

3 THE COURT: Any objection?

4 MR. WILSON: I have no objections.

5 THE COURT: Yes, sir.

6 MR. RICHARDSON: And I have it cued up.

7 THE COURT: Okay. Good.

8 (WHEREUPON, State's Exhibit Number 33, bodycam of Officer
9 Jordan, was admitted into evidence.)

10 MR. RICHARDSON: Madam Clerk, could we connect to --

11 MR. WILSON: Your Honor, just for the record though,
12 subject to -- all of this is subject to the Court's earlier
13 rulings on the matters that we had on the Fourth Amendment
14 issues.

15 THE COURT: And you're protected on the record.

16 MR. WILSON: Thank you, Your Honor.

17 (WHEREUPON, State's Exhibit Number 33 was played in open
18 court with questioning during as follows.)

19 BY MR. RICHARDSON:

20 Q: Mr. Jordan, can you tell us what we're -- the view we're
21 looking at right here?

22 A: Yeah. You're -- basically, you're attached to the side
23 of the right -- it looks like the right side of my helmet as
24 I'm driving the van.

25 Q: Okay. Can you tell by looking at this where you are and

CODY JORDAN - REDIRECT BY MR. RICHARDSON

1 where you're headed?

2 A: It looks like we're getting ready to turn left onto
3 Marion Street.

4 Q: Okay. Can you tell us -- and I'll back it up here --
5 what -- what we're looking at as you're driving up to these
6 homes here? If you could, just take us through this.

7 A: Yes. As -- as I pull up, I'm not in a great position.
8 I'm pretty exposed as the driver. Just as the way the van is
9 configured, it's safer for the team, but not great for me.
10 You can see the white and blue shirt males between the houses
11 running around, and I see them starting to throw things. I
12 realize I'm in not a great spot and I don't have any cover, so
13 that's when I draw my weapon and cover myself until one of my
14 own guys covers for me.

15 Q: Okay. And those -- the guys you see standing in the back
16 there now, are that some of your team members?

17 A: Yes. You'll -- I think I go straight there, and there
18 you see the other officers. There is the gentleman in a white
19 shirt and blue shirt to the right there.

20 Q: Okay. And at that point you got them secure and you --
21 you go on to secure the rest of the property there?

22 A: Yes. So the other team that I left that you saw go to
23 the front, they're clearing the target house while I walk to
24 the back, and the officers in the back are securing those
25 gentlemen on the ground.

CODY JORDAN - REDIRECT BY MR. RICHARDSON

1 Q: Okay. So your camera footage that picks up the guy in
2 the white shirt, guy in the blue shirt, they're kind of in the
3 back of the property?

4 A: Yes, sir.

5 Q: Is that right? And you could observe items being thrown?

6 A: Yes, sir.

7 Q: All right. And that's what you relayed to the other
8 officers?

9 A: Correct. Yes, sir.

10 MR. RICHARDSON: Thank you. That's all we have, Your
11 Honor.

12 MR. WILSON: I have nothing further, Your Honor.

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

14 And, Mr. Richardson, you may call your next witness.

15 MR. RICHARDSON: Thank you, Your Honor. We would call
16 Shannon McKenzie.

17 THE COURT: Officer McKenzie, please come forward. Place
18 your left hand on the Bible. Raise your right hand as the
19 clerk administers the oath.

20 THE CLERK: Do you swear or affirm the testimony you give
21 in this case will be the truth, the whole truth, and nothing
22 but the truth, so help you God?

23 THE WITNESS: Yes, I do.

24 THE CLERK: Please be seated.

25 THE COURT: All right. Come around. Watch your step.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Have a seat in the witness chair and pull up real close to
2 that microphone and speak loudly, clearly, and slowly in order
3 that we can hear everything that you have to say, and let's
4 start with your full name, please, sir.

5 THE WITNESS: Yes, sir. Shannon O'Neil McKenzie.

6 THE COURT: All right. Mr. Richardson?

7 MR. RICHARDSON: Thank you, Your Honor.

8 SHANNON MCKENZIE, being first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. RICHARDSON:

12 Q: Officer McKenzie, back in May 2022, where were you
13 employed?

14 A: With the City of Florence Police Department.

15 Q: And what did you do or what do you do for them?

16 A: I'm in the Special Investigations Unit.

17 Q: And could you explain to us what that is?

18 A: That is the Special Investigations Unit, kind of just
19 like it sounds, but it's in charge of investigating drugs,
20 gangs, guns, prostitution, gambling, that kind of stuff for
21 the City.

22 Q: Okay. And how long have you been in that role for the
23 Florence Police Department?

24 A: Over ten years now.

25 Q: Okay. Back in -- on May 4th, 2022, were you involved in

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 this execution of a search warrant at [REDACTED] West Marion Street
2 in Florence?

3 A: Yes, sir.

4 Q: Okay. And what was your role in that?

5 A: Well, just since we had the ERT basically executing and
6 securing the people that would be on the property, we kind of
7 set up a perimeter just in case any runners got out until that
8 portion of it was complete, and then we moved in for evidence
9 collection and -- and searching and that kind of stuff.

10 Q: All right. So once the scene was secured, your job was
11 to basically go in and do what the search warrant was about to
12 try to find illegal items?

13 A: Yes, sir.

14 Q: Okay. And is that what you did in this case?

15 A: Yes, sir.

16 Q: I want to show you -- well, I'll first ask, at the scene,
17 were you outfitted with a body-worn or helmet camera?

18 A: I had a body camera, yes, sir.

19 Q: Okay.

20 A: Body-worn.

21 Q: Was that operational --

22 A: It was.

23 Q: -- during this time?

24 A: Yes, sir.

25 Q: I'll show you State's Exhibit 14 for identification at

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 this time and ask if you can identify that for me?

2 A: Yes, sir. This is a DVD copy of my body-worn camera.

3 MR. RICHARDSON: Your Honor, I'd ask if State's 14 be
4 entered into evidence.

5 THE COURT: Any objection?

6 MR. WILSON: Just -- and, Your Honor, just so I don't
7 need to continue to make any objections, I would just ask the
8 Court to allow me to have a continuing objection to any of the
9 Fourth Amendment issues that -- that we discussed.

10 THE COURT: And you're protected.

11 MR. RICHARDSON: Thank you, Your Honor.

12 THE COURT: It's into evidence, subject to objection of
13 defense.

14 (WHEREUPON, State's Exhibit Number 14, body-worn camera
15 footage of Officer McKenzie, was admitted into evidence.)

16 BY MR. RICHARDSON:

17 Q: Officer McKenzie, when you -- we just heard from Officer
18 Jordan. Did you get information about items possibly being
19 thrown around towards the side and back of the property?

20 A: Yes, sir. When I arrived on the property, I kind of
21 walked down that same alleyway that you see. I refer to him
22 as Lt. Jordan. That's what he was when he was here. But he
23 kind of instructs me of what he saw and the items that he --
24 that he saw thrown.

25 Q: All right. And the person who was on the ground there

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 that we saw in the video wearing the white shirt, who was
2 that?

3 A: That was Tyquan Johnson.

4 Q: And do you see him in the courtroom here today?

5 A: Yes, sir.

6 Q: Could you identify where he is?

7 A: Yeah. He's sitting over there beside the attorney.

8 Q: Thank you.

9 MR. RICHARDSON: Your Honor, let the record reflect he's
10 identified the defendant.

11 BY MR. RICHARDSON:

12 Q: So you went looking for these items that got thrown?

13 A: Yes, sir.

14 Q: All right. And what did you find?

15 A: I found collectively three handguns: a Glock .40 caliber
16 that was in the backyard, a .22 revolver that was down right
17 beside the house, and eventually a Ruger that was on the roof
18 of the house. That would have been [REDACTED].

19 Q: The house next door?

20 A: Yes, sir.

21 Q: Thrown up there?

22 A: Yes, sir.

23 Q: Okay.

24 MR. RICHARDSON: First, Your Honor, I'd like to publish
25 portions of -- I believe it's State's 14, if I may at this

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 time.

2 THE COURT: Any objection?

3 MR. WILSON: I'm sorry. I didn't --

4 MR. RICHARDSON: We're going to publish some of that
5 State's 14.

6 MR. WILSON: I have no objection to it.

7 THE COURT: All right. Mr. Richardson, is there
8 redactions to this video?

9 MR. RICHARDSON: We're playing a specific portion on mute
10 to avoid any hearsay issues and show the relevant portions.

11 THE COURT: Okay.

12 MR. RICHARDSON: That's by agreement of the parties.

13 THE COURT: All right. Madam Forelady and ladies and
14 gentlemen of the jury, the parties have agreed to redact
15 certain aspects of this video that are inadmissible having to
16 do with hearsay and other objectionable matters. Everyone has
17 agreed to that and pay very close attention.

18 MR. RICHARDSON: Thank you, Your Honor.

19 (WHEREUPON, State's Exhibit Number 14, body-worn camera
20 footage of Office McKenzie, was played in open court with
21 the following questioning during.)

22 BY MR. RICHARDSON:

23 Q: Investigator, as I play this, if you could just take us
24 through verbally what you're doing and observing.

25 A: Yes, sir. Basically, this is after I've already arrived

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 in the backyard. I've already spoken with Lt. Jordan.
2 There's the Glock kind of where Lt. Jordan said he observed it
3 go over that tree. There's a small tree right there to my
4 right, and he said he saw an item tossed over the top of that
5 tree. And so I walked around to the backside of that tree and
6 located it.

7 I mean, here I'm just walking around looking for anything
8 that might have been tossed. Lt. Jordan said he observed
9 several items being tossed, so we weren't exactly sure what
10 all could have been tossed.

11 And I believe -- I believe here, they're just kind of
12 telling me which way the guys ran when they -- that was the
13 backyard team. I believe they're just telling me. I'm
14 standing beside the .22 revolver here. Sgt. Brown was in
15 charge that day of photographing everything. And so I was
16 just standing by it to kind of point to Sgt. Brown where it
17 was so he could photograph it.

18 Q: Okay.

19 MR. RICHARDSON: I beg the Court's indulgence. Let me
20 get the other portion pulled up.

21 BY MR. RICHARDSON:

22 Q: All right. If you could take us through this portion as
23 well?

24 A: All right. Yes. So here the ERT -- they keep a ladder
25 on their van to clear attics and stuff like that. So they

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 brought that ladder to me so I could get up on the roof. I
2 also took the camera from Sgt. Brown, so anything that I found
3 on the roof could be photographed by me and then that would --
4 he wouldn't have to come up on the roof.

5 And here I'm seeing -- you'll be able to see it in a
6 second, I believe, that sausage that the lieutenant knew was
7 there that Lt. Jordan was speaking about. So I just kind of
8 photographed it. From -- from where I'm at right there, I'm
9 not sure what it is. That's why I'm really photographing it.
10 I didn't realize at that time it was a sausage kind of until I
11 get right here, and then I realized.

12 And I'm just up on the rooftop looking around, and then I
13 see that Ruger pistol right there by the vent pipe, and so I
14 walk over there and photograph it. Excuse me.

15 Yeah, since I already -- since I was up there and, again,
16 I didn't want any -- anybody else coming on the roof, there
17 was no need for all that, I went ahead and collected it so no
18 one else would have to get back on the rooftop. Now, I'm just
19 making -- here I'm just making it safe before I walk down with
20 a loaded gun in my hand and try to get down the ladder.

21 And I believe I collected the sausage too, and then I
22 look around. I look around just to make sure that the other
23 rooftops didn't have anything on them.

24 Q: And we can see you're standing on the roof of what?

25 A: [REDACTED].

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Q: All right. And the house nearest to that is which one?

2 A: That's [REDACTED] that I'm looking at right there in that

3 direction.

4 Q: And [REDACTED] or [REDACTED]?

5 A: [REDACTED].

6 Q: Okay.

7 A: Yeah, it might be listed as [REDACTED]. I can't remember.

8 Q: Okay.

9 A: But it's [REDACTED], [REDACTED], and [REDACTED].

10 Q: All right. Now I want to show you several items. When

11 you collected these weapons, did you check to see if they were

12 loaded?

13 A: Yes, sir.

14 Q: And did you clear them and make them safe?

15 A: I did, sir.

16 Q: All right. I'll show you first what's been marked as

17 State's Exhibit 32 for identification. If you could -- I

18 don't know if you have something to open this with, but if you

19 could try to open that.

20 A: I don't know if anybody has a knife handy.

21 MR. JEPERTINGER: Do you have a knife?

22 THE COURT: Here's some -- here's some scissors. That

23 might work.

24 THE WITNESS: That'll work. We got scissors. That'll

25 work. This one came open.

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1 MR. RICHARDSON: Okay.

2 THE WITNESS: This'll work for the next two things.

3 MR. JEPERTINGER: Thank you, Judge.

4 BY MR. RICHARDSON:

5 Q: All right. Without showing anything, would you look in
6 that box and tell us what Item 32 is?

7 A: This is a Glock and one magazine.

8 Q: And is that the weapon -- one of the weapons you
9 collected from the scene that day?

10 A: Yes, sir, it is.

11 Q: All right. Is it in substantially the same condition it
12 was in when you collected it?

13 A: Yes, sir. It appears to be.

14 Q: All right.

15 MR. RICHARDSON: Your Honor, I'd ask State's 32 be
16 entered into evidence.

17 MR. WILSON: I don't have any objection beyond my motion.

18 THE COURT: All right. It's into evidence.

19 (WHEREUPON, State's Exhibit Number 32, Glock pistol, was
20 admitted into evidence.)

21 MR. RICHARDSON: Thank you.

22 BY MR. RICHARDSON:

23 Q: Next, I'll show you State's 31. If you can take a look
24 in there and tell us what that is?

25 A: Now, this appears to be the .357 revolver. It's a

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Taurus, and I don't even know what this is because I'm
2 familiar with the case, but this is not one of the weapons
3 that I found in the backyard. This would be the one that came
4 from somewhere else on the property.

5 Q: Okay. So that came from elsewhere. This was not the one
6 you saw on the ground?

7 A: Right. This was not the one that was on the ground.

8 Q: Okay.

9 A: The one that was on the ground was a .22 revolver.

10 Q: Okay.

11 A: Yes, sir.

12 Q: So this one you did not collect?

13 A: I did not.

14 Q: Okay. And I'll show you what is marked as State's 30.

15 A: Yes, sir. Now, this is -- this is the .22 revolver.

16 Q: That was --

17 A: This is the one that was lying on the ground beside the
18 house that I collected.

19 Q: Okay.

20 A: Yes, sir.

21 Q: And is that in substantially the same condition as it was
22 when you found it?

23 A: It appears to be so. Yes, sir.

24 MR. RICHARDSON: Your Honor, I'd ask that State's 30 be
25 entered into evidence.

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1 THE COURT: Any objection from defense?

2 MR. WILSON: Same objection, Your Honor.

3 THE COURT: Very good. It's into evidence.

4 (WHEREUPON, State's Exhibit Number 30, .22 revolver, was
5 admitted into evidence.)

6 MR. RICHARDSON: Your Honor, if I just may briefly show
7 the jury the contents of the exhibit?

8 BY MR. RICHARDSON:

9 Q: And, Investigator McKenzie, you mentioned this gun, which
10 is State's 32. What is this gun called?

11 A: That's a Glock.

12 Q: And this one was found where?

13 A: That was found in the backyard on the other side of that
14 tree.

15 Q: Okay. So on the video, this was the first gun we saw?

16 A: Yes, sir.

17 Q: And it was loaded?

18 A: Yes, sir, it was.

19 Q: I will now show the jury State's Exhibit 30. And you
20 indicated this is what kind of gun?

21 A: That's a .22 caliber revolver.

22 Q: Okay. Is this the one you found on the ground?

23 A: Yes, sir.

24 Q: And it was loaded as well?

25 A: Yes, sir.

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1 Q: And you mentioned earlier that you, I guess, made the --
2 the weapons safe for packaging and took the ammunition out of
3 them?

4 A: Yes, sir.

5 Q: I'll show you Item 28 or State's Exhibit 28 for
6 identification. Could you identify that?

7 A: Yes.

8 Q: And if it's not from the gun you collected, just let us
9 know that.

10 A: Yes, sir. I'm looking to see what caliber the bullets
11 are. The extended mag is not from the gun that I collected
12 because that magazine is with the gun. This is .40 caliber
13 ammo that is with that. So it's quite possible that this --
14 this could be the ammo or it could -- it could've been from
15 somewhere else on the property. I'm not exactly sure.

16 Q: Okay. So you're not --

17 A: That's the same caliber as the Glock. I'm not sure if
18 that's the exact ammo that was in that gun.

19 Q: Okay. So this could have been from the gun you did not
20 collect?

21 A: It could be.

22 Q: Okay. I'm going to show you State's 27 for
23 identification, if you can take a look at that.

24 A: This appears to be the .357. So this would have come
25 from that -- that revolver that I did not collect. That's

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 .357 rounds.

2 Q: That you did not collect?

3 A: Right. Yes, sir.

4 Q: Thank you. I'll show you State's 21.

5 A: Yes, sir. This appears to be .40 caliber ammo also, and
6 it does not have a magazine with it. So this would probably
7 more than likely be the ammo that I removed from the .40
8 caliber Glock.

9 Q: The one that we just --

10 A: Yes, sir.

11 Q: -- looked at here?

12 A: Yes, sir.

13 Q: All right. So this would have -- these bullets would
14 have come out of State's Exhibit 32?

15 A: Yes, sir.

16 Q: Okay.

17 MR. RICHARDSON: Your Honor, I'd ask if State's 21 could
18 be entered into evidence.

19 MR. WILSON: Same objection, Your Honor.

20 THE COURT: All right. It's into evidence.

21 (WHEREUPON, State's Exhibit Number 21, .40 caliber
22 ammunition, was admitted into evidence.)

23 BY MR. RICHARDSON:

24 Q: I'm going to show you State's 24, if you can take a look
25 at that.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 A: Yes, sir. These are .22 caliber bullets, and these would
2 have been the ones that I removed from the .22 caliber
3 revolver.

4 Q: Okay.

5 MR. RICHARDSON: Your Honor, I'd ask that State's 24 be
6 entered into evidence.

7 MR. WILSON: Same.

8 THE COURT: It's into evidence.

9 (WHEREUPON, State's Exhibit Number 24, .22 caliber
10 ammunition, was admitted into evidence.)

11 BY MR. RICHARDSON:

12 Q: This is State's 25, if you can recognize that?

13 A: These appear to be two casings from -- from State's --
14 that they test fired the weapons, which is standard for
15 weapons that we seize. So they would just be shell casings
16 that were test fired.

17 Q: From?

18 A: From probably SLED.

19 Q: Okay.

20 A: Yes, sir.

21 Q: Would this have come from --

22 A: It would have came out -- it would have come out of -- I
23 didn't see if it says what the casings are. If they were .40
24 cal, they would have test -- have come from the Glock 23. So,
25 yes, sir. So these are two shell casings that would have came

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 out of that Glock that was sent to SLED, I guess, to be test
2 fired.

3 Q: Okay.

4 A: To be analyzed.

5 Q: All right.

6 MR. RICHARDSON: Could we have State's 25 into evidence?

7 THE COURT: Defense?

8 MR. WILSON: Same objection, Your Honor.

9 THE COURT: All right. It's into evidence.

10 (WHEREUPON, State's Exhibit Number 25, two shell casings,
11 was admitted into evidence.)

12 BY MR. RICHARDSON:

13 Q: And State's 26?

14 A: Now, these just look like some -- these are .22 caliber
15 rounds too, but they're in a baggie that looks like they were
16 found in. So they were located somewhere on the property.
17 I'm not exactly sure where.

18 Q: Somewhere else that you did not collect?

19 A: No, sir. I did not collect those.

20 Q: Officer McKenzie, when you collected all these items that
21 you testified to, what did you do with them?

22 A: I kept them in the backyard. I found a centrally located
23 spot to put them there because I had to run serial numbers
24 through dispatch through NCIC, and then I made sure they were
25 watched over until I turned them over to Cpl. Buxton.

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 Q: Okay. So you gave them to Buxton?

2 A: Yes, sir. When he was free from doing the stuff, because
3 he was the case agent. So when he was -- had time to come
4 back to the backyard, I kind of walked him through each item
5 of where it was located at, and I let him know that it had
6 been photographed. And then I released all those items to
7 him.

8 Q: Okay. Was what we've discussed here this morning what
9 you contributed to the search?

10 A: Yes, sir.

11 Q: Okay. So these -- these were basically the items that
12 you found as part of the search warrant?

13 A: Yes, sir.

14 Q: Okay.

15 MR. RICHARDSON: I beg the Court's indulgence just one
16 moment.

17 BY MR. RICHARDSON:

18 Q: Investigator McKenzie, when you locate guns and in
19 particular these guns, do you go through any process to figure
20 out if the gun is clear or owned or stolen or --

21 A: Yeah. We -- we run the serial number through our central
22 dispatch, and they do a NCIC records check, which is a
23 national database, and then they basically let us know if the
24 gun is returning clear or if the gun has been reported stolen.

25 Q: These particular guns that you found, how did they shake

SHANNON MCKENZIE - DIRECT BY MR. RICHARDSON

1 out in terms of that question?

2 A: The Glock returned that it was reported stolen.

3 Q: Okay. Do you remember out of where?

4 A: I want to say maybe Orangeburg County, I believe.

5 MR. RICHARDSON: Thank you, sir.

6 THE WITNESS: Yes, sir.

7 MR. RICHARDSON: That's all the questions I have for you.

8 THE COURT: Cross-examination.

9 MR. WILSON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. WILSON:

12 Q: Now, I assume you're wearing a body camera or is this one
13 of those head cameras as well?

14 A: No, sir. It was right here.

15 Q: Okay. So yours is on here?

16 A: Yes, sir.

17 Q: And as I understand your role in this, you were to do
18 what?

19 A: Assist Special Investigations Unit with whatever they
20 needed.

21 Q: All right. And did you come up from the back or did you
22 come up from the front?

23 A: I actually drove. I actually drove my vehicle, and I
24 parked on the street that's west of the location.

25 Q: Okay.

SHANNON MCKENZIE - CROSS BY MR. WILSON

1 A: After the scene was made secure and we were told we could
2 come in, I drove around to the front and parked on the front
3 and then approached from the front of the property. Yes, sir.
4 Q: Okay. And you got some directions that something had
5 been thrown, is what I understand; right? And you were going
6 to look for that?
7 A: Yes, sir.
8 Q: All right. And -- but you didn't see anything thrown?
9 A: Oh, no, sir.
10 Q: Okay. All right. And so you went -- now, the search
11 warrant is for [REDACTED]? I'm sorry, for [REDACTED]; is that correct?
12 A: Yes, sir.
13 Q: All right. So where did you find this weapon on top of
14 the roof, and where did you find the sausage that was on top
15 of the roof? Was that on [REDACTED]?
16 A: It was where Lt. Jordan said it had been thrown, [REDACTED].
17 Yes, sir.
18 Q: All right. So your answer is it was not found on [REDACTED]?
19 A: No, sir, it was not.
20 Q: It was not found on or inside the house of [REDACTED]?
21 A: No, sir, it wasn't.
22 Q: It was found on the roof of [REDACTED]?
23 A: Yes, sir.
24 Q: Now, is [REDACTED] the property that is damaged by fire?
25 A: No, sir. I believe that's [REDACTED].

SHANNON MCKENZIE - CROSS BY MR. WILSON

1 Q: Okay. So [REDACTED] is the property that was damaged by fire,
2 and there are actually occupants of [REDACTED]; right?

3 A: Yes, sir, I believe.

4 Q: All right. Well, in fact, they're out on the porch and
5 on the steps when you guys are out there with your search
6 warrant doing whatever you're doing; right?

7 A: Yes, sir. I didn't question them. I had no clue who
8 they were, whether they lived there or just visitors. Yes,
9 sir.

10 Q: Well, but I didn't ask you if you questioned them. What
11 I was asking you is whether or not there were people there at
12 [REDACTED], which is where you say you found these guns.

13 A: Yes, I believe they were.

14 Q: All right. And -- and so on the roof, when you got a
15 ladder and you climbed up on the roof, you find a gun on [REDACTED].
16 No question about that; right?

17 A: Exactly.

18 Q: And there's no question that you found a sausage piece or
19 a package or whatever you want to call it on [REDACTED]?

20 A: Yes, sir.

21 Q: All right. Now, you also was talking to the solicitor
22 about having found a Glock; right?

23 A: Yes, sir.

24 Q: Where did you find the Glock?

25 A: In the backyard of [REDACTED].

SHANNON MCKENZIE - CROSS BY MR. WILSON

- 1 Q: In the backyard of which apartment?
- 2 A: [REDACTED].
- 3 Q: [REDACTED]. Now, what about the .22? Where was that found?
- 4 A: It was -- I guess it would have been closer to [REDACTED]. It
- 5 was between [REDACTED] and [REDACTED] in the grass, but it was closer to the
- 6 [REDACTED] house.
- 7 Q: All right. So everything that you found was either on
- 8 the roof of [REDACTED] or in the backyard closest to [REDACTED]?
- 9 A: Yes, sir.
- 10 Q: All right. What weapon, if any, did you find on the
- 11 interior of [REDACTED]?
- 12 A: I didn't search [REDACTED] interior.
- 13 Q: To your knowledge, having participated in this process,
- 14 did you -- to your knowledge, was there a weapon found in [REDACTED]
- 15 [REDACTED]?
- 16 A: Inside of the residence?
- 17 Q: Yes, sir.
- 18 A: Yeah. No, sir, not that I'm aware of.
- 19 Q: Okay. That's a no?
- 20 A: That I'm aware of, no, sir.
- 21 Q: All right. Now, the solicitor was asking you about a
- 22 clip. And I'm not sure --
- 23 A: They've got the evidence.
- 24 Q: Okay. He took it back?
- 25 A: I didn't collect that one, sir.

SHANNON MCKENZIE - CROSS BY MR. WILSON

1 Q: All right.

2 A: So --

3 Q: All right. And that's what I was going to ask you about,
4 that clip. You don't know which gun that clip goes to?

5 A: I know it didn't go to any of the guns that I located. I
6 couldn't tell you where it came from.

7 Q: Okay. All right. In regards to Mr. Johnson, did you see
8 him there?

9 A: On the property? Yes, sir.

10 Q: Yes, sir.

11 A: I saw him there.

12 Q: All right. And tell us what contact, if any, you had
13 with him.

14 A: I just saw him there.

15 Q: You just saw him there?

16 A: Yes, sir.

17 Q: Did you speak to him?

18 A: I don't believe I ever did.

19 Q: Did you give him any commands?

20 A: No, sir.

21 Q: All right. Were you -- when he was taken from the
22 backyard to the front porch, were you present during that
23 process?

24 A: I believe I may have been walking up as that was taking
25 place.

SHANNON MCKENZIE - CROSS BY MR. WILSON

- 1 Q: All right. What other items -- what other items of
2 evidence other than the Glock and the .22 caliber -- and you
3 said you found a Ruger as well; right?
- 4 A: Yes, sir.
- 5 Q: All right.
- 6 A: That was the one on the roof.
- 7 Q: Other than those items, what else did you find and turn
8 over to the evidence custodian?
- 9 A: I believe cell phones that were in the backyard.
- 10 Q: Okay. How many cell phones did you get?
- 11 A: No more than two. I can't remember if it was one or two.
12 I believe it was two.
- 13 Q: All right. Now, with these guns that you found, let's
14 talk about them first, and then we'll talk about the phones in
15 a minute. With the guns that you found, you said to the
16 solicitor that you checked the serial numbers, sent them in to
17 whatever dispatch or whoever, so that you can determine
18 whether or not the guns are stolen or who owns the guns;
19 right?
- 20 A: Yes, sir.
- 21 Q: And that one of the guns came back having been stolen
22 from Orangeburg or you believe maybe Orangeburg?
- 23 A: I believe that's what they said. Orangeburg.
- 24 Q: All right. Do you know when that gun was stolen?
- 25 A: I'm not exactly sure the exact day. I want to say that a

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1 year prior to us finding it.

2 Q: Okay.

3 A: That's what the paperwork said.

4 Q: All right. All right.

5 A: I think it would have been 2021 at some point.

6 Q: Okay. Very well. And let me ask you as well, in regards
7 to [REDACTED], the house, did you have any responsibilities for the
8 searching of the interior of [REDACTED]?

9 A: No, sir.

10 Q: All right. When -- the guns that you found, the -- the
11 one on the roof, the one in the yard, and the .40 Glock, did
12 you have them tested in any way, say, for DNA or for
13 fingerprints to see whose prints or whose DNA might be on
14 those guns?

15 A: No, sir. I personally did not.

16 Q: All right. Well, did you submit them to SLED or some
17 other agency who might be able to perform those tests to help
18 determine who the owners or who had immediate possession of
19 those guns or recent possession of those guns?

20 A: No, sir, I did not do that.

21 Q: All right. To your knowledge, did anyone in law
22 enforcement do that?

23 A: I couldn't tell you that. I couldn't answer that. It's
24 not my case.

25 Q: All right. One last thing. And in regards to your

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1 participation in -- in the -- in the search, did you come up
2 from the back or from the front of the premises?

3 A: After the scene was secured, I drove my Tahoe around to
4 the front and parked it in the front yard and exited my
5 vehicle and walked to the back.

6 Q: Okay. And maybe -- maybe I'm not asking the question
7 quite right. What I'm asking, I guess, is when you initially
8 arrived, did you arrive coming up through the back through the
9 woods to the back of the house or did you come up in a van or
10 a vehicle up to the front of the house?

11 A: I drove my Tahoe. I was driving my Tahoe. I parked on
12 the street that is west of that block until I was given the
13 order or the command that the scene was secure and that
14 everybody on the property had been detained.

15 Q: Okay.

16 A: Then I drove around to Marion Street, and I parked
17 directly in front of [REDACTED].

18 Q: Okay.

19 A: And I exited my Tahoe, and then I walked up.

20 Q: That answers my question. Thank you so much.

21 A: Yes, sir.

22 THE COURT: All right. Redirect?

23 MR. RICHARDSON: No, sir.

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

25 THE WITNESS: Yes, sir.

1 THE COURT: Madam Forelady and ladies and gentlemen of
2 the jury, we're going to take a moment to allow you to return
3 to the jury room, refresh yourselves, and we'll come back in
4 for more testimony.

5 But, Madam Forelady, there'll be no discussion about the
6 case whatsoever. I'm going to ask that you enforce that rule.

7 Everyone remain seated as the jury exits the courtroom.

8 (WHEREUPON, the jury exited the courtroom at 11:02 a.m.)

9 (WHEREUPON, there was a break in the proceedings from
10 11:02 a.m. until 11:13 a.m., after which the proceedings
11 resumed as follows.)

12 THE COURT: Anything from the State before we proceed?

13 MR. RICHARDSON: Nothing from the State, Judge.

14 THE COURT: Anything from defense?

15 MR. WILSON: Nothing, Your Honor.

16 THE COURT: We're ready for the jury.

17 Well, hang on just one second until we get the defendant
18 in.

19 (WHEREUPON, there was a pause in the proceedings, after
20 which the proceedings resumed as follows.)

21 THE BAILIFF: Judge, it's going to be just a minute.

22 THE COURT: Okay.

23 (WHEREUPON, the jury entered the courtroom at 11:18 a.m.)

24 THE COURT: Mr. Richardson, you're recognized. You may
25 call your next witness.

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 MR. RICHARDSON: Thank you, Your Honor. We'd call Kevin
2 Buxton.

3 THE COURT: Yes, sir. Officer Buxton, I'm going to ask,
4 if you could, to place your left hand on the Bible. Raise
5 your right hand as the clerk administers the oath.

6 THE CLERK: Do you swear or affirm the testimony you give
7 in this case will be the truth, the whole truth, and nothing
8 but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please be seated.

11 THE COURT: Watch your step. Have a seat in the witness
12 chair and pull up real close to that microphone. Speak
13 loudly, clearly, and slowly, in order that we can hear
14 everything that you have to say, and let's start with your
15 full name, please, sir.

16 THE WITNESS: Kevin Allen Buxton.

17 THE COURT: All right. Mr. Richardson?

18 MR. RICHARDSON: Thank you, Your Honor.

19 KEVIN BUXTON, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q: Officer Buxton, where do you work currently?

24 A: City of Florence Police Department.

25 Q: And how long have you been there?

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 A: Over ten years.

2 Q: What is your job there?

3 A: For the past -- for over four years, my role has been in
4 the Special Investigations Unit.

5 Q: Okay. And we, I think, heard the explanation of what
6 that is a little earlier. You investigate narcotics crimes
7 and things of that nature?

8 A: Yes, sir.

9 Q: Okay. Back on May the 4th of 2022, were you involved in
10 the execution of a search warrant at [REDACTED] Marion Street here
11 in Florence in Florence County?

12 A: That's correct. It was my case. I had the search
13 warrant for the property.

14 Q: So you were the -- the case agent?

15 A: Yes, sir.

16 Q: This was your baby, for lack of a better term, in terms
17 of investigation?

18 A: Yes, sir.

19 Q: All right. And could you explain to us -- we've heard a
20 little bit about the ERT team and what they do, and then
21 special investigations and what they do. Could you explain
22 when a search warrant is executed, which team has which role
23 and how it goes?

24 A: We -- prior to every search warrant, we conduct a threat
25 assessment or a matrix and go through different information,

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 whether it's information we have from sources or anonymous
2 complainants or confidential, reliable informants that give us
3 information. From that information, a threat assessment is
4 conducted on weapons on the property, information we have
5 about the number of people there, things of that nature.

6 So at that point, we -- that was done and it was
7 determined that it was going to be a high risk search warrant
8 and that -- that decision was made at that point to turn it
9 over to Lt. Jordan for the ERT team to execute the search
10 warrant.

11 Q: So high risk would mean there might be guns on the
12 property?

13 A: That's correct.

14 Q: Et cetera? All right. And as it turns out, there were
15 guns on the property; is that right?

16 A: That's correct.

17 Q: So the Emergency Response Team -- the -- they go in first
18 and make sure everything is safe and secure; is that accurate?

19 A: That is correct. I was on the perimeter. I was on the
20 east -- eastern street of that location, as in case for
21 anybody fleeing the location or anything like that. I wasn't
22 actually on scene when they determined to move in.

23 Q: So you weren't wearing the helmet and carrying the rifle
24 and all that?

25 A: No, sir, I was not.

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 Q: All right. So Special Investigations, which is your
2 team, do they come in after?

3 A: Yeah. Once we get word that the scene is secure, we come
4 in at that point and the search warrant is read, Miranda gets
5 read to everyone, and then that's when the evidence collection
6 and any questioning begins.

7 Q: All right. And that's your role?

8 A: Correct.

9 Q: Okay. And that's what you did on this particular day,
10 May 4th of '22?

11 A: That's correct.

12 Q: Okay. When you got on the scene, did you have an
13 opportunity to meet with Tyquan Johnson, the defendant in this
14 case?

15 A: I did.

16 Q: And were you outfitted with a body camera when you met
17 with him --

18 A: That's correct.

19 Q: -- initially?

20 A: I was.

21 Q: Okay. And did you read him his Miranda warnings or give
22 him his constitutional rights as it related to speaking with
23 you?

24 A: I did.

25 Q: And could you tell us, to the best of your recollection

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1 -- and we may see it here in a minute -- how you went about
2 giving him his rights?

3 A: I -- the card that I use, we get new ones periodically.
4 The card that I had at that time, I no longer have, but it was
5 something to the effect of: you have the right to remain
6 silent. Anything you say can be used against you in court.
7 You have the right to talk to a lawyer for advice before we
8 ask any questions and to have a lawyer with you during
9 questioning. If you cannot afford a lawyer, one will be
10 appointed to represent you before any questioning if you wish.

11 The verbiage may be slightly different for a word or
12 things like that, but I read it verbatim from the card that I
13 had at the time.

14 Q: And that was captured on your camera?

15 A: It was.

16 Q: When you advised him of these rights, did he indicate to
17 you that he understood them?

18 A: Yes.

19 Q: And when you interacted with him, did you have any
20 concern about whether he had the capacity to understand or was
21 intoxicated or had any sort of medical problem going on that
22 would have prevented him from understanding? No. Without a
23 doubt, I believe that he understood.

24 Q: Did he give you cogent, logical responses to your
25 questions?

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1 A: He did.

2 Q: Okay. So no concern about his mental state or anything
3 at the time?

4 A: No.

5 Q: All right. And as I mentioned, you were recording this,
6 and I want to show you what is marked as State's 15 for
7 identification. Could you take a look at that?

8 A: Yes.

9 Q: What is it?

10 A: It's a disk containing my body-worn camera video.

11 Q: Okay. And does this contain basically your -- your body-
12 worn not only for the Miranda, but for the duration of the
13 time you had it there?

14 A: That's correct.

15 Q: All right.

16 MR. RICHARDSON: I'd ask if State's 15 could be entered
17 into evidence at this time.

18 THE COURT: Any --

19 MR. WILSON: Subject to previous motions, Your Honor.

20 THE COURT: It's into evidence over objection.

21 (WHEREUPON, State's Exhibit Number 15, Buxton bodycam
22 footage, was admitted into evidence.)

23 MR. RICHARDSON: Okay. Your Honor, if I may publish one
24 portion of it?

25 THE COURT: Yes.

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1 MR. RICHARDSON: And, Investigator, this portion will
2 have audio, so I'll just ask you questions about it once it
3 ends.

4 (WHEREUPON, a portion of State's Exhibit Number 15 was
5 played and then stopped. Not transcribed herein.)

6 BY MR. RICHARDSON:

7 Q: Okay. All right. And we can see on the video, when you
8 ask Mr. Johnson if he understood, did you -- was the head nod
9 -- the affirmative head nod, is that what you observed?

10 A: That is correct.

11 Q: Now, after you've read Mr. Johnson his Miranda warnings,
12 you kind of turn around and walk off the porch and go about
13 other business for a while; is that right?

14 A: Yes.

15 Q: Eventually or shortly thereafter, did you receive
16 information about where some items may be located on that
17 property?

18 A: Yes. I was informed of items being thrown by Mr.
19 Johnson, as well as the blue shirt gentleman that was in the
20 video, which was Mr. Lorenzo Johnson, that items were seen.
21 They were seen throwing items. It was unknown what they were
22 at the time, but then I was informed that we located firearms
23 in between the two houses of [REDACTED] and [REDACTED], and then also one
24 in the backyard of [REDACTED].

25 Q: All right. And at some point also, did you search a

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 trash receptacle?

2 A: I did.

3 Q: Okay. And I want to show you an item marked as State's
4 23. Without showing this to anybody, could you tell me if you
5 recognize what this is?

6 A: That is the methamphetamine tablets or pills that we
7 located in that -- in the trash can.

8 Q: And was the -- when you located this item in that trash
9 can, was that also captured on your camera?

10 A: It was.

11 Q: All right. And as your recollection, could you -- it'll
12 be on video, but could you tell us how it was packaged in the
13 trash can and what you did to retrieve it?

14 A: There was two -- they were either sandwich or quart
15 Ziploc bags. It was one of the two. They were packaged in
16 that, which those two bags were inside of a white bag. I
17 believe it was a grocery bag. It could have been some other
18 type of plastic bag. And then it was again inside of a dog
19 food bag in the trash can.

20 Q: Okay. So there were -- how many separate bags of pills
21 were there?

22 A: Two.

23 Q: Two? All right. As a part of the search warrant, did
24 you search any vehicles on the property?

25 A: I did.

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1 Q: All right. What kind of a vehicle did you search?

2 A: It was a Ford sedan. I believe it was tan. I don't have
3 the tag. I don't know. I can't remember the tag number or
4 any other descriptions about it, but it was a Ford sedan.

5 Q: All right. I'm going to show you what's marked as
6 State's 31, if you can take a look at that and tell me if you
7 recognize it?

8 A: I do.

9 Q: And what is that?

10 A: That is a .357 revolver that was found in the trunk of
11 the vehicle, that Ford vehicle that I searched.

12 Q: Did you receive a statement from anyone claiming
13 ownership of this weapon?

14 A: Mr. Johnson, the defendant, stated that he had a handgun
15 and other items inside of the trunk of that vehicle.

16 Q: Okay.

17 MR. RICHARDSON: I'd ask that State's 31 be entered into
18 evidence.

19 THE COURT: Defense?

20 MR. WILSON: Same motion, Your Honor.

21 THE COURT: All right. It's in over objection.

22 (WHEREUPON, State's Exhibit Number 31, .357 revolver, was
23 admitted into evidence.)

24 BY MR. RICHARDSON:

25 Q: And I'll show you State's 28, if you'll take a look at

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1 that. And do you recognize this?

2 A: I do.

3 Q: And what is that?

4 A: That is an extended handgun magazine.

5 Q: And?

6 A: Ammunition.

7 Q: Where was this located?

8 A: That was also located in the trunk of the Ford vehicle
9 that I searched.

10 Q: And this ammunition was in this?

11 A: Yes.

12 MR. RICHARDSON: Your Honor, I'd ask State's 28 be
13 entered into evidence.

14 MR. WILSON: Same motion, Your Honor.

15 THE COURT: It's into evidence over objection.

16 (WHEREUPON, State's Exhibit Number 28, ammunition and
17 magazine, was admitted into evidence.)

18 BY MR. RICHARDSON:

19 Q: Aside from Mr. Johnson claiming ownership verbally to
20 you, was there any other items in that vehicle that would have
21 corroborated that?

22 A: Yes. His South Carolina identification card was located
23 in the trunk of the vehicle where those items were found.

24 Q: As far as the pills, guns, and ammo, was there anything
25 else that you personally found as it relates to these type

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1 items on the scene?

2 A: Nothing that I personally located.

3 Q: Okay. So let me get back to these pills, State's 23.

4 You got them out of the trash can. What did you do with them?

5 A: I located the bag. I pulled it out. I looked at them.

6 I called for Sgt. Brown to come over there since he was in

7 charge of taking scene photographs of it.

8 When we spoke about it, we determined that we wanted to

9 put it back in the trash can to take a picture of where we

10 first found it up until seeing what was outside of it. So it

11 was put back the way I found it and put back inside of the

12 trash can where we started. He took pictures of the trash can

13 and worked his way outward as I pulled it out.

14 Q: Okay. Once you pulled it out from there and the

15 photographing was done, what did you do with it?

16 A: Cpl. McKenzie stated that he might have found something

17 else. It was a cigarette packet on the east side of [REDACTED] on

18 a windowsill. So he was looking through that, but I -- once

19 the drugs or the -- the methamphetamine tablets were located,

20 I had them in my possession. I observed. I stood there and

21 watched what Cpl. McKenzie was doing. When it was determined

22 that there was nothing illegal there, I took the

23 methamphetamine tablets to my vehicle, secured them in there,

24 locked my vehicle, and they stayed there for the remainder of

25 the time that we were on scene.

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1 Q: Okay. So between you and your vehicle, nobody else
2 touched those drugs?

3 A: No.

4 Q: Okay. At some point, when you all got done doing what
5 you were doing there at the scene, you left?

6 A: Yes.

7 Q: And where did you take those drugs?

8 A: We took them to the SIU office, at which point I brought
9 them into the office. I completed a BEST pack that was
10 notarized by Cpl. McKenzie, at which point I then took that
11 BEST pack, along with all the other evidence collected, to our
12 evidence room at the City Center, where it was locked into a
13 locker, secured in a room with an alarm system and camera.

14 Q: Help us out with what a BEST pack is.

15 A: A BEST pack is something that SLED, the South Carolina
16 Law Enforcement Division, has us put drugs into, whether it's
17 marijuana, cocaine, crack, meth, heroin, any -- any illegal
18 drug. It goes into that BEST pack, which is notarized. It is
19 then taken to SLED. It's secured with a seal to where if any
20 type of tampering was to have been done with it, then SLED
21 agents would be able to see that prior to it being tested.
22 They would know if anything was done to the bag or anything
23 like that. That's how it's packaged and then transported up
24 there.

25 Q: So you put it in this tamper-proof bag, delivered it to

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 the Florence evidence department yourself?

2 A: Yes.

3 Q: Nobody else handled it?

4 A: No.

5 Q: All right. So you stuck it into an evidence locker at
6 the Florence Police Department?

7 A: Yes.

8 Q: I'll show you what's marked as State's 17, if you can
9 take a look at that and tell me if you recognize it?

10 A: I do.

11 Q: What is it? That's the certification of proof of chain
12 of physical custody or control.

13 Q: For what item?

14 A: For the BEST pack which contained the suspected
15 methamphetamine at the time but came back positive for
16 methamphetamine from testing.

17 Q: Okay. So does this form certify that you were the one
18 who logged this into evidence?

19 A: It does.

20 MR. RICHARDSON: Your Honor, I'd ask State's 17 be
21 entered into evidence.

22 THE COURT: Any objection from defense?

23 MR. WILSON: Nothing, Your Honor.

24 THE COURT: It's into evidence.

25 (WHEREUPON, State's Exhibit Number 17, BEST kit chain of

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 custody, was admitted into evidence.)

2 BY MR. RICHARDSON:

3 Q: Now I want to show you State's 18 and ask if you
4 recognize this?

5 A: Yes. That's the Florence Police Department evidence and
6 inventory impound form. What's on the form is everything to
7 include that BEST pack which contained methamphetamine, along
8 with all the other items that we collected from the search
9 warrant at [REDACTED] West Marion Street.

10 Q: Okay. So that -- that form includes everything y'all
11 collected, regardless of who it was attributed to? That's
12 just the proceeds from that search warrant?

13 A: Yeah. That way there's a log of everything we have.
14 That way, when -- when I drop it off into evidence, this form
15 goes with it so the evidence custodian will have a record of
16 everything we have there.

17 Q: And those pills are listed on that form?

18 A: They are in Item Number 1, for one BEST pack with the
19 suspect -- containing suspected meth is what it was at the
20 time.

21 Q: Okay. And is your signature on that as being the person
22 who turned it in?

23 A: It is.

24 Q: And whose signature is that as the receiver?

25 A: I believe Frank Mizell. It's hard to make it out. It

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1 appears to be his signature, yes.

2 Q: Frank -- Frank Mizell? Okay. And Frank Mizell was --
3 was who at the time?

4 A: He was one of our evidence custodians at the time of
5 that.

6 Q: Okay.

7 MR. RICHARDSON: Your Honor, I'd ask for State's 18 to be
8 entered into evidence.

9 THE COURT: Any objection?

10 MR. WILSON: Yes, sir. May we approach?

11 THE COURT: Sure.

12 (WHEREUPON, a bench conference was held out of the
13 hearing of the jury as follows.)

14 MR. WILSON: My objection, Your Honor, is that it
15 contains some things that are not attributable to this
16 defendant.

17 MR. RICHARDSON: Which I can clarify with him because
18 everything that was collected as part of that whole
19 investigation is nearly everything was something this guy was
20 charged with.

21 THE COURT: Well --

22 MR. RICHARDSON: It's just I need to get that chain in
23 with him.

24 MR. WILSON: He's already testified to what he says my
25 defendant supposedly had.

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1 THE COURT: I don't think it really makes any difference
2 one way or the other, but what we could do is redact. You
3 could either redact all of this just so you can have that or
4 -- or redact the stuff that doesn't belong to him.

5 MR. RICHARDSON: I can do that. Can I have it entered
6 subject to the approved redaction?

7 THE COURT: Yes.

8 MR. WILSON: Yeah. Just don't publish it.

9 MR. RICHARDSON: I won't publish it.

10 THE COURT: Okay. Yes.

11 MR. WILSON: Thank you, Your Honor.

12 (WHEREUPON, the bench conference ended, and the
13 proceedings resumed as follows.)

14 MR. RICHARDSON: Your Honor, may State's Exhibit 18 be
15 entered into evidence, subject to the Court's ruling and the
16 approved redaction?

17 THE COURT: Yes.

18 MR. RICHARDSON: Okay. And we'll redact that on break.

19 THE COURT: Very good.

20 (WHEREUPON, State's Exhibit Number 18, evidence log -
21 redacted version, was admitted into evidence.)

22 MR. RICHARDSON: I beg the Court's indulgence.

23 BY MR. RICHARDSON:

24 Q: All of the items that were collected by various agents
25 there at the scene, did they all end up at some point in your

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1 custody and control?

2 A: They did. As -- when there's a lot of moving parts
3 somewhere like that, whether there's outside searches, vehicle
4 searches, and searches inside of the residence, each person
5 kind of takes a role and does that. My job was for as things
6 were found, I documented that and collected them, and they
7 were then put into my vehicle where they were secured.

8 Q: Okay. I'll show you some of those items for
9 identification purposes only. We'll start out with State's
10 22. Do you recognize the contents of that?

11 A: I do.

12 Q: And from whom did you receive this?

13 A: Lt. Spears located that.

14 Q: Okay. So this was located during the search warrant by
15 Lt. Spears?

16 A: Inside the residence.

17 Q: In the house?

18 A: Yes.

19 Q: All right. And you placed this into evidence?

20 A: I did.

21 Q: And could you tell us what -- what these items are?

22 A: It is a blue bookbag which contained two digital scales,
23 which are commonly used for weighing out drugs for sale, along
24 with a marijuana grinder for grinding the marijuana.

25 Q: Okay. I'll show you State's 29, if you'd take a look at

KEVIN BUXTON - DIRECT BY MR. RICHARDSON

1 that?

2 A: This is a -- is a drum magazine.

3 Q: And could you -- what is that?

4 A: It is a magazine that holds a large quantity of
5 ammunition, about -- I'm not sure if it's a 50-round or a 100-
6 round drum magazine, but it holds a substantial larger
7 quantity of ammunition rather than having the smaller handgun
8 magazine.

9 Q: And from whom did -- did you receive this?

10 A: Lt. Spears.

11 Q: All right. That was found --

12 A: In the residence.

13 Q: I'll show you State's 27. Do you recognize these items?

14 A: Those were the rounds that were in the handgun that I
15 located in the Ford vehicle trunk.

16 Q: Okay.

17 MR. RICHARDSON: I'd ask for State's 27 to be entered
18 into evidence.

19 MR. WILSON: Subject to my previous motions.

20 THE COURT: It's into evidence.

21 (WHEREUPON, State's Exhibit Number 27, ammunition, was
22 admitted into evidence.)

23 BY MR. RICHARDSON:

24 Q: And then State's 26?

25 A: That bag of ammunition that Lt. Spears located inside the

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1 residence and handed to me, which I secured in my car.

2 Q: All right. Were you aware or did you have an opportunity
3 to speak with anyone who claimed these items? Or are you
4 aware?

5 A: The --

6 Q: You can take them individually.

7 A: The bookbag was claimed by Mr. Johnson, and it was found
8 in the bedroom that he claimed inside of [REDACTED].

9 Q: Okay. And are you aware -- the same question for 26 and
10 29, the large magazine and the bullets?

11 A: The magazine was also found in that room. The bullets, I
12 can't say for certain about if anyone claimed ownership of
13 those or anything like that.

14 Q: Okay. At some point, did you have an opportunity to
15 speak with Mr. Johnson about the weapons that were located on
16 the outside?

17 A: Yes, I did.

18 Q: And what did he tell you about those weapons that were
19 found on the ground and on the roof?

20 A: The -- he stated that the Glock and the .22 that we
21 located were his. I asked him about where -- where were they
22 at, in his hands, pocket, at his waist, where are they at, and
23 he told me that they were on his person and he threw them.

24 Q: Okay. Was any money found as part of the search warrant?

25 A: Yes. There was just over \$900 that was found on Mr.

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1 Johnson's person.

2 Q: Okay. And what did you do with that?

3 A: That money was collected and seizure paperwork was done
4 for that money and turned into the Solicitor's Office.

5 Q: Okay.

6 A: The money was logged in with the evidence form into
7 evidence.

8 Q: All right. What all -- when you interviewed Mr.
9 Johnson, you've already stated that he talked about the guns
10 and all that. What all on that property that we have did he
11 claim ownership of?

12 A: He -- he began saying that everything was his. He
13 continually stated that everything's mine, everything's mine,
14 at which point we -- we informed him that it didn't work like
15 that, and he began to claim ownership of the Glock, the .22
16 caliber handgun, the marijuana that was located, and the --
17 the methamphetamine pills that were located in the trash can.
18 That's the three items that he -- or four items that he began
19 to say belonged to him.

20 Q: So two guns on the outside, one gun in the trunk?

21 A: Three guns. Yes. Sorry, I forgot about the other gun.
22 So there was the two guns outside in the backyard and in
23 between the two houses, the Glock in the backyard, the .22
24 between the two houses, the handgun in the trunk of the car.

25 Q: And those pills?

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1 A: And the pills, yes.

2 Q: Okay.

3 MR. RICHARDSON: Please answer any questions Mr. Wilson
4 may have for you.

5 THE COURT: Mr. Wilson?

6 MR. WILSON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. WILSON:

9 Q: Now, Officer Buxton, who is the lead investigator in this
10 case?

11 A: I am.

12 Q: All right. And so the -- kind of the buck stops with
13 you, so to speak, as far as the collection of evidence and
14 what was tested and what was not tested and that kind of
15 thing?

16 A: Correct.

17 Q: All right. So let's -- let's -- let's go back and let's
18 start, first of all, with the drugs that you say you found in
19 the trash can. Well, let's even go back further than that.
20 Let's go back to -- to the reading of Miranda rights. Were
21 you present for that?

22 A: I read them.

23 Q: Okay. All right. So you were present; right?

24 A: Correct.

25 Q: And in reading his rights, did you ask him if he

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1 understood those rights?

2 A: Yes.

3 Q: Did he ever give you a verbal response?

4 A: He gave me a head nod.

5 Q: My question was, did he ever give you a verbal response?

6 A: No.

7 Q: Oh, no. Now, there were other people on the porch as
8 well; right?

9 A: Uh-huh.

10 Q: In fact, there are two other people, Mr. Harvey -- I
11 don't remember his last name -- and then Mr. Lorenzo. They
12 were both on the porch as well; right?

13 A: Correct.

14 Q: And you talked with them as well in reading the rights;
15 right?

16 A: Correct.

17 Q: And then you went to them, and you asked each of them if
18 they understood their rights; right? And actually both of
19 them verbally indicated that they did, didn't they?

20 A: I don't remember if Mr. Harvey did. I remember seeing a
21 head nod from Mr. Harvey. I don't remember if he actually
22 said yes or not.

23 Q: Okay.

24 A: I saw a head nod from him though.

25 Q: All right. And when you're reading an individual their

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1 Miranda rights, it's important to understand whether or not
2 they understand what you're explaining to them and what those
3 rights are; right?

4 A: Correct.

5 Q: Okay. And you -- in talking with the solicitor, you said
6 that you were satisfied that he understood those rights?

7 A: I was.

8 Q: All right. How?

9 A: When --

10 Q: If he never gave -- if he never gave you a response other
11 than you say he nodded his head in some fashion, other than
12 that, how would you know that he understood?

13 A: While reading those, he was engaged in eye contact with
14 me. He -- during any questioning and things like that, he
15 appeared to understand. I -- without a doubt, I believe he
16 understood his rights based on his eye contact with me and his
17 yes head nod.

18 Q: Okay. All right. And did you know how much education he
19 had at that time or how little education he had? Did you know
20 at all?

21 A: I did not.

22 Q: All right. Had you had any kind of conversation with him
23 prior to the reading of the Miranda so that you have some
24 basis based on his verbal interaction with you to determine
25 whether he understood or not?

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1 A: We -- we briefly spoke when I walked up on the porch to
2 him.

3 Q: Okay. Now, is there a point in time when you also read
4 Miranda to his mother and his wife? Right?

5 A: That's correct.

6 Q: In fact, they are separated from him and the other two
7 gentlemen who are on the porch, and they're sitting on the car
8 which is out closest to the road; right?

9 A: That's correct.

10 Q: All right. And you go to them, and you read them their
11 Miranda rights?

12 A: That's correct.

13 Q: All right. Then at some point you tell Mr. Johnson that
14 if somebody doesn't admit to these drugs, then everybody is
15 going to jail, and that would include his mother and his wife?

16 A: I didn't say it in those exact words, no.

17 Q: Well, tell us what you said. I -- myself and Lt. Spears
18 were speaking to him at that time. I believe it was Lt.
19 Spears that actually said it, but he was informed that it was
20 a courtesy that we give, not only on this search warrant, but
21 on numerous other search warrants based on constructive
22 possession, constructive possession being that anyone there
23 could subsequently have been charged with that. So we try to
24 give that courtesy of if anyone does not claim ownership of
25 something, then everyone could be charged with that.

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1 Q: Okay.

2 A: We never said everyone will be, everyone's going to jail,
3 nothing like that. Everyone could be charged.

4 Q: Could be charged with it. And there were also two
5 children there; right?

6 A: That's correct.

7 Q: All right. And -- and they were both with the mother or
8 one -- I'm sorry, with his mother. That is Mr. Johnson's
9 mother?

10 A: They were -- they were there at the front of the -- the
11 residence by the vehicle. They probably -- both his wife and
12 mother probably were caring for them.

13 Q: At any time -- at any time prior to your telling them or
14 whoever told him this -- at any time prior to making the
15 statement that if somebody doesn't admit to this, then
16 everybody could be arrested, at any point prior to that did he
17 confess or admit to any drugs prior to that?

18 A: I don't believe so.

19 Q: No. Because if he had, you would tell us that, wouldn't
20 you? You wouldn't hide that from us? If he had told you even
21 before that, you wouldn't hide that; right?

22 A: Correct.

23 Q: Right. So after he is told this and he said, look,
24 everything's mine, I'll take responsibility for all of it, in
25 fact, you or one of the other officers had to tell him, no, it

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1 doesn't work that way. It doesn't work that way. You can't
2 do it that way. You've got to wait until we find the
3 different things, then you can admit to what we find?

4 A: That's not correct.

5 Q: Okay. Well, tell us how you said it.

6 A: That we want -- we prefer -- people know if they have
7 something illegal or what they have on their property, or they
8 -- I would imagine that they should know if they have
9 something illegal on their property. At that point, we inform
10 them that they need to speak up prior to finding it, not
11 trying to claim it after the fact.

12 Q: Okay. All right. Well, we're saying the same thing.
13 The problem -- the bottom line is, is is that he was told that
14 he can't claim it just in general and say everything is mine,
15 that that ain't good enough. He's got to specifically say,
16 yeah, the pills are mine, the marijuana is mine, the guns are
17 mine, or whatever; right?

18 A: Correct.

19 Q: Right. And once he understood that his mother and his
20 wife could leave those two children and go to jail, he
21 admitted to pretty much everything y'all came up with?

22 A: Not everything, but a good portion of it.

23 Q: Pretty much. All right. Now, let's talk about once you
24 find these drugs, you say -- and in fact, let me -- let me
25 back up, because one of the things that -- that he told you

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1 was that he had ecstasy; right?

2 A: X pills. Correct.

3 Q: There were no ecstasy pills, were there?

4 A: No.

5 Q: You didn't find any ecstasy pills, did you?

6 A: Well, I need to elaborate on that.

7 Q: Sure. Go ahead.

8 A: The ecstasy pills or X pills, as they're commonly
9 referred to, in the four years that I've been in the Special
10 Investigations Unit, that is a street term for the meth pills.
11 That is what they are referred to as they're -- when they're
12 sold, different things like that. Every pill that has been
13 referred to as X pills have been sent to the lab, and either
14 -- if they've ever been fake, then there's that, but if not,
15 then they have always come back for meth.

16 Q: Okay. You know that there is a pill called ecstasy?

17 A: Yes.

18 Q: Is there any question in your mind about that?

19 A: No. There are.

20 Q: And you know that that pill is an illegal substance;
21 right?

22 A: That's correct.

23 Q: All right. And methamphetamine is totally different, and
24 I don't want to get too deep into the pharmaceutical part of
25 it, but it is a different structure than ecstasy?

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1 A: That's correct.

2 Q: Right. Which is why it has a different title and a
3 different label; right?

4 A: That's correct.

5 Q: Right. And you didn't find any ecstasy anywhere on that
6 property?

7 A: No.

8 Q: Okay. Now, let's talk about the finding of the pills in
9 the trash can, because you say he told you look in the trash
10 can and find the pills. You find the pills in the trash can.
11 Now -- so all you've got is his statement that these things
12 are his; right?

13 A: Yes. He claimed ownership of them.

14 Q: Yeah. Yeah, you say he claimed ownership. So now you
15 want to know whether he's being honest, if what he's telling
16 you is the truth; right?

17 A: I took him at his word.

18 Q: All right. I understand. All right. And you want to
19 verify that, don't you? To make sure? You don't want to put
20 the wrong person in jail; right?

21 A: No, sir. I didn't feel I needed to after he claimed
22 ownership and told me where they were located.

23 Q: I understand. So I'm sure, being a good officer you are,
24 that you wanted to follow up, send those plastic bags that
25 those pills are in to SLED. Anything prints on them, any DNA

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1 on them? Who do they belong to? Right? I'm sure you did
2 that? I'm sure. Right?

3 A: Are you asking me if I did that?

4 Q: Yes, sir.

5 A: No, sir, I didn't.

6 Q: No. Did not, did not. Okay. And I know that you said
7 -- well, let me ask you one other thing, because the search
8 warrant that you say you had was for [REDACTED]; right?

9 A: Correct. But we -- in the search warrant, it was also
10 referenced that drugs are commonly stored on the property of
11 [REDACTED].

12 Q: Okay.

13 A: Which was the burned residence next door.

14 Q: Very well. I understand. My question though, tell this
15 jury what drugs you found inside [REDACTED].

16 A: Inside of there?

17 Q: Yes, sir. In the house, in [REDACTED] in the residence, tell
18 us what drugs you found.

19 A: If there was anything, it was a very small amount of
20 marijuana or things like that.

21 Q: Are you saying you did find marijuana in there? If so,
22 where is it?

23 A: It may have been, like, residue in baggies or things like
24 that. It wasn't any substantial amount.

25 Q: All right. So you're saying that there might have been

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1 some residue somewhere that you might have found, but you
2 didn't bring that with you today; right?

3 A: I believe that it would be in that bag that Lt. Spears
4 found which contained paraphernalia items.

5 Q: Well, let me ask you this, because you're talking about
6 paraphernalia items. Is it illegal to have this drum which he
7 said he found in the house? Is it -- is it illegal?

8 A: Not for that specific item itself, no.

9 Q: There's nothing illegal about this, is there? And if I
10 had ten of them in my house, there's nothing wrong with that,
11 if that's what I want to do; right?

12 A: Correct.

13 Q: You found some scales in the house, you said. They are
14 not illegal either, are they?

15 A: No, sir, they're not.

16 Q: No, no. I can have 29 pair of scales and that'd be okay;
17 right?

18 A: Correct.

19 Q: Except the ones I weigh on. I don't like to look at
20 them. But I also want to ask you, when you went over to the
21 mother and the wife and you were reading them their Miranda
22 warnings, where was Mr. Johnson?

23 A: On the porch.

24 Q: Okay. How far away from where you are talking to his
25 wife and his mom? How far away would he have been at that

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1 time?

2 A: Twenty -- 20 yards roughly.

3 Q: Me to you? Further away?

4 A: Not quite to the back of the courtroom, but I mean, maybe

5 the first row proceeding somewhere approximately there.

6 Q: Okay. Was he in earshot of your conversation with them?

7 A: If he was listening intently, he might could have heard

8 these things, but I wasn't talking very loudly.

9 Q: Okay. Well, you told him, though, that you had already

10 read them their Miranda; right?

11 A: I told who? I told Mr. Johnson that I had read his

12 mother the search warrant.

13 Q: Okay.

14 A: I went back and read them Miranda after Mr. Johnson.

15 Q: Okay. Now, in regards to the guns that you say that you

16 found, all those guns are found on the premises of [REDACTED]? I'm

17 sorry, [REDACTED], not [REDACTED]. [REDACTED]; right?

18 A: No, sir. The .357 revolver was in the trunk of the car

19 on [REDACTED].

20 Q: Okay. All right. And the car belonged to whom?

21 A: I'm not a hundred percent on who it belonged to.

22 Q: Well, you find a gun in the trunk of a vehicle on the

23 premises that you're searching, and you don't try to determine

24 who the gun belonged to?

25 A: Mr. Johnson claimed ownership of it.

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1 Q: Okay. But that wasn't my question. My question was, who
2 did the gun belong to? You got a serial number. So --

3 A: We're not -- when I run a serial number through central
4 dispatch, I get -- I -- they can tell me two things, if it's
5 stolen or if it's cleared. They don't tell me any owner
6 information or anything like that. I'm not able to -- to get
7 that off of that.

8 Q: Yeah, but you can find that out; right? Now, let's be
9 fair. You can -- when you get a serial number from a gun, you
10 can track that gun all the way back to the manufacturer, can't
11 you not?

12 A: Potentially, but if it's changed hands without any
13 documentation, then there would be no paper trail of that.

14 Q: Yeah, but even if you go back to the manufacturer, it
15 would show that the manufacturer who manufactured that gun,
16 the year he manufactured it, and who it initially went to. So
17 you would at least know that much; right?

18 A: Potentially, yes.

19 Q: Yeah. Yeah. But you didn't do that is what you're
20 saying?

21 A: No sir, I did not.

22 Q: All right. And the reason that you didn't do these
23 things is because he says everything's mine, and that's good
24 enough; right?

25 A: He specifically said he had a gun and marijuana in the

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1 trunk of that vehicle.

2 Q: Okay. All right. Now, in regards to your BEST evidence
3 package -- and I think that's what you called it.

4 A: BEST evidence, yeah.

5 Q: The purpose of that is when you package up these items
6 and you send them to SLED -- and you send them there so that
7 they can analyze the content, give you the weight, or tell you
8 what the substance is, that kind of thing; right?

9 A: That is correct.

10 Q: All right. But you can also get fingerprints and DNA if
11 you want to, or at least attempt to; right?

12 A: If it's requested.

13 Q: If it's requested. Okay. And certainly -- and, well,
14 let me ask you this. Being an officer, how long do you say
15 you were heading up this unit?

16 A: I don't head it up. I'm a corporal within the unit, and
17 I've been in there over four years.

18 Q: Okay. And during those four years, how many times have
19 you sent packages, BEST buy -- BEST -- what do you call it?

20 A: BEST pack.

21 Q: BEST packs to SLED for analysis. How many times?

22 A: A lot.

23 Q: A lot.

24 A: I couldn't put a number on it.

25 Q: Have you ever asked can you get DNA off of these items

KEVIN BUXTON - CROSS BY MR. WILSON

1 for me, SLED? Can you get fingerprints off of this item for
2 me, SLED? Have you ever done that? Have you?

3 A: I haven't personally done it.

4 Q: Huh?

5 A: I have not personally done it.

6 Q: In four years of collecting drugs and you've never once
7 asked them to see if there's DNA or if there is fingerprints
8 on the packaging? Not ever?

9 A: No, sir.

10 Q: Okay. And you certainly didn't do it this time; right?

11 A: No, sir. He claimed -- Mr. Johnson claimed ownership,
12 and I took him at his word on that.

13 Q: But we've established that, and -- and -- and -- and you
14 didn't follow up on the guns to find out who the owner of the
15 guns was either; right?

16 A: The stolen one. I believe we were able to -- we located
17 that it came back from Orangeburg County.

18 Q: And you said that was at least a year prior to? The gun
19 had been stolen at least a year prior to being found there;
20 right?

21 A: Approximately, yes.

22 Q: Approximately a year. All right. And -- and that's not
23 a suggestion that he stole that gun; right? Is it?

24 A: No, not at all. Not at all.

25 Q: All right. Now, one last thing, and then I'm going to be

KEVIN BUXTON - CROSS BY MR. WILSON

1 done with this line of questioning. If you did not send to
2 SLED any information to find out anything else about these
3 drugs or these guns, the only thing that you're telling us is
4 that he says it was his, that's good enough? Is that what
5 we're --

6 A: I took him at his word that he said that they belonged to
7 him. He told me where they were at, all of that.

8 Q: Okay. So if he told you he didn't know anything about
9 it, would you have taken him at his word?

10 A: Everyone would have been charged if no one claimed
11 ownership of them.

12 Q: That's right. Everyone would have been charged; right?

13 A: Constructive possession.

14 Q: And his wife and his mama would have been charged, too;
15 right?

16 A: They could have been.

17 QL Yep.

18 MR. WILSON: No other questions.

19 THE COURT: All right. Redirect?

20 MR. RICHARDSON: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q: Officer Buxton, before Mr. Johnson told you all that
24 those pills were in that trash can, had anybody even
25 contemplated looking in that trash can?

KEVIN BUXTON - REDIRECT BY MR. RICHARDSON

1 A: No, sir, we did not.

2 Q: Anybody have a clue something might be in that trash can?

3 A: There was no indication that anything was going to be
4 found in there.

5 Q: And by trash can, could you describe it?

6 A: Somewhat large. I don't know if any of y'all are in the
7 city or passed through the city, but the large green trash
8 cans that you can roll up to the curb that the trash truck
9 comes by and picks up. Not a dumpster, but the plastic can
10 that's maybe three, three-and-a-half feet tall or so that'll
11 hold three or four bags of trash, roughly.

12 Q: And within that can it was secreted how?

13 A: It was into a -- the -- the methamphetamine pills were in
14 two individual baggies, which were inside of a white bag,
15 which were then inside of a dog food bag in that trash can.

16 Q: Based on how thorough that you all search places when you
17 execute search warrants, what are your thoughts on whether or
18 not you could -- would have located that had he not said it?

19 A: I feel confident that we would have at least opened the
20 lid to look in the trash cans to see if anything was laying on
21 top, but to actually go digging through all the trash that was
22 in any trash can, that I can't say for certain that we would
23 have even located them.

24 Q: So not only did he tell you he had the pills, but he gave
25 you the exact specific location where to find them?

KEVIN BUXTON - REDIRECT BY MR. RICHARDSON

1 A: That is correct.

2 Q: And that proved true?

3 A: That is correct.

4 Q: All right. Mention was made of you speaking with Mr.

5 Johnson's wife and mother?

6 A: That is correct.

7 Q: All right. And you spoke to the mother for what reason?

8 A: The -- I asked her if she -- when we arrived, if she was

9 the legal resident or the person who rented the property. If

10 it's the resident, if it's a rental property, we try to find

11 the person who actually rented the property, or if it's a

12 home, who the homeowner is. At that point, that's who we read

13 the actual search warrant to, to let them know why we're on

14 their property.

15 Q: So she was a legal resident?

16 A: Correct.

17 Q: And did -- were you able to find out if Mr. Johnson lived

18 there as well?

19 A: Eventually, we -- we learned that he -- when I asked him

20 for his name and everything and then asked him if he lived

21 there, he said yes.

22 Q: Okay. When you spoke to his mother and wife, how did you

23 treat them?

24 A: Very cordial.

25 Q: Okay. Did you do anything for them that they asked you?

KEVIN BUXTON - REDIRECT BY MR. RICHARDSON

1 A: I believe it was his wife that asked for some water. I
2 went into the house. I located a bottle of water for her, and
3 I brought it back outside for her and gave it to her.

4 Q: Did you do anything to threaten anybody, pressure and
5 coerce them?

6 A: No, sir.

7 MR. RICHARDSON: I beg the Court's indulgence.

8 BY MR. RICHARDSON:

9 Q: The guns -- the guns that you mentioned Mr. Johnson
10 claimed, did he use just a generic term of guns or how
11 specific was he?

12 A: He said I had the Glock and the .22 was mine.

13 Q: And do those match up with what was found?

14 A: That's correct. And then he mentioned that he had a gun
15 in the trunk of the car that I located, the .357.

16 Q: And regardless of who the owner of the car was, whose
17 identification card was with that gun in the trunk?

18 A: Mr. Johnson's.

19 MR. RICHQARDSON: Thank you, Your Honor. I believe
20 that's all I have.

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

22 Madam Forelady and ladies and gentlemen of the jury,
23 we're going to take a break for lunch. We're going to
24 reconvene at 2 o'clock, 2 o'clock sharp. Let's be here and be
25 here on time. Once again, no discussion amongst yourselves or

1 with anyone else. No independent investigation. No social
2 media. Two o'clock, 2 o'clock sharp.

3 Everyone remain seated as the jury exits the courtroom.

4 (WHEREUPON, the jury exited the courtroom at 12:09 p.m.)

5 THE COURT: Anything from the State before we recess?

6 MR. RICHARDSON: No, sir. I'll -- well, I do have that
7 -- that redaction to do, and what I'll do is I'll just take a
8 sheet of paper and put it over the items that are listed and
9 make a copy that way, and I'll show it to Mr. Wilson and see
10 if it meets his approval.

11 THE COURT: Okay.

12 MR. RICHARDSON: And then we'll substitute.

13 THE COURT: And we'll address that when we come back.
14 Don't let us forget to do that.

15 MR. RICHARDSON: Yes, sir. Okay.

16 THE COURT: All right. Anything from defense?

17 MR. WILSON: Nothing, Your Honor.

18 THE COURT: All right. We'll stand at ease until 2
19 o'clock. Might counsel approach the bench for one moment?

20 (WHEREUPON, a bench conference was held off the record
21 regarding scheduling.)

22 (WHEREUPON, there was a break in the proceedings from
23 12:10 p.m. until 2:02 p.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: Yes, sir. I'm going to ask if you could come

1 forward. I'm going to ask, if you could, to place your left
2 hand on the Bible and raise your right hand as the clerk
3 administers the oath.

4 THE CLERK: Do you swear or affirm the testimony you give
5 in this case will be the truth, the whole truth, and nothing
6 but the truth, so help you God?

7 DEPUTY HICKS: I do.

8 THE COURT: Yes, sir. Your full name?

9 DEPUTY HICKS: Johnny Hicks.

10 THE COURT: All right, Mr. Hicks. Officer Hicks, I
11 understand that there was some contact between some of the
12 spectators and the jurors. Tell me a little bit about that.

13 DEPUTY HICKS: Well, when we went down, Judge, we were
14 trying to get the jurors to their cars and everything, and we
15 were trying to stop the defendant's brothers and stuff from
16 making contact with them, but they ignored them. So we got to
17 the cars and everything.

18 While they were going out the door, they were doing a
19 bunch of rapping to be heard and everything. They wanted them
20 -- basically was putting on a show really, you know, like, I
21 can buy you a Gucci bag and all that stuff in the parking lot.
22 And when I got to the parking lot, when I went to confront
23 them --

24 THE COURT: What does buy you a hoochie bag mean? What
25 does that mean?

1 DEPUTY HICKS: That's, like, a high dollar bag. It's
2 like --

3 THE COURT: Oh, okay.

4 DEPUTY HICKS: But he was saying it the way that the
5 jurors can hear him and everything because we were still
6 trying to get the jurors to the cars and everything. So when
7 we got the jurors to the cars and everything, they confronted
8 me about it because I don't know if you saw me back there.
9 They wanted to get on the phone and start texting back there,
10 and I cut them off two or three times back there trying to
11 text and everything. I told them we couldn't have that, and
12 then they won't sit down. And I told them pretty much, Judge,
13 that they can go by the rules in the courtroom or they're not
14 coming in here. That's what I told them.

15 THE COURT: All right. Very good.

16 Anything from the State?

17 MR. JEPERTINGER: Nothing, Your Honor.

18 THE COURT: Anything from defense?

19 MR. WILSON: No.

20 THE COURT: All right. Thank you. Thank you, sir.

21 All right. How many of them were in the group that were
22 rapping and contacting?

23 DEPUTY HICKS: All three of them. It was all three of
24 them. It was him and the others, all three of them together.
25 I don't know exactly which one, but --

1 THE COURT: Okay. All right. There's only one here
2 today.

3 Yes, sir. Could you stand and state your full name?

4 MR. REYNOLDS JOHNSON: Reynolds Johnson.

5 THE COURT: All right. You heard what the deputy has
6 indicated to the Court. Is that true?

7 MR. REYNOLDS JOHNSON: No. No, sir.

8 THE COURT: All right. You weren't rapping?

9 MR. REYNOLDS JOHNSON: No, sir.

10 THE COURT: Were you trying to text during court?

11 MR. REYNOLDS JOHNSON: No, sir. Well, I had took my
12 phone out one time, but if you look at it, I ain't texted
13 nobody.

14 THE COURT: All right. All right. You understand that
15 there will be no texting or talking on the phone during court.
16 You understand that, don't you?

17 MR. REYNOLDS JOHNSON: Yes, sir.

18 THE COURT: And the deputy is going to -- you know, this
19 is a -- is an open forum. It's a public forum, and it's
20 important for people in the public to be able to watch a
21 trial, but we can't have interference with the jury in any
22 way, shape, or form. Do you understand that?

23 MR. REYNOLDS JOHNSON: Yes, sir.

24 THE COURT: And do you understand that I've ordered that
25 you not do that?

1 MR. REYNOLDS JOHNSON: Yes, sir.

2 THE COURT: That you not text and you not have any
3 contact with the jury. If you see a juror -- a juror in the
4 parking lot, you need to run in the opposite direction. Do
5 you understand me?

6 MR. REYNOLDS JOHNSON: Yes, sir.

7 THE COURT: All right. And you understand that if you do
8 that, then you can be charged with the crime of tampering with
9 the jury, number one, and, number two, you can be sentenced
10 pursuant to contempt, because I've ordered that you not do
11 these things.

12 MR. REYNOLDS JOHNSON: Yes, sir.

13 THE COURT: And -- and I can send you to prison for six
14 months without a lawyer. I -- they'll pack you up and send
15 you off in that blue sweatshirt without a toothbrush. Do you
16 understand that?

17 MR. REYNOLDS JOHNSON: Yes, sir.

18 THE COURT: All right. And this deputy is hereby
19 authorized and I'm ordering that he ask that you and your
20 cronies, the other two, remain in the courtroom until the
21 jurors are in the courtroom. Do you understand that?

22 MR. REYNOLDS JOHNSON: Yes, sir.

23 THE COURT: Will you abide by his rules?

24 MR. REYNOLDS JOHNSON: Yes, sir.

25 THE COURT: All right. Very good. All right. Very

1 good. All right.

2 MR. JEPERTINGER: Your Honor, we just have one matter
3 today. Two matters.

4 Go ahead.

5 MR. RICHARDSON: Judge, prior to breaking, we had Exhibit
6 18, which we discussed up at the bench that I would make a
7 redaction on the lunch break. And I've done that, and I've
8 shown it to Mr. Wilson, and he approves of it. So we've
9 substituted it there with the court reporter and got the
10 appropriate sticker on it, and I believe it should be in
11 evidence now because it was in evidence subject to the
12 redaction.

13 THE COURT: Okay.

14 MR. WILSON: That is correct, Your Honor.

15 THE COURT: All right. Very good. Well, it is indeed in
16 evidence.

17 MR. JEPERTINGER: The second matter under *State v.*
18 *Jamison*, which is cited at 643 S.E.2d 700, allows a lawful
19 officer who has dealings with narcotics to basically tell the
20 jurors what the street value is of narcotics. If he has
21 knowledge about that, he can be qualified as an expert.

22 And in that case, it said the trial court reasoned that
23 jurors typically do not have knowledge about the illegal drug
24 industry. The officer in that case testified the drugs found
25 in Jamison's truck had a street value of between 2,750 and

1 9,319 depending on the quantity sold.

2 Drop down two paragraphs. We agree with the trial court
3 that jurors typically do not know the current street prices of
4 illegal drugs. The officer's valuation of drugs based on his
5 years of law enforcement experience allow the jury to better
6 determine whether the person would reasonably leave expensive
7 narcotics unguarded and disguised as trash in a truck
8 allegedly used by numerous people. So --

9 THE COURT: And in that case, the trial judge qualified
10 him as an expert. Is that correct or not?

11 MR. JEPERTINGER: Right. And he -- he objected. He
12 objected, obviously. He said that the trial court abused its
13 discretion by allowing the State to present expert testimony
14 about the dollar value of cocaine and crack cocaine. The
15 Court said we disagree.

16 THE COURT: Okay. All right.

17 All right. Well, Mr. Wilson, would you like to be heard
18 on that?

19 MR. WILSON: Your Honor, the only issue I have is
20 relevance. What is the relevance of the boundary? The -- the
21 -- the -- the charge is trafficking more than 400 grams, and
22 so I don't understand the relevance of what the price of it
23 is.

24 THE COURT: I think what he -- the relevance is that --
25 that he wouldn't leave it in a trash can unguarded without

1 custody and control of it, perhaps.

2 MR. WILSON: Well -- but in -- both in *Jamison* and in
3 this case, it was left unguarded. That -- and I -- and I --
4 when I read that case, I didn't -- I still don't understand
5 why the Court felt it necessary to put the -- the value of it
6 into evidence for the jury. .

7 THE COURT: Well, the -- the Court didn't.

8 MR. WILSON: Because they're not --

9 THE COURT: The Court didn't. The solicitor did.

10 MR. WILSON: Well --

11 THE COURT: And the --

12 MR. WILSON: Well, the Court allowed it.

13 THE COURT: The Court allowed it, yeah.

14 MR. WILSON: The Court allowed it and -- and -- and as I
15 said, I just -- but anyway, my objection, Your Honor, is
16 relevance. I don't understand. It's not an element of the
17 crime, and I -- so I would object to it based on the fact that
18 I don't believe that it's an element of the crime. It's not
19 proof that's tending to prove any element of the crime.

20 And so I would just ask the Court to deny the motion to
21 allow them to qualify him as an expert for the purpose of
22 putting in the value of those drugs when there's really no
23 issue in this case about what the value is.

24 THE COURT: All right.

25 MR. JEPERTINGER: In *Jamison*, that was the same argument

1 -- argument made. Jamison objected to arguing testimony about
2 the value of the cocaine and crack cocaine was irrelevant and
3 prejudicial because there was no evidence he committed or
4 attempted a drug transaction. Okay? The trial court allowed
5 Grounsell -- the officer's name was Grounsell -- to testify as
6 an expert, limited his testimony to the wholesale and retail
7 values of cocaine and crack cocaine for the general area.

8 And there were several cases that they cited. They cited
9 *United States v. Gastiaburo*, and I'm just going to hand this
10 case up to you so you can read it, Judge --

11 THE COURT: Okay.

12 MR. JEPERTINGER: -- instead of me reading it to you.

13 THE COURT: All right.

14 THE COURT REPORTER: Can you cite it? I didn't hear.
15 What's the cite?

16 MR. JEPERTINGER: The cite is *State v. Jamison*, J-a-m-i-
17 s-o-n, at 643 S.E.2d 700.

18 THE COURT: Thank you.

19 THE COURT REPORTER: Can I have the second one you just
20 said? State versus --

21 MR. JEPERTINGER: *Gastiaburo*. That is a federal case.
22 *United States v. Gastiaburo*. It's on that case. It's a
23 footnote.

24 THE COURT: All right. Well, Mr. Wilson, you're going to
25 have an opportunity of wide latitude with regard to question

1 him with regard to his credentials in whether -- whether he's
2 qualified as an expert or not, but my general philosophy is
3 that the Court would -- you know, the case -- the facts on
4 this case are almost exact and -- and they have indicated that
5 it was proper to do that.

6 And it might be that you're ultimately correct. I agree
7 with the State's position and the Court of Appeals' position,
8 but this is indeed a Court of Appeals case. It might be that
9 ultimately you're right, and perhaps we will see. But -- but
10 you're protected on the record in all respects.

11 MR. WILSON: Yes, sir.

12 THE COURT: You'll be given wide latitude with regard to
13 cross-examination.

14 MR. WILSON: Thank you, Your Honor.

15 THE COURT: All right.

16 MR. JEPERTINGER: May I get that case so I can give her
17 the name of the United States case?

18 THE COURT: Yes.

19 MR. JEPERTINGER: It was *United States v. G-a-s-t-i-a-b-*
20 *u-r-o*, cited at 16 F.3d 582. Thank you, Judge.

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

22 MR. JEPERTINGER: No, sir.

23 THE COURT: Anything from defense?

24 MR. WILSON: No.

25 THE COURT: All right. We're ready for the jury.

1 (WHEREUPON, the jury entered the courtroom at 2:16 p.m.)

2 THE COURT: Madam Forelady and ladies and gentlemen of
3 the jury, thank you all for being here and being here on time.
4 I want to let you know that we weren't lollygagging around.
5 We were in here taking care of some legal matters that had to
6 be taking place -- had to take place outside of your presence,
7 but thank you for your patience.

8 Mr. Richardson, you're recognized.

9 MR. RICHARDSON: Thank you, Your Honor. We'd call
10 Kendrick Spears.

11 THE COURT: Yes, sir. Please come forward. And I'm
12 going to ask, if you could, to place your left hand on the
13 Bible and raise your right hand as the clerk administers the
14 oath.

15 THE CLERK: Do you swear or affirm the testimony you give
16 in this case will be the truth, the whole truth, and nothing
17 but the truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Please be seated.

20 THE COURT: All right. Watch your step. Have a seat in
21 the witness chair. Pull up real close to that microphone.
22 Speak loudly, clearly, and slowly, in order that we can hear
23 everything that you have to say, and let's start with your
24 full name, please, sir.

25 THE WITNESS: Kendrick Thomas Spears.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 THE COURT: Thank you, Officer Spears.

2 MR. RICHARDSON: Thank you, Your Honor.

3 KENDRICK SPEARS, being first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. RICHARDSON:

7 Q: Officer Spears, where do you work?

8 A: For the City of Florence Police Department.

9 Q: How long have you worked there?

10 A: A little over 20 years.

11 Q: And what are your job duties?

12 A: I oversee the Special Investigations Unit.

13 Q: So you're the head of the investigative unit we've been
14 talking about this morning?

15 A: That's correct.

16 Q: And how long have you been in that role?

17 A: Approximately, as a supervisor, 14 years, I'd say.

18 Q: Okay. How long have you been working in narcotics
19 investigations?

20 A: For 18 years.

21 Q: Okay. Did you take part in this investigation on May the
22 4th of 2022 that we've been discussing this morning?

23 A: Yes, I did.

24 Q: Okay. You were -- were you present on scene?

25 A: Yes, I was.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 Q: And what was your role there?

2 A: I was on perimeter, just in case anyone ran by. Our
3 Emergency Response Team conducted a search warrant, and I also
4 overlooked the scene to make sure everything was being done
5 correctly, and I also assisted with searching the residence.

6 Q: Did you have the opportunity to speak to the defendant in
7 this case?

8 A: Yes, I did.

9 Q: While you were there?

10 A: Yes.

11 Q: And were you wearing a body camera --

12 A: Yes, I was.

13 Q: -- at the time? I'm going to show you what's marked as
14 State's 16 for identification. Can you tell me if you
15 recognize that?

16 A: I do.

17 Q: What is it?

18 A: It's a DVD of -- a burned DVD of my body-worn camera I
19 had on that -- that particular day.

20 Q: Okay.

21 MR. RICHARDSON: Your Honor, I'd ask if State's 16 can be
22 entered into evidence.

23 MR. WILSON: Same motion, Your Honor.

24 THE COURT: All right. It's into evidence over
25 objection.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 (WHEREUPON, State's Exhibit Number 16, body-cam video on
2 DVD, was admitted into evidence.)

3 MR. RICHARDSON: All right.

4 BY MR. RICHARDSON:

5 Q: Now, Inv. Spears, when you spoke to the defendant, were
6 you aware at that time of whether Mr. Johnson had been given
7 his Miranda warnings?

8 A: Prior to me approaching him, I was going to conduct a
9 secondary search just to make sure he didn't have anything,
10 and he began telling me he had some marijuana in his pocket
11 and was claiming some other things on the property. Before I
12 questioned him, I spoke with Agent Buxton to make sure that
13 his Miranda rights were read to him.

14 Q: Okay. So by the time you spoke to him and what we're
15 about to watch, Buxton's video that we've already seen where
16 he's mirandized, that had already taken place?

17 A: Yes.

18 Q: Okay.

19 A: And once I spoke with Agent Buxton about the Miranda
20 rights to ask if they were read, Mr. Johnson actually stated,
21 yes, sir, to me as well, which is on video.

22 Q: Okay.

23 MR. RICHARDSON: Your Honor, if I could publish 16, the
24 pertinent portion of that right now?

25 THE COURT: Yes.

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 (WHEREUPON, a portion of State's Exhibit Number 16,
2 Spears body-cam video, was played and then stopped. Not
3 transcribed herein.)

4 MR. RICHARDSON: All right. Your Honor, at this time, if
5 I could publish -- let me get its ID number, Exhibit Number.
6 It's State's 15. This is Officer Buxton's video. We've
7 already seen part of that in evidence. I'd like to play an
8 additional portion of that that's already in evidence.

9 THE COURT: Mr. Wilson?

10 MR. WILSON: It's in evidence, Your Honor.

11 THE COURT: All right. Very good.

12 MR. RICHARDSON: Your Honor, at this point we will have
13 no audio subject to agreement of the parties and Court
14 rulings.

15 THE COURT: Very good.

16 MR. RICHARDSON: Judge, a portion of it will have audio
17 and then it will go to none.

18 (WHEREUPON, a portion of State's Exhibit Number 15,
19 Buxton body-cam video, was played and then stopped. Not
20 transcribed herein.)

21 BY MR. RICHARDSON:

22 Q: All right. Inv. Spears, the portion of the video we saw
23 with you speaking with the defendant, was that the only
24 communication you had with the defendant there at the scene or
25 was --

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 A: Yes.

2 Q: Okay. After you spoke with him, what did you do with
3 respect to searching the property?

4 A: I proceeded into the house to search rooms.

5 Q: And I'm going to show you a few items that have already
6 been marked for identification purposes. State's 22, if you
7 can take a look at that. Do you recognize those items?

8 A: Yes, I do.

9 Q: And what are they?

10 A: It's a blue bag with two digital scales and a marijuana
11 grinder.

12 Q: Did you locate these as part of your search?

13 A: Yes, I did.

14 Q: And in whose room were these located?

15 A: In Mr. Johnson's room.

16 Q: Okay. Do these appear to be in the same condition they
17 were in when you found them?

18 A: Yes, they do.

19 MR. RICHARDSON: Your Honor, I'd ask that State's 22 be
20 entered into evidence.

21 MR. WILSON: Same objection.

22 THE COURT: All right. They're into evidence over
23 objection.

24 (WHEREUPON, State's Exhibit Number 22, blue bag with
25 scales and grinder, was admitted into evidence.)

KENDRICK SPEARS - DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q: And then State's 29, if you can take a look at it. Tell
3 us what that is?

4 A: It's a magazine drum for a handgun to hold ammunition.

5 Q: All right. And did you locate that as part of your
6 search?

7 A: That's correct.

8 Q: And in whose room was that located?

9 A: In Mr. Johnson's bedroom.

10 Q: And is it in the same condition as it was when you found
11 it?

12 A: Yes, it is.

13 MR. RICHARDSON: Your Honor, I'd move State's 29 into
14 evidence.

15 THE COURT: Same?

16 MR. WILSON: Same objection.

17 THE COURT: It's into evidence over objection.

18 (WHEREUPON, State's Exhibit Number 29, ammunition drum
19 magazine, was admitted into evidence.)

20 BY MR. RICHARDSON:

21 Q: Then I'll show you State's 26, if you can take a look at
22 that and tell us if you can identify it?

23 A: .22 caliber bullets that was found in Mr. Johnson's room
24 as well.

25 Q: And you found those items?

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1 A: Correct.

2 Q: Are they in the same condition they were in when you
3 found them?

4 A: They are.

5 MR. RICHARDSON: Your Honor, I'd ask for State's 26 to be
6 entered into evidence.

7 MR. WILSON: Same.

8 THE COURT: It's into evidence over objection.

9 (WHEREUPON, State's Exhibit Number 26, .22 caliber
10 ammunition, was admitted into evidence.)

11 BY MR. RICHARDSON:

12 Q: Now, Inv. Spears, you told us -- well, first of all, you
13 didn't come into contact with the -- the pills in this case?

14 A: No, I did not come in contact with them.

15 Q: Okay. You told us when we first started here that you've
16 been in law enforcement over 20 years, and you've been working
17 narcotics for over 18 years and supervising for about 14
18 years. Is that about right?

19 A: That's correct.

20 Q: As part of your job, I know you investigate different
21 kinds of drug crimes?

22 A: Yes.

23 Q: Is that right?

24 A: That's correct.

25 Q: And as part of that job, do you have to have an

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1 understanding of what the street value of drugs are in order
2 to do things like controlled buys from drug dealers and do
3 other police business of that sort?

4 A: Yes, I do.

5 Q: Okay. And over this time period, have you through your
6 experience gained knowledge about what the street value of
7 various drugs are here in this community?

8 A: Yes, I have.

9 Q: Okay.

10 MR. RICHARDSON: Your Honor, I'm asking to qualify him as
11 an expert witness in terms of the street value of drugs, based
12 on his experience as a law enforcement narcotics agent.

13 THE COURT: Any query with regard to his qualifications,
14 Mr. Wilson?

15 MR. WILSON: Well, Your Honor, at this point, just
16 listening to the questions that the solicitor has asked him, I
17 don't believe that that's a sufficient -- I don't think that a
18 sufficient foundation has been set for him to testify as to --
19 he asked him a couple of general questions about whether or
20 not he's been in the business long enough --

21 THE COURT: Okay.

22 MR. WILSON: -- to have some dealings.

23 THE COURT: I don't mean to interrupt, but at this
24 juncture, do you have any questions of him about his
25 qualifications? Then we'll enter into the --

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1 MR. WILSON: Well, at this point, no, sir.

2 THE COURT: Okay. All right. And you may continue.

3 MR. WILSON: All right. And then -- and that's my point
4 is, is that my position is at this point, based on the
5 solicitor's questioning of him, I don't think that they have
6 established a foundation for which he can testify as an expert
7 witness in the -- in -- in -- in testifying as to the value of
8 a specific drug. They -- as I understand what -- what I've
9 just heard is simply that he has been in the business for a
10 number of years and --

11 THE COURT: All right.

12 MR. WILSON: -- that he has --

13 THE COURT: All right.

14 MR. WILSON: -- made some purchases.

15 THE COURT: Well, at this juncture, I imagine the
16 appropriate thing to do is to make an objection, and I
17 understand lack of foundation.

18 MR. WILSON: Right. That's it. That's correct.

19 THE COURT: Lack of foundation?

20 MR. WILSON: That's what I'm doing, yes.

21 THE COURT: All right. Very good.

22 All right. I'd be glad -- yes, sir.

23 MR. RICHARDSON: Judge, I can follow up with some
24 additional questioning.

25 THE COURT: Very good.

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1 MR. RICHARDSON: And --

2 THE COURT: You may do so.

3 MR. RICHARDSON: All right.

4 BY MR. RICHARDSON:

5 Q: Inv. Spears, what do you do in your job that teaches you
6 the value of various types of drugs?

7 A: On a daily basis every so often, I would say, we do
8 controlled purchase of narcotics, where we use informants to
9 conduct these controlled purchases from drug traffickers.
10 Dealing with that, we have to know the amount price-wise based
11 upon the weight that we will be buying. So that's a daily
12 operation that we conduct from marijuana, pills,
13 methamphetamine, heroin, crack, cocaine, just about every drug
14 that comes across through investigations that we may make a
15 controlled purchase off of.

16 Q: So would you say a substantial part of your investigative
17 duties are coordinating these controlled buys from drug
18 dealers?

19 A: Correct, correct.

20 Q: Would you estimate in your 18-plus years of narcotics
21 experience about how many controlled buys you've been involved
22 with?

23 A: Well, I would say close to over 500 probably.

24 Q: All right. And in order to do what you call a controlled
25 buy, you have to be able to -- you said you use informants?

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1 A: Yes.

2 Q: And those -- those informants, what do they do as part of
3 the buy?

4 A: We actually give them the currency to control the -- to
5 conduct the controlled purchase. They make an arrangement
6 under our control with a drug trafficker to conduct a
7 controlled purchase by agreeing to the amount that's going to
8 be purchased and the location. Once that agreement is made
9 for the price and location, we provide government funds to the
10 confidential informant to make the purchase where it's
11 monitored by myself or other agents within the office. Once
12 the purchase is conducted and done, then they bring back the
13 narcotic that was purchased, as well as any money that wasn't
14 used for us to put back in our government funds, and the
15 narcotics should be logged into the evidence room for further
16 investigation.

17 Q: So is it kind of a trial and error process over time
18 where you have to kind of guess how much money to give an
19 informant?

20 A: It's normally standard -- standard prices. It varies
21 sometimes of what's going on, but it's -- it's commonly in the
22 same price every time we do a buy based upon the weight that
23 we're buying.

24 Q: You ever had a situation where you didn't give the
25 informant enough money and they came back empty handed?

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1 A: No, never.

2 Q: So you have enough information ahead of time to know kind
3 of where you need to be in terms of the money?

4 A: Yes. That's correct.

5 Q: Okay. So you said sometimes they would -- the informants
6 will come back with additional money, basically change?

7 A: Yes.

8 Q: Where it all wasn't spent on the product?

9 A: Yes. Sometimes, based upon the dealer, he may be having
10 a good day or making a lot of money, and he tells them you
11 don't have to spend as much. So it's up to that dealer a lot
12 of times on whether they're going to up the price a few
13 dollars or knock a couple of dollars off of it, but most times
14 it's in that same ballpark on controlled buys.

15 Q: So your knowledge on this subject is based on how these
16 buys have gone over the years and how much money it takes in
17 those to obtain a particular substance?

18 A: That's correct.

19 Q: All right. And have you had that experience with meth
20 pills?

21 A: Yes. That's correct.

22 Q: Okay.

23 A: I have.

24 Q: On more than one occasion?

25 A: Yes.

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1 Q: Okay.

2 MR. RICHARDSON: Your Honor, at this time, I would again
3 ask that he be considered an expert in the street value of the
4 drugs.

5 THE COURT: Anything further?

6 MR. WILSON: No, sir, Your Honor, other than just for the
7 record, I object again on grounds of relevance and --

8 THE COURT: And foundation.

9 MR. WILSON: I just ask that I be protected for the
10 record.

11 THE COURT: On relevance and foundation; is that correct?

12 MR. WILSON: Yes, sir.

13 THE COURT: Okay.

14 MR. WILSON: Thank you, Your Honor.

15 THE COURT: All right. Madam Forelady and ladies and
16 gentlemen of the jury, normally a witness can't testify as to
17 their opinion, but there's an exception to that rule with
18 regard to what we call expert witnesses. If a witness is
19 expert in some field of law enforcement, some field of
20 science, or anything such as that, and if they are qualified
21 based on education or experience and if I find they're
22 qualified, then they're allowed to render opinions consistent
23 with their expertise.

24 In this case, I do indeed find that this witness is an
25 expert in the valuation of illicit drugs. And -- and you can

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1 take his testimony and give it the weight you think it
2 deserves. Just by virtue of the fact that a witness is
3 qualified as an expert does not mean that you have to accept
4 his opinion. You evaluate it like you would any other
5 evidence.

6 I do indeed find he's qualified, Mr. Richardson.

7 MR. RICHARDSON: Thank you, Your Honor.

8 BY MR. RICHARDSON:

9 Q: Inv. Spears, based on your experience dealing with
10 methamphetamine pills, if you were to be presented, say, with
11 the amount of 2,100 or thereabout methamphetamine pills, how
12 would you put a valuation on those?

13 A: Most pills that are being sold today, which are
14 methamphetamine pills, they value between a dollar to \$5 a
15 pill. Based upon that, I would put the street value of 2,000
16 pills between 6- and \$10,000.

17 Q: Okay.

18 MR. RICHARDSON: Thank you, sir. Please answer any
19 questions Mr. Wilson may have for you.

20 THE COURT: Cross-examination, Mr. Wilson.

21 MR. WILSON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. WILSON:

24 Q: Let me start by asking you about stashes. I mean, you've
25 been qualified as an expert in the field of -- of drugs and

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1 the value of drugs and that kind of thing, and you said that,
2 as I understand, that you've been doing this for 18 years and
3 14 years as a supervising officer for the drug unit; right?
4 A: Correct.
5 Q: All right. Now, do you know what a stash house is?
6 A: Yes, I do.
7 Q: All right. Do you know what a stash place is?
8 A: A stash place?
9 Q: Yes, sir.
10 A: Yes. A place --
11 Q: A place where you --
12 A: -- where you may hide drugs or --
13 Q: Yeah.
14 A: -- keep drugs. Yes, sir.
15 Q: Yeah. And -- and drug dealers normally don't keep their
16 stash on their person?
17 A: That's correct.
18 Q: Right? If they've got a big stash, they're not going to
19 put it in their pockets and walk around town with it; right?
20 A: Some have.
21 Q: Okay. But is that your experience as an officer with 18
22 years' experience that drug dealers walk around with 2,000
23 pills in their pocket? Has that been your experience that
24 that's what happens on a regular basis?
25 A: I wouldn't say regular, but it's happened before.

KENDRICK SPEARS - CROSS BY MR. WILSON

1 Q: Okay. How many times would you say that that has
2 happened in your experience?

3 A: With a large amount of drugs or actually 2,000?

4 Q: Yeah. Over 2,000.

5 A: 2,000 pills, no.

6 Q: With 2,000 pills, how many times?

7 A: I've never recovered 2,000 pills off an individual.

8 Q: Right. And so -- so that is not a common practice;
9 right? That they're going to walk around with 2,000 pills in
10 their pocket; right?

11 A: Right.

12 Q: You've been doing this 18 years and you've never had it
13 happen?

14 A: No.

15 Q: All right. And listen, you said that the value of these
16 drugs are somewhere between 6- and \$10,000. That's your
17 estimate; right?

18 A: That's correct.

19 Q: And you're basing that on the fact that you say over the
20 years you've made some purchases, and the purchases of these
21 pills are valued at somewhere between \$1 and \$5 per pill?

22 A: That's correct.

23 Q: All right. When is the last time that you made purchases
24 of methamphetamine pills?

25 A: That I personally made?

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1 Q: Yes, sir.

2 A: It's been a while, but within my unit, purchases have
3 been made.

4 Q: Okay. And that's my question. Then when is the last
5 time?

6 A: I would say within the past year.

7 Q: Okay. All right. And so you've made one buy within the
8 last year of methamphetamine pills, and that's how you come up
9 with this figure? Is that what you're telling us?

10 A: No, it's over time.

11 Q: Over time?

12 A: Over time, it ranges from that based upon how many pills
13 they actually buy.

14 Q: Well, would you agree with me that most of these drugs,
15 whether it's cocaine or heroin or pills, methamphetamine, that
16 it's more the market? It's more market driven as to what the
17 value or the price of it is at any particular time?

18 A: Correct.

19 Q: All right. And would you agree with me that a lot of
20 drug dealers, even if you want to say all of them, most of
21 them, a lot of them have what they call either stash houses or
22 they stash the drugs in a location and then they sell them
23 from somewhere else?

24 A: That's correct.

25 Q: All right. And so finding drugs in the trash can that

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1 you found, you're not saying other than the fact that you're
2 telling us that Mr. Johnson told you that those drugs were
3 there; right?

4 A: Correct.

5 Q: But you didn't see him put them there?

6 A: No. No, I did not.

7 Q: And not only did you not see him put them there, you did
8 not do anything to determine whether or not his prints were on
9 those plastic bags that you pulled out of the trash can;
10 right?

11 A: No.

12 Q: And there is nothing that prevented you from sending the
13 plastic bags in which the 2,000 or 1,000 or how many ever
14 pills there are in there -- there's nothing that prevented you
15 from sending that to SLED to have it tested to see if there
16 were fingerprints on that plastic bag; right?

17 A: No. The dude is -- him claiming ownership, we didn't
18 feel it was needed.

19 Q: Okay. So your answer is no?

20 A: No.

21 Q: You didn't see the need to do that, and you also did not
22 see the need to send it to the serology department at SLED to
23 determine if there is any DNA on the bags to determine if, in
24 fact, his DNA is on those bags?

25 A: No, we didn't.

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1 Q: On any item that you found, whether it's the guns,
2 whether it's the drugs in the plastic bags, did you ever send
3 any of it to be tested to determine whether or not his
4 fingerprints or his DNA is on anything that you found?

5 A: No, we did not.

6 Q: And there's no question, none, that he never told you or
7 any other officer that any of these drugs or any of these guns
8 were his until after he was told that if he -- if nobody
9 claimed them, then everybody's getting to go to jail or could
10 go to jail?

11 A: As far as the pills, correct, yes.

12 Q: Well, about the guns, did he tell you that before or
13 after he had been read his Miranda?

14 A: When he told me, it was after.

15 Q: All right. It was after he had been read his Miranda,
16 and it was after he was told that if nobody admitted to these
17 drugs, everybody's going to jail. No question about that, is
18 there?

19 A: No.

20 Q: Right. There's no question about the fact that his
21 mother is there; right?

22 A: Correct.

23 Q: She's being detained?

24 A: Correct.

25 Q: She wasn't cuffed, but she was being detained?

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1 A: Yes.

2 Q: She couldn't go freely and come and go freely in her own
3 home?

4 A: Correct.

5 Q: Right?

6 A: Yes.

7 Q: And his wife was the same way? She wasn't cuffed, but
8 she couldn't go in and out of the house. In fact, one of the
9 officers had to go get water for her because she wanted water
10 for her or for the one of the children; right?

11 A: Correct.

12 Q: All right. Now, you also said that there was a room and
13 that that room in the house that you searched belonged to Mr.
14 Johnson; right? Mr. Tyquan Johnson?

15 A: Correct.

16 Q: The defendant in this case; right?

17 A: Yes.

18 Q: How did you determine that?

19 A: Once the evidence was collected and given to Agent
20 Buxton, he was questioned on it, and he admitted to Agent
21 Buxton that it was his belongings.

22 Q: All right. And so did you find -- well, let me ask you
23 this way. Did you find any items, personal items, letters
24 written to him, photo IDs of him and his family, anything in
25 that room that showed that that room belonged to Mr. Johnson?

KENDRICK SPEARS - CROSS BY MR. WILSON

1 A: Not that I recall, no.

2 Q: Do you know how many people lived in that house? Adult
3 males?

4 A: I was unaware of how many people lived in the house.

5 Q: Well, you know for a fact because he told you -- Mr.
6 Lorenzo Johnson told you -- because he was there; right? And
7 --

8 A: Yes, he was present.

9 Q: And one of the officers asked him if he lived there, and
10 that's the son and brother of Tyquan; right? I'm sorry. The
11 son of Ms. -- of Tyquan's mother, his brother, Lorenzo.

12 A: Yeah. I don't know the family tree or anything.

13 Q: Well, now you had three guys on the porch; right?

14 A: Correct.

15 Q: And one of them was Lorenzo Johnson?

16 A: That's correct.

17 Q: The other one was Tyquan Johnson; right?

18 A: Correct.

19 Q: And the other one is somebody named Harvey something?

20 A: That's correct.

21 Q: All right. And so you got them all three on there, and
22 they were all three at the house; right?

23 A: That is correct.

24 Q: And you didn't make any determination as to who lived
25 there and who didn't live there and which room they lived in?

KENDRICK SPEARS - CROSS BY MR. WILSON

1 A: Not through my investigation. I'm not the investigating
2 officer.

3 Q: All right. All right. Now, so you collect some items
4 from the room, and so let me ask you about these items. This
5 is 29, State's 29, which is some kind of a clip with a drum.
6 Is there anything illegal about this? You found this in the
7 house and you brought it in here. So is it illegal?

8 A: No, it's not.

9 Q: No, it's not. You found some scales in a blue bag;
10 right?

11 A: Yes.

12 Q: Did you find any identification in this blue bag to tell
13 you who this blue bag belongs to?

14 A: No. They're not --

15 Q: The scales aren't illegal either, are they?

16 A: They're not illegal.

17 Q: Not illegal?

18 A: Nope.

19 Q: Nope. Did you find any drugs in [REDACTED]?

20 A: No actual drugs.

21 Q: No drugs?

22 A: Not inside.

23 Q: Not a one. And your search warrant was for [REDACTED]: right?
24 The premises?

25 A: The premises.

KENDRICK SPEARS - CROSS BY MR. WILSON

1 Q: All right.

2 A: That's correct.

3 Q: But no drugs found in that house? Am I mistaken about

4 that?

5 A: No, you're not mistaken.

6 Q: Okay.

7 A: Inside. On the property, yes.

8 Q: No drugs. All right. And my understanding is you also

9 searched a vehicle that was on the premises; right?

10 A: Yes, a vehicle was searched.

11 Q: Okay. And I think you said that Mr. Johnson said that

12 the drugs in the car was his; right? Or the gun?

13 A: The drugs in the car.

14 Q: Drugs in the car. Now --

15 A: Drugs and the gun. I'm sorry.

16 Q: Drugs and a gun?

17 A: Yeah.

18 Q: Okay. But he told you from the very outset that that car

19 did not belong to him? Didn't he tell you that?

20 A: Yes, he did.

21 Q: He said that on the video. So I know, being the good

22 officer you are, that you then ran the plates on the car to

23 determine who the owner of the car was; right?

24 A: I didn't.

25 Q: You didn't?

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1 A: No.

2 Q: Who did?

3 A: I couldn't answer that. It wasn't my case to
4 investigate.

5 Q: Well, now, I keep getting that. It's ain't my case to
6 investigate. Okay. So who -- who is the person that has the
7 final say about what y'all do? I mean, because there were 15,
8 20 of y'all out there. So who is it that makes the decisions?

9 A: Yes, I do.

10 Q: You do? Well, and that's what I'm asking. So -- so the
11 answer is you don't know?

12 A: Yes. I couldn't tell you who it came back to. I'm sure
13 it was ran, but I couldn't give you the registered owner.

14 Q: So there's a car parked on the premises where you have a
15 search warrant to search to look for drugs, and you go in the
16 vehicle and you find drugs, and you don't want to know who
17 owns the vehicle?

18 A: I'm sure it was discovered.

19 Q: You're sure?

20 A: I can't say that I did it because I didn't, but I'm sure
21 all that information was pulled.

22 Q: Now, he told you -- this is after he'd been mirandized
23 and y'all had had all this conversation about everybody going
24 to jail or possibly having everybody go to jail if nobody
25 claimed those drugs that, look, I'm claiming everything.

KENDRICK SPEARS - CROSS BY MR. WILSON

1 Whatever you find, if it's illegal, I take responsibility for
2 it. That's what he told you; right?
3 A: Yes.
4 Q: Yeah.
5 A: That's the way he worded it.
6 Q: And he told you that over and over again; right?
7 A: Correct.
8 Q: Right. Other than -- other than the fact that he tells
9 you this, do y'all do anything to try to verify that -- that
10 this is true, that this is real? I mean, what do you -- what
11 do you do other than just say, well, he said it, so that's
12 good enough for me? Is that -- so whenever a defendant tells
13 you something, whatever it is, you just believe it and that's
14 it?
15 A: No, sir.
16 Q: No.
17 A: We -- we don't take answers like that.
18 Q: Right. That's right. You don't, do you? And why is
19 that?
20 A: Because we want them to be in detail of -- if it belongs
21 to them, explain where it's at.
22 Q: And because they will lie to you, won't they?
23 A: Yes, they will.
24 Q: Defendants will lie to you when you -- especially when
25 you're trying to charge them with criminal offenses, they will

KENDRICK SPEARS - CROSS BY MR. WILSON

1 lie to you. And so you, as the officer, want to find out as
2 much information as you possibly can so you can know when
3 they're lying to you; right?

4 A: Yes. We like for them to be honest and explain the
5 details.

6 Q: And normally, that's how it would work, but it didn't
7 work that way in this case; right? Because he said it was
8 his, good enough. We don't need to know no more. That was
9 the end of it; right?

10 A: No. He explained which trash can it was in, and we
11 actually looked in the wrong trash can and he directed us to
12 the one that -- the second one that it was actually in.

13 Q: Okay. Well, there wasn't but two right there in that
14 corner; right?

15 A: There were.

16 Q: There were two trash cans in that corner. So you went to
17 -- in fact, you went to -- speaking of that, there are two
18 trash cans there. You went to the wrong trash can first,
19 opened it, you didn't see anything. Then you went to the
20 second trash can, and that's when you found whatever the bags
21 were; right?

22 A: Yes. He directed us to said trash can.

23 Q: Well, he directed you to the first one too, didn't he?

24 A: No. He pointed in the direction, so we just assumed at
25 the time.

KENDRICK SPEARS - CROSS BY MR. WILSON

1 Q: Okay. All right.

2 MR. WILSON: If the Court will bear with me just one
3 second, Your Honor.

4 BY MR. WILSON:

5 Q: One of the things that he told you was -- and this is
6 almost at the very end. I think it was your video that was
7 played by the solicitor. That I'm not going to let my people
8 suffer for all this stuff. Do you remember him saying that?

9 A: That's correct.

10 Q: Okay. And that's actually the last thing on that tape
11 that was just played. That was the last conversation; right?

12 A: That's correct.

13 Q: All right. Now -- and just one other thing and then I'm
14 going to be done here, and I hate to keep going back to this,
15 but I'm having some difficulty. Maybe you can help me with
16 this. I'm having some difficulty understanding why there is
17 no attempt to verify anything.

18 A: It was verified.

19 Q: Well, you didn't verify the car; right?

20 A: I'm sure it was done, but I can't say for sure.

21 Q: You didn't verify the car. At least you hadn't brought
22 anything in here to verify who the car belonged to. You don't
23 -- you didn't verify who owns the guns; right? You did not
24 verify whose room it was. So what has been verified?

25 A: His statements.

KENDRICK SPEARS - CROSS BY MR. WILSON

1 Q: His statements?

2 A: His statements. Yes, sir.

3 Q: Just the fact that he said it, that's it?

4 MR. WILSON: No other questions.

5 THE COURT: Redirect?

6 MR. RICHARDSON: Briefly, Judge.

7 REDIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q: Inv. Spears, when you have a case where evidence is found
10 and you don't know who it belongs to, what are some of the
11 additional steps that police can take to -- you know,
12 forensically or what have you to try to find out who had those
13 things?

14 A: If we -- no one claims ownership of what was seized, we
15 can always have it processed for DNA, whether it's guns or
16 drugs. We would send it up to have it processed to help try
17 to determine who it may belong to. We will give everyone
18 opportunity to speak up, because we know going into these
19 houses that some people may live there and fully involved and
20 some may not. So we don't want to lock up innocent people
21 that had -- that truly had nothing to do with it.

22 So we try to get them -- the people on scene to admit if
23 it's theirs, once their rights are read, to tell us where it's
24 at and be in detail about it because sometimes if they just
25 say it's mine, everything is mine and don't go in detail, but

KENDRICK SPEARS - REDIRECT BY MR. RICHARDSON

1 then down the line they say, well, I just said that to protect
2 everyone in the house. So in most cases, we want them to be
3 detailed about what -- what they actually possessed there to
4 -- for -- for the case.

5 Q: So in this situation, if it -- if the statement made to
6 you had been just generic in the sense of I have guns and
7 drugs and that's it, would that be a situation where you would
8 take additional steps?

9 A: That's correct. And even with an admission to guilt and
10 saying that those items belonged to him, if you are in
11 proximity of it, you still could be charged even with a person
12 admitting to it. So -- so if it was not detailed or anything
13 like that, then probably everyone would have been arrested and
14 we would have had fingerprints lifted from the bag or
15 attempted to. A lot of times, we're not successful doing that
16 in my 20 years, but -- but we would have made that attempt to
17 look for DNA and process the baggies.

18 Q: But in this case, where you have an individual who says
19 not only are the guns mine, but specifically three guns in
20 particular, named a Glock, a .22, and whatever the third one
21 was by name that are in these boxes, so it's just not the guns
22 are mine, but these specific makes models, whatever, they are
23 mine and on video says they're on my person, I threw them, and
24 then tells you I have pills, not just in a trash can, but in
25 the particular trash can down in a dog food bag that you may

KENDRICK SPEARS - REDIRECT BY MR. RICHARDSON

1 or may not have found without his help, what more did you need
2 in your mind to do to confirm that?

3 A: Nothing else was needed. He gave us his word and was in
4 detail, as detailed as you can get about it. He referred to
5 them as X pills, which, you know, that's what the streets
6 refer to those pills too as X pills, even though over the last
7 15 years, it's been coming back to methamphetamine, but that's
8 the street term of those particular type pills. So he
9 actually put us on that particular trash can where they were
10 seized from.

11 Q: Because what is -- when he says with specificity not only
12 do I have the pills, but they're not in that trash can,
13 they're in that next trash can on the video, what does that
14 tell you concerning his knowledge?

15 A: He knew exactly where they were at, that he placed them
16 there. He had knowledge of them being there.

17 Q: What does that tell you about his ability to control
18 them?

19 A: Yeah. He -- that is insight to -- to know what's going
20 on coming in and out of that trash can. So --

21 MR. RICHARDSON: Thank you, sir. That's all the
22 questions I have.

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

24 MR. RICHARDSON: Your Honor, the next witness is Andron
25 Brown.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 THE COURT: All right. Officer Brown, please come
2 forward. I'm going to ask you, if you could, to have a seat
3 in the witness chair.

4 THE WITNESS: Yes, sir.

5 THE COURT: And before we do that, place your left hand
6 on the Bible and raise your right hand.

7 THE CLERK: Do you swear or affirm the testimony you give
8 in this case will be the truth, the whole truth, and nothing
9 but the truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Please be seated.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Pull up real close to that microphone, speak
14 loudly, clearly, and slowly in order that we can hear
15 everything that you have to say, and let's start with your
16 full name, please, sir.

17 THE WITNESS: Andron Maurice Brown.

18 THE COURT: Very good.

19 ANDRON BROWN, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. RICHARDSON:

23 Q: Officer Brown, can you tell us how long you've been with
24 the Florence Police Department?

25 A: Just -- actually, I just hit 15 years in December.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 A: And do you also work in the Special Investigations?

2 A: Yes, I do. I'm a sergeant in that unit.

3 Q: How long have you been working with that unit?

4 A: A little bit over a decade.

5 Q: Okay. And do you do some of the same activities that

6 we've heard the other officers describe, like search warrants,

7 controlled buys, all that sort of things with narcotics

8 investigations?

9 A: Yes, sir. Same -- same duties that they have.

10 Q: Okay. Very good. And were you present during the

11 execution of this search warrant on May the 4th of '22?

12 A: I was present.

13 Q: And what was your role there on scene that day?

14 A: My -- the role I was tasked with was basically

15 photography, photographing everything. So whatever was found

16 on scene, they called me, and I came over to take a picture of

17 it.

18 Q: Why is that important?

19 A: I just want to get a clear-cut picture of where things

20 were located undisturbed and things like that. So we know

21 exactly where evidence was found.

22 Q: All right. Did you photograph the scene that day and the

23 items that were collected?

24 A: Yes, I did.

25 Q: Okay. I want to show you a number of items here. First,

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 I want to show you what's been marked as State's Exhibit 34
2 for identification.

3 A: Okay.

4 Q: Could you tell me if you recognize that?

5 A: Yes, sir.

6 Q: What is it?

7 A: It's an identification card for Mr. Tyquan Johnson.

8 Q: And did you photograph that at the scene where it was
9 located?

10 A: Yes, I did.

11 Q: And do you recall where it was located?

12 A: I believe it was inside the vehicle that was on the
13 property.

14 Q: All right. And do you recall what else was with that ID?

15 A: The .357 handgun or revolver and, I think, some marijuana
16 was found in there also.

17 Q: Does this picture of this ID card show a true and
18 accurate represent -- representation of that card that you
19 saw?

20 A: Yes, sir.

21 Q: Okay.

22 MR. RICHARDSON: Your Honor, I'd ask for State's 34 to be
23 admitted into evidence.

24 MR. WILSON: Same objection, Your Honor.

25 THE COURT: All right. It's into evidence over

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 objection.

2 (WHEREUPON, State's Exhibit Number 34, photograph of

3 defendant's photo ID, was admitted into evidence.)

4 BY MR. RICHARDSON:

5 Q: I'll show you State's 2, if you can take a look at that

6 and tell us what it is.

7 A: That is a picture of a handgun that was found in the

8 grass or the backyard.

9 Q: And is that the same gun that we've seen video of earlier

10 today?

11 A: Yes. That's the one that was thrown over near the tree

12 of [REDACTED].

13 Q: That is behind the neighbor's house?

14 A: Behind the neighbor's house, yes, of [REDACTED].

15 Q: Okay. And I'll show you State's 3 for identification.

16 A: That's another picture of that -- that same handgun.

17 Q: Okay. Is that a little closer up view?

18 A: Yeah, just a closer view of it.

19 Q: State's 4?

20 A: A closer view.

21 Q: Same -- same gun?

22 A: Same handgun.

23 Q: And State's 5?

24 A: And that's a very close picture of the same gun. You get

25 the numbers and everything on it.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 Q: Okay. All these are true and accurate representations of
2 what that gun looked like on the ground there that day?

3 A: Yes, sir, they are.

4 MR. RICHARDSON: Your Honor, I'd ask for State's 2, 3, 4,
5 and 5 to be admitted into evidence.

6 THE COURT: Any objection?

7 MR. WILSON: Subject to my earlier objections.

8 THE COURT: All right. They're into evidence.

9 (WHEREUPON, State's Exhibits Number 2, 3, 4, and 5,
10 photographs, were admitted into evidence.)

11 BY MR. RICHARDSON:

12 Q: Okay. Officer Brown, I'll show you State's 6.

13 A: Okay.

14 Q: Tell us what that is?

15 A: That is a picture of the revolver, a .22 I believe, that
16 was found between the two houses.

17 Q: Okay. And State's 7?

18 A: This is another picture of that revolver, just a closer
19 shot of it.

20 Q: Okay. Are both of those accurate representations of the
21 way it looked that day on the ground?

22 A: Yes, they are.

23 MR. RICHARDSON: I'd ask for State's 6 and 7 to be
24 admitted.

25 MR. WILSON: Same objection.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 THE COURT: Into evidence.
2 (WHEREUPON, State's Exhibits Number 6 and 7, photographs,
3 were admitted into evidence.)
4 BY MR. RICHARDSON:
5 Q: I'll show you the State's Number 8, if you can take a
6 look at that.
7 A: It's a green trash can.
8 Q: All right. And which -- which particular green trash can
9 is that? Is it the first one or the second one?
10 A: The second one.
11 Q: All right.
12 A: The pills were located here, the methamphetamine pills.
13 Q: All right. Is that a true and accurate representation of
14 the way that trash can looked that day?
15 A: Yes, it is.
16 Q: All right.
17 MR. RICHARDSON: I'd ask for State's 8 to be entered into
18 evidence.
19 MR. WILSON: Same objection.
20 THE COURT: Into evidence.
21 (WHEREUPON, State's Exhibit Number 8, photograph, was
22 admitted into evidence.)
23 BY MR. RICHARDSON:
24 Q: I'll show you State's 9, if you can take a look at that.
25 A: This is an inside or a picture of the inside of that

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 trash can with the dog food bag down inside.

2 Q: Okay. Is that an accurate portrayal of what it looked
3 like?

4 A: It's accurate.

5 MR. RICHARDSON: I'd ask for State's 9 to be entered into
6 evidence.

7 MR. WILSON: Same objection.

8 THE COURT: Into evidence.

9 (WHEREUPON, State's Exhibit Number 9, photograph, was
10 admitted into evidence.)

11 BY MR. RICHARDSON:

12 Q: And, Inv. Brown, I know we -- we just saw on -- on camera
13 footage where the drugs were actually located, pulled out
14 first, and then they were put back?

15 A: Yes, sir.

16 Q: And what was the purpose for that?

17 A: Just so that I can get -- initially, they went to the
18 trash can, obviously, because he told them that they were in
19 the second trash can. So they went there to verify, found it.
20 Once I was notified, then I wanted those pictures to be taken
21 where they actually were found and not outside of the trash
22 can. So I just got them to put it back in there to show where
23 they were actually found, and then proceeded to have it taken
24 out and shown to take pictures of it.

25 Q: And in keeping with that, I'll show you State's 10.

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 A: This is a picture of them taking it back out of the trash
2 can just so that I could get an actual still shot picture of
3 it.

4 Q: And State's 11?

5 A: It's a picture of them opening the bag up, and you can
6 kind of see a blurred vision of the pills inside.

7 Q: State's 12?

8 A: This is the bag opened up, and you can see two baggies
9 full of methamphetamine.

10 Q: And State's 13?

11 A: And this is a full close-up shot of the methamphetamine.

12 Q: Are all these true and accurate representations of the
13 way these items looked that day?

14 A: Yes, sir, it is.

15 MR. RICHARDSON: Your Honor, I'd ask for State's 11, 10,
16 12, and 13 to be admitted into evidence.

17 THE COURT: Defense?

18 MR. WILSON: Same objection.

19 THE COURT: Into evidence.

20 (WHEREUPON, State's Exhibits Number 10, 11, 12, and 13,
21 photographs, were admitted into evidence.)

22 MR. RICHARDSON: Thank you, Your Honor.

23 BY MR. RICHARDSON:

24 Q: Officer Brown, is that the -- the extent of your purposes
25 there that day is to document this evidence that we've seen?

ANDRON BROWN - DIRECT BY MR. RICHARDSON

1 A: Yes. That's pretty -- that's pretty much my job is to
2 make sure I got all the pictures I can get.

3 Q: Okay.

4 MR. RICHARDSON: Very good. Please answer any questions
5 the defense may have for you.

6 THE WITNESS: Yes, sir.

7 MR. WILSON: I just have a couple of questions.

8 CROSS-EXAMINATION

9 BY MR. WILSON:

10 Q: In regards to the -- the pictures, my understanding is
11 that when -- well, let me rephrase that and ask you this way.
12 Were you there from the very beginning of this process, that
13 is from the time the search warrant was initially being
14 executed?

15 A: I was. It's -- the ERT initially executed, like we
16 talked about earlier, but I stood on the perimeter of another
17 street until that scene was clear and safe. And then they let
18 us know, and then I came in, kind of followed.

19 Q: Okay. When you came in, did they have the three suspects
20 or men on the porch at that point when you came up?

21 A: No, I don't think they were on the porch at that point.

22 Q: Okay. Do you know where they were?

23 A: I think they were in the backyard, I believe.

24 Q: Okay. And --

25 A: And on the side.

ANDRON BROWN - CROSS BY MR. WILSON

1 Q: I'm sorry.

2 A: I'm sorry. Backyard at the side.

3 Q: Okay. All right. And -- and as far as -- as your role

4 is concerned, as I understand it, your role was simply to take

5 photographs of what you say you saw or what they provided you

6 with?

7 A: Yeah. Whatever was seen on that -- whatever was on scene

8 that needed to be photographed, I photographed.

9 Q: All right. Did you photograph the Ruger and the sausage

10 that were on the roof? Did you do that?

11 A: No. That was the only thing. Cpl. McKenzie advised that

12 he took those pictures so that multiple people didn't have to

13 go on the roof.

14 Q: Okay. And -- and generally, you want to take the

15 pictures in the natural condition that you find the object;

16 right?

17 A: That's -- that's -- yeah, that's preferred. That's --

18 you would want that.

19 Q: Okay. In fact, when you got to the trash can, the items

20 had already been taken out?

21 A: Right.

22 Q: You had them put them back in?

23 A: Right.

24 Q: And then took the photographs?

25 A: Right.

ANDRON BROWN - CROSS BY MR. WILSON

1 Q: But there's no question those items were out of that
2 trash can and perused prior to your taking the picture and
3 putting them back in there to take the pictures; right?

4 A: Yeah. So we just --

5 Q: All right.

6 MR. WILSON: I don't have anything else. Thank you, sir.

7 THE COURT: Redirect?

8 MR. RICHARDSON: No, sir.

9 THE COURT: You may step down.

10 THE WITNESS: Thank you, Your Honor.

11 MR. RICHARDSON: Judge, may we approach at this time?

12 THE COURT: Yes.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury as follows.)

15 MR. RICHARDSON: Your Honor, the remaining witnesses are
16 scheduled to be here about ten in the morning.

17 THE COURT: Okay. That'll be good. We'll recess. I'll
18 give y'all an opportunity to put anything on the record that
19 you want before we leave for the day.

20 MR. RICHARDSON: Yes, sir.

21 MR. WILSON: Thank you.

22 (WHEREUPON, the bench conference ended, and the
23 proceedings resumed as follows.)

24 THE COURT: Madam Forelady and ladies and gentlemen of
25 the jury, that's all the witnesses that are available today.

1 We will reconvene at 10 o'clock in the morning. Normally,
2 we're here at 9:30, but we're going to start at 10 o'clock in
3 the morning. Be here and be here on time. Once again, do not
4 discuss the case amongst yourselves or with anyone else. No
5 independent investigation, no social media.

6 All right. Everyone remain seated as the jury exits the
7 courtroom.

8 (WHEREUPON, the jury exited the courtroom at 3:28 p.m.)

9 THE COURT: All right. Anything from the State before we
10 recess for the evening?

11 MR. RICHARDSON: No, sir.

12 THE COURT: Anything from defense?

13 MR. WILSON: Yes, sir, briefly.

14 Your Honor, we haven't gotten to this point yet, but when
15 the State rests, there will be an issue as to whether or not
16 the defendant wishes to testify or not testify. And so I'm
17 just giving the Court some heads up so that the Court can
18 inquire of him if that is his wish. And if not, that's fine
19 too. I just want to kind of give the Court a heads up on
20 that.

21 THE COURT: All right.

22 MR. RICHARDSON: Your Honor, at the appropriate time, we
23 have his record and we can go over it with you.

24 THE COURT: Okay. Just bear with me just one moment.

25 (WHEREUPON, there was a pause in the proceedings, after

1 which the proceedings resumed as follows.)

2 THE COURT: All right. Let's go over -- let's go over
3 the record so he can make an informed decision about whether
4 or not to testify.

5 MR. RICHARDSON: Yes, sir. Within the last ten years, I
6 believe what would qualify -- he's got a failure to stop for a
7 blue light and child endangerment in December of 2014. He's
8 got financial transaction card fraud, financial transaction
9 card theft. Actually, I think it's maybe three -- two or
10 three counts of financial transaction card fraud in April of
11 2015. Yeah, those would be crimes of dishonesty.

12 And beyond that point, the offenses either don't qualify
13 or they were acquittals or pending. So he's got about five
14 things I think that would be subject to scrutiny. Several of
15 those would be crimes of dishonesty.

16 THE COURT: All right. You've heard -- can you delineate
17 the specific ones that you intend to offer if he testifies
18 once again? Well, let's go over them one at a time.

19 MR. RICHARDSON: Yes, sir.

20 THE COURT: State the date of the conviction, what he's
21 convicted of, and the grounds for entering it.

22 MR. RICHARDSON: Sure. Failure to stop --

23 THE COURT: And we'll -- we'll allow him to address each
24 one.

25 MR. RICHARDSON: Sure. Failure to stop for a blue light

1 and child endangerment. There were two convictions at the
2 same time on December the 4th, 2014.

3 THE COURT: Within ten years and more than a year in
4 prison?

5 MR. RICHARDSON: Yes, sir.

6 THE COURT: All right. Mr. Wilson, what do you have to
7 say about that?

8 MR. WILSON: That is what the record is, Your Honor.

9 THE COURT: Okay. Do you have an objection as to that
10 being tendered?

11 MR. WILSON: Yes, sir. I always object.

12 THE COURT: All right.

13 MR. WILSON: That doesn't mean that I have a basis for
14 it.

15 THE COURT: All right. Well, that was my question. Do
16 you have a basis for an objection?

17 MR. WILSON: No, sir.

18 THE COURT: All right. Well, that one's coming in.

19 MR. RICHARDSON: Judge, March the -- excuse me. April
20 the 14th of 2015, two counts of financial transaction card
21 fraud and one count of financial transaction card theft. The
22 theft carries up to five years, and the frauds I think carry
23 up to one year a piece, but they would be crimes of
24 dishonesty.

25 THE COURT: All right. Moral turpitude is --

1 MR. RICHARDSON: Yes, sir.

2 THE COURT: -- what you call that. Any basis for an
3 objection on that?

4 MR. WILSON: No, sir.

5 THE COURT: All right. That's coming in.

6 MR. RICHARDSON: And, Judge, I believe, if this record is
7 accurate, I think that's all that would qualify.

8 THE COURT: Okay. All right. Mr. Wilson?

9 MR. WILSON: Yes, sir.

10 THE COURT: They indicate that's all they intend to
11 offer. And if he takes the stand, those are the only things
12 that he's going to be able to get into.

13 MR. WILSON: Yes, sir. We understand.

14 THE COURT: And he understands that, doesn't he?

15 All right. Mr. Johnson, I'm going to ask you, if you
16 could, to stand.

17 (WHEREUPON, the defendant complied.)

18 THE COURT: Your full name, sir?

19 THE DEFENDANT: Tyquan Jamal Johnson.

20 THE COURT: All right. Do you swear to tell the truth,
21 the whole truth, and nothing but the truth, so help you God?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. We've reached the stage of this
24 trial where we only have two witnesses left, but after that,
25 then you will have an opportunity to present any defense, if

1 you decide to do so.

2 And at this time, I'm going to explain to you certain of
3 your rights. If you do not understand anything I say, please
4 let me know. If you want me to explain anything in more
5 detail, please let me know. Do you understand what I'm
6 saying?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. We have now reached the stage in
9 the -- in the trial where you will present your defense,
10 probably first -- middle of the morning tomorrow.

11 You have the right to claim the protections given to you
12 by the Fifth Amendment to the Constitution of the United
13 States, which provides in relevant part, no person shall be
14 compelled in any criminal case to be a witness against
15 himself. This means that you cannot be required to testify in
16 this case.

17 You have the right to testify on your own behalf.
18 However, no one can make you testify. This is a personal
19 right, and no one can waive this right except you. If you
20 decide to testify, you'll be subject to the same rules that
21 govern other witnesses, and you may be examined and cross-
22 examined on any relevant issue in this case.

23 In addition, if you have any convictions involving
24 dishonesty or false statements or for crimes punishable by
25 imprisonment for more than one year and this Court determines

1 that the probative value of admitting this evidence outweighs
2 its prejudicial effect to you, the solicitor will be able to
3 introduce your record to attack your credibility.

4 They have been over that record, and you understand what
5 would be -- if you testify, they're going to be able to bring
6 up those convictions, but only the convictions that have been
7 discussed here in this courtroom. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. If you decide to testify, this
10 decision on your part must be freely, voluntarily, and
11 intelligently made with the knowledge of the protections given
12 to you by the Fifth Amendment and the consequences of your
13 decision to testify.

14 If you decide not to testify, I will instruct the jurors
15 that they cannot give the fact that you did not testify any
16 consideration whatsoever, and there is to be absolutely no
17 prejudice to you because you did not testify. I will tell the
18 foreman of the jury to enforce that rule. There will be
19 entirely -- there will be absolutely no discussion about the
20 fact that you did not testify.

21 It is left entirely up to you whether or not to testify.
22 You may talk with your attorney, your family, your friends, or
23 anyone else, but the final decision will be left entirely up
24 to you. Do you understand what I'm telling you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Do you have any questions of me?

2 THE DEFENDANT: So if I wanted to testify, I would
3 testify tomorrow, if I wanted to testify?

4 THE COURT: More than likely. I anticipate they're going
5 to have two witnesses. And given the nature of the case, I
6 anticipate if -- if you decide to put forth a defense, if you
7 decide to testify, it very well could be that you would
8 testify about mid-morning. I don't know. I've not discussed
9 with your lawyer or I don't know how many witnesses that he
10 might call to the witness stand. If he doesn't call any other
11 than you, I would anticipate perhaps that you would do that
12 about mid-morning tomorrow.

13 THE DEFENDANT: And if I -- if I wanted to testify, sir,
14 I can speak freely if I feel at that moment?

15 THE COURT: That's what -- this is your day in court.

16 THE DEFENDANT: All right.

17 THE COURT: And -- and of course, your lawyer will ask
18 you direct questions and you'll be allowed to respond to
19 those. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Have you discussed these matters
22 with your lawyer?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And do you feel like you need more time to
25 discuss it with him?

1 THE DEFENDANT: Not really. I guess tomorrow we do what
2 we do, and I'll make my decision tomorrow if I'm going to
3 testify or not.

4 THE COURT: All right. Well, I'm going to give you --
5 and that's one of the reasons, perhaps, that your lawyer asked
6 that I go through this colloquy at this juncture, so you'll
7 understand the weight of the decision about whether or not to
8 testify or to testify, and you can contemplate that overnight.
9 You can talk to your family members, friends. You can talk
10 with your lawyer about it, but the decision is left up to you.
11 You understand that, don't you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. And we'll address -- after the
14 State concludes their case, I will ask you whether or not you
15 intend to testify. Okay?

16 THE DEFENDANT: Can I get one more question? When I do
17 take the stand, who questions me first? My lawyer or the
18 State?

19 THE COURT: Your lawyer will question you first.

20 THE DEFENDANT: Okay.

21 THE COURT: Then the State will cross-examine, and then
22 he'll have an opportunity to reply.

23 THE DEFENDANT: And then after the State talk to me, I
24 can speak freely after that if I want to speak toward the
25 jury?

1 THE COURT: Well, you -- you can talk with your lawyer
2 about that.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: But as a general rule, we don't allow for you
5 to give a closing argument or anything such as that.

6 MR. WILSON: Judge, just -- what he -- he wrote a -- he
7 wrote out a statement because he was concerned about when he
8 gets on the stand whether he'll be nervous and not be able to
9 articulate fully his position. So he wrote it all out on some
10 paper, and that's what he's talking about. When he says talk
11 to the jury, he's actually talking about reading a written
12 statement that he has prepared to explain what he says
13 happened.

14 THE COURT: All right. You know, the only time that I've
15 ever seen this take place is in death penalty cases where a --
16 a defendant is allowed to address the jury and say whatever
17 they want to say without the necessity of -- of being cross-
18 examined, and they allow that in a death penalty case.

19 MR. WILSON: He expects to be cross-examined. That's not
20 what we're asking for. He's not asking not to be cross-
21 examined. He is simply asking that when he's on direct giving
22 his testimony that he be allowed to read his statement --

23 THE COURT: All right. Well, let's --

24 MR. WILSON: -- to the jury.

25 THE COURT: Let's talk about that. As a general rule,

1 statements are -- are not admissible, and -- and I've never
2 had that request made of me, but it seems to me that I'll --
3 first of all, we might make it a little bit easier. I'm going
4 to ask if the -- if the State has an objection to that.

5 Normally -- normally is the reason why it should not be
6 done is that you ask a question, and then they have an
7 opportunity to determine whether or not it's admissible. They
8 can object to relevance. They can object to hearsay. They
9 can object to a number of different things. But when he reads
10 it out loud -- and I'm just thinking out loud here. If he
11 reads it out loud, you don't have that opportunity.

12 So -- and I'll -- I'm going to hear from the State about
13 that, but probably what would be a good idea would be for your
14 client to familiarize himself with the matters in the
15 statement, and he can have the statement there before him and
16 he can refresh his memory. And if you don't cover all of the
17 bullet points that are in the statement, then he can refresh
18 his memory and -- and -- and do it that way.

19 MR. WILSON: Yes, sir.

20 THE COURT: But my initial inclination is that it's
21 inappropriate to do that because it doesn't give them the
22 opportunity to object.

23 What is the State's position?

24 MR. RICHARDSON: We would object to the reading of any
25 statement. That's never allowed by any witness in any case,

1 like the solicitor --

2 THE COURT: But you can -- like I said, you can refresh
3 your recollection and you can --

4 MR. RICHARDSON: Right.

5 THE COURT: Yes.

6 MR. RICHARDSON: Correct, but we don't have a copy of the
7 statement, so we don't know anything about it or what it is.

8 THE COURT: But if he refreshes his -- his recollection,
9 then you have an opportunity to look at it.

10 MR. WILSON: Absolutely.

11 MR. RICHARDSON: Yes, sir.

12 THE COURT: All right.

13 MR. RICHARDSON: I would just object to any reading at
14 all from the statement and that any prepared statements try to
15 be given to a jury.

16 THE COURT: All right. Well, that is indeed my ruling,
17 but what I'm going to do is I'm going to certainly give you
18 the opportunity to go over that with him. Make sure you have
19 in your mind all the bullet points. When you conclude your
20 direct, look and make sure you've covered all of them. And
21 then -- and then he can have that statement up there with him
22 and -- and he can review it and refresh his recollection as to
23 what his points are. Does that sound fair to you?

24 MR. WILSON: Yes, sir.

25 MR. RICHARDSON: And, Judge, I just wanted to make it

1 clear that it's inappropriate for any free speaking to the
2 jury as if it's some direct --

3 THE COURT: Argument type.

4 MR. RICHARDSON: -- argument or statement to them. It
5 has to be in response to questions from -- from counsel.

6 THE COURT: Right.

7 MR. RICHARDSON: In that format.

8 THE COURT: Right.

9 MR. WILSON: The only other thing I would ask the Court,
10 Your Honor, is -- obviously, the defendant is facing a minimum
11 mandatory 25 to 30 on these charges and a \$200,000 fine. I
12 would also ask the Court to -- to advise the defendant that
13 this is a strike, as well as a no-parole offense.

14 THE COURT: It is. Would this be a serious or most
15 serious?

16 MR. WILSON: It is serious.

17 THE COURT: Most serious?

18 MR. JEPERTINGER: Most serious.

19 THE COURT: Huh?

20 MR. JEPERTINGER: Serious.

21 THE COURT: Serious, which is one of the three strikes.

22 MR. WILSON: Yes, sir.

23 THE COURT: And -- and it's also a violent offense, which
24 adversely affects his custody status.

25 MR. WILSON: Yes, sir.

1 THE COURT: And the fact that it's a non-parolable
2 offense.

3 MR. WILSON: That's right.

4 THE COURT: He will have to serve 85 percent of that, and
5 then he would be out on community supervision if he gets out.

6 MR. WILSON: Yes, sir.

7 THE COURT: All right. You've discussed that with him,
8 haven't you?

9 MR. WILSON: I have, and I -- but I'm -- and I'm going to
10 ask the Court if they would let me have about 20 minutes with
11 him after we leave here.

12 THE COURT: Certainly.

13 MR. WILSON: So I can talk with him some more --

14 THE COURT: Yes.

15 MR. WILSON: -- about these issues.

16 THE COURT: All right. And y'all accommodate defense
17 counsel and allow him an opportunity to speak.

18 MR. WILSON: He said he had one other question he wanted
19 to ask you, Your Honor.

20 THE COURT: All right. I'll --

21 THE DEFENDANT: He's saying I can't talk to the jury
22 direct; right? Well, being that I --

23 THE COURT: Yes, you can, but it has to be in response to
24 one of his questions.

25 THE DEFENDANT: What about -- I thought I had the right

1 to speak, how I feel, what's going on with my life, but I'm
2 not --

3 THE COURT: Well, the -- the rules of evidence don't
4 allow you to talk about feelings and that sort of thing, but
5 you communicate what you want to communicate to the jury to
6 your lawyer, and he has to ask the appropriate question. Then
7 you have to respond.

8 THE DEFENDANT: But can you read it --

9 THE COURT: And I'll --

10 THE DEFENDANT: -- for me before I left? Can you read it
11 first?

12 THE COURT: Well, I don't think that's appropriate for me
13 to do that. Number one, I'm not the fact finder. The jury is
14 the one that's going to determine whether or not you're guilty
15 or not. It -- in the event you're found guilty, then you can
16 read that whole thing to me.

17 THE DEFENDANT: It ain't going to do it. That's the
18 purpose. I want to read it so they can understand my --

19 THE COURT: Well --

20 THE DEFENDANT: -- side of the story.

21 THE COURT: This is a --

22 THE DEFENDANT: They don't need one side of the story.

23 THE COURT: This is a proceeding that's governed by rules
24 of evidence and procedure, and that's in violation of
25 procedure. I'm not going to allow you to do that.

1 THE DEFENDANT: What is -- can I ask you one other? What
2 is you going to allow us to do? You denied everything that we
3 tried to ask. You ain't grant us nothing else.

4 THE COURT: Well, guess what?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You have an opportunity to appeal any of my
7 rulings.

8 THE DEFENDANT: Okay. But I want to -- I just want a
9 fair trial, sir. I just want it.

10 THE COURT: Well, you're going to get a fair trial.

11 MR. WILSON: Thank you, Your Honor.

12 THE COURT: All right. And we're about to recess.

13 I'm going to ask if the gentleman in the blue shirt can
14 remain with us for a period of time until the jurors have
15 reached their car.

16 And I'm going to ask whoever escorts them to the car that
17 they communicate to you and tell him it's all right for him to
18 leave.

19 THE DEPUTY: They're already in the car, Judge.

20 THE COURT: Okay. Well, you're free to leave. Thank
21 you, sir.

22 All right. And we'll stand at ease until 10 o'clock in
23 the morning, 10 o'clock.

24 (WHEREUPON, the proceedings adjourned for the day at 3:46
25 p.m.)

1 JANUARY 11, 2024

2 (WHEREUPON, the proceedings resumed at 10:23 a.m.)

3 THE COURT: Anything from the State before we proceed?

4 MR. RICHARDSON: No, sir. Well, I do believe we had a
5 discussion in chambers about the charge. I don't know if you
6 want to talk about that now or --

7 THE COURT: We'll do that at a later date and time when
8 we have the charge conference.

9 MR. RICHARDSON: Yes, sir.

10 THE COURT: We'll do that. We'll put that on the record.
11 I think we need -- the jury is here and ready to go. We can
12 take care of those matters a little bit later at a break.

13 MR. RICHARDSON: Yes, sir.

14 MR. WILSON: Nothing from the State, Your Honor. I mean,
15 from the defense. I'm sorry.

16 THE COURT: All right. We're ready for the jury.

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury entered the courtroom at 10:26 a.m.)

19 THE COURT: Madam Forelady and ladies and gentlemen of
20 the jury, thank you for being here, and thank you for your
21 patience. You know, the wheels of justice sometimes grind
22 kind of slow. We had some matters we needed to tend to
23 outside of your presence, but thank you for your patience.

24 Mr. Richardson, you're recognized.

25 MR. RICHARDSON: Thank you, Your Honor. We'd call

TREYVION HIGH - DIRECT BY MR. RICHARDSON

1 Treyvion High.

2 THE COURT: All right. Yes, sir. Mr. High, please come
3 forward and place your left hand on the Bible and raise your
4 right hand as the clerk administers the oath.

5 THE CLERK: Do you swear or affirm the testimony you give
6 in this case will be the truth, the whole truth, and nothing
7 but the truth, so help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Please be seated.

10 THE COURT: All right. Have a seat in that witness
11 chair. Pull up real close to that microphone.

12 THE WITNESS: Okay.

13 THE COURT: Speak loudly, clearly, and slowly in order
14 that we can hear everything that you have to say, and let's
15 start with your full name, please, sir.

16 THE WITNESS: Treyvion High.

17 THE COURT: Could you spell that last name?

18 THE WITNESS: H-i-g-h.

19 THE COURT: Okay.

20 MR. RICHARDSON: Thank you, Your Honor.

21 TREYVION HIGH, being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. RICHARDSON:

25 Q: Mr. High, where are you from?

TREYVION HIGH - DIRECT BY MR. RICHARDSON

1 A: Holly Hill, South Carolina.

2 Q: All right. And before today, have you ever stepped foot

3 in Florence?

4 A: No, sir.

5 Q: This is your first time?

6 A: Yes, sir.

7 Q: All right. So Holly Hill, what county is that in?

8 A: Orangeburg County.

9 Q: Orangeburg County? So good -- a little good -- a good

10 ways from here. About how long did it take you to drive here?

11 A: About an hour and 30.

12 Q: Okay. Back on December the 20th of 2021, what happened

13 to you?

14 A: Someone broke into my car and took my weapon that was in

15 my name.

16 Q: All right. So your car was broken into?

17 A: Yes, sir.

18 Q: And where was your car located when it was broken into?

19 A: [REDACTED] Bay Road, my home.

20 Q: Your home?

21 A: Yes, sir.

22 Q: So in Holly Hill?

23 A: Orangeburg County.

24 Q: All right. And you said what was taken out of your car?

25 A: My Glock 23, Gen 4, Glock 40 -- I mean, yeah, Glock 40.

TREYVION HIGH - DIRECT BY MR. RICHARDSON

1 Q: All right. And how did you discover that your car had
2 been broken into?

3 A: When I came outside, I seen a window was busted and the
4 armrest was lifted up. So I checked, and it was missing.
5 Everything was thrown around.

6 Q: Did you make a police report to your --

7 A: Immediately.

8 Q: All right. And that was to your local sheriff's office
9 in Orangeburg?

10 A: Yes, sir.

11 Q: All right. Did you have the serial number information
12 for your gun?

13 A: Yes, sir. I gave it to Florence County Police
14 Department.

15 Q: You gave it to Florence or Orangeburg when you made --
16 when you made your initial police report?

17 A: Oh, Orangeburg.

18 Q: Okay. And I know it might be difficult to remember since
19 this was -- what? A year, two years ago?

20 A: Yeah.

21 Q: Do you remember off the top of your head the serial
22 number to your gun?

23 A: I don't remember off the top of my head. I know it
24 starts with B-O-Y.

25 Q: Okay. If I were to show you a copy of your report, would

TREYVION HIGH - DIRECT BY MR. RICHARDSON

1 it refresh your recollection?

2 A: Yes, sir.

3 MR. RICHARDSON: Your Honor, if I may approach?

4 BY MR. RICHARDSON:

5 Q: Does that refresh your recollection as to the number?

6 A: Yes, sir.

7 Q: Can you tell us what it is?

8 A: Yeah. B-O-Y-S-7-2-4.

9 Q: Okay. And you supplied that number to the police from
10 your own records?

11 A: Yes, sir.

12 Q: All right. And up until recently, you'd not heard
13 anything about your gun? It was just poof?

14 A: Yeah, it was just poof until I got a call from the police
15 department in Florence that said I could come there and get
16 it, but then they said -- when I got there, they said it was
17 in evidence. They said I could get it after court.

18 Q: Okay. Now, I'm going to show you what's marked or is in
19 evidence as State's Exhibit 32. I'm going to ask you if you
20 recognize that?

21 A: Yeah.

22 Q: What is this?

23 A: Glock 23, Glock 40, Gen 4.

24 Q: Is this your gun?

25 A: Yes, sir.

TREYVION HIGH - DIRECT BY MR. RICHARDSON

1 Q: All right. And can you see the serial number on there?

2 A: Yes, sir.

3 Q: Could you read that out for us?

4 A: B-O-Y-S-7-2-4.

5 Q: Okay. At any point in time, did you give anybody
6 permission to go in and get your vehicle?

7 A: No, sir.

8 Q: Or get your gun?

9 A: No, sir, not at all.

10 Q: So it was stolen?

11 A: Yes, sir.

12 Q: All right.

13 MR. RICHARDSON: Thank you, sir. Please answer any
14 questions that the defense may have for you.

15 THE COURT: Mr. Wilson?

16 MR. WILSON: I just have a couple of questions.

17 CROSS-EXAMINATION

18 BY MR. WILSON:

19 Q: Sir, when was your gun taken?

20 A: Two years ago.

21 Q: Two years ago?

22 A: Yes, sir.

23 Q: And do you know who took it?

24 A: No, sir.

25 Q: All right. And did the police ever have any suspects as

TREYVION HIGH - CROSS BY MR. WILSON

1 to who they say took your gun --

2 A: No, sir.

3 Q: -- that they told you about?

4 A: No, sir.

5 Q: All right. So you hadn't seen that gun or had contact
6 with that gun for over two years?

7 A: Right.

8 MR. WILSON: I don't have any other questions.

9 THE COURT: Any redirect?

10 MR. RICHARDSON: No, sir.

11 THE COURT: You're free to leave. Thank you, sir.

12 MR. RICHARDSON: Thank you.

13 Your Honor, our next witness will be Frank Mizell.

14 THE COURT: All right.

15 All right. Mr. Mizell, if you could come forward and
16 place your left hand on the Bible and raise your right hand as
17 the clerk administers the oath.

18 THE CLERK: Do you swear or affirm the testimony you give
19 in this case will be the truth, the whole truth, and nothing
20 but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you. Please be seated.

23 THE COURT: All right. Watch your step and have a seat
24 in the witness chair. Pull up real close to that microphone.
25 Speak loudly, clearly, and slowly in order that we can hear

FRANK MIZELL - DIRECT BY MR. RICHARDSON

1 everything that you have to say, and let's start with your
2 full name and spell that last one.

3 THE WITNESS: Frank Mizell. Last name is M-i-z-e-l-l.

4 MR. RICHARDSON: All right.

5 FRANK MIZELL, being first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q: Mr. Mizell, prior to your luxurious retirement, where
10 were you employed?

11 A: With the Florence City Police Department.

12 Q: And how long were you employed with them?

13 A: Almost ten years.

14 Q: And back in May of 2022, were you employed with the
15 Florence Police Department?

16 A: Yes, sir, I was.

17 Q: What was your job?

18 A: I was the evidence custodian.

19 Q: And could you describe for us what that job entails?

20 A: Basically, it's the handling of the evidence that the
21 officers take off the street and put into the evidence
22 department.

23 Q: Okay. So would it be common -- so you would receive
24 evidence in?

25 A: Yes, sir.

FRANK MIZELL - DIRECT BY MR. RICHARDSON

1 Q: To the evidence room and maintain it?

2 A: Yes, sir.

3 Q: Okay. And when you receive -- let's say you receive drug
4 evidence. Do you receive that in a BEST bag?

5 A: Sometimes. If the evidence needs to be taken to SLED to
6 be inspected or figure out what it is, then yes, sir, it will
7 come in a BEST pack.

8 Q: All right. So you'll take it in that bag. Do you tamper
9 with it? Mess with it? Open it?

10 A: No, sir. The only thing I do is I will pull everything
11 out of the actual envelope to verify that it is sealed
12 properly, all the correct paperwork is inside the bag, and
13 make sure everything is signed properly.

14 Q: Okay. So you don't open that BEST bag?

15 A: Absolutely not.

16 Q: All right. And so is it also -- was it part of your job
17 to take items to SLED for chemical analysis?

18 A: Yes, sir.

19 Q: Okay. And did you do that in this case?

20 A: Yes, sir.

21 Q: All right. I'm going to show you what's been marked as
22 State's 23 for identification at this time and ask you if you
23 recognize this item?

24 A: Yes, sir.

25 Q: And what is that?

FRANK MIZELL - DIRECT BY MR. RICHARDSON

1 A: This is the BEST pack that was logged into evidence by
2 Officer Buxton.

3 Q: Okay. And that would have been put in your care?

4 A: Yes, sir.

5 Q: All right. And -- and did you end up taking this item to
6 SLED?

7 A: Yes, sir, I did.

8 Q: Between the time that Officer Buxton put it into your
9 custody, did anybody else touch it, do anything with it,
10 manipulate it, anything before you took it to SLED?

11 A: No, sir.

12 Q: All right. Now, I'll show you what's marked as State's
13 18. This is already in evidence, and it's a redacted copy.
14 If you can take a look at that and tell us what that is?

15 A: This is the evidence form that Officer Buxton put in with
16 his evidence that he turned in.

17 Q: All right. And whose signatures are on that paper?

18 A: I have Officer Buxton's signature where he impounded it,
19 and then my signature where I received it.

20 Q: Okay. And now I will show -- well, can you tell us the
21 date that you received it?

22 A: The date that I received it would have been May 5th of
23 2022 at 8 a.m.

24 Q: So first thing in the morning?

25 A: Yes, sir.

FRANK MIZELL - DIRECT BY MR. RICHARDSON

1 Q: Now, I'll show you what's been marked for identification
2 only as State's 35. If you can take a look at this and tell
3 us if you know what that is?

4 A: Yes, sir. This is the evidence form that is filled out
5 for SLED where before I take it to SLED, we have to fill out
6 this information to tell them exactly what the evidence is
7 that's being taken to them.

8 Q: Okay. And is that form applicable to these drugs?

9 A: Yes, sir, it is.

10 Q: And whose signature is on it at the bottom?

11 A: It's mine.

12 Q: And that's where you dropped it off at SLED in Columbia?

13 A: Yes, sir.

14 Q: And do you see the date where SLED stamped --

15 A: Yes, sir.

16 Q: -- the date it was received?

17 A: May 18th of 2022 at 11:52 a.m.

18 Q: So from May the 5th until May the 18th, this was that
19 these drugs were solely in your custody and control?

20 A: Yes, sir. They were impounded in our drug evidence room.

21 Q: Okay. And -- and you dropped it off to SLED on May the
22 18th of '22 for them to do what they would with it?

23 A: Yes, sir.

24 Q: Okay. And during the entirety of the time from the first
25 time you laid eyes on those drugs to the time you dropped them

FRANK MIZELL - DIRECT BY MR. RICHARDSON

1 off, were they still packaged correctly and untampered with?

2 A: Yes, sir.

3 Q: Okay. All was maintained?

4 A: Yes, sir.

5 MR. RICHARDSON: Thank you. If you'd please answer any
6 questions defense counsel may have.

7 THE COURT: Cross examination, Mr. Wilson.

8 MR. WILSON: Briefly, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WILSON:

11 Q: Officer Mizell, as I understand, you're the evidence
12 custodian or was, at least at that time?

13 A: Yes, sir, I was.

14 Q: Very good. All right. And as a part of your duties and
15 responsibilities, when drugs or guns or any other thing is
16 brought to you, you hold custody of that item or possession of
17 that item, and you secure it until it's delivered to wherever
18 it's going?

19 A: Correct.

20 Q: Ultimately. Now, have you taken other items to SLED in
21 the past?

22 A: Absolutely.

23 Q: All right. Have you taken items to, say, SLED
24 laboratories for DNA or for fingerprints?

25 A: Yes, sir.

FRANK MIZELL - CROSS BY MR. WILSON

1 Q: All right. And you've done that. Now, who instructs you
2 to do that or not do that?

3 A: Typically, it's the officer or we have our crime scene
4 technicians. If they bring something in, they will tell us
5 what needs to be sent to SLED for analysis.

6 Q: Okay. So the officer would tell you if he wanted you to
7 send it to which department to send it to?

8 A: Correct.

9 Q: Okay. So you don't make that decision?

10 A: No, sir.

11 Q: So whoever brought it to you would make that decision;
12 right?

13 A: Yes, sir.

14 Q: And in this case, that would have been Officer Buxton?

15 A: Yes, sir.

16 Q: And were you instructed to either do fingerprints or DNA
17 analysis on any of the items that were brought to you in that
18 package?

19 A: In that package, just by whatever's on the SLED form --

20 Q: And what's --

21 A: -- that he fills out.

22 Q: And what's on the SLED form?

23 A: Drug analysis.

24 Q: Only? Is there any other analysis on there?

25 A: Not that I'm aware of.

FRANK MIZELL - CROSS BY MR. WILSON

1 Q: No.

2 MR. WILSON: No other questions.

3 THE COURT: Any redirect?

4 MR. RICHARDSON: No, sir.

5 THE COURT: All right. You may step down and you're free
6 to leave.

7 THE WITNESS: Thank you, sir.

8 THE COURT: All right. You may call your next witness.

9 MR. RICHARDSON: Yes, sir. We'd call Willie Smith.

10 THE COURT: All right. Mr. Smith, please come forward.
11 I'd ask you, if you could, to -- you can set your paperwork
12 down and place your left hand on the Bible and raise your
13 right hand as the clerk administers the oath.

14 THE CLERK: Do you swear or affirm the testimony you give
15 in this case will be the truth, the whole truth, and nothing
16 but the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 THE COURT: All right. Have a seat in the witness chair.
20 Pull up real close to that microphone. Speak loudly, clearly,
21 and slowly in order that we can hear everything that you have
22 to say, and let's start with your full name, please, sir.

23 THE WITNESS: My name is Willie C. Smith III, and my last
24 name is spelled S-m-i-t-h.

25 MR. RICHARDSON: Thank you, Your Honor.

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 WILLIE C. SMITH III, being first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. RICHARDSON:

5 Q: Mr. Smith, what do you do for a living?

6 A: I'm a criminal analyst senior agent at South Carolina Law
7 Enforcement Division, also known as SLED.

8 Q: And how long have you been working for SLED?

9 A: Twenty-three years and six months.

10 Q: How close are you getting to retirement?

11 A: Three weeks away.

12 Q: Three weeks, huh? Hanging on. In order to do -- well,
13 let me ask you this. Specifically, what do you do at SLED on
14 a -- on a daily basis?

15 A: I'm a chemical analyst. We receive evidence from across
16 the state, and we determine what the substance is on a
17 molecular level, and we generate an official report as to what
18 our results are from the evidence that was submitted to SLED.

19 Q: And how long have you been a chemical or a drug analyst?

20 A: I've been a drug analyst in the drug analysis department
21 at SLED for 23 years and six months.

22 Q: The whole time?

23 A: The whole time.

24 Q: Okay. Could you -- I know it's probably a bunch, but
25 could you give us an approximation of about how many cases

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 you've worked?

2 A: Over 20,000 cases.

3 Q: Can you give us an approximation of how many times you've
4 testified in court as an expert witness?

5 A: 104 times in the state of South Carolina and also in the
6 state of New York.

7 MR. WILSON: Your Honor, in order to save time, I would
8 stipulate that Mr. Smith is, in fact, an expert in the field
9 of chemical analysis, and I have no objections to his
10 qualifications.

11 THE COURT: You may proceed. He is so qualified.

12 Now, I've mentioned to you that normally a person cannot
13 give opinion testimony. The witnesses can only testify as to
14 what they saw, heard, or sensed by smell. However, there's an
15 exception. When someone is qualified because of education or
16 experience, they are permitted to give their opinion in -- in
17 certain areas if the Court qualifies them that way.

18 This witness will be qualified in the area of chemical
19 analysis. He will be allowed to give his opinion and
20 testimony in that area. However, that does not mean that you
21 must accept the opinion, but it's evidence for you to use in
22 any way you see fit and give the weight and credibility you
23 believe is appropriate.

24 MR. RICHARDSON: Thank you, Your Honor.

25 BY MR. RICHARDSON:

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 Q: Mr. Smith, before we get into the nitty gritty of this, I
2 want to show you what's been marked and added into evidence as
3 State's 35. If you could take a look at this and tell me if
4 you can explain what that is?

5 A: Well, the forensics evidence department -- we have
6 something which is called a pre-log, which the officer fills
7 in the information and it's going to generate a receipt for
8 them when they drop off the evidence at SLED. This is the
9 pre-box submission form. It indicates when the person dropped
10 off the evidence into our drug lockers, and it stays into our
11 drug lockers until one of our evidence technicians can pick up
12 the evidence and log the evidence in for analysis.

13 Q: Okay. And does that show a date on it for when SLED
14 received it?

15 A: SLED received this evidence on May 18th, 2022.

16 Q: Thank you, sir.

17 MR. RICHARDSON: If I can publish this real quick, if we
18 can get the Elmo to go to all the screens.

19 THE COURT: There we go.

20 MR. RICHARDSON: Oh, it's just not working on --

21 THE CLERK: It's slow this morning. There you go.

22 MR. RICHARDSON: There we go.

23 MR. WILSON: It's up.

24 MR. RICHARDSON: Okay. All right. I'll turn it sideways
25 here.

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q: But just to explain so the jury can see it, you said this
3 was the -- the SLED log-in form where -- where a police
4 department, in this case Mr. Mizell, who just testified, would
5 drop items off at SLED to be analyzed by you at some point?

6 A: That is correct.

7 Q: Okay. And we see the date it was received and then the
8 individual who dropped it off?

9 A: That is correct.

10 Q: Okay. And we -- and we also see what was dropped off and
11 the name of the individual that it applies to; is that
12 correct?

13 A: That is correct.

14 Q: Okay. Now, continuing on with the chain, I'll show you
15 what's been marked for identification as State's Exhibit 19.
16 If you would take a look at that and tell us what that is?

17 A: This is the official chain of custody of the evidence
18 from when we logged in the evidence until I received the
19 evidence until the evidence was returned back to the agency.

20 Q: So does this form cover everybody at SLED who had contact
21 with these drugs from the moment it hit SLED's front door to
22 the moment it got in your hands?

23 A: That is correct. Every time we touch a piece of
24 evidence, we have to note it into our computer systems that
25 the person had the evidence in their custody and where the

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 evidence went to and from person to person to all the way to
2 return to the agencies.

3 Q: And why is that important to do?

4 A: To make sure that the evidence is secure, intact, and
5 protected from any tampering with it.

6 MR. RICHARDSON: Your Honor, I'd ask if we could enter
7 State's 19 into evidence.

8 THE COURT: Any objection?

9 MR. WILSON: With our previous objections.

10 THE COURT: All right. It's into evidence over
11 objection.

12 (WHEREUPON, State's Exhibit Number 19, SLED chain of
13 custody, was admitted into evidence.)

14 BY MR. RICHARDSON:

15 Q: Now, Mr. Smith, I'll show you what's been marked for
16 identification as State's Exhibit 23 and ask you if you can
17 take a look at it and tell us what that is?

18 A: All right. This is a BEST kit. And the way we receive
19 evidence for SLED for drug analysis, we send out BEST kits for
20 evidence to place evidence in a secure nature, and it has a
21 tamper indicative tape on the edge of it. And this is one of
22 our BEST kits that was -- that contained evidence in it that
23 was submitted to us for analysis.

24 Q: And that was given to you pursuant to this chain of
25 custody we just saw?

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 A: Yes. And the chain of custody, the way we track things
2 in our laboratory -- and you would notice it on our chain too.
3 We track it with our BEST kit numbers, and this BEST kit
4 number is B-351005, and I also wrote it on it. Before I do
5 any analysis to it, I examine the evidence to make sure that
6 there's no cuts or tears and that the seal is still intact,
7 and I write the word seal intact and I date it and initials
8 before I do anything with my evidence.

9 Q: And did you do that with that item?

10 A: Yes, I did, and you can see it. It's still here, still
11 intact back on the date that I did my analysis on September
12 22nd of 2022.

13 MR. RICHARDSON: At this time, I'd ask for State's 23 to
14 be entered into evidence.

15 MR. WILSON: Same objection.

16 THE COURT: It's into evidence over objection.

17 (WHEREUPON, State's Exhibit Number 23, BEST kit
18 containing pills, was admitted into evidence.)

19 BY MR. RICHARDSON:

20 Q: All right. Mr. Smith, when you receive drug evidence
21 like this, what kind of tests do you perform to figure out
22 what it is?

23 A: Well, the first thing I do is I examine the evidence, I
24 look at the paperwork, and then I determine what type of test
25 needs to be done. Since these were tablets and they were

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1 clandestine tablets, which means that they were illegally made
2 tablets, I examined them. I -- all -- I see the markings on
3 them, and then I did a chemical test, and the chemical test is
4 an indication of a functional group. And the chemical tests I
5 done on this case, the functional group that I was looking for
6 was methamphetamine, and it tested positive for
7 methamphetamine.

8 And then after that, I do an instrumental test, which
9 tests the substance on a molecular level. And the instrument
10 that we use, which is used all over the world, is called gas
11 chromatography mass spectroscopy, and it identifies it on a
12 molecular level.

13 Q: And after you ran your tests on that item, did you
14 generate an opinion within a reasonable degree of scientific
15 certainty as to what that substance that you hold in your hand
16 there is?

17 A: Yes. Both samples, Item 1 in this case, which was a
18 Ziploc bag that contained approximately 1,067 tablets, multi-
19 colored tablets, was found to be methamphetamine on a
20 molecular level. They had a weight of 249 grams. The second
21 item was contained approximately 1,062 tablets, multicolored
22 tablets, was found to be methamphetamine also.

23 Q: All right. And added together -- well, let me ask you
24 this. Did you generate a report about your findings?

25 A: Yes. To all our cases that we do our work on, not only

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1 do we generate a report, it goes through an administrative
2 review and then a technical review by another analyst in our
3 laboratory to prove that we did everything scientifically
4 correct and that our results are accurate and scientifically
5 correct.

6 Q: With that in mind, I'll show you State's Exhibit 20.

7 Will you take a look at that and tell me if you recognize it?

8 A: This is my official report from the BEST kit number,
9 which you see the BEST kit, and I indicated on the report is
10 BEST kit B-351005. Item 1 is my official -- was found to be
11 methamphetamine. It had a weight of 249 grams. Item 1.2,
12 which is methamphetamine, had a weight of 248 grams. And this
13 is my official SLED report on my results from this case.

14 MR. RICHARDSON: Your Honor, I would ask for State's 20
15 to be entered in evidence.

16 MR. WILSON: Same objection, Your Honor.

17 THE COURT: Into evidence over objection.

18 (WHEREUPON, State's Exhibit Number 20, drug analysis
19 report, was admitted into evidence.)

20 MR. RICHARDSON: And I'd ask if I could publish this
21 briefly?

22 THE COURT: Yes.

23 MR. RICHARDSON: All right.

24 BY MR. RICHARDSON:

25 Q: Mr. Smith, I'm going to put this State's Exhibit 20 here

WILLIE C. SMITH III - DIRECT BY MR. RICHARDSON

1 on the screen for you and the jury to see. And can you take
2 us kind of from the top to the bottom here with what all this
3 report shows?

4 A: What we do is we give paperwork which is called a BEST
5 form for the agencies to fill out. They fill out the agency
6 contact person. They fill out the subject in the case, and
7 the subject in this case was Tyquan Johnson.

8 Next, you can go down to Item 1, which I said is our
9 tracking number that we use to track the evidence for all our
10 drug cases, which is BEST kit B-351005. And then Item 1.1,
11 which was a Ziploc bag containing approximately 1,067 multi-
12 colored tablets, and it was found to be methamphetamine, which
13 is a C-II drug, and had a net weight of 249 grams. And Item
14 1.2 was a Ziploc bag containing approximately 1,062 tablets
15 and had a -- which is found to be methamphetamine, which is a
16 C-II drug, and it had a net weight of 248 grams.

17 Q: Okay. And do you have the -- I know it's split into two
18 bags. Do you have the total number of pills?

19 A: The total number of pills? Not off the write-up, but the
20 total number of pills is 1,229.

21 Q: So it's 1,067 plus 1,062?

22 A: Is 1,229.

23 Q: Would it be 2,000?

24 A: Well, 2,000.

25 Q: 129?

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1 A: 129, correct.

2 Q: All right. And then the grams, you had one was 249 and
3 one was 248. So do an addition, that's approx -- that's 497?

4 A: That's 497 grams of methamphetamine.

5 Q: Okay. And the confidence level for the weight, as it
6 says, 99.7 percent?

7 A: Well, that's not the confidence level of the weight.
8 That's just the confidence level of the balance. That doesn't
9 deal with the weight, the balance that we use.

10 Q: Oh, I got you. Okay. All right.

11 MR. RICHARDSON: Thank you, sir. Please answer any
12 questions that Mr. Wilson may have for you.

13 THE COURT: Mr. Wilson, you're recognized for cross-
14 examination.

15 MR. WILSON: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. WILSON:

18 Q: I just have a couple of questions. One, I noticed that
19 your report said Tyquan Johnson. Have you had any contact
20 with Tyquan Johnson?

21 A: No.

22 Q: All right. And that was just the name that was sent to
23 you on a form by the police department?

24 A: That is correct. We only go with the information that's
25 provided by the agency that sent us the evidence for analysis.

WILLIE C. SMITH III - CROSS BY MR. WILSON

1 Q: All right. And let me ask you, in regards to meth, are
2 the ingredients or the molecular formula for meth and ecstasy
3 -- are they the same?

4 A: No, they're totally different. Methamphetamine is 3,4-
5 methylenedioxymethamphetamine. You have an additional
6 functional group that's 3,4-methoxy attached to it, but
7 methamphetamine is a lot easier to make compared to MDMA,
8 which is 3,4-methylenedioxymethamphetamine.

9 Q: Okay. All right. And now, having worked at SLED, y'all
10 have other departments other than chemical analysis; right?

11 A: That is correct.

12 Q: All right. And you have a department that can do DNA?

13 A: Yes, we do.

14 Q: And you have a department that can do fingerprints?

15 A: Yes, we do.

16 Q: All right. And did anybody ask you to transfer -- once
17 you had completed your work with these -- with the package
18 that you received, did anyone ask you or require that you
19 transfer it to either of those other departments?

20 A: No.

21 Q: And if they had asked, would you have done so?

22 A: Yes.

23 Q: All right. Let me ask you lastly, you don't know
24 anything about this case or what happened other than you were
25 sent a package to analyze?

WILLIE C. SMITH III - CROSS BY MR. WILSON

1 A: That is correct. The only information I know is what the
2 agency provides me.

3 MR. WILSON: I don't have any other questions. Thank
4 you, sir.

5 THE COURT: Any redirect?

6 MR. RICHARDSON: No, sir.

7 THE COURT: All right. Thank you, and you're free to
8 leave.

9 THE WITNESS: Thank you.

10 THE COURT: All right. All right. You may call your
11 next witness.

12 MR. RICHARDSON: The State rests at this time, Judge.

13 THE COURT: All right. Madam Forelady and ladies and
14 gentlemen of the jury, at this juncture of the trial, we're
15 required to take up matters of law outside of your presence.
16 I'm going to ask that you retire to the jury room, but do not
17 discuss the case.

18 Everyone remain seated as the jury exits the courtroom.

19 (WHEREUPON, the jury exited the courtroom at 10:56 a.m.)

20 THE COURT: At this time, I'll entertain motions.

21 MR. WILSON: Yes, sir. Your Honor, I would move for a
22 directed verdict, and I do so based on -- or, I guess, I would
23 say not based on, but in spite of the Court's earlier ruling
24 on regards to the search warrant and -- and the admissibility
25 of all -- all the information that came in as a result of the

1 search warrant because if the search warrant is invalid, then
2 everything that flows from it would be invalid, and that would
3 mean that the State has not presented evidence for the jury to
4 -- to make a decision.

5 So -- and I know that that's kind of a -- of a convoluted
6 way of doing it, but it's the only way that we can do it
7 because our position throughout here has been that everything
8 that has been presented is fruit of the poisonous tree. And
9 if it is, then there is nothing to present to go to this jury
10 for them to be able to find this defendant guilty.

11 So I would -- I would -- I would make my directed verdict
12 based on that. I understand that if -- you know, based on the
13 Court's ruling that -- that all this evidence is allowed to
14 come in, but -- but that's presupposes that the search warrant
15 issue is resolved, on the appellate level anyway, against us.

16 And so, for that reason, I would just ask the Court to --
17 to grant a directed verdict and rule that the search warrant
18 was invalid and allow -- allow the defendant's motion for a
19 directed verdict to -- to be granted.

20 THE COURT: Mr. Richardson?

21 MR. RICHARDSON: Your Honor, you ruled earlier as a
22 matter of law that the search warrant was sufficient. Based
23 upon that, evidence was presented to the jury, and we have
24 seen direct evidence, as in a statement given by the defendant
25 where he acknowledges not only possession of illegal items,

1 but with great specificity as to what types of guns he had and
2 also great specificity as to the location of these pills that
3 have been entered into evidence that were -- are on the
4 premises there that was covered by the search warrant.

5 The pills are recovered. They were maintained as
6 necessary by law enforcement and SLED. There's been direct
7 evidence that the substance is indeed methamphetamine, as he
8 was indicted, and there's also evidence that one of the
9 weapons was indeed stolen and that he possessed it. In fact,
10 he acknowledged possessing that gun on video, and we've had
11 proof that it was indeed stolen. We also have proof that he
12 possessed a weapon during the commission of a violent crime,
13 because trafficking, as he's indicted for, is a violent crime.

14 So there is direct evidence of all elements of all crime
15 in this -- indicted in this case, and I believe it's more than
16 sufficient to go to the jury.

17 THE COURT: All right. I do indeed find that it is a
18 question of fact for the jury. And at this juncture on
19 directed verdict, the question is whether or not there's been
20 evidence presented. Of course, I might -- the Court of
21 Appeals might take exception to my ruling with regard to the
22 warrant, but the analysis right now is, is there evidence in
23 the record that -- that would survive a directed verdict
24 motion. I find that it is, and it's a question of fact for
25 the jury.

1 MR. WILSON: Your Honor, one other thing for the Court,
2 we had also made a motion to reveal the informant and/or
3 reveal information concerning the informant that we believe
4 would help us better defend, one, the search warrant and also
5 defend the case. And I understand the Court has ruled on
6 that, but I would renew that motion at this point in -- in the
7 process.

8 THE COURT: All right. And that -- that motion is
9 denied.

10 We -- at the end of yesterday, we talked with Mr. Johnson
11 about his decision to testify.

12 Mr. Johnson, have you had an adequate opportunity to
13 speak with your lawyer about that?

14 MR. WILSON: Your Honor, before you do that, one thing
15 has come up. This morning, Mr. Richardson informed me that
16 there was a jail call last night from this defendant to his
17 brother. While I was attempting to discuss that with him, we
18 have not -- I've not been able to play the recording for him.

19 I would ask the Court before the Court inquires of him if
20 he wants to testify, because obviously that could affect what
21 he says or whether he's wanting to testify, but he needs to
22 hear that tape first, and I would ask the Court to give me
23 about ten minutes, let me play it for him, and then question
24 him as to whether he wants to testify or not testify.

25 THE COURT: Okay. And I probably need to hear it as

1 well.

2 MR. RICHARDSON: Yes, sir. I can cue it up.

3 THE COURT: Why don't we -- why don't we play the -- the
4 conversation here in open court? Then you'll have an
5 opportunity to discuss it with him. That way we -- I can hear
6 it while he's here. That way we won't have to do it twice.

7 MR. WILSON: That's fine.

8 (WHEREUPON, after technical difficulties and a bench
9 conference off the record, the recording of the jail call
10 was played in open court. Not transcribed herein.)

11 MR. RICHARDSON: Judge, that's the pertinent part --

12 THE COURT: Okay.

13 MR. RICHARDSON: -- that you heard.

14 THE COURT: All right. What is the defense's position?

15 MR. WILSON: Well, my position, Your Honor, is, is that
16 it's not admissible unless the defendant or his brother takes
17 the stand to testify. Then it would be -- become an issue at
18 that point.

19 I think certainly the State has the right to if -- if
20 either of them take the stand or both of them take the stand,
21 then the State certainly has the right to ask him about the
22 call and the meaning of it all, because obviously there is a
23 discussion about what happened that -- at the time of the
24 incident. So in that regard, yeah, I -- I think that it's
25 admissible under those circumstances.

1 THE COURT: All right. What do y'all think about the
2 mention of the sentence? That's generally never admissible.

3 MR. RICHARDSON: Yes, sir. I think that would have to be
4 --

5 THE COURT: Redacted.

6 MR. RICHARDSON: -- redacted out of abundance of
7 precaution. We'd have no problem doing that, but I would
8 intend, should either one of those two individuals testify, to
9 use that to impeach the daylights out of them.

10 THE COURT: All right. Well, I -- I do indeed think that
11 when and -- we certainly can't do it in your case in chief.
12 However, if they -- either one of them testifies, then I'm
13 going to allow you to impeach them with regard to that and ask
14 them about the substance of it. However, I do rule that any
15 mention of a sentence is to be redacted.

16 MR. RICHARDSON: Yes, sir.

17 THE COURT: I think he says 25 to 30.

18 MR. RICHARDSON: He did.

19 MR. WILSON: He does.

20 THE COURT: All right. All right. All right. And at
21 this juncture, I'm going to allow you an opportunity to speak
22 with your client about his decision, and we'll bring him back
23 into court and we'll hear from you and him.

24 MR. WILSON: Thank you, Your Honor.

25 THE COURT: All right. We'll stand at ease for about

1 five minutes.

2 (WHEREUPON, there was a break in the proceedings from
3 11:12 a.m. until 11:25 a.m., after which the proceedings
4 resumed as follows.)

5 THE COURT: Mr. Johnson, I'm going to remind you that
6 you're still under oath. And have you had an opportunity to
7 speak with your lawyer about your decision about whether to
8 testify or not?

9 THE DEFENDANT: That's correct, sir.

10 THE COURT: And what is your decision?

11 THE DEFENDANT: I'll take the stand.

12 THE COURT: All right. Very good. All right. You may
13 be seated.

14 Anything from the State before we bring the jury out?

15 MR. RICHARDSON: No, sir.

16 THE COURT: All right. All right. We're ready for the
17 jury.

18 THE BAILIFF: All right.

19 (WHEREUPON, the jury entered the courtroom at 11:27 a.m.)

20 THE COURT: Madam Forelady and ladies and gentlemen of
21 the jury, the State has rested, and at this time I'm going to
22 recognize defense.

23 Mr. Wilson?

24 MR. WILSON: Thank you very much, Your Honor. Your
25 Honor, we'd call Tyquan Johnson.

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 THE COURT: Mr. Johnson, if you could, please come
2 forward. I'm going to ask you, if you could, to place your
3 left hand on the Bible and raise your right hand as the clerk
4 administers the oath.

5 THE BAILIFF: Right there, sir.

6 THE COURT: Left hand on the Bible. Raise your right.

7 THE CLERK: Do you swear or affirm the testimony you give
8 in this case will be the truth, the whole truth, and nothing
9 but the truth, so help you God?

10 THE DEFENDANT: Yes, ma'am.

11 THE CLERK: Please be seated.

12 THE COURT: Mr. Johnson, watch your step. I'm going to
13 ask you, if you could, to have a seat in the witness chair.
14 I'm going to ask that you pull up real close to that
15 microphone and speak loudly, clearly, and slowly, in order
16 that we can hear everything that you have to say, and let's
17 state your full name, please, sir.

18 THE DEFENDANT: Tyquan Jamar Johnson.

19 THE COURT: All right. Mr. Wilson?

20 MR. WILSON: Thank you, Your Honor.

21 TYQUAN JOHNSON, being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. WILSON:

25 Q: Tyquan, how old are you?

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 A: 39.

2 Q: All right. And where were you born?

3 A: Patterson, New Jersey.

4 Q: All right. And how long have you lived in South

5 Carolina?

6 A: All my life, probably 30-some years or more, probably.

7 Q: All right. And back on May the 4th of -- I think it's

8 '22, where were you living then?

9 A: West Marion Street, [REDACTED].

10 Q: [REDACTED] West Marion Street?

11 A: Yes, sir.

12 Q: And who else lived in that house with you?

13 A: My mom, my baby, my brother.

14 Q: All right. Your mom, your baby, and your brother?

15 A: Yes, sir.

16 Q: Anyone else?

17 A: No, sir.

18 Q: Were you married then?

19 A: I just had got married April 22nd.

20 Q: Okay. And where was your wife living?

21 A: She was staying in east Florence, but she was over there,

22 back and forth on West Marion Street with me until I got

23 situated.

24 Q: Okay. All right. And let me ask you, in regards to your

25 wife, had y'all had some medical problems?

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 A: Yeah. Yeah, she got acid reflux real bad. Like, she
2 might start throwing up. She might be sick, like, three or
3 four times a month. She got to go to the hospital, and she
4 got to get body fluids put in her constantly. So --
5 Q: All right. And how old is the child that you have?
6 A: He's nine.
7 Q: Nine years old? All right. So the two of y'all had a
8 relationship for the entire nine years?
9 A: No. We just met 2019. But I got a baby by another
10 female, but she's not currently with me. She's doing 18
11 years. I lived by myself with my baby until I met my wife.
12 Q: All right. Now, at the house that you lived at at [REDACTED],
13 how long had you been staying there?
14 A: Probably me, personally, four months.
15 Q: Four months?
16 A: Yes, sir.
17 Q: All right. And anyone else staying in that house other
18 than you, your mom, your children or child and your wife from
19 time to time?
20 A: Sometimes my other brother or cousins would come and stay
21 the night here and there if they come over and they just stay.
22 Q: All right. And you say your brother. Who is that?
23 A: John Johnson.
24 Q: All right. Was he there on May 4th when the police came?
25 A: Yes, sir.

TYOUAN JOHNSON - DIRECT BY MR. WILSON

1 Q: All right. Now, who -- who is Lorenzo Johnson to you?

2 A: That is my youngest brother.

3 Q: Okay. All right. And was he there when the police

4 arrived on that day?

5 A: That's correct, sir.

6 Q: All right. And who is Harvey?

7 A: He's an individual that'd be next door with the other

8 individuals that's next door to my mom's house.

9 Q: All right. So is -- is Harvey a friend or family member

10 of yours?

11 A: No, sir.

12 Q: All right. He's not?

13 A: No, sir.

14 Q: All right. On the day that the police came on May the

15 4th, had you and Harvey been in the backyard together?

16 A: No, sir.

17 Q: All right. So when did you first see Harvey on this day?

18 A: He was next door. Like, the house is, like, kind of

19 close.

20 Q: When you say next door, which -- which one of the houses?

21 [REDACTED] or [REDACTED]?

22 A: I think [REDACTED].

23 Q: Okay. Is that the burned house?

24 A: No, sir.

25 Q: Which one is the burned house?

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 A: The one --

2 Q: [REDACTED]?

3 A: Yes, sir. I think on that side.

4 Q: All right. And so Harvey -- did Harvey live in one of

5 those houses?

6 A: No, they just -- it's basically just like a hangout.

7 They'd be over there every day when he come for work or

8 whatever, or he don't go to work. He might be over there with

9 all the guys over there.

10 Q: Okay. Now, you said that you'd been living with your mom

11 for four months. Did you have a particular room in the house

12 that you lived in or you stayed in?

13 A: No, sir. I'll sleep in the living room while I'm over

14 there until I got situated. My baby had a room to hisself up

15 there.

16 Q: All right. How many bedrooms are in that house?

17 A: Two.

18 Q: All right. And who slept in those bedrooms?

19 A: My mom, my baby, and my nephew.

20 Q: All right. All right. And your nephew is how old?

21 A: He's -- I think he just turned two.

22 Q: All right. So you have a two-year-old nephew, a nine-

23 year-old child, and then your mom?

24 A: Yes, sir.

25 Q: All right. And the bedrooms were shared by the children,

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 and then your mom had her own bedroom?

2 A: That's correct.

3 Q: All right. And you slept on the couch in the living
4 room?

5 A: Yes, sir.

6 Q: And is that where you slept the entire four months that
7 you'd been there?

8 A: Sometimes I might sleep on the floor in the living room,
9 make a little -- like, the air bed, like, put it on the floor
10 if my old lady had to stay there.

11 Q: Okay.

12 A: Because both of us couldn't be on the couch. So I might
13 make a little, like, the air mat on the floor, and we might
14 sleep on the floor.

15 Q: All right. Now, let's -- let's talk for a minute about
16 what happened on May the 4th of -- of 2022. Tell us what you
17 first recall when -- how -- when the police showed up, just
18 tell us what you first recall and explain to us what happened.

19 A: Well, I just had a litter of puppies, and I was going in
20 the backyard.

21 Q: Just had a little what?

22 A: A litter of puppies.

23 Q: A litter of puppies?

24 A: So I was going in the back with the puppies, and me and
25 my brother was back -- going back there.

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 Q: And your brother is Lorenzo?

2 A: Yes, sir.

3 Q: Go ahead.

4 A: While he's going back there, we started talking and we

5 were talking to the next-door neighbors because he wanted to

6 buy a puppy, too. And the next minute, you know, we hear,

7 like, gunshots. So I don't know where it's coming from. So

8 we about to go back the back way and we hear some more

9 gunshots, and I flinch like I'm about to go back and I see the

10 police. I just got down.

11 Q: Okay. All right. So when you get down, tell us what

12 happens?

13 A: They had guns in my face and stuff. I was scared to

14 move. I just told him, don't shoot me. One of them saying

15 I'm not going to shoot you, but I just -- I barely wanted to

16 move. I was on the ground.

17 Q: All right. And did he tell you to crawl to him?

18 A: Yes, sir.

19 Q: The officer? All right. And did you do that?

20 A: Yes, sir.

21 Q: All right. Did you comply with all of the commands that

22 law enforcement gave you once they showed up?

23 A: I did everything they asked.

24 Q: All right. All right. So tell us then, once you're on

25 the ground and -- and they tell you to crawl towards them,

TYQUAN JOHNSON - DIRECT BY MR. WILSON

- 1 what happens after that?
- 2 A: They -- I hesitated for a little couple of seconds at
- 3 first, but he had to show me that he wasn't going to shoot me,
- 4 and he helped me get up and took me over there closer to the
- 5 abandoned house and set me and my brother down. And the
- 6 officers started ransacking the abandoned house, and me and my
- 7 brother looking like, what's going on over there?
- 8 Q: You said he started ransacking the --
- 9 A: The abandoned house.
- 10 Q: The abandoned house? The one that was burned?
- 11 A: Yes, sir. And me and my brother were, like, what's going
- 12 on over there, trying to see what was going on.
- 13 Q: All right. Now, when the officer came and got you and
- 14 took you over to where your brother was --
- 15 A: Yes, sir.
- 16 Q: Is that correct?
- 17 A: Yes, sir.
- 18 Q: All right. And were you cuffed at that point?
- 19 A: That's correct.
- 20 Q: All right. And how were you cuffed?
- 21 A: On the back.
- 22 Q: Your hands behind your back?
- 23 A: Yes, sir.
- 24 Q: All right. And then he then seated you on the ground?
- 25 A: Yes, sir.

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 Q: All right. And you stayed there -- you -- how close were
2 you to your brother? Because he was also there; right?
3 A: Yes, sir.
4 Q: All right.
5 A: He probably was, like, an arm length or two close to me.
6 We both were sitting on the ground.
7 Q: Okay. All right. Now, at that point, had you seen Mr.
8 Harvey?
9 A: No. Harvey was up front.
10 Q: All right. He wasn't back there in the back with the two
11 of y'all?
12 A: No, sir.
13 Q: All right. And tell us what happens. Once they seat you
14 on the ground, then what happens?
15 A: They waited, I guess, until they finished searching the
16 abandoned house, and they picked us up and walked us around
17 the front.
18 Q: Okay. And --
19 A: And set us on the porch.
20 Q: All right. So how long would you say that the two of
21 y'all sat on the ground before the officers came and got you
22 and took you to the front porch?
23 A: Maybe in between 5 to 7 minutes. Probably so.
24 Q: All right. Did anybody mistreat you while you were on
25 the ground?

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 A: No, sir.

2 Q: All right. Were they anything other than professional in
3 their conversations with you while you were sitting on the
4 ground?

5 A: Yes, sir.

6 Q: All right. Now, let me ask you before we go any further,
7 there's talk of some guns being thrown either on the roof or
8 by a tree or on the ground. At any point in time, did you
9 have a gun and did you throw a gun anywhere, either in the
10 backyard or on the roof or anywhere else?

11 A: No, sir.

12 Q: All right. Did you have a gun?

13 A: No, sir.

14 Q: When the police showed up?

15 A: No, sir.

16 Q: All right. Now, let's talk about when you got to the
17 front porch. When you got to the front porch, the officers
18 take you to the front porch, you and your brother?

19 A: Yes, sir.

20 Q: All right. And they set you in a chair on the front
21 porch?

22 A: Yes, sir.

23 Q: All right. Now, how long is it before an officer comes
24 to you and reads you what's called Miranda warnings?

25 A: I would maybe say another 5 minutes probably or so.

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 Q: Okay. And during the time that you're sitting there on
2 the porch, is there any conversation between you and any of
3 the other officers who are standing around?

4 A: Yes, sir.

5 Q: All right. What conversation are you having?

6 A: They kept asking me what's going on, why I ain't went to
7 work or where the drugs at. And then another one said that he
8 was going to lock everybody up if they find anything.

9 Q: Okay. All right. And do you remember which officer said
10 that first?

11 A: No, sir. I just was really focused on my mom and them
12 standing in front of me. And as I'm hearing them, I'm focused
13 on my mom and them because my old lady is still going through
14 her withdrawals, shaking on the car because she had needed
15 water, and I'm just watching them.

16 Q: All right. Now, did your mom have some health issues as
17 well?

18 A: Yes. My mom been diagnosed with -- what? -- HIV for 20
19 years or so now.

20 Q: All right.

21 A: And I just -- we just found out that.

22 Q: All right. And -- and so when -- when these officers are
23 talking about your mom or locking everybody up, what is your
24 feelings at that point?

25 A: Time as I sit, at first it seemed everybody that they're

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1 standing around watching who is going to man up with what's
2 going on, but as I'm sitting there watching my mom and
3 watching my baby, I'm looking like I can't do -- I can't let
4 them go down for somebody else's stuff.

5 Q: Okay.

6 A: So at first I just sit and wait, and he kept saying
7 something about everybody going to get locked up. They ask me
8 about crack, coke, heroin. I'm like, from my understanding, I
9 don't know about all them other drugs. I do know the
10 individuals in the surrounding residences was dealing ecstasy
11 pills from my understanding, and I know they used to go next
12 door and keep it over there, but that don't have nothing to do
13 with me because my house is my house.

14 And I knew they put it in the trash can, but from my
15 understanding, these trash cans -- we have one trash can for
16 one household. So what's in that trash can don't belong to me
17 or belong to mines, but at that day when they searched the
18 whole area, he said he's going to lock everybody up for
19 anything they found. I just told him it was in the trash can,
20 so I couldn't let my mom and my wife go -- go to jail for
21 somebody's stuff.

22 Q: All right. Now, the trash can that the drugs were found
23 in belonged to the house at [REDACTED]?

24 A: That -- it was next door on the -- on the burnt -- the
25 burnt area.

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 Q: So to -- for the one for the burned house?

2 A: Yes, sir.

3 Q: [REDACTED]?

4 A: Yes, sir. I don't know if it -- you know, like, the
5 trash cans do have labels when they get sent to the address.
6 So I guess these trash cans had their own label for the house,
7 but I don't know if it went to that house next door to me.
8 But I know it was in the burnt yard.

9 Q: Okay. All right. Now, let me ask you, did you put any
10 drugs in the trash can at [REDACTED] or [REDACTED] or [REDACTED]?

11 A: No, sir.

12 Q: Do you know who did?

13 A: I don't know the individual's name, but I know the
14 individuals next door were doing that on the regular, putting
15 drugs in the trash can. They had traffic going back and forth
16 because on several occasions I had to tell them don't let the
17 traffic and their friends park in front of my mom's house.

18 Q: All right. Now, let's talk for a minute about when the
19 police read you your Miranda warnings. There is no question
20 that they read you the Miranda warnings?

21 A: Yes, one of them did. Yes, sir.

22 Q: All right. And did you understand what that meant when
23 they told you you had a right to remain silent or that you
24 have a right to have an attorney present?

25 A: I just -- I just think in my head anyway, because I just

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 wanted to get through everything because I ain't really wasn't
2 hearing them, but I know he read our rights. I just shake my
3 head at them.

4 Q: Okay. All right. Did you understand it?

5 A: Just got a right to remain silent, basically.

6 Q: Right. All right. And now, after he read you your
7 rights, then you -- he came back and the officer had a
8 conversation with you about drugs. So explain to us why you
9 told the officer that the drugs were yours?

10 A: Well, one, when he kept saying -- I don't know which one
11 said it, but one of them is saying where the dope, where the
12 heroin, where the coke. I'm, like, that's some hard type
13 drugs. I'm not -- so I'm now thinking they know more than
14 what -- what I know. So I got to assume they talking about
15 the individuals next door. So I just told them what I know,
16 that there's pills in the trash can because he said he's going
17 to lock everybody up.

18 But I can't let my mom and my wife go to jail because
19 these are two law-abiding citizens. They've never been locked
20 up for nothing, and that'll be wrong for me to sit there and
21 let them go down. I never knew it was going to be this much
22 for that. I ain't even knew how much pills was in the trash
23 can. I thought it was ecstasy pills initially.

24 Q: Now -- well, let me ask you this. Did you put any
25 ecstasy pills or what you believed to be ecstasy pills in the

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 trash can?

2 A: No, sir.

3 Q: All right. Did -- did the pills in the trash can belong
4 to you or -- or do you know who they belong to?

5 A: They don't belong to me. They had belonged to the next
6 residence next door.

7 Q: All right. Is there any reason that you didn't tell the
8 police, hey, look, they belong -- these drugs -- there are
9 drugs in that trash can, but they belong to the people next
10 door?

11 A: At the end of the day, I was standing there, I thought
12 about it, but I think about is they going to believe me?

13 Q: All right.

14 A: And they say if they locked everybody up, then I ain't
15 got nobody to take care of my family when they do get out and
16 I might be still facing this.

17 Q: Okay. Now, let me ask you if -- the officers were asking
18 you about the guns, and you said that you didn't throw any
19 guns. How did you know what kind of guns they were?

20 A: Because as we were sitting on the porch, I heard on the
21 radio on one of them side saying that a .22 and a .40 cal
22 pistol.

23 Q: One of the officers?

24 A: I heard it on the walkie talkie.

25 Q: All right. I'm sorry. I'm saying from one of the

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1 officers, the one of the walkie talkies on the officers?

2 A: Yes, sir.

3 Q: All right. That they had found two guns?

4 A: Yeah. I just heard a .40 cal and a .22.

5 Q: Okay.

6 A: So I just assumed that that what they found from around

7 and nobody still wouldn't say nothing, so I had to man up.

8 Q: Now, let me ask you if -- one of the things that -- that

9 was found was an ID in the trunk of a vehicle, which was your

10 ID?

11 A: Yes, sir.

12 Q: All right. How did that ID get in the trunk?

13 A: To be honest with you, I don't even know because my ID

14 was in my wife's wallet the whole time in the house.

15 Q: All right. And now the car that the ID was found in,

16 whose car is that?

17 A: That was my -- my wife's car.

18 Q: That was your wife's car? All right. And did you have

19 another driver's license other than the one that was found in

20 the car?

21 A: I ain't had no driver's license. It probably was an old

22 school I.D. I had I had to keep with me from Florence-

23 Darlington Tech.

24 Q: I'm sorry? What?

25 A: I had a -- I had an ID, like a Florence-Darlington Tech

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1 ID. I ain't had no other, like, driver license or nothing
2 that I kept with me.

3 Q: All right. Now, at any point in time, did you -- did you
4 explain to the officers what you've explained to us here
5 today?

6 A: Not really. The only thing I did was claim ownership due
7 to them threatening my mom and them.

8 Q: Okay. Now, let me ask you about the drum that was found
9 in the house, and I think there was some scales or something
10 that were found in the house. Do those belong to you?

11 A: No, sir.

12 Q: All right. All right. Do you know -- and this blue bag
13 with the scales in it, did this belong to you?

14 A: No, sir.

15 Q: Did any of the illegal drugs that were found in the trash
16 can, in the trunk of the car, or the guns that were found on
17 the ground belong to you?

18 A: No, sir.

19 Q: Did you personally place any of those items where they
20 were found?

21 A: No, sir.

22 Q: What was your motivation in telling these officers that
23 I'm going to claim everything?

24 A: Me, my mom, my wife, and my baby. I couldn't let them
25 just squash nothing like that, like them getting put in

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1 handcuffs. Like, I didn't even know it was going to be, like,
2 a lot of pills in the trash can, man. I just thought about my
3 moms, and that's all I did, because people that was sitting
4 around, standing around, they -- they looking like they don't
5 know what's going on. Nobody step up when they heard the
6 police kept saying they were going to lock everybody up.
7 That's all I thought about, my mom and my wife.

8 Q: All right. And you've been married for how long now?

9 A: Probably about, like, 20 months probably about. Going on
10 two years.

11 Q: No. I'm talking about at the time.

12 A: Probably about a week or two prior to this happening. On
13 April the 22nd --

14 Q: Okay.

15 A: -- I got married.

16 Q: All right.

17 MR. WILSON: If the Court would bear with me just one
18 second, please.

19 BY MR. WILSON:

20 Q: One of the things that I recall is that the police asked
21 you or the -- I think one of the officers testified that he
22 found \$900 in your pocketbook or in your pocket, I think he
23 said.

24 A: Yes, sir.

25 Q: What kind of work do you do?

TYQUAN JOHNSON - DIRECT BY MR. WILSON

1 A: Cut hair. I also draw, and I do cleaning on the side, if
2 I can, but my most money was coming from drawing pictures for
3 people for their logo if they need it for their business and
4 cutting hair in the back yard.

5 Q: Okay. And how long have you been doing that?

6 A: I've been cutting hair probably about ten years, but I've
7 been drawing all my life. I just started drawing logos
8 probably three years ago.

9 Q: So you draw logos for business signs and things like
10 that?

11 A: Local individuals that start businesses, I draw something
12 that might look good for them, and they'll pay me for it. So
13 . . .

14 Q: Okay. All right. And that's how you were earning a
15 living?

16 A: Yes, sir.

17 Q: All right. Let me ask you one last question here. Did
18 you -- did you admit to ownership of these items for the sole
19 purpose of protecting your mother and your -- and your wife?

20 A: That's correct, sir.

21 MR. WILSON: I don't have any other questions. Answer
22 any questions the solicitor might have for you.

23 THE COURT: All right. Yes, sir.

24 MR. RICHARDSON: Thank you, Judge.

25 CROSS-EXAMINATION

TYQUAN JOHNSON - CROSS BY MR. RICHARDSON

1 BY MR. RICHARDSON:

2 Q: All right. First off, that blue bag right there. Isn't
3 it true that on April 16th of 2022, just days before this, you
4 put a picture on social media under your street gang name Lulu
5 Shit with you sitting there shooting the bird at the camera
6 with that very bag?

7 A: I can't recall, but it might have been. But that don't
8 mean that's my bag, sir.

9 Q: Okay.

10 A: I can't recall.

11 Q: Is there another picture that you put on social media
12 where you're standing outside the window of a car with the
13 particular trash can at issue here behind you, wearing that
14 same blue bag?

15 A: I don't know, sir. I didn't see the picture.

16 Q: How long have you been going by the name Lulu Shit?

17 A: I just called by Lulu. I just throw the Shit at the end.

18 Q: Just for --

19 A: Yeah, just -- just sound.

20 Q: Okay. In the videos that we watched, there was a spray
21 paint or graffiti on the side of the burnt house. Do you know
22 what I'm talking about?

23 A: Yes, sir.

24 Q: LOE. Does that sound familiar?

25 A: I don't know what it means, but I know it's on the side

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1 of the house over there.

2 Q: Isn't it true that means loyalty over everything?

3 A: I don't know that, sir.

4 Q: Isn't it true that's a local gang?

5 A: I don't deal with gangs, so I wouldn't know nothing too
6 much about gangs, sir.

7 Q: What's the last legitimate full-time job you had where
8 you got a check stub from an employer and paid taxes on it?

9 A: Oh, I don't know about paying taxes, but I have also
10 worked at Shoney's. I also used to work at McLeod doing
11 cleaning.

12 Q: When was that?

13 A: 2000 -- what? -- 19, sir.

14 Q: So five years ago?

15 A: Yes, sir.

16 Q: Okay. You have a tattoo of a dollar sign on your arm; is
17 that right?

18 A: On one of them, yes, sir.

19 Q: You indicated that in this house you didn't have a
20 specific room. That the kid -- like, your mom had a room and
21 the kids had a room?

22 A: That's correct, sir.

23 Q: All right. So this blue bag with the marijuana grinder,
24 the digital scales, a bunch of this ammo, and that ammo drum
25 was found in the kids' room?

TYQUAN JOHNSON - CROSS BY MR. RICHARDSON

1 A: I don't know exactly where they found it at, sir, to be
2 honest with you. I wasn't in the house when they found the
3 items.

4 Q: You claimed these items, didn't you?

5 A: Because they was threatening my mom. I never knew no
6 book bags or nothing like that was -- this the first time I
7 seen a book bag as evidence. I don't have no pictures or
8 nothing in my Rule 5 of a book bag or a scale.

9 Q: Your kid is 9?

10 A: Yes, sir.

11 Q: Or was at the time? Is that how old the kid is now?

12 A: He'll be 9 now.

13 Q: So a year and a half ago, he'd have been 7 or 8? And in
14 that house is ammunition, drug paraphernalia, digital scales,
15 and that brings me to the fact that you've been convicted of
16 child endangerment before; isn't that right?

17 A: Yes, sir. Me and my friend's child was riding on a dirt
18 bike at one time.

19 Q: So you, having been convicted of child endangerment in
20 the past, have in your house in your child's room a large
21 amount of ammunition, which I believe is testified as .22
22 ammunition that would match one of the guns that you're now
23 denying that you threw, and a drum of ammunition and a
24 marijuana grinder and scales that are used to measure drugs.
25 Do you think that's a good idea risking all that and you

TYQUAN JOHNSON - CROSS BY MR. RICHARDSON

1 already got a child endangerment conviction on your record?

2 A: For one, sir, I didn't know that was in there at the
3 time. I would have made sure none of that stuff be around my
4 babies.

5 Q: So the police officer who testified first in this case
6 who saw you throwing items, that was just a misunderstanding?

7 A: Yes, sir. Because if he were to see me throw items, I'm
8 pretty sure his body cam would have saw the same thing. And
9 plus, the -- the team that was coming from the back would have
10 saw the same thing too.

11 Q: I'm glad you talked about the team coming from the back,
12 because that video shows when that flash bang and the van
13 pulls up in the front, you turn and start running to the back;
14 isn't that right?

15 A: I almost run, sir.

16 Q: You almost run, but guess who was back there?

17 A: I seen they shot from the back first. That why I about
18 to go to the front, and they shot from the front. And then I
19 just stopped and didn't see the camera, sir. Yes, sir.

20 Q: There was a team of individuals back there waiting on
21 something like that to happen, wasn't it?

22 A: No, sir. They -- they came to the back first and shot
23 first. That's the first thing they did. They didn't even
24 announce police. They just shot.

25 Q: When you tried to cut and run, who was your priority at

TYQUAN JOHNSON - CROSS BY MR. RICHARDSON

1 that point?

2 A: I was worrying about safety of the gunshots. I didn't
3 know where they was coming from.

4 Q: If you had gotten away, say no police officers had been
5 coming from the back and the police just messed this whole
6 thing up accounting for the front and you got away, what would
7 have happened to your family?

8 A: I wouldn't have ran all the way. I just ran around the
9 house trying to make sure everything was safe.

10 Q: You didn't want your people to suffer. So you somehow in
11 that moment, having ignored the Miranda, the sounds bouncing
12 off of you about your constitutional rights, had it within
13 yourself to know exactly what type of guns were found by name,
14 make, model, whatever, claim those before anybody said that
15 everybody could go to jail? And I can play the video for you
16 if you want.

17 A: Yes, sir.

18 Q: Then when officers do say in an explanation of what
19 constructive possession is saying if we find things and nobody
20 admits, then everybody could get charged, you happen to know
21 not only that there are pills in a specific -- in a trash can,
22 but the specific trash can, and you have to correct them to
23 get to the right trash can; isn't that true?

24 A: Yes, sir.

25 Q: But they're the neighbor's; is that right?

TYQUAN JOHNSON - CROSS BY MR. RICHARDSON

1 A: Yes, sir.

2 Q: So your neighbors are so trusting of you that they would
3 leave \$10,000 worth of drugs in a trash can two doors down
4 from their house, and let you know it's in there?

5 A: They didn't let me know. I believe the house is so
6 close. I'm watching what's going on in the neighborhood. If
7 you was in the neighborhood, you could see what's going on.
8 You know who's dealing drugs too. These houses very close,
9 and I'm watching this every day.

10 But I don't have nothing to do with that because they'd
11 take my house. The abandoned house is by itself, and they go
12 over there every other day and do what they do. I ain't got
13 nothing to do with that, but then the police came. This was
14 May the 4th. I had to step up because nobody else would.

15 Q: Isn't the more realistic scenario of this the police
16 showed up, you had two guns on you, which you told them you
17 did, you panicked, threw them? You had those guns on you
18 because you are in the drug business. You had \$10,000 worth
19 of drugs in the trash can next to your house, a specific trash
20 can that you knew exactly where they were. You got caught.
21 You got flat busted by the police because you had no idea they
22 were coming. They put you on the porch, read you your rights,
23 and then you look out in the yard and you see your mom and you
24 see your wife and you see your kid, who aren't here now, and
25 you ask the police, your search warrant is for the whole

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1 premises; right? After you've told them the guns are mine and
2 the weed is mine, you specify with them this is for the whole
3 premises; right? Do you remember that?

4 A: Yes, sir.

5 Q: And at that point, you look out at your mom, you look out
6 at your wife, you look out at your kid, and for once in your
7 life, chivalry is not dead. You realize my mom knows, my wife
8 knows, my child's going to know. If I don't claim this and
9 put -- and tell the truth here, they could all go to jail for
10 something I did. And in that moment, you told the truth?

11 A: No, sir, that's not correct.

12 Q: Isn't the more likely scenario that you had all this
13 ammunition, I mean, magazine, bullets, more bullets, more
14 bullets, another bag of bullets, another bag of bullets, big
15 drum of whatever that holds a ton of bullets, more bullets,
16 and three guns on this property with your child and your
17 mother and sometimes your wife because you are in the business
18 and you are protecting your investment with those guns, you
19 were guarding your investment with those guns, and you put
20 that drug or those drugs in a specific location where nobody
21 would look because it's just trash?

22 A: No, sir, that's not correct.

23 Q: So all of that stuff that makes perfect sense is not
24 true, but all the stuff that you say about these mystery
25 individuals who live next door, who walk two doors down and

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1 just dump ten grand worth of product in a trash can and leave
2 it there, that is true?

3 A: Only thing I know, sir, that them pills and that didn't
4 belong to me. They belong to the other individuals. I just
5 stepped up and took them right away and claimed them.

6 Q: Isn't it true that last night on a jail call in
7 preparation for your testimony here today, you talked to your
8 brother --

9 MR. WILSON: Your Honor?

10 Q: -- who --

11 MR. WILSON: Your Honor?

12 THE COURT: Might counsel approach the bench?

13 (WHEREUPON, a bench conference was held off the record,
14 after which the proceedings resumed as follows.)

15 THE COURT: Madam Forelady and ladies and gentlemen of
16 the jury, I'm going to ask that you retire to the jury room.
17 Once again, do not discuss the case.

18 (WHEREUPON, the jury exited the courtroom at 12:04 p.m.)

19 THE COURT: All right. Mr. Wilson, you're recognized.
20 I'll be glad to hear you --

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: -- with regard to any motions that you might
23 have.

24 MR. WILSON: Yes, sir. Your Honor, my objection is to
25 the statement made by the solicitor in -- in referring to,

1 one, the defendant being in jail and, two, to the defendant
2 having made some kind of a phone call last night to his
3 brother. Now, before he could get any further than that, I
4 interposed an objection.

5 My concern is, is that to have the jury understand that
6 the defendant is in jail and not knowing why he's in jail is a
7 problem. And I don't know that -- that -- that we could solve
8 this by -- by the Court giving some limited instruction
9 because they're going to be wondering why he's in jail. Now,
10 this crime --

11 THE COURT: Why is he in jail? Was he granted bond on
12 this instant offense?

13 MR. RICHARDSON: No, sir. It's on this offense.

14 THE COURT: Okay. And he has other charges as well?

15 MR. RICHARDSON: He was out on bond on those when this
16 occurred.

17 THE COURT: Oh, okay.

18 MR. WILSON: And -- and -- but the jury didn't know why
19 he's in jail, and we've gone to great trouble to not -- I've
20 gone to great trouble not to bring that up or have them be
21 aware of it, and we went to great trouble to have him dressed
22 in street clothes so that they wouldn't be aware of it,
23 because when -- when -- when defendants show up and they are
24 incarcerated, they naturally want to know more about why they
25 are in jail, what is going on, why they're in jail. They

1 don't even know that he's in jail on this charge or that he's
2 been in jail since this charge.

3 I don't -- and -- and I -- I would have to ask for a
4 mistrial. I don't know any other way to -- to do it to
5 protect the defendant because simply saying to the jury you're
6 to disregard that just brings more attention to it and -- and
7 reinforces the fact that that must be true because the
8 solicitor said it and now the Court's referring to it saying
9 don't -- just disregard that statement by the -- by the
10 solicitor.

11 So I don't know any other way to cure it. So I would ask
12 for a mistrial.

13 THE COURT: All right. Mr. Richardson?

14 MR. RICHARDSON: Judge, we have this scenario come up
15 frequently in trials where inmates make phone calls sometimes
16 during trial where they are played for the jury in cases in
17 chief or in reply or, you know, impeachment process where it's
18 made clear on the recording that this is a call from the
19 Florence County Detention Center, yada, yada, yada.

20 I think what the -- the courts have scrutinized in case
21 law over time is the appearance of a defendant in the
22 courtroom all shackled and the prejudicial effect that that
23 has. It's clear from the video evidence in this case that the
24 defendant was handcuffed, taken into custody, arrested. We
25 know he's been charged with these things. And I've never seen

1 a case where a phone call from the jail resulted in a mistrial
2 because it let the jury know that the defendant was in the
3 jail.

4 THE COURT: Well, what you played for me in court didn't
5 say anything about this is a call from Florence County Jail,
6 and it probably should not. That should be redacted.

7 MR. RICHARDSON: Yes, sir. Yeah. I don't believe we've
8 had that on the recording.

9 But regardless of that, he has not been shackled in the
10 courtroom. He has not had any prejudice given to him based on
11 his appearance. It's obvious to the jury that he was arrested
12 and put in jail for these charges. And I would say, if
13 anything, at most having them or asking them to disregard that
14 and allow me to rephrase the question, I do not think this
15 rises to the level of a mistrial, and that would be my
16 position on it.

17 And, Your Honor, I will also say in these jail calls,
18 this one in particular and every other one that gets played, a
19 recording comes on and says, this call will be terminated in X
20 minutes, which is also an indicator that it's not made --

21 THE COURT: Well, certainly, that can be cured by
22 redacting that portion of it.

23 MR. RICHARDSON: Right.

24 THE COURT: All right.

25 MR. RICHARDSON: But I -- but that -- that has occurred

1 as well, and I just wanted to bring that up because that has
2 not been deemed fatal in other cases.

3 And, Your Honor, additionally, in order for me to
4 authenticate that call, if I were to play it, I would have to
5 get the individual over the jail calls to come in and
6 authenticate it, and that -- that would also just be a
7 necessity. So I think that would apply as well.

8 MR. WILSON: And that raises a whole 'nother legal issue,
9 because I have no idea how they intercepted this call, and --
10 and I assume they didn't have a search warrant to get the call
11 to get the information from the call. If they have, they've
12 certainly not provided me with a search warrant showing that
13 they had probable cause to go and search the phone records to
14 get his calls.

15 THE COURT: Well, I've never been a real big fan of the
16 State using jail calls anyway for a number of different
17 reasons, but when you are incarcerated, you give up certain of
18 your liberties. And I think -- I think they're entitled to do
19 it. I don't think you -- if someone is in jail, you don't
20 have to get a warrant to listen to their phone calls. As a
21 matter of fact, they tell them that it's being recorded, don't
22 they?

23 MR. RICHARDSON: Yes, sir.

24 MR. WILSON: The jail -- I agree with the Court for the
25 jail. The jail does not need a search warrant to listen to

1 their calls. The State -- the Solicitor's Office needs a
2 search warrant, just like I would need a search warrant or an
3 order from the Court to go and get those records.

4 The State had -- the Solicitor's Office has absolutely no
5 right to go and get jail records from -- from phone records.
6 They -- there is no rule of law that allows them to just go
7 get things on their own. They can get an order, they can get
8 a subpoena, they can get a search warrant, but they can't just
9 go and say I want to willy nilly go through all the phone
10 calls of every defendant who's locked up in jail. They have
11 no authority to do that.

12 THE COURT: Well, they do it all the time. I don't --

13 MR. WILSON: It is wrong.

14 THE COURT: I've never even thought about that aspect of
15 it. What do you have to say about that, Mr. Richardson?

16 MR. RICHARDSON: Judge, we have unfettered access to it.
17 It's -- it's always been that way. I mean, we have accounts
18 that are logged into for that. We have ways to search through
19 the database. I mean, it -- we have what the jail has, and we
20 have that access because, for a variety of reasons, monitoring
21 those becomes incredibly important. Now, we do not monitor
22 any calls whatsoever between defendants and attorneys.

23 MR. WILSON: Judge, listen to what he is saying, because
24 that troubles me even more if -- if they have a database or
25 they have a system where they can listen to every phone call

1 that every defendant who's locked in the jail makes and even
2 my calls to my client, because the only way that they're going
3 to know it's the lawyer is if -- if somehow during the
4 conversation, one of us say I'm a lawyer and one of us says
5 I'm the defendant. This is problematic.

6 THE COURT: All right.

7 MR. WILSON: This is really problematic.

8 THE COURT: How do you -- do you listen to the
9 lawyer/defendant conversations?

10 MR. RICHARDSON: No. Never have.

11 THE COURT: Well, how do you -- how do you know?

12 MR. RICHARDSON: Because the way it shows up in the
13 system, it shows by, like, phone number, and it blocks
14 attorney calls. Like, I don't even think we have access. We
15 don't have access to attorney calls.

16 THE COURT: Well, certainly, an attorney ought not be
17 calling through that anyway or -- well, the defendant -- I
18 don't know.

19 MR. WILSON: They call us. The defendants call us
20 through those phones. I don't call them through those phones,
21 but they call me through those phones.

22 THE COURT: Right.

23 MR. WILSON: So the call would always be initiated by the
24 defendant. So there's no way that they could possibly know.
25 I have multiple numbers. There is no way that they know all

1 of the numbers that I might give my defendant to call me. So
2 the only way they could know is to listen to the conversation
3 and find out that Ralph Wilson is on the other end. I got
4 four numbers at my office, and I got two cell phones.

5 THE COURT: Mr. Wilson, you were the elected solicitor
6 in Horry and Georgetown County, the Fifteenth Circuit, for a
7 number of years. How long were you there?

8 MR. WILSON: Twelve years.

9 THE COURT: And did y'all listen to jail calls?

10 MR. WILSON: No, sir. And we got search warrants when we
11 wanted them. If -- what would happen -- what has happened on
12 a number of occasions is that the jail would call us and say,
13 you know, this defendant is planning to escape, or this
14 defendant is planning to do whatever. And what we would do is
15 then go and get a search warrant and get those records, and
16 then review them to see what that defendant was saying.

17 But -- but we can't just willy nilly listen to every
18 defendant's phone call because there is the problem where
19 there's that overlap between the lawyers and -- or -- or if I
20 send an investigator, you know, who is a part of my legal team
21 or my paralegal, there's no way for them to know that.

22 THE COURT: All right.

23 MR. WILSON: And there is a case, and I apologize I don't
24 have it. And I will tell you that this issue came up before
25 Judge John, and I'm thinking this was maybe two years ago.

1 And the reason I'm aware of it --

2 THE COURT: Do they listen to the jail calls in Horry
3 County now?

4 MR. WILSON: No, sir.

5 THE COURT: They don't?

6 MR. WILSON: No, sir, not the Solicitor's Office. They
7 now get -- because they got called on it because they were
8 trying to do that too, and they got called on it. And how I
9 know it was my daughter was the lawyer for the defendant, and
10 Judge John refused to let them to use it because they had not
11 gotten an order or a subpoena to do it.

12 THE COURT: Well, the larger question as to whether or
13 not it's appropriate is really not before us here today, I
14 don't think, but I'm going to -- we're going to recess for
15 lunch and we're going to be back at -- at 2 o'clock.

16 I'm going to ask that y'all research the issue. It's an
17 important question, and I need to make a determination as to
18 what I'm going to do with regard to this case.

19 MR. RICHARDSON: Thank you, Judge.

20 MR. WILSON: Thank you, Your Honor.

21 THE COURT: All right. We'll reconvene at 2 o'clock.

22 And let's -- let's bring the jury back in. If y'all
23 could just remain with us just one moment.

24 MR. RICHARDSON: Judge, I did just verify that Horry
25 County does listen to them. They don't get search warrants.

1 We're on the phone with their Solicitor's Office now, but
2 that's neither here nor there. I just wanted to clarify that.

3 THE COURT: All right.

4 (WHEREUPON, the jury entered the courtroom at 12:20 p.m.)

5 THE COURT: Madam Forelady and ladies and gentlemen of
6 the jury, we have some legal matters to attend to. We're
7 going to recess for lunch. I'm going to ask that you be back
8 at -- at 2:15, 2:15, 2:15 sharp.

9 Do not discuss the case. We're getting into the short
10 rows now, but it's not time to begin deliberations. Do not
11 discuss amongst yourselves or with anyone else. No
12 independent investigation on the internet or otherwise and no
13 social media.

14 Everyone remain seated as the jury exits the courtroom.

15 (WHEREUPON, the jury exited the courtroom at 12:21 p.m.)

16 THE COURT: Anything further from the State?

17 MR. RICHARDSON: No, sir.

18 THE COURT: And --

19 MR. WILSON: No, sir.

20 THE COURT: And we're going to reconvene at 2 o'clock,
21 and the jury is coming back at 2:15. We'll -- I'll be happy
22 to entertain any research that you might have in that regard.

23 MR. WILSON: All right.

24 MR. RICHARDSON: Yes, sir.

25 THE COURT: All right.

1 (WHEREUPON, there was a break in the proceedings from
2 12:21 p.m. until 2:00 p.m., after which the proceedings
3 resumed as follows.)

4 THE COURT: All right. With regard to the -- the
5 granting of a mistrial, the more I've contemplated that, I'm
6 in a position to give a curative charge, and I'll be glad to
7 hear -- entertain any -- any proposed charge.

8 One that comes to mind for me would be that in all cases,
9 when -- when the trial starts, the defendants are taken into
10 custody and -- and essentially their bond is due when -- when
11 they're taken into custody. And -- and whether or not
12 someone's on bond or not has nothing to do with the
13 presumption of innocence, and Mr. Johnson as he's seated there
14 is presumed to be innocent. And that's the law, and that's my
15 order to you. There'll be no discussion about that
16 whatsoever.

17 And, Mr. Richardson, what would be the relevance of the
18 telephone call?

19 MR. RICHARDSON: The relevance would be -- the only
20 reason -- the only way I'd end up playing it is if he denied
21 making it.

22 THE COURT: Yeah, I understand that.

23 MR. RICHARDSON: But the relevance is that he contacted a
24 family member to instruct them potentially on what to say to
25 the jury to absolve him of guilt. It's just to impeach his

1 credibility based on what he's saying today.

2 THE COURT: Right.

3 MR. RICHARDSON: And if that -- that was my intention.

4 THE COURT: And that there perhaps was no mention of
5 someone else owning the drugs, perhaps?

6 MR. RICHARDSON: Well, they -- they were just to tell the
7 -- the jury that there were these other individuals who were
8 present who weren't there when the police got there.

9 THE COURT: Right.

10 MR. RICHARDSON: And if you -- and if you say that, you
11 know, basically just tell them, you'd say that, that sort of
12 thing.

13 THE COURT: Right.

14 MR. RICHARDSON: And I -- Judge, I do have -- I
15 understand your ruling, and I appreciate it. I would like, if
16 I could just for record preservation, to put a few cites on
17 the record to -- because I was going to make an argument for a
18 curative instruction.

19 TH COURT: Right. Yeah. If you could do that, I'd be
20 glad to hear from you.

21 MR. RICHARDSON: Okay. It's a few, so bear with me.

22 The first case is *State v. Goodwin*, which is 384 S.C.
23 588. In pertinent part, it says that a mistrial was requested
24 based on the State impermissibly burden shifting to the
25 defendant, and the *Goodwin* Court basically gave a good

1 description of when a mistrial would be appropriate.

2 It says the Court's discretion will not be overturned on
3 appeal absent an abuse of discretion amounting to an error of
4 law. The power to -- the power of the Court to declare a
5 mistrial ought to be used with the greatest caution under
6 urgent circumstances and for very plain and obvious causes
7 stated into the record by the trial court.

8 The granting of a motion for mistrial is an extreme
9 measure which should only be taken -- which should be taken
10 only where an incident is so grievous that prejudicial effect
11 can be removed no other way. A mistrial should be granted
12 only when absolutely necessary, and the defendant must show
13 both error and resulting prejudice in order to be entitled to
14 a mistrial.

15 In this particular case, the relevant question was
16 whether the solicitor's comments and burden shifting resulted
17 in unfairness as to make conviction a denial of due process,
18 and they found that it was not the case.

19 Next is *State v. Spears*, which is 393 S.C. 466, which
20 repeats similar language about when it's appropriate. It is
21 the sound discretion of the trial court and will not be
22 disturbed on appeal absent an abuse of discretion. They also
23 found that the denial of a mistrial was harmless in light of
24 the overwhelming evidence of guilt presented, which is a
25 unique factor to consider, as I would argue in this case that

1 there is overwhelming evidence in the record. So I wanted to
2 place that cite.

3 *State v. Crawley*, which is 349 S.C. 459. This was a case
4 where testimony took place that indicated the defendant was in
5 the jailhouse or got a call. There was a call made from the
6 jailhouse, and a mistrial was requested. The judge denied it,
7 and the court -- appellate court concluded the trial judge did
8 not abuse discretion in denying the motion, and I believe a
9 curative instruction instructed the witnesses not to mention
10 jail.

11 We also have *State v. Creech*, which is 314 S.C. 76, where
12 additional -- the prosecutor asked a question of a witness
13 saying, okay, so he's in jail on a disorderly that the officer
14 wrote, indicating that the defendant was in jail. Motion for
15 mistrial was made. It was denied, and the trial court issued
16 a curative instruction saying please disregard the statement,
17 so on, so on, and the Court of Appeals approved the circuit
18 court judge's conduct in that case.

19 I also have -- and I won't go into details on all these
20 just to have them in the record. *State v. Wiley*, 387 S.C. 490
21 is similar. *State v. Hurell*, H-u-r-e-l-l, is 424 S.C. 341.
22 *State v. Thompson*, 352 S.C. 552.

23 *Riles v. State* was very interesting, and that was a PCR
24 case where the defendant was brought into the courtroom
25 wearing jail clothing, shackles in front of the jury, and the

1 defense attorney in that one did not request a continuance or
2 mistrial based on that circumstance.

3 So the case was actually about whether the defense
4 attorney had erred, and the Court found an interesting thing
5 that one of the factors and a significant factor that the PCR
6 court had to consider, along with the impact of counsel's
7 error, is whether -- or what the strength of the State's case
8 is. So I would argue again, in this case, the evidence is
9 overwhelming.

10 Then we have two cases that are not South Carolina cases.
11 They are Texas cases. *Dudley v. State*, Texas Court of
12 Appeals, 2017, Case Number 12-16-00251-CR. This was basically
13 right on point where it was mentioned that the defendant was
14 in jail. The judge in that case issued a curative
15 instruction, and that was approved by the appellate court
16 rather than granting a mistrial.

17 And finally, *Herrada*, H-e-r-r-a-d-a, v. *State*, which is
18 another Texas Court of Appeals case, Case number 07-22-00374-
19 CR. There was an inadvertent reference to defendant's
20 incarceration. Indicated it could be cured by an instruction
21 to disregard that and that a mistrial was not appropriate in
22 that case.

23 So those two last two cases, I would ask to be
24 persuasive, and that's the research we have on the issue. And
25 we appreciate the Court's ruling.

1 THE COURT: All right. The other issue that was sort of
2 peripheral to this was whether or not it's essentially a
3 violation of his Fourth Amendment to intercept calls. And the
4 Criminal Crime Control and Safe Streets Act prohibits the
5 interception of any wire, oral, or electronic communication,
6 but it does not apply to jail calls if they were made pursuant
7 to law enforcement exception or if the party consents to the
8 interception.

9 And in this case, I would anticipate that they record all
10 telephone calls for security and safety, and the party
11 consents to the interception. There's a -- and in this case,
12 *State v. Martin*, a 2017 case, it says prior to an inmate using
13 the phone at SCDC in this case, a recording plays and alerts
14 the inmate that the conversation could be monitored, and it
15 goes on to say that there is indeed no expectation of privacy,
16 number one, when you're in prison and, number two, when the
17 notice is given and you waive any expectation of privacy and
18 there's actually a consent to that.

19 And there has been a case in South Carolina that is an
20 unpublished opinion that affirmed a conviction after a jail
21 call was introduced into evidence, and it was even
22 unauthenticated.

23 Might counsel approach the bench for one moment?

24 (WHEREUPON, a bench conference was held as follows.)

25 THE COURT: Of course, if he admits to what you're --

1 you're asking him, obviously, we won't have to get into all
2 that about the authentication or anything such as that, but if
3 he does not admit to that, then I'm going to allow you to call
4 the custodian to -- to authenticate it. And we'll -- if it
5 comes to that, we're going to talk to him about making it as
6 innocuous as we can.

7 Before we do anything else, what -- I was going to
8 propose to say that when a trial starts, all bonds are called.
9 Whether a defendant is on bond or not has absolutely nothing
10 to do with his deep Constitutional safeguard of presumption of
11 innocence. Mr. Johnson is presumed to be innocent, and that
12 presumption is a very real right. The presumption of
13 innocence follows him throughout the trial and into the
14 deliberations.

15 Do you want -- would you like anything different than
16 that?

17 MR. WILSON: Well, yes, sir. I'd like a mistrial, but I
18 understand the Court's ruling.

19 THE COURT: Right.

20 MR. WILSON: And I understand what you said. I do have
21 some things I need to put on the record, though.

22 THE COURT: Okay. What -- if you want me to -- if you'd
23 rather me not say anything, I won't say anything. If you want
24 me to propose some other curative charge, I'll be happy to
25 entertain that.

1 MR. WILSON: Well, I think I would ask you to hear me --

2 THE COURT: Okay. Well, let's do this.

3 MR. WILSON: -- before you --

4 THE COURT: Yes, we'll do that.

5 (WHEREUPON, the bench conference ended, and the
6 proceedings resumed as follows.)

7 MR. WILSON: Your Honor, in response to whether or not
8 the jail -- whether or not the Solicitor's Office came legally
9 into possession of any statement or alleged statement that the
10 defendant made on the phone, I have found *State v. Ellison*,
11 which is 266 S.C. 494, and in *Ellison* the -- and there were
12 only two issues in *Ellison* and only one of them concerns us.

13 But the issue was in that case whether or not the witness
14 had a -- was in -- she was actually in -- locked up in jail,
15 wrote some letters, which were very damaging. The jail found
16 the letters, opened the letters, read the letters, which they
17 had every right to do. There's nobody can -- nobody is
18 denying that, but what they did, which is what caused the
19 problem, was they then called the District Attorney's Office
20 and gave them -- or the Solicitor's Office and gave them that
21 information. And then the -- the -- the Solicitor's Office
22 then used that information against the -- the -- the defendant
23 when the defendant came to trial.

24 Here you have exactly the same thing, and the Court made
25 a very clear distinction in *Ellison*, and I have a copy of it

1 for the Court, and it said that, look, defendants don't lose
2 all of their constitutional rights at a pretrial level. That
3 yes, they -- they -- some of their rights are -- are muted,
4 but only to the degree it's necessary for the facility, that
5 is the jail facility, to make sure that they're in line and
6 that they're not doing something illegal or improper that
7 might jeopardize the -- the facility, the jail facility.

8 Here, what you have is you have somehow the State
9 actually going into and monitoring -- monitoring -- according
10 to them, monitoring the actual conversations that every jail
11 person has. That -- that certainly does not comport with what
12 this says, and the Court reversed in -- in *Ellison*, the Court
13 reversed the trial court and sent the case back for a new
14 trial.

15 And -- and I think that this case, the only difference in
16 here, these two cases, is one is on telephone and, by the way,
17 the Court said that -- that there was -- when you sign in to
18 the jail, apparently they had this form that you signed
19 basically saying, you know, I give up all my rights and you
20 can go through my mail, you can go through my phone calls.

21 And the Court said, no, no, no, no, you can't have a
22 broad -- you can't just give up -- make the person give up all
23 of their rights. They don't have a choice because they're
24 being locked up. So they -- they don't have the opportunity
25 to exercise any right, any Fourth Amendment rights, any other

1 way other than either through mail or telephone. That's the
2 -- that's it. That's the only avenues they have, and the
3 State is in control of them. So the State is now taking
4 advantage of that situation by monitoring and denying each
5 defendant their Fourth Amendment rights.

6 These are pretrial detainees. They haven't been
7 convicted of anything yet. They -- and the Court makes that
8 distinction in the -- almost in the very first page of its --
9 of its decision.

10 They say the second exception alleges error in admission
11 of three very incriminating letters written by the appellant
12 to Ms. Tinsley while in pretrial confinement at the Greenville
13 County Jail. The letters were obtained by the State through
14 the efforts of a detective who was not connected with the
15 operations of the jail.

16 And that's the key. I don't have any problem if the jail
17 had found this information. They're entitled to it, and
18 especially if they think that it threatens some rule or
19 confinement that they have, that's fine. The difference here
20 is it can't go from the -- from the jail to the Solicitor's
21 Office because they are not a part of the jail.

22 And -- and there's no question they are saying what --
23 what the State has said in this case, which is what causes me
24 heartburn, they're saying that they have their own system
25 where they can monitor what's going on with defendants' phone

1 calls. That -- that -- that is -- I've never heard of
2 anything like that, that -- that the State -- and essentially
3 -- essentially, what the State has done -- because I don't
4 know of anything that they signed that even when they go to
5 jail what they've signed something saying that it's okay for
6 the Solicitor's Office to -- to -- to look at every phone call
7 I make or every letter I write. Even if there is something
8 that they signed at the jail, it would only apply to the jail.

9 THE COURT: Well, this -- this --

10 MR. WILSON: And so my point is, not only is there a
11 reference to jail, there's reference to an illegal letter or
12 illegal phone call that they're in possession of. So it's
13 both those things, not just the fact that the Solicitor's
14 Office said the word jail or brought that up in the trial.
15 That is not the only problem.

16 The -- the other problem is, I would submit to this
17 Court, is the issue about whether or not the State had any
18 right, first of all, to get this information and then, second
19 of all, to use it in this court, you know. So -- so I think
20 it's a joint thing, and I don't think that they can be
21 separated.

22 And I don't think that a charge is going to be sufficient
23 to -- to -- to undo the harm that's been done. They first --
24 in my opinion, they first have to prove that they somehow came
25 legally into possession of the statement that they're trying

1 to use.

2 THE COURT: All right. You know, the cases that -- this
3 Martin case talks about the fact that when you -- they are
4 warned that they are -- they're being monitored. By
5 continuing to use the phone, they are giving consent. That's
6 what the case said. Whether you agree with it or not, that's
7 what it says.

8 What do you have to say about all of that, Mr.
9 Richardson?

10 MR. RICHARDSON: Judge, not -- not only do I agree with
11 that assertion, but we have proof that not only was the
12 defendant aware of the recording and subject to scrutiny, but
13 that he took steps to evade it because he used another
14 inmate's PIN number to make this call to avoid detection, and
15 we were able to make that determination. We have other ways
16 to search received calls and various other methods. So I
17 agree with the Court's ruling.

18 THE COURT: All right. Mr. Wilson?

19 MR. WILSON: Yes, sir.

20 THE COURT: This is what I propose to charge the jury as
21 a -- as a curative charge. If you wish that I not say
22 anything about it, I won't do it. If you want me to charge
23 what I'm proposing to you, I will do that, or if you have any
24 other suggestions, I'd be happy to entertain that, but this is
25 what I propose to give as a curative charge.

1 When the trial starts, all bonds are called. Whether a
2 defendant is on bond or not has absolutely nothing to do with
3 his constitutional -- the constitutional safeguard or the
4 presumption of innocence. Mr. Johnson is presumed to be
5 innocent. That presumption is a very real right. The
6 presumption of innocence follows him throughout this trial and
7 into the deliberation room.

8 Any suggestions from the State with regard to the
9 curative charge?

10 MR. RICHARDSON: No, sir.

11 MR. WILSON: Your Honor, I don't -- I understand the
12 Court's ruling and, obviously, whatever the Court decides. I
13 take exception to the ruling. I do understand it. And -- but
14 I don't have a suggestion. As I said, I don't think that it's
15 curable, but I understand the Court's ruling.

16 THE COURT: Okay. Do you wish that I give a curative
17 charge or not?

18 MR. WILSON: My preference is --

19 THE COURT: I know that isn't your preference, but I've
20 ruled against you in that regard.

21 MR. WILSON: Yes, sir.

22 THE COURT: My question at this juncture, going forward,
23 do you want me to -- it might be that the jury didn't even pay
24 it any attention or anything such as that. And it depends on
25 what the defendant's testimony is to whether or not we have to

1 get into authenticating the jail call.

2 MR. WILSON: Well, the problem is, Judge, is that the
3 State has now brought up the phone call, and I assume that
4 that's what they intend to pursue, some line of questioning
5 regarding the phone call. And -- and if that is true, then --
6 then, you know, again, I have made my objections because I
7 think that the information is illegal.

8 I don't think that the State came into it properly, and I
9 don't think that they should be able to use it in this court,
10 you know, and I -- so I can't -- I mean, I can't do anything
11 else other than say I object to all of it because I just don't
12 understand it. And I can't see how they can use this under --
13 under *Ellison*, and I don't know that *Ellison* has been
14 overruled by any court. The -- the -- I mean, and -- and it's
15 very clear.

16 THE COURT: One -- one of the distinguishing factors with
17 the letter is that there was no consent given. In a phone
18 call, there is a consent in that they are warned that it's
19 being monitored and they continue to use the phone. That's
20 what the case says.

21 MR. WILSON: Yes, sir. And in *Ellison* the same thing
22 happened. In fact, what they said was when the defendant was
23 signed into jail, the defendant signed a waiver showing that
24 they could waive their rights. And -- and -- and the Court
25 saying, you know, no, no.

1 THE COURT: All right. Well, you very well might be
2 right and we might be a good -- we -- I might be corrected,
3 but once again, I'm going to ask you, do you have a position
4 on the curative charge?

5 MR. WILSON: No, sir. Whatever the Court sees
6 appropriate is that I just take exception in general.

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

9 MR. RICHARDSON: No, sir.

10 THE COURT: Anything from defense?

11 MR. WILSON: No, sir.

12 THE COURT: All right. We're ready for the jury.

13 MR. WILSON: Yes, sir.

14 MR. RICHARDSON: Judge, would you like the defendant to
15 retake the stand or --

16 THE COURT: Yes.

17 MR. RICHARDSON: Go ahead.

18 THE COURT: We can do that at this juncture.

19 (WHEREUPON, the jury entered the courtroom at 2:30 p.m.)

20 THE COURT: Madam Forelady and ladies and gentlemen of
21 the jury, when a trial starts in a criminal matter, all bonds
22 are called. Whether the defendant is on bond or not has
23 absolutely nothing to do with the constitutional safeguard of
24 the presumption of innocence.

25 Mr. Johnson is presumed to be innocent, and that

TYQUAN JOHNSON - CROSS BY MR. RICHARDSON

1 presumption of innocence is a very real right. The
2 presumption of innocence follows him throughout the trial and
3 into the deliberation room.

4 Mr. Richardson, you're recognized.

5 MR. RICHARDSON: Thank you, Your Honor.

6 RESUMED CROSS-EXAMINATION

7 BY MR. RICHARDSON:

8 Q: Have you talked to anybody about coming in here and
9 testifying on your behalf to contradict what the police
10 officers have stated in this trial?

11 A: Not contradict, but I got my brother on the phone
12 yesterday and told him he can come up here and testify to what
13 happened.

14 Q: And he's not here, is he?

15 A: I think he had to go to work.

16 Q: Okay. You mentioned on direct examination, I believe,
17 that you breed dogs; is that right?

18 A: No. I said I just had a couple -- well, I don't
19 officially breed them like my business, but I just had a
20 litter at that time.

21 Q: So you had dogs?

22 A: Yes, sir.

23 Q: How many dogs did you have?

24 A: A boy dog, girl dog, and another girl dog in the back.
25 And, like, I think seven puppies and one that died, something

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1 like that.

2 Q: So right around ten?

3 A: If you count the puppies, probably, yeah.

4 Q: Yeah. So, like, three adult dogs?

5 A: Yes, sir.

6 Q: And seven puppies? All right. And did you feed them dog

7 food?

8 A: I had an old friend down the street who used to take

9 care, like, cater to the dogs for me.

10 Q: Okay. So you didn't --

11 A: So they ate dog food, yes, sir.

12 Q: So they ate dog food?

13 A: Yeah. Of course, they did. They're dogs.

14 Q: Yeah. And you're aware that those drugs were found down

15 inside a dog food bag in that --

16 A: Yes, sir.

17 Q: -- trashcan?

18 A: Yes, sir.

19 Q: Okay. Getting back to some record we talked about, you

20 had a child endangerment conviction. You also have a

21 conviction for failure to stop for a blue light; is that

22 right?

23 A: Yes, sir.

24 Q: You also have a conviction for financial transaction card

25 theft; is that right?

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1 A: Yes, sir.

2 Q: You also have a conviction or two convictions for
3 financial transaction card fraud; is that correct?

4 A: Yes, sir. But all that was only for one incident at one
5 time for all of it.

6 Q: The financial transaction card?

7 A: Yes, sir. I just swiped the card three times, and I
8 ain't knew no -- I was dealing with a female at the time. She
9 let me use the card, and her family don't condone mixed --
10 mixed relationships, and the card -- I swiped the card too
11 many times, and I ain't do -- if you swipe a card three or
12 four times, the people are called, the owner of the card, and
13 it got back to her dad and she said she lost the card and I
14 got charged with that part.

15 Q: Okay. So again, your position is what you've stated,
16 that basically in this scenario, you were the unluckiest man
17 on earth. Like, you didn't have any guns. Those drugs
18 weren't yours. You were just falling on the sword for your
19 family?

20 A: I don't know about falling on -- yeah, I was taking care
21 of my family, and I was sober. I just did what I had to do.

22 Q: Right. But that was --

23 A: Yeah.

24 Q: -- an analogy. But yes, you were taking care of your
25 family, as opposed to the scenario where the police come in

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1 there, you throw two guns, which you tell them you did and
2 name them. Then upon realizing that you're caught, you tell
3 them the specific trash can where the specific pills are that
4 you called pills that were found inside a dog food bag in that
5 trash can. You deny all of that?

6 A: Yes, sir.

7 Q: All right.

8 MR. RICHARDSON: Thank you. I believe that's all I've
9 got.

10 MR. WILSON: Nothing further, Your Honor.

11 THE COURT: Okay. You may step down.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. You may call your next witness.

14 MR. WILSON: Your Honor, the defense would rest at this
15 time.

16 THE COURT: All right. Madame Forelady and ladies and
17 gentlemen of the jury, at this time, we're required to take up
18 another matter of law outside of your presence. I'm going to
19 ask that you return to the jury room, but do not discuss the
20 case.

21 Madam Forelady, I'm going to ask that you enforce that
22 rule. Thank you.

23 (WHEREUPON, the jury exited the courtroom at 2:36 p.m.)

24 THE COURT: We had had some discussions about the change
25 in the law with regard to the defendant's statement and the

1 fact the issue of voluntariness was a matter of law for the
2 jury to resolve, and I've read back over the case, and I have
3 the case right here, *State v. Miller*.

4 And the more I read that, it -- it becomes clear to me
5 that -- that the defendant's statement and whether or not it
6 was voluntary is a mixed question of law and fact. And I
7 think the import of that case was that it changes the standard
8 of review for my finding as a matter of law as -- as to
9 whether or not it was voluntary or not.

10 And I think what the import of that case, in my opinion
11 after reading it again, is that it changes it to a *de novo*
12 standard where it used to be any evidence to support that. So
13 it changes that. But as far as -- I think it still is
14 submitted to the jury with regard to voluntariness, because
15 it's a mixed question of fact and law, and the State still has
16 the burden of proving beyond a reasonable doubt that it was
17 voluntary, and all of the issues of voluntariness will be
18 submitted to the jury.

19 What do you have to say about that?

20 MR. WILSON: Yes, sir. I agree with that because if it
21 weren't that way, then there would be no way for me to argue
22 to this jury that -- because if it's a -- if it's simply a
23 matter of law and the Court rules that the confession was free
24 and voluntary, then --

25 THE COURT: Then there'd be no --

1 MR. WILSON: -- test.

2 THE COURT: Yeah.

3 MR. WILSON: I can't really argue to the jury anything
4 inconsistent with that.

5 THE COURT: All right. What do you have to say about
6 that?

7 MR. RICHARDSON: I agree with it.

8 THE COURT: Okay. Well, I'll just give the -- and y'all
9 are very familiar with the law with regard to the statement of
10 the defendant. It's ultimately a question of fact for the
11 jury to resolve.

12 And -- and essentially, if the matter were to go up on
13 appeal, the Supreme Court or the Court of Appeals would --
14 would apply de novo standard to my finding as a matter of law.
15 I might be wrong on that. They were not very clear about how
16 that was to be handled in -- in everyday trial work, but we
17 shall see. I think that's the right conclusion.

18 MR. RICHARDSON: Your Honor, in addition, we're talking
19 about what to charge the jury. I have a -- one request to
20 charge I'll hand up to you --

21 THE COURT: Yes.

22 MR. RICHARDSON: -- that Mr. Jepertinger wanted me to
23 hand up, and I've shown it to Mr. Wilson.

24 It has to do with a statute criminalizing drug
25 trafficking does not require the State to prove that the

1 defendant knew the precise identity of the drugs in his
2 possession, and that's based on *State v. Lance Leon Miles*, 805
3 S.E.2d 204, and it's a 2017 case.

4 THE COURT: All right. Mr. Wilson, is that an accurate
5 statement of the law?

6 MR. WILSON: Well, it's an accurate statement of the law.
7 The problem I'm having with it, Judge, is is that I'm not sure
8 it's not a comment on the facts, because in this particular
9 case, it specifically said, and so the Court would then almost
10 be answering one of the factual issues in this case. Did the
11 defendant know that the drugs that he put in there were
12 ecstasy, or whether it was, I think, methamphetamine or
13 whatever it was?

14 So my concern is -- I'm not saying that -- that the Court
15 didn't rule that way because they did, but -- but I don't know
16 that it was in this same context. So that -- that it's a
17 situation where it -- the problem is in this case, because of
18 the way this case is set forth, if the Court charges that,
19 it's -- it's almost tantamount to a charge on the facts,
20 because the Court would be saying, all right, even though the
21 defendant says that he did not know that, that he thought it
22 was ecstasy, that it really -- and it was -- it turned out to
23 be methamphetamines, then the defendant can still be held
24 accountable. I think that's a charge on the facts.

25 And so I would ask the Court not to charge it simply

1 because I think it's a charge on the facts in this particular
2 case. And I don't think that that's always true, but I do
3 think in this case, because there is that very factual
4 dispute, that -- that -- that it shouldn't be charged.

5 THE COURT: All right. What do you have --

6 MR. WILSON: And not only that, Your Honor, the Court is
7 going to charge the jury anyway that -- that the -- the -- the
8 State has to prove beyond a reasonable doubt that they were
9 drugs. Not that they were cocaine or heroin or whether it was
10 -- even though the indictment charges -- specifically charges
11 methamphetamines.

12 Well, I don't -- I don't even know that it's necessary
13 because he's -- he's charged with what's in the indictment.
14 So the question is, is he guilty of what's in the indictment,
15 not whether or not there was some ecstasy somewhere else or
16 might have been somewhere else.

17 THE COURT: What do you have to say about that, Mr.
18 Richardson?

19 MR. RICHARDSON: Judge, I think a charge on it would
20 prevent confusion by the jury. It should prevent them from
21 contemplating something that's not the law, and I think that's
22 what the case law is there to clear up. And I'm not sure if
23 the Court has a -- or if there is a standard instruction or if
24 there has been an instruction on that particular issue.

25 But it's -- you know, it's like, you know, a CSC case,

1 you know, mistake of age is no defense sort of language, which
2 is similar to the drug case here. So --

3 THE COURT: All right.

4 MR. RICHARDSON: My position is that it would assist the
5 jury with what the law is so that they're not back there
6 contemplating things that are irrelevant.

7 THE COURT: Well, in this case, there was a mention that
8 this was ecstasy. And I think, you know, just in the everyday
9 taking of pleas throughout the state, that's a common practice
10 for people to sell these pills as ecstasy when it's actually
11 methamphetamine.

12 And -- and I think that is an accurate statement of the
13 law. It doesn't make any difference whether it's meth or
14 ecstasy or if they represent it as being ecstasy. It makes no
15 difference. So I might be wrong in that respect, but I do
16 think that the jury needs to be made aware of that.
17 Otherwise, you could say that they didn't know it was meth as
18 opposed to ecstasy, and I think that would be inappropriate
19 and improper.

20 MR. WILSON: Your Honor, I understand the Court's ruling,
21 and -- and -- and my objection is because the defendant
22 actually said that. And so that's why I'm saying that it's --
23 it's a -- it's -- it's a -- it's a -- it's a charge on the
24 facts because that is his testimony that he did not know.

25 THE COURT: And that's -- that's the key to it is -- is

1 the law is it doesn't matter whether he knew it was ecstasy
2 versus methamphetamine.

3 MR. WILSON: All right. I understand. I got it.

4 THE COURT: All right. I'm going to charge the divergent
5 duties of the jury and the trial judge. Standard stuff. The
6 fact that an indictment is not evidence. How to evaluate
7 multiple charges. Presumption of innocence.

8 Reasonable doubt. I'm going to charge the short one.
9 You know, reasonable doubt is the kind of doubt that would
10 cause a reasonable person to hesitate to act. I'm going to
11 also charge the longer version of that. They'll get both of
12 them.

13 Direct and circumstantial evidence. I'll charge that.

14 Credibility of witnesses. How to evaluate an expert
15 witness.

16 Statement of the defendant. And I'm going to charge the
17 proposed jury charge from the State, which is actually just
18 one sentence.

19 And -- and the law pertaining to trafficking in meth.
20 And I'll charge possession of a weapon during the commission
21 of a violent crime and the law with regard to a stolen pistol.

22 Any -- y'all will have an opportunity to hear my charge
23 in full and be able to make objections at that time, but
24 preliminarily, is there anything that I have left out or
25 anything that you'd like to add from the State?

1 MR. RICHARDSON: One thing, unless I didn't -- just
2 missed -- just missed it. Would it be appropriate to have an
3 actual possession and constructive possession definition? Is
4 that --

5 THE COURT: I can do that. What does the defense have to
6 say about that?

7 MR. WILSON: I think that that's probably appropriate,
8 but I would also ask for a charge on duress. And -- and based
9 on the fact that this defendant has testified that he believed
10 that this was essentially a threat, that if he didn't confess
11 or agree to this, then that he was going -- that his mother
12 and his wife were going to be arrested. And -- and I think
13 the standard is if there's any evidence from the defense
14 tending to show that, that that -- that it should be charged.

15 THE COURT: All right.

16 MR. WILSON: That's my position.

17 THE COURT: Well, the -- the law with regard to
18 voluntariness addresses that very issue, and you can listen to
19 what I charge and if you don't think it's adequately covered,
20 we'll revisit that.

21 MR. WILSON: Yes, sir. Thank you, Your Honor.

22 THE COURT: Hang on just one second, and I'm going to get
23 y'all to take a look at the verdict form.

24 (WHEREUPON, there was a pause in the proceedings, after
25 which the proceedings resumed as follows.)

1 THE COURT: I'm going to ask if y'all could come forward
2 and take a look at the verdict form.

3 Any objections from the State with regard to the verdict
4 form?

5 MR. RICHARDSON: No, sir.

6 THE COURT: Any from defense?

7 MR. WILSON: No, sir.

8 THE COURT: All right. All right. Under these
9 circumstances, the State goes first, then the defense, and
10 then the State has an opportunity to reply. Any objection
11 from the State?

12 MR. RICHARDSON: No, sir.

13 THE COURT: Any from defense?

14 MR. WILSON: No, Your Honor.

15 THE COURT: All right. We're ready for the jury.

16 MR. RICHARDSON: Madam Clerk, can we get the video thing
17 queued up one more time just for use during closing?

18 (WHEREUPON, the jury entered the courtroom at 2:52 p.m.)

19 THE COURT: Madam Forelady and ladies and gentlemen of
20 the jury, you've heard all of the evidence that is going to be
21 presented in this case. Now it's the time to receive the
22 closing arguments.

23 Under these circumstances, the State will go first. They
24 have the burden of proof. They will open in full. Then Mr.
25 Wilson will have an opportunity to give his closing argument.

1 And since the State has the burden of proof, they'll have an
2 opportunity to reply.

3 Although what they have to say is not evidence, it will
4 aid you immensely in your deliberation process because at this
5 juncture, y'all have heard all of the evidence, and these very
6 fine lawyers will have an opportunity to point to the evidence
7 that supports their relative theory of the case. Pay very
8 close attention.

9 Mr. Richardson?

10 MR. RICHARDSON: Thank you, Your Honor.

11 Mr. Wilson.

12 CLOSING ARGUMENT ON BEHALF OF THE STATE

13 MR. RICHARDSON: Folks, let's put our common-sense hats
14 on here for a minute while, I guess, I talk at you. There's
15 no discussion about it. I'll tell you what this case is about
16 and the things I'd like you to consider when you deliberate.

17 First of all, from a common-sense perspective, how this
18 originated. Think about a scenario where you've got four
19 veteran law enforcement officers, investigators whose job it
20 is to investigate narcotics crimes. Some of them have been
21 doing it 20 years, some of them have been doing it 15 years.
22 I mean, these aren't rookies. These guys know what they're
23 doing. They've been doing it a long time.

24 They have a search warrant for a property. All right?
25 And one might think if you have a search warrant for a

1 property, maybe -- you know, you see on TV or, you know, TV
2 shows or whatever, you could go up and do the old knock and
3 announce search warrant or what have you, but not here.

4 They mentioned that they do a threat assessment based on
5 the information that they have about the scenario that they're
6 about to walk into, and what did the threat assessment in this
7 case require? It looked like the military going into this
8 place to secure it. Multiple officers with helmets and rifles
9 storming in there with flash bangs. All of that just to make
10 the place secure enough for these guys to do their job, these
11 gun-toting law enforcement veterans. Okay?

12 So use your common sense. Why is this happening the way
13 that it happened? All right. That kind of police business is
14 serious business because the drug and gun business is serious
15 business. Lives can be at risk. It is dangerous. And you
16 saw that day what was required to even get this search warrant
17 off the ground.

18 They did the threat assessment, and were they right?
19 Yes. Guns flying when they show up. The defendant has two of
20 them on him, both loaded. If those four guys had just come up
21 to that scene, they could have been ambushed, could have been
22 shot, could have been killed. Their threat assessment was
23 valid. Not only were there multiple weapons, they were all
24 loaded. There was ammunition all over that place.

25 And there was a pile of drugs on that premises, and we'll

1 get into all that here in a second. First, we'll talk about
2 the guns.

3 You see, the very first witness, Cody Jordan, he was the
4 driver of the van. He was the head of the Emergency Response
5 Team or SWAT team, whatever you want to call it. Right at his
6 camera view, basically, you got the part of the car and then a
7 flash bang goes off and you see guys in the distance, white
8 shirt, black shirt, turning and trying to go the opposite
9 direction. But in that moment, simultaneously, there are
10 other police officers coming from the rear to keep them from
11 escaping.

12 So they're caught. All around them where they're seen
13 first on that camera between those houses and running towards
14 the back are where the guns are found, most of them are.
15 You've got this, State's Exhibit 32, which is a Glock. This
16 was found just in the grass right behind the neighboring house
17 in the backyard. This gun happened to have been stolen from
18 the young man, who testified earlier today, in Orangeburg
19 County back in December of 2021. This is one that Tyquan
20 Johnson claimed on camera by name, Glock .40, that he had on
21 his person and that he threw, and I'll show you those videos
22 again.

23 The gun on the grass between the houses where the
24 defendant and the other individual were standing when that van
25 pulled up, this one. This, I believe, is a .22, and there was

1 ammunition matching this found on the inside of the house in
2 the room that at the time Tyquan Johnson claimed was his, but
3 now he claims it's his child's room. Great.

4 Okay. This was the other gun that he claimed was on his
5 person and was found in proximity to where he ran. And that
6 was State's 30 for the record.

7 State's 20 -- excuse me, State's 31. This was found in
8 the trunk of the car on the property, along with Tyquan
9 Johnson's identification card in that same trunk. He claimed
10 this as well on video.

11 In the house -- well, first, before we get to the house,
12 I believe State's Exhibit 28, this magazine with this pile of
13 bullets, I think it was in the trunk of the car along with
14 that other gun. Now. this didn't match that gun. It's just
15 different.

16 Inside the bedroom of the house, Kendrick Spears, the
17 supervisor, found .22 bullets that would match that pistol
18 that was on the ground outside. These were casings that came
19 from bullets found at the scene, and these were more, State's
20 Exhibit 24, more .22s, I believe, that were found. Those
21 might have been the ones in the gun.

22 State's 27, additional bullets that are a much larger
23 caliber than I think were in either the -- the Glock or the
24 gun in the trunk. Additional bullets that are, I think,
25 probably from the Glock based on the size of them, the size 21

1 -- or excuse me, Exhibit 21.

2 And then this big ammunition drum found in the bedroom
3 that we learned today must have been the nine-year-old's room.
4 At the time, Tyquan Johnson told the police that it was his
5 room, but today is everybody's but him. Exhibit 22 found in
6 what would now be the child's bedroom but at the time Tyquan
7 Johnson said it was his, digital scales, commonly used to
8 measure the weight of drugs, and a grinder and drug
9 paraphernalia, along with this bookbag.

10 And finally, State's Exhibit 23. This is the big one.
11 This is the point of it all. You've got -- while it -- you
12 know, it may not look huge in scope, but you have a large
13 amount of methamphetamine here in these multicolored homemade-
14 style tablets.

15 Now, what's important about these is the possession of
16 them. Okay? So he's charged with trafficking these pills.
17 This is over 2,000 meth pills. Okay? Upwards of \$10,000
18 worth of product on the street. Okay?

19 How do we prove drug trafficking? Okay. Trafficking is
20 based on weight. So one of the important things that the
21 chemist has to do, in addition to testing to see what kind of
22 drug it is, is to determine the weight, because that
23 determines the charge.

24 In this case, the combined weight of all the pills was
25 497 grams, and the charge that he's got is trafficking

1 methamphetamine over 400 grams. Okay? So that's simple math
2 on that, 497 is more than 400. All right. So we've got to
3 prove the weight.

4 We've got to prove what it is. The analyst, Willie
5 Smith, put it through the test. He's been doing it over 23
6 years. This is meth. This is meth. These are
7 methamphetamine pills, which he says are much easier to make
8 than ecstasy or whatever. And these are -- and you can take a
9 look at them -- rudimentary kinds of things here.

10 What else do I need to show? I need to show possession.
11 And that to do that, I need to talk to you about two different
12 kinds of possession in the law. Okay?

13 There is actual possession. I am actually holding this
14 pen. This pen is within my dominion and control. Okay?
15 That's simple enough. Actual possession is real easy.

16 All right. If I put this pen right here, that's my pen.
17 I know it's my pen. I put it there. I have knowledge of what
18 it is, where it is. It's not in my hand. So what kind of
19 possession is that if it's not actual possession?

20 What I'm exercising here with that pen is called
21 constructive possession, and that's the kind of possession
22 case this is. That's my pen. I put it there. I have
23 dominion and control over it. I have the right to get it. I
24 might be the only one to know or even -- not in this example,
25 but I might be the only one to know it's there. And I come

1 get it, and it goes from constructive back to actual.

2 Either one works. Constructive possession is just as
3 good as actual possession because that makes sense. I mean,
4 none of y'all are at your house right now, but all of the
5 stuff in your house right now is yours, isn't it? Same
6 principle.

7 These pills. Law enforcement didn't have a clue that
8 they existed until Tyquan Johnson told them where they were.
9 Now, hay has been made by the defense in this case as to how
10 law enforcement got the information, like they, you know, beat
11 it out of him or something. That is not the case. You watch
12 the video, and I'm going to show it to you again in a minute.

13 What the defense has alluded to as being a threat was
14 simply a statement of fact. Law enforcement was explaining to
15 those guys on the porch, if we find something here and nobody
16 says it's mine, then constructive possession is going to apply
17 to the people here. Unless -- unless we as law enforcement
18 can figure out who to attribute something to, everybody here
19 is in constructive possession of it. They got -- they can go
20 to that trash can, open it up, get it out, whatever.

21 That's not a threat. That's just explaining to people
22 what the law is in order to prevent innocent people from
23 getting hauled off for something that they had nothing to do
24 with. So those guys weren't there hoping to haul off Tyquan
25 Johnson's mother or his nine-year-old or his wife. They

1 wanted to -- to arrest whoever had the illegal products at
2 that location. Okay?

3 And they put a lot of effort into this operation. You
4 can tell from the videos. They aren't going there to get the
5 wrong people and to make it all for nothing. So they make it
6 clear not -- you can't just generally say, oh, everything's
7 mine, whatever you find is mine. It doesn't work that way.
8 Specifics. Okay?

9 And they finally got there with him. He's like, all
10 right, the Glock is mine and the .22 is mine. And, well, then
11 he says, before he goes any further, your search warrant is
12 for the whole premises; right? And they were, like, yeah.
13 And that's the switch in his mind going off that, uh-oh,
14 because if they find pills in that trash can, there's an
15 enormous amount of pills in that trash can, and if I don't
16 claim it, mom is in danger, wife is in danger of going to
17 jail. Everybody is going to jail.

18 So that might have been one of the hardest decisions he's
19 had to make was to own up, to tell them -- you know, telling
20 them where his stash was. He hadn't had a legit job in five
21 years, and I emphasize legit. He had almost \$1,000 on him.

22 So in that moment, which may be the only moment in this
23 whole case, he chose someone else over himself because he's
24 sitting on that porch and he's looking out there into the
25 yard, and he sees his mom and he sees his wife and he sees his

1 kid, and they're probably looking back at him. And they know.
2 You know, they had to have known. Can you imagine the tension
3 there in their minds, knowing what situation he put them in?
4 It had to be very difficult.

5 So he reluctantly admitted to it. And not only did he
6 say, okay, whatever you find is mine, it was extreme
7 specificity. I got pills in the trash can. And you see on
8 the video, a police officer walks up to one trashcan. He's
9 like, the second trash can, the next one. And sure enough,
10 deep down in there, buried in this dog food bag of a guy who
11 owns and has, you know, ten dogs, is this.

12 And that's the case. There's nothing celebratory about
13 it. This all sucks because in all the time that he was
14 engaged in this, bullets everywhere, guns on him, drugs there,
15 there was a family there and a little kid there.

16 There is no winner in this, but this is necessary because
17 by doing this business, the only person he really considered
18 was himself. He never considered who could end up on the
19 other side of these bullets, who could end up on the other
20 side of these bullets, who could end up on the other side of
21 these bullets, who could end up on the other side of these
22 bullets because the drug business is serious business.

23 And he was protecting his investment, and he was thinking
24 about how he's going to get his money and he wasn't worried
25 about who was going to get poisoned by over 2,100

1 methamphetamine pills that would hit the street and destroy
2 people, Potentially kill people. He ain't loyal to his
3 family. He's loyal to himself, and all this shows it.

4 He had one moment of truth where his feet were to the
5 fire and, thankfully, it did prevent innocent people from
6 going to jail. But make no mistake, this is loyalty to self,
7 and this in here today is consequence for these actions.

8 Let me play for you this video because I know you're
9 sitting here seeing all this stuff here and all this stuff for
10 the first time, and it's just coming at you, you know, video
11 and you're not worrying to it. So I don't want any confusion.

12 The police did things by the book in this case. They
13 read him Miranda rights, tell him you have the right to remain
14 silent. You don't have to talk to us if you don't want to.
15 He gave them a statement in fact about constructive possession
16 before anything was said about, you know, if we find something
17 and nobody claims it, people are going to jail. Before any of
18 that is said, he's already claiming guns and some other stuff,
19 but eventually claims drugs. So let me play this section of
20 video.

21 (WHEREUPON, a portion of body-cam video was played and
22 then stopped. Not transcribed herein.)

23 MR. RICHARDSON: Okay. Now I want to show you the --
24 bear with me. It's going to take a second to pull up. The
25 first video of the helmet cam. You can see where he was when

1 the police arrived to corroborate where those guns were
2 located.

3 (WHEREUPON, a portion of helmet-cam video was played
4 while closing argument continued as follows.)

5 MR. RICHARDSON: All right. Pay attention as they're
6 coming up and you see the -- you see Jordan's head turned to
7 the left. Boom. They're right there, and it's hard to see
8 from his helmet, but they're right there where those guns are
9 located. I'll play it again for you. And they end up in the
10 backyard, back around the corner where you saw in another
11 video. I think it may have been McKenzie's.

12 (WHEREUPON, the video ended, and the closing argument
13 resumed as follows.)

14 MR. RICHARDSON: So you heard on the Spears video --
15 which let me get the exhibit number for the record. Exhibit
16 16. That was Kendrick Spears' body-cam video.

17 And in that, there's no perceivable aggression on Spears'
18 part or Buxton's part. They're calmly asking questions,
19 calmly explaining circumstances, and even before any comment
20 is made about, you know, if we find something that nobody
21 claims, everybody's going, even before that, Johnson's already
22 claiming guns and weed. Of course, then once he finds out the
23 scope of that search warrant and the consequences, he comes up
24 with this.

25 That police business was serious business, and you saw

1 what all they had to go through to do their jobs that day.
2 That's a risky job. That's a hard job. I know I wouldn't
3 want to do it. I'd be scared. But it's serious business, and
4 it's necessary because the drug business is a serious
5 business, and what they do and what happens in here is the
6 only way to fight it.

7 As Mr. Jepertinger told you at the beginning of this
8 trial, Tyquan Johnson was living life at the edge of a
9 lightning bolt, and he got burned because what's happening
10 here is the cost of doing his business. Trafficking
11 methamphetamines is a violent crime. That's why he's charged
12 with possession of a weapon during a violent crime. That
13 young man who testified earlier his gun was stolen from him,
14 Tyquan Johnson had it in his possession. That's why he's
15 charged with possession of a stolen pistol. So those are the
16 three charges.

17 The evidence in this case is overwhelming. All you've
18 got to do is use your common sense and write guilty on that
19 form three times. Thank you.

20 THE COURT: Thank you, Mr. Richardson.

21 Mr. Wilson?

22 MR. WILSON: Thank you, Your Honor.

23 THE COURT: You're recognized for closing argument.

24 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

25 MR. WILSON: Madam Forelady and ladies and gentlemen,

1 we've been here now since Monday going back and forth through
2 this case. Let me start out by saying that the State had
3 brought you a whole list of things. Not a single one of these
4 things is illegal, nothing, but they wanted to bring them in
5 here to impress you. They're not illegal. If I had them at
6 my house or you had them at your house, it's fine.

7 Maybe you don't like the law. Maybe you think that all
8 guns ought to be illegal. Maybe they should, but that's not
9 the law. You can have it, but it sounds ominous. Oh, see,
10 you got bullets. He's got .22 bullets. He's got .38 bullets.
11 He's got a magazine. Oh, there's a scale.

12 Nothing illegal about any of it. It's done to impress
13 you. It's done to prejudice you against this young man.
14 That's why they brought it. Not because it's illegal, but to
15 try to impress you to be prejudiced against him for being a
16 bad guy. How dare he have these guns? But I hope they don't
17 come to my house because I'm going to be in here too, but
18 there's nothing wrong with having guns. There's nothing wrong
19 with having those magazines. Absolutely nothing.

20 Let me say, you know, whenever the State doesn't do its
21 job the way it's supposed to, then they want to try to put it
22 off on you. Not one time, not one time throughout this
23 process did you hear any officer testify, yeah, we verified
24 that he lived in that room, that that was his room. Did we
25 ask the owner of the house where does he live? Which of these

1 rooms is his, if any? Did you hear him?

2 Not one time did they ask SLED, not one time, please test
3 these bags. Tell us whose fingerprints are on these bags. We
4 want to know. We want to make sure we got the right person
5 here. Did they do that? Huh-uh. No, they didn't do that.

6 Did they send any of it? You heard me when the SLED
7 analyst was up there. I asked him because he's the one that
8 analyzed the drugs. I said, well, did they tell you to send
9 them to get fingerprints? Did they tell you to get DNA so we
10 can be certain? So we -- we don't want to have the wrong
11 person. Right?

12 We want to know who did this. We want to know who owned
13 these drugs. We want to know who owned these guns. And
14 that's the burden of the State. That is not my burden. That
15 is not this defendant's burden. That is never the burden of
16 the defendant when they come into this courtroom. That is the
17 State's burden to prove the allegations that they've made
18 beyond a reasonable doubt.

19 I can say I'm president of the United States. Does that
20 make it true? No. Just because you say something doesn't
21 mean it's true.

22 And listen, folks. The other thing that you need to know
23 here is you can call it a threat. You can call it whatever
24 you want. You think that they told him if you don't -- if
25 somebody doesn't admit to these drugs, everybody is going to

1 jail, your mama, your wife. I don't know if they won't arrest
2 a nine-year-old or not. What do you do?

3 I can tell you what I'd do if it was at my house. I
4 ain't letting my mama and my wife go to jail. I can tell you
5 that right now. I don't care whose drugs they were. I ain't
6 doing it. But again, let's don't get ahead of ourselves.

7 The burden of proof is on the State to prove to you
8 beyond a reasonable doubt, not just have you guessed, well, he
9 said it so maybe it's true. Well, no, that ain't the law.
10 That is not the law. Because if it was, he told you he ain't
11 guilty. So then you should find him not guilty. Turn him
12 loose because that'd be the end of it if that was how it
13 worked. It doesn't work that way. There has to be proof, not
14 just somebody says it.

15 Now, the other thing that I'll tell you, not one piece of
16 drug of any kind was found in the house at [REDACTED], nothing.
17 Did you hear anybody get on this witness stand and testify,
18 oh, yeah, we found some pills in that house, we found some
19 heroin in that house, we found some cocaine in there?
20 Nothing. Nothing illegal was found in [REDACTED]. The guns are
21 found where? [REDACTED], not [REDACTED]. [REDACTED].

22 Now, do I have to account for what my neighbors do? Am I
23 held responsible for what's in their yard? Then the officer
24 said, well, I saw -- I saw some people throwing some stuff.
25 Look at the video. Do you remember I asked him, is it on the

1 video? What does he say? No, you can't see it on the video.

2 No, because it didn't happen.

3 Honestly, think about it for a second. If I'm walking
4 around with a big camera on my forehead, wherever I look,
5 that's what is going to be shown on that video. So if I see
6 somebody throwing something, it's going to be on that video
7 because my eyes are focused where the camera is. It can't be
8 any other way.

9 Now, I'm not saying that there weren't guns in that yard.
10 I'm not saying that at all, but -- because that ain't the
11 question. The question is, who put them there?

12 The other thing he says, well, he admits to two guns. If
13 you recall, on one of the videos on the radio, you can hear
14 it. The officer is talking about a Glock .40 and a .22. It's
15 after that -- it's after that that he says the Glock .40 and
16 the .22. It is not before that.

17 You see, that's the good part about having these videos
18 is they don't lie. It's on there. You don't have to take my
19 word for it. You don't have to take the solicitor's word for
20 it. You can look at it for yourself.

21 Let me talk to you a minute about Miranda and giving
22 statements. *Miranda* is a court case that essentially says
23 that whenever a defendant or a person is arrested and they're
24 in custody of law enforcement, that law enforcement must read
25 these rights to them. You've got a right to have a lawyer.

1 You've got a right to have a lawyer, to remain silent, that
2 kind of stuff. And under *Miranda* when you get to give a
3 statement or if you give a statement after you have been read
4 your *Miranda* rights, then the question becomes whether or not
5 that statement was given freely and voluntarily. Okay? If
6 you give a statement as free and voluntary, then -- you know,
7 then you'd be able to consider that statement.

8 I challenge whether the statement that was given was
9 freely and voluntary, because if you are coerced, if you are
10 under duress when you make a statement, then that statement is
11 not free and voluntary. If you tell me you're going to arrest
12 my mama, you're going to arrest my wife if I don't confess,
13 then I'm confessing. Is that voluntary?

14 The answer is, no, it is not. It is under duress because
15 I got two choices. I can hold on to my innocence and I can
16 proclaim my innocence or I can let my mama and my wife go to
17 jail. Those are my two choices.

18 Those are my two choices, and those are the two choices
19 that he had on that day. Keep your right under *Miranda*, be
20 silent, don't say a word, and let my mama and my baby and my
21 wife go to jail. I ain't doing it, folks. That's the choice
22 that he had.

23 He didn't have to get on this witness stand. He didn't
24 have to get up there. The law doesn't require that he get up
25 there. He doesn't have to say anything. That's a part of the

1 constitutional rights that he enjoys, but he got up there to
2 tell you what happened and why he said and did what he did.
3 And I promise you, if he had to do it over again, he'd do
4 exactly the same thing under the same circumstances.

5 You know, the solicitor talked about constructive
6 possession, actual possession. Well, let's talk about that
7 for a minute. And he used the example of the pen. This pen
8 is in my hand. This is actual possession. I've got
9 possession.

10 Well, first of all, nobody, not a single soul, has said
11 he had actual possession of anything. I haven't heard anybody
12 say that. So we can just forget that. Not one soul has
13 testified that they took these pills out of his hand, out of
14 his pocket. Not one soul has testified that they took a gun
15 off his person. Nobody has testified to that.

16 So that is not actual possession. So actual possession
17 is out of the window. The question now becomes then what is
18 constructive possession?

19 I take my pen and I put it down. Yeah. I put it down
20 because it's my pen, but what if it's your pen and I know that
21 your pen is sitting there? Now, do I have constructive
22 possession of your pen? Absolutely not. They've got to prove
23 that he at some point had possession of this pen to exercise
24 ownership over it. Same thing is true with the drugs. There
25 is no such proof, folks. There is no such proof.

1 You see, sometimes it is extremely difficult to prove
2 your innocence. That's why the burden is placed on the State
3 because they elect to charge you. And when they elect to
4 charge you, they assume the responsibility of proving you
5 guilty beyond a reasonable doubt.

6 If you have to guess, if you have to wonder, if you have
7 to say, well, maybe, then you've already decided this case
8 because he's not guilty because that's the law. If the State
9 evidence merely raises a suspicion, oh, yeah, it could happen
10 just that way, that's all it is, a suspicion, and he is not
11 guilty because the Court will tell you he is presumed innocent
12 from the moment of his arrest right up until this very second
13 we're in this courtroom.

14 And the only way he can be divested of that, if the State
15 can bring you some evidence that proves beyond a reasonable
16 doubt that he did exactly what they say. Not that he may have
17 done it, not that it is possible, not that it is maybe even
18 likely, but that he did it without question, because if you
19 have any question about it, then he is not guilty.

20 Folks, I want to say to you that this system that we
21 have, this system of justice, is not perfect. Lord knows it's
22 not, but it's the best we got. And I don't know another
23 country anywhere that has a better system, and if I've got to
24 take my chances, I'd take my chances with this system over any
25 other that I know of.

1 But I also know that because of the imperfections of our
2 system, the benefit of any doubt has to go to the defendant.
3 That's not because Ralph Wilson says that. His Honor will
4 charge you to that. That is the law. You are to give this
5 defendant the benefit of every reasonable doubt that arises,
6 either from the evidence or from the lack of evidence, because
7 sometimes it's not so much what the evidence is. It's what
8 the evidence isn't, what they haven't done, what they haven't
9 brought to you, what they haven't shown you.

10 And they haven't shown you anything. They have not
11 placed any drugs in the possession of this defendant. They
12 said, well, he told us it was in the trash can. Well, if I
13 see you place a bomb in my neighbor's mailbox and I call the
14 police and tell them, hey, look, I saw Joe Blow place a bomb
15 in my neighbor's mailbox or at least what I thought was a
16 bomb, and the police come and find the mailbox, then they're
17 going to charge me and say, well, you told us it was in there,
18 so you must be the one that put it in there?

19 No, it doesn't mean that, which is why the State has to
20 bring you other evidence, because just the fact that he says
21 it was there, if I saw somebody else putting it in there,
22 doesn't mean it's mine. I don't have control over it.

23 Just like I said to you earlier about constructive
24 possession, if this pen belongs to you or to whoever, to the
25 solicitor and the solicitor leaves it up here and I walk over

1 here, I don't have constructive possession of this pen. It's
2 still his. He's still in constructive possession of it. Not
3 a single soul has told you I saw him put them drugs in that
4 container. Nobody. Nobody.

5 But see, they don't care. They just say, well, you know,
6 he said -- he said it was there. So y'all just find him
7 guilty and that's -- we'll be happy. Well, no, that's not how
8 the system works. They have a duty, and they had all the
9 resources to do it and they refused to do it. They didn't
10 just did not do it. They refused to do it.

11 They could have sent each of these items to SLED. That's
12 what they're there for. They didn't have any problem sending
13 them drugs up there and say, well, will y'all test this for
14 me? But not one time, not one time did they do any follow-up
15 to find out.

16 Remember, I asked them who owned the car. Remember they
17 said they went to -- there was some car in the yard and they
18 found his ID in the car. Did you hear about any drugs in the
19 car? No. He said, well, he found his ID in the car. I said,
20 well, who did the car belong to? We don't know. We don't
21 know. I said, well, can't you run the tag and find out?
22 Well, we ain't done that either, because they don't care.

23 They don't care, and it ain't right. If you're going to
24 put a person in jail, make sure they're not guilty [sic].
25 Make sure that you do it the right way, and that burden falls

1 squarely on the State of South Carolina and on these gentlemen
2 who made the arrest. It doesn't fall on the defendant.

3 If somebody comes to your house at 3 o'clock in the
4 morning saying, Ralph Wilson, Conway National Bank was robbed
5 last night. Where were you at? At home by myself, watching
6 TV. How am I going to prove I didn't rob Conway National Bank
7 if Conway National Bank didn't take any fingerprints, they
8 don't have any DNA, but they say, well, you live close to the
9 bank, so you could have done it? So I get arrested and I go
10 to jail. Then what? How am I going to prove I was innocent?
11 I'm home at 3 o'clock in the morning. You can't.

12 That's why the State has the burden, folks. You can't.
13 And I would submit to you if we err, we err on the side of
14 caution. And in this case, folks, it's just not enough to
15 convict anybody of anything. It's just not there. It's not.

16 I want to say this to you, and then I'm going to be
17 through, and I won't get an opportunity to speak to you again
18 because that's the way our system works. You have but one
19 job, one, render a verdict that speaks the truth. That's all.
20 That's your only job.

21 I have paid very close attention to you during the course
22 of this process. You have listened, you have paid attention,
23 and I appreciate that. You have no friends to reward. You
24 have no enemies to punish. You simply speak the truth, and
25 the truth here -- and I like always telling jurors that it's

1 really the State who is on trial, not the defendant. It's the
2 State who's on trial because they have the burden of proving
3 something. The defendant doesn't have any burden.

4 So you're really judging whether or not the State met its
5 burden, whether the State has produced the kind of evidence
6 that you feel comfortable relying on to find someone guilty of
7 a serious crime. That's kind of what this all boils down to.

8 And I'd also say to you that the State of South Carolina
9 has an awesome amount of power, and I kind of intimated that
10 to you when we started this process. They can arrest you, as
11 was done in this case. They can come out to your house with
12 guns and long guns. These folks had automatic, semi-automatic
13 weapons like troopers in the military, you know, jumping out
14 of vans and running through the woods and throwing. Remember
15 they threw these -- I can't remember what kind of bombs they
16 were. These noise bombs. Right? So -- and then they say,
17 well, why were y'all running?

18 Well, folks, I don't care what you're doing. If somebody
19 comes in here and they throw one of them big bombs, those
20 things are loud and they have smoke attached to them. What
21 are you going to do? Stand there? Oh, well, throw some more
22 bombs. Four of them that I counted, four. Bang. Smoke
23 everywhere. Then if people start running, why? Because you
24 think you're being shot at. That's why you run.

25 And they were throwing these bombs everywhere in the

1 front and in the back. And then they wonder, well, why are
2 you running? We -- we're the police. We -- we're your
3 friends. No. When you come and you throw a bomb in my yard,
4 you're not my friend and I don't know who you are until I see
5 you, and right now I'm getting out of Dodge.

6 But again, I want to say to you that Tyquan Johnson is
7 not guilty. Tyquan Johnson is not guilty because the State of
8 South Carolina has failed to bring you evidence which is
9 consistent with his guilt beyond a reasonable doubt.

10 And I ask you but one thing. Do the right thing. Do the
11 right thing. I'm not saying doing the popular thing. I'm
12 saying do the right thing. The right thing is not guilty.
13 The State has not proven their case. They just have not.
14 That ain't your fault. That ain't my fault. That's their
15 fault collectively. Not guilty is the only reasonable verdict
16 in this case. Thank you very much, ladies and gentlemen.

17 THE COURT: Thank you, Mr. Wilson.

18 Reply?

19 MR. RICHARDSON: Thank you, Your Honor.

20 REPLY CLOSING ARGUMENT ON BEHALF OF THE STATE

21 MR. RICHARDSON: If Mr. Wilson called or got a call from
22 Conway police that said Conway National Bank just got robbed,
23 where were you, and he said I robbed it and I got the money in
24 the trash can, then they'd go get him.

25 The problem that the defense has with this possession

1 issue is that Tyquan Johnson had more than two choices. It
2 wasn't about giving up his innocence to protect his family or
3 protecting his family. He could have said, you know, I have
4 these shady neighbors who mysteriously disappeared when y'all
5 got here. He could have said something like that at any point
6 in time, but no. In that moment he could have said, well,
7 there are some pills in that trash can, but this crowd over
8 here sells drugs out of this house, and I've seen him put
9 stuff in there. There are some pills in that trash can.

10 That ain't what he said. He said I have some pills.
11 Possession. Didn't need to see anybody or he didn't -- nobody
12 needed to see him putting them in there. I have some pills.
13 Where are they? Where did you toss them? Trash can over
14 there. This trash can? No, the second trash can. So we know
15 he put them in there because he tells us he put them in there.

16 So when you have all this evidence of him saying these
17 things that you don't know exist belong to me, and they are in
18 this second trash can, why do we need to go through the whole
19 SLED laboratory in every department they've got to run every
20 test they got when we know whose it is? There's no need to
21 just beat a dead horse into oblivion.

22 And again, I just ask you -- I'm not going to rehash all
23 this stuff. You've heard it, you've seen the videos. If you
24 need to watch them again, you knock on that door, I'll show
25 them to you until the machine breaks. Anything you want to

1 see, we got. A lot of this stuff you'll be able to take out
2 there with you.

3 The common-sense scenario in this case is one thing and
4 one thing only. The only thing that makes sense in this case
5 is Tyquan Johnson was in the business. Law enforcement hit
6 that place with a search warrant, and they struck gold because
7 he was doing it, he had it, and he had guns to protect it. He
8 had ammo to protect it. The family was at risk while he was
9 doing it, and today is the cost of doing business. Thank you.

10 THE COURT: Thank you.

11 All right. Madam Forelady and ladies and gentlemen of
12 the jury, you've been sitting for a fairly long time, about as
13 long as a preaching. So I'm going to let y'all go back to the
14 jury room, refresh ourselves, and we will come back in and at
15 this juncture I'll charge you the law, and we'll meet here
16 momentarily. No discussion about the case whatsoever.

17 Madam Forelady, enforce that rule.

18 All right. We'll stand at ease for five minutes.

19 (WHEREUPON, the jury exited the courtroom at 3:54 p.m.)

20 (WHEREUPON, there was a break in the proceedings from
21 3:54 p.m. until 4:03 p.m., after which the proceedings
22 resumed as follows.)

23 THE COURT: All right. Anything from the State before we
24 proceed?

25 MR. RICHARDSON: No, sir.

1 THE COURT: Anything from defense?

2 MR. WILSON: No, Your Honor.

3 THE COURT: All right. We're ready for the jury. Wait a
4 minute. We need to wait on the defendant. I thought he was
5 in here.

6 (WHEREUPON, there was a pause in the proceedings, after
7 which the proceedings resumed as follows.)

8 THE COURT: All right. We're ready for the jury.

9 (WHEREUPON, the jury entered the courtroom at 4:06 p.m.)

10 CHARGE ON THE LAW

11 THE COURT: Madam Forelady and ladies and gentlemen of
12 the jury, you've heard all of the evidence that's going to be
13 presented in this case. You've heard the closing arguments of
14 counsel, and now it's my responsibility to charge you the law.
15 I wish there was an entertaining way to do that, but there
16 isn't.

17 So I know we're mid-afternoon. You probably had a big
18 lunch. I know you might be a little bit sleepy, but I'm going
19 to ask that you perk up and pay very close attention because
20 in order for you to fulfill your duty as a juror, you have to
21 listen to the evidence, and I know you did that. I watched
22 you, you paid attention, but you also need to understand what
23 the law is in order to apply the facts to the law. So pay
24 very close attention.

25 I remind you that you and I have certain duties to

1 perform. As the trial judge, it is my responsibility to
2 preside over the trial, and I also have the duty to rule on
3 the admissibility of evidence. You're to consider only the
4 competent evidence before you. You're to consider only the
5 testimony which has been presented from this witness stand,
6 any exhibits which have been made a part of the record, and
7 any stipulations of counsel.

8 I have the additional duty to charge you the law. As the
9 presiding judge, I'm the sole judge of the law, and it is your
10 duty as jurors to accept and apply the law as I now state it
11 to you. If you already have an idea as to what the law is or
12 what the law ought to be and it does not agree with what I now
13 tell you the law is, you must abandon this idea because you're
14 sworn to accept the law and apply the law exactly as I state
15 it to you.

16 In every case tried before a jury, the jury becomes the
17 sole and exclusive judge of the facts. A trial judge cannot
18 intimate, state, comment on, or make any statement to a trial
19 jury about the facts.

20 Since you, the jury, are the sole judges of the facts,
21 you are not to infer from what I've said during the progress
22 of this trial in ruling upon the admissibility of evidence or
23 otherwise or anything that I say now during the course of this
24 instruction to you that I have any opinion about the facts.
25 The law simply does not allow me to have an opinion about the

1 facts. This is a matter solely for you, the jury, to
2 determine. As jurors, it is your duty to determine the
3 effect, value, weight, and truth of the evidence presented
4 during this trial.

5 The indictments charge the defendant with one count of
6 trafficking methamphetamine, one count of possession of a
7 weapon during the commission of a violent crime, and one count
8 of possession of a stolen pistol. I remind you that the fact
9 that the defendant was arrested, charged, and indicted is not
10 evidence and cannot be considered by you as evidence of guilt,
11 nor does it create any presumption or inference of guilt.
12 This document is simply the formal written instrument which
13 contains the charges made against the defendant. It's the
14 formal document by which this case is brought to court.

15 Each indictment charges a separate and distinct offense.
16 You must decide each indictment separately on the evidence and
17 the law applicable to it, uninfluenced by your decision as to
18 any other indictment. The defendant may be convicted or
19 acquitted on any or all of the offenses charged. You'll be
20 asked to write a separate verdict of guilty or not guilty for
21 each indictment.

22 The defendant has pled not guilty to this indictment, and
23 that puts the burden on the State to prove the defendant
24 guilty. A person charged with committing a criminal offense
25 in South Carolina is never required to prove himself innocent.

1 I charge you that it's an important rule of law that the
2 defendant in a criminal trial, no matter what the seriousness
3 of the charge may be, will always be presumed to be innocent
4 of the crime for which the indictment was issued unless guilt
5 has been proven by evidence satisfying you of that guilt
6 beyond a reasonable doubt.

7 This presumption of innocence does not end when you begin
8 your deliberation, but it accompanies the defendant throughout
9 the trial until you reach a verdict of guilt based on evidence
10 satisfying you of that guilt beyond a reasonable doubt. The
11 presumption of innocence is like a robe of righteousness
12 placed about the shoulders of the defendant, which remains
13 with the defendant until it's been stripped from the defendant
14 by evidence satisfying you of the defendant's guilt beyond a
15 reasonable doubt.

16 The presumption of innocence is not a mere legal theory.
17 It's not just a legal phrase. It's a substantial right to
18 which every defendant is entitled unless you, the jury, are
19 satisfied from the evidence of the defendant's guilt beyond a
20 reasonable doubt.

21 What is a reasonable doubt in the law? A reasonable
22 doubt is the kind of doubt that would cause a reasonable
23 person to hesitate to act. The State has the burden of
24 proving the defendant guilty beyond a reasonable doubt.

25 Some of you may have served as jurors in civil cases,

1 where you were told that it is only necessary to prove that a
2 fact is more likely true than not true, such as by a greater
3 weight or preponderance of the evidence. In criminal cases,
4 the State's proof must be more powerful than that. It must be
5 beyond a reasonable doubt. Proof beyond a reasonable doubt is
6 proof that leaves you firmly convinced of the defendant's
7 guilt.

8 There are very few things in this world that we know with
9 absolute certainty. In a criminal case, the law does not
10 require proof that overcomes every possible doubt. If, based
11 on your consideration of the evidence, you are firmly
12 convinced the defendant is guilty of the crime charged, you
13 must find the defendant guilty. If, on the other hand, you
14 think there's a real possibility that the defendant is not
15 guilty, you must give the defendant the benefit of the doubt
16 and find him not guilty.

17 There are two types of evidence which are generally
18 presented during a trial: direct evidence and circumstantial
19 evidence. Direct evidence directly proves the existence of a
20 fact and does not require deduction. Circumstantial evidence
21 is proof of a chain of facts and circumstances indicating the
22 existence of a fact.

23 Crimes may be proven by circumstantial evidence. The law
24 makes no distinction between the weight or value to be given
25 to either direct or circumstantial evidence. However, to the

1 extent the State relies on circumstantial evidence, all the
2 evidence must be consistent with each other and when taken
3 together point conclusively to the guilt of the accused beyond
4 a reasonable doubt. If these circumstances merely portray the
5 defendant's behavior as suspicious, the proof has failed.

6 The State has the burden of proving the defendant guilty
7 beyond a reasonable doubt. This burden rests with the State
8 regardless of whether the State relies on direct,
9 circumstantial, or some combination of the two.

10 Ladies and gentlemen, the jury necessarily must determine
11 the credibility of witnesses who have testified. Credibility
12 simply -- simply means believability. It becomes your duty as
13 jurors to analyze and to evaluate the evidence, determine
14 which evidence convinces you of its truth.

15 In determining the believability of witnesses who have
16 testified, you may believe one witness over several witnesses
17 or several witnesses over one witness. You may believe a part
18 of the testimony of a witness and reject the remaining part of
19 the testimony of that same witness. You may believe the
20 testimony of a witness in its entirety or reject the testimony
21 of a witness in its entirety. You may consider whether any
22 witness has exhibited to you any interest, bias, prejudice, or
23 other motive. You may also consider the appearance and manner
24 of the witness while on the witness stand, their demeanor.

25 The rules of evidence ordinarily do not permit witnesses

1 to testify to opinions or conclusions. An exception to this
2 rule exists for witnesses we call expert witnesses. A witness
3 who, by education and experience, has become an expert in some
4 art, science, profession, or calling may state an opinion as
5 to relevant and material matter in which the witness claims to
6 be an expert, and may also state the reasons for the opinion.

7 You should consider any expert opinion received into
8 evidence and, like any other evidence, give it the weight you
9 think it deserves. If you decide that the opinion of an
10 expert is not based on sufficient education and experience or
11 if you conclude that the reasons given in support of the
12 opinion are not sound, that the opinion is outweighed by other
13 evidence, you may disregard the opinion entirely.

14 An expert witness's testimony is to be given no greater
15 weight than that of other witnesses, simply because the
16 witness is an expert. Further, you're not required to accept
17 an expert's opinion, even though it is not contradicted.

18 A statement alleged to have been made by the defendant
19 has been admitted into evidence. While the Court has
20 determined that the statement is admissible, I instruct you
21 that you make the ultimate decision of whether or not the
22 defendant made the statement.

23 If the defendant did make the statement, you must
24 determine whether the statement was made by the defendant
25 voluntarily and on his own free will. This means that the

1 statement was not caused by pressure, force, fear, threats,
2 coercion, or intimidation, or by hope or a promise of leniency
3 or reward of any kind.

4 In determining whether the statement was voluntary, you
5 should consider both the characteristics of the defendant and
6 the details of the questioning. Some of the factors that you
7 must consider are the age of the defendant, the defendant's
8 education or lack of education, the defendant's mental ability
9 and capacity, the defendant's IQ or intelligence, the
10 defendant's background and environment, the place and length
11 of detention, the nature of the questioning, and the advice or
12 lack thereof to the defendant of his constitutional rights,
13 including, but not limited to, the right to remain silent and
14 that any statement could be used against him in a court of
15 law, the right to have a lawyer present, if he -- if he could
16 not afford one, a lawyer would be appointed to represent him
17 without any cost, and that he could stop making a statement at
18 any time. You must carefully consider all of the surrounding
19 circumstances before you give any weight to an alleged
20 statement.

21 The State has the burden of proving beyond a reasonable
22 doubt that the alleged statement was voluntary. If you
23 determine that it was, you may give the statement any further
24 consideration that you deem proper. You must decide what
25 weight, if any, should be given to the alleged statement. If

1 you determine that the alleged statement was not the free and
2 voluntary statement of the defendant, you should not consider
3 the statement at all.

4 A statute criminalizing drug trafficking does not require
5 the State to prove that the defendant knew the precise
6 identity of the drugs in his possession.

7 I'm going to charge you the law with regard to
8 trafficking of meth -- methamphetamine.

9 A person who knowingly sells, manufactures, delivers,
10 purchases, or brings into this state, or who provides
11 financial assistance or otherwise aids, abets, attempts, or
12 conspires to sell, manufacture, deliver, purchase, or bring
13 into the state, or who -- who -- or who is knowingly in actual
14 or constructive possession, or who knowingly intends to become
15 in actual or constructive possessions -- possession of 40
16 grams or more of methamphetamine.

17 The defendant is charged with possession of a weapon
18 during the commission of or attempt to commit a violent crime.
19 The State must prove beyond a reasonable doubt that the
20 defendant was in possession of a firearm. A firearm means any
21 machine gun, automatic rifle, revolver, pistol, or weapon
22 which will and is designed or may be readily converted to
23 expel a projectile.

24 In order to find the defendant guilty of possession of a
25 weapon during the commission of a violent crime, you must

1 first find the defendant guilty of either committing a violent
2 crime or attempting to convict -- commit a violent crime. For
3 purposes of this consideration, trafficking methamphetamine is
4 a violent crime. So in order for him to be guilty of
5 possession of a weapon during the commission of a violent
6 crime, he would have to be guilty of possession of -- or
7 trafficking of methamphetamine. The State must prove beyond a
8 reasonable doubt that the weapon furthered, advanced, and
9 helped in the commission of the crime.

10 As far as the stolen pistol offense, the State must prove
11 that the defendant bought, sold, transferred, pawned,
12 received, or possessed a stolen handgun.

13 I'm going to charge you the law with regard to actual and
14 constructive possession.

15 To prove possession, the State must prove beyond a
16 reasonable doubt that the defendant had both the power and
17 intent to control the disposition or use of the
18 methamphetamine. Possession may be either actual or
19 constructive.

20 Actual possession means that the meth was in the actual
21 physical custody of the defendant. Constructive possession
22 means that the defendant had dominion and control or the right
23 to exercise dominion and control over the meth itself or the
24 property on which the meth was found.

25 Mere presence at the scene where the drugs were found is

1 not enough to prove possession. The defendant's knowledge and
2 possession may be inferred when a substance is found on the
3 property under the defendant's control. However, this
4 inference is simply an evidentiary fact to be taken into
5 consideration by you, along with other evidence, and to be
6 given the weight you decide it should have. Two or more
7 people may have joint possession of a drug.

8 Madam Forelady and ladies and gentlemen of the jury, I'm
9 going to come forward and share with you the verdict form.

10 (WHEREUPON, the Court left the bench and approached the
11 jury box.)

12 THE COURT: Madam Forelady, you have been assigned to be
13 the forelady of this jury, and your responsibility is going to
14 be to preside over the deliberation process. That essentially
15 means that you're going to ensure that everybody's voice is
16 heard. I want you to stand with me, if you will, and we'll go
17 over this verdict form.

18 It's fairly simple. It's a two-page document entitled
19 Verdict Form. It's got the State of South Carolina versus
20 Tyquan Jamar Johnson.

21 We've got three offenses that we were talking about:
22 trafficking, and it's got a place for not guilty or guilty;
23 possession of a stolen pistol, not guilty or guilty;
24 possession of a weapon during the commission of a violent
25 crime, not guilty or guilty. And as I mentioned to you

1 before, in order to be found guilty of this offense, he has to
2 be guilty of a violent offense. Trafficking of meth is indeed
3 a violent offense.

4 The verdict must be unanimous. It can't be eleven to
5 one, eight to four, six to six. Everybody has to agree.

6 I'm going to give this verdict form to you. You'll take
7 it back to the jury room, but have a seat, and I'm going to
8 talk to you a little bit more.

9 Madam Forelady, in the deliberation process, there might
10 be an occasion where one of the jurors gets up to use the
11 restroom. Stop deliberations because everybody has to
12 participate in all the deliberation process.

13 There might be questions that come up during the
14 deliberations. And if it's a question with regard to the law,
15 it's something I can answer, but you've heard the law. I
16 can't -- I don't have an opinion about the facts. That's a
17 difficult question for y'all to resolve is a question of fact.
18 That's solely your province. If your question has to do with
19 factual matters, I'm not going to be able to help you.

20 If you have in your mind a question and you don't know
21 whether it's a question of fact or law, write it down. If
22 it's something I can help you with, I will, but I don't
23 anticipate that there are going to be any questions because
24 y'all listened to the evidence, y'all have listened to the
25 law, and you'll have all the tools necessary to resolve this

1 case.

2 When you've reached a verdict, I'm going to ask that you
3 notify the bailiff. And when I've sent you out of the jury
4 room throughout the trial of this case, I tell you not to
5 begin deliberations. Once again, I'm going to tell you that
6 because I'm going to have to talk to these very fine lawyers
7 to determine whether or not they have an objection as to the
8 manner in which I've charged the law.

9 If I've inadvertently left something out or stated
10 something incorrect, I'll bring you back in here and we'll
11 resolve those issues, but otherwise, we're going to present --
12 gather up all of the documentary evidence. The bailiff will
13 take that to you and tell you to begin deliberation, but do
14 not begin deliberations until you receive instructions to do
15 so.

16 I'm going to let y'all stand and go to the jury room.
17 Thank you. Do not begin deliberations. And the two
18 alternates will stay with us.

19 A JUROR: If I can make a phone call, I can call my
20 parents.

21 THE COURT: Okay. Give her an opportunity to call her
22 parents, and the alternates will remain with us and I'll talk
23 to you here momentarily. Thank you.

24 (WHEREUPON, the jury exited the courtroom at 4:23 p.m.)

25 (WHEREUPON, the Court returned to the bench.)

1 THE COURT: All right. I want to thank y'all for being
2 here. It's not uncommon at all for someone to develop a -- a
3 problem or a conflict, and/or someone gets sick or someone
4 gets in a wreck, and you were sort of like our insurance
5 policy. As a matter of fact, we're going to ask that you have
6 a seat on the front row, because it sounds as though we might
7 have some problems with one of the jurors.

8 So do y'all have any questions of me? I will tell you
9 that you've earned a three-year exemption. If called upon to
10 serve on this jury in this courtroom, you will have earned a
11 three-year exemption. You can tell them you served this week,
12 and you will not have to serve if you choose to do so.

13 You'll also be paid handsomely for your service. I think
14 it's maybe \$25 a day and \$0.10 a mile or something like that.
15 That's hardly just compensation, but it's a small token of our
16 appreciation. And I'm going to ask you, if you would, to have
17 a seat on that -- on that front row and -- well, actually,
18 let's see if we can get the --

19 Madam Clerk, could you put them in a different room?
20 We're going to take care of some legal matters here.

21 THE CLERK: Yes.

22 THE COURT: We're going to -- and as soon as we know
23 whether or not we are going to miss a juror, we'll let you
24 know and discharge you at that time. Thank you very much.
25 And they -- follow the clerk.

1 (WHEREUPON, the alternate jurors exited the courtroom.)

2 THE COURT: Any objection to the charge?

3 MR. RICHARDSON: Judge, I could have misheard it, but I
4 thought when you were charging the trafficking portion that
5 you might have said trafficking more than 40 grams, but if
6 it's on the -- Mr. Wilson and I were discussing it. If it
7 says 400 on the verdict form --

8 THE COURT: I don't think I set forth a -- I don't think
9 I set forth the amount on the verdict form, but I can bring
10 them in and say that it's -- it's more than 400.

11 MR. RICHARDSON: What do you think?

12 MR. WILSON: Well, if it's not on the verdict form, I
13 don't --

14 MR. RICHARDSON: I'm pretty sure I heard 40, and I just
15 --

16 THE COURT: Okay.

17 MR. RICHARDSON: Out of an abundance of precaution.

18 THE COURT: All right. Well, let's -- let's bring them
19 back in.

20 All right. Can we bring the jury back in?

21 THE BAILIFF: Yes.

22 THE COURT: Is there -- is there any other objection from
23 the State?

24 MR. RICHARDSON: No, sir.

25 THE COURT: Any from defense?

1 MR. WILSON: No, sir. Judge, the only -- and I guess
2 it's not an objection because you already ruled on it. I had
3 asked that duress be charged, and I know that in your -- that
4 you covered it to some degree in your -- in your charge
5 itself, but I just feel like the word duress as opposed to --

6 THE COURT: I actually --

7 MR. WILSON: You said intimidation, and --

8 THE COURT: I think duress is in there, but -- but your
9 objection is noted.

10 MR. WILSON: Yes, sir.

11 THE COURT: All right. We're ready.

12 THE BAILIFF: Okay.

13 (WHEREUPON, the jury entered the courtroom at 4:27 p.m.)

14 MR. WILSON: Your Honor, do you need the alternates?

15 THE COURT: Yeah. It depends on whether -- have you been
16 able to make arrangements for your child?

17 A JUROR: Yes, sir.

18 THE COURT: Okay. So I don't think we need them. We'll
19 discharge them momentarily.

20 RECHARGE ON THE LAW

21 THE COURT: Ladies and gentlemen of the jury, I might
22 have inadvertently misstated the amount of grams. So I'm
23 going to charge you the -- the charge governing trafficking
24 meth in its entirety.

25 A person who knowingly sells, manufactures, delivers,

1 purchases, or brings into this state, or who provides
2 financial assistance or otherwise aids, abets, attempts, or
3 conspires to sell, manufacture, deliver, purchase, or bring
4 into this state, or who is knowingly in actual or -- actual or
5 constructive possession, or who knowingly attempts to become
6 in actual or constructive possession of 400 grams or more of
7 meth.

8 All right. I think I might have inadvertently said 40,
9 but the amount is 400, 400.

10 And we'll ask that you go back to the jury room, but do
11 not begin deliberations until we gather up the documentary
12 evidence. You may return to the jury room.

13 (WHEREUPON, the jury exited the courtroom at 4:29 p.m.)

14 THE COURT: Okay. I'm going to ask if y'all could come
15 forward and go through -- I'm going to ask that you pile up
16 everything that's in evidence.

17 And is everything up here in evidence? Is that --

18 THE COURT REPORTER: Except Number 35.

19 THE COURT: All right. Apparently, Number 35 was never
20 tendered into evidence. Do you --

21 MR. RICHARDSON: I swear I did, but she said I didn't.

22 THE COURT: Okay. Well, I don't -- I don't see where it
23 -- it probably isn't -- I can't anticipate that would make any
24 difference.

25 MR. RICHARDSON: It was the -- this chain document where

1 --

2 MR. WILSON: You ain't going to win or lose on that.

3 MR. RICHARDSON: Right.

4 THE COURT: There was testimony as to that.

5 MR. WILSON: There was.

6 MR. RICHARDSON: Yes, sir.

7 MR. WILSON: There was.

8 THE COURT: I don't think there's going to be a problem
9 with that, but that -- that will not go back into evidence.

10 MR. RICHARDSON: Okay.

11 THE COURT: All right. And is everything in this pile in
12 evidence, Mr. Richardson?

13 MR. RICHARDSON: Yes, sir.

14 THE COURT: Is there anything in the pile that's not in
15 evidence?

16 MR. RICHARDSON: Not that I'm aware of.

17 THE COURT: All right. Do you want to check it again?

18 MR. RICHARDSON: I know we have the map, which is State's

19 --

20 THE COURT REPORTER: 1 through 34. That's what I have.

21 MR. RICHARDSON: 1 through 34 is in evidence. The only
22 other exhibit was 35; right?

23 THE COURT REPORTER: 35, uh-huh.

24 MR. RICHARDSON: So that'd be everything else.

25 THE COURT: All right. And, Mr. Wilson, is everything in

1 that pile into evidence?

2 MR. WILSON: Yes, sir.

3 THE COURT: Is there anything in the pile that's not into
4 evidence?

5 MR. WILSON: Not that I'm aware of.

6 THE COURT: All right. We'll --

7 MR. RICHARDSON: And, Judge, how do you want to handle
8 the -- the firearms?

9 THE COURT: I do not -- what I'm going to do is -- I
10 think it would probably be good for me to explain to the
11 foreman. We're going to send the firearms back. We're going
12 to keep the ammunition. If they desire to look at the
13 ammunition, we will bring -- go and get the weapons and bring
14 the ammunition back.

15 MR. RICHARDSON: We don't need any fireworks back there.

16 THE COURT: We don't need any fireworks. So that's what
17 we're going to do. So let's leave the ammunition out here.
18 And if we could bring the --

19 MR. WILSON: Is there a security lock on it? Yeah. No.

20 THE COURT: Probably not.

21 MR. WILSON: There should be one through there.

22 THE COURT: But if they don't have any weapons -- any
23 ammunition, they can't do a lot of damage.

24 MR. WILSON: That's true.

25 THE COURT: Unless they start hitting one another or

1 something. So -- but let's make sure that there's no
2 ammunition that goes back.

3 If we could have the forelady here.

4 (WHEREUPON, the jury forelady entered the courtroom at
5 4:32 p.m.)

6 THE COURT: Madam Forelady, I wanted to explain to you
7 that given the fact that we've got firearms and ammunition,
8 we're going to send the firearms back.

9 THE FORELADY: All right.

10 THE COURT: If y'all desire to look at the ammunition,
11 you can. We'll come get the weapons and put the ammunition.
12 We don't want ammunition and guns to be back there.

13 THE FORELADY: Okay.

14 THE COURT: Does that sound fair?

15 THE FORELADY: Yes, sir.

16 THE COURT: All right. And just explain that to the jury
17 in case they want to look at the ammunition again. They've
18 already seen it, but if they would like to look at it again,
19 they're entitled to do so.

20 THE FORELADY: Okay.

21 THE COURT: All right. And you can return to the jury
22 room. They'll bring the documentary evidence.

23 THE FORELADY: Okay.

24 THE COURT: When they do that, they will tell you to
25 begin deliberations.

1 THE FORELADY: Okay.

2 THE COURT: And if we could have the alternates.

3 (WHEREUPON, the jury forelady exited the courtroom at
4 4:33 p.m., and the alternate jurors then entered the
5 courtroom.)

6 (WHEREUPON, jury deliberations began at 4:34 p.m.)

7 THE COURT: Y'all come on up. The -- you can just stand
8 right there. The alternate -- I mean, the juror that was
9 having difficulty with daycare, that's been resolved. So
10 we're going to discharge you from your responsibilities here
11 today.

12 Do y'all have any questions about me or the process or
13 anything? Have y'all ever served on a jury before? You know,
14 I never have. I've practiced law for 20 years, been on the
15 bench for 18, never served on a jury. I've often wanted to do
16 that. Maybe next time, keep your fingers crossed, and you'll
17 get on a regular jury. What you think?

18 THE ALTERNATE JUROR: Maybe.

19 THE COURT: Maybe? All right. Well, good luck to you
20 and thank you all so much. And y'all -- y'all are free for
21 the week. So y'all -- y'all go on and have a good -- have a
22 good holiday weekend. Thank you.

23 THE ALTERNATE JUROR: Thank you.

24 (WHEREUPON, the alternate jurors were released and exited
25 the courtroom.)

1 THE COURT: All right. Anything from the State before we
2 recess for a moment?

3 MR. RICHARDSON: Before we recess for tomorrow?

4 THE COURT: For a moment.

5 MR. RICHARDSON: Oh, for a moment. No, sir.

6 MR. WILSON: Nothing, Your Honor.

7 THE COURT: All right. Let's see if we can stay real
8 close in case they have a question, and we'll let them
9 deliberate -- deliberate for a period of time.

10 MR. RICHARDSON: Thank you.

11 MR. WILSON: Thank you, Your Honor.

12 (WHEREUPON, there was a break in the proceedings from
13 4:36 p.m. until 6:49 p.m., after which the proceedings
14 resumed as follows.)

15 THE COURT: All right. It is five minutes to seven. My
16 watch might be a little bit fast, but I propose that we bring
17 the jury out, tell them that we're going to recess for the
18 evening and be back at 9:30 in the morning. And, you know,
19 the quicker they start deliberating in the morning, probably
20 the earlier --

21 (WHEREUPON, there was a knock on the door from the
22 hallway.)

23 THE BAILIFF: The key wouldn't work.

24 THE COURT: Was that --

25 THE BAILIFF: They were wanting to come out and talk to

1 you.

2 THE COURT: Okay. Well, that's -- oddly enough, we
3 wanted to talk to them. So --

4 THE BAILIFF: Okay.

5 THE COURT: Let's -- let's bring them in.

6 The defense -- the defendant's family and friends, are
7 they still here?

8 MR. WILSON: No, sir. I think they left.

9 THE COURT: Okay.

10 MR. WILSON: At least they said they would be leaving.
11 That was maybe 30 minutes ago.

12 THE COURT: Oh, okay. All right. Very good.

13 (WHEREUPON, the jury entered the courtroom at 6:52 p.m.)

14 THE COURT: Madam Forelady, I'd be glad to hear from you.

15 THE FORELADY: We have a question about the -- the stuff
16 that you read to us in the beginning.

17 THE COURT: Right.

18 THE FORELADY: The charge.

19 THE COURT: All right. I'll tell you, is there a
20 specific question?

21 THE FORELADY: We just need a -- like, a clear
22 understanding.

23 THE COURT: Okay. Well, I'll tell you what we're going
24 to do. We're going to recess for the evening given the late
25 hour and everybody has lives that they need to attend to and

1 you need to get home, but we're going to start back at 9:30 in
2 the morning, 9:30 sharp, and we'll start with your question
3 with regard to the law.

4 And if -- and when we come back in at 9:30, we're going
5 to -- you tell me what your question is and if it's something
6 that I can help you with, I'd be happy to do it.

7 THE FORELADY: Okay.

8 THE COURT: Has it been reduced to writing? Have you
9 reduced the question to writing?

10 THE FORELADY: No, I didn't.

11 THE COURT: Okay. I'm going to ask that you do that and
12 leave that with the bailiff, and we'll address that in the
13 morning. We always might like to make those questions a part
14 of the record.

15 THE FORELADY: Okay.

16 THE COURT: Okay? Does that sound fair?

17 THE FORELADY: That's fair.

18 THE COURT: All right. Thank you all for -- these are
19 important matters. It's important to the State of South
20 Carolina. It's important to the defendant. It's important to
21 you and, clearly, y'all have taken this matter very seriously.

22 We'll regain -- I mean, resume deliberations at 9:30 in
23 the morning, 9:30. Once again, do not discuss the case
24 amongst yourselves or with anyone else, and do not do any
25 independent investigation and no social media.

1 Everyone remain seated as the jury exits the courtroom.

2 And -- and since it's dark, we have more people to escort
3 y'all to your cars. Very good. Thank you.

4 (WHEREUPON, the jury exited the courtroom at 6:54 p.m.)

5 THE COURT: Anything from the State before we recess for
6 the evening?

7 MR. RICHARDSON: Are they going to hand that question up
8 to us in the morning or before they leave?

9 THE COURT: They're going to give it to me here now.

10 MR. RICHARDSON: Okay. I didn't know.

11 THE COURT: Well, you can wait around. I'll share it
12 with you, if you'd like.

13 And Mr. Wilson?

14 MR. WILSON: Nothing, Your Honor.

15 THE COURT: Okay. Very good. Well, we'll stand at ease
16 until 9:30 in the morning.

17 I'm going to sit right here until they give me the note.
18 If you all would like to sit here, I'll share it with you, and
19 we'll contemplate it over the -- over the evening hours.

20 (WHEREUPON, there was a break in the proceedings from
21 6:55 p.m. until 6:58 p.m., after which the proceedings
22 resumed as follows.)

23 THE COURT: That's the most astonishing question I've
24 ever received. "How do you determine if the defendant is
25 guilty or not guilty?"

1 MR. RICHARDSON: Huh?

2 THE COURT: Well, my proposal -- my proposed answer to
3 that would be that they've heard all the evidence. It's their
4 job to make a findings -- findings of fact, and apply it to
5 the law as I've charged it to you. That's really the only
6 thing I can think of.

7 What do you have to say about that, Mr. Richardson?

8 MR. RICHARDSON: Yes, sir. That's it. I mean, you've
9 given them the law, and they apply the law to the facts that
10 they've heard, and that's how they get the answer.

11 THE COURT: Yeah.

12 MR. WILSON: I don't disagree with that, except that I
13 would add that they're to give the defendant the benefit of
14 any reasonable doubt that they have.

15 MR. RICHARDSON: I think that's part of the charge.

16 THE COURT: Yeah, that's part of the charge. If they ask
17 me a charge on reasonable doubt, I will. Might counsel
18 approach the bench for a moment?

19 (WHEREUPON, a bench conference was held off the record,
20 after which the proceedings resumed as follows.)

21 THE COURT: All right. We'll stand at ease until 9:30 in
22 the morning.

23 And I -- and -- yeah, I'm going to let you hang on to
24 that. Give it to me in the morning. I'll probably want to
25 refer to it again.

1 (WHEREUPON, the jury note was marked and entered as
2 Court's Exhibit Number 6.)

3 THE COURT: Thank you. All right. Good night.

4 (WHEREUPON, the proceedings adjourned for the day at 7:02
5 p.m.)

6 JANUARY 12, 2024

7 (WHEREUPON, the proceedings resumed at 9:40 a.m.)

8 THE COURT: All right. Anything from the State before we
9 proceed?

10 MR. RICHARDSON: No, sir.

11 THE COURT: Anything from defense?

12 MR. WILSON: No, sir.

13 THE COURT: All right. We're ready for the jury.

14 (WHEREUPON, the jury entered the courtroom at 9:44 a.m.)

15 THE COURT: Madam Forelady and ladies and gentlemen of
16 the jury, good morning. Looks like everybody's well rested,
17 ready to resume deliberations.

18 Madam Forelady has posed a question to me, and I believe
19 it's a fundamental root and radical question that every juror
20 is faced with. And this is the question as it was posed to
21 me: "How do you determine if the defendant is guilty or not
22 guilty?"

23 The answer to that question is y'all have sat in this
24 courtroom for the last several days, and you all have listened
25 to the evidence. You've heard the witnesses testify. Your

1 job is to evaluate their credibility.

2 In every trial that's tried in this courtroom, there is a
3 question of fact, and it's your job to resolve those questions
4 of fact and the inferences to be drawn from the facts. You
5 are to do that and apply it to the law, and I'll ask you to
6 return to the jury room and resume deliberations.

7 And we'll need to make sure that they -- all of the
8 documentary evidence is in there, with the exception of the
9 ammunition to the guns.

10 THE BAILIFF: Yes, sir.

11 (WHEREUPON, the jury exited the courtroom at 9:46 a.m.
12 and resumed deliberations.)

13 THE COURT: All right. We're ready to do business with
14 regard to probation, if y'all are ready.

15 (WHEREUPON, there was a break in the proceedings from
16 9:46 a.m. until 10:57 a.m., after which the proceedings
17 resumed as follows.)

18 THE COURT: The -- the note says due to lack of physical
19 and forensic evidence, the jury cannot make a decision. I'm
20 going to give them an Allen charge and send them back in.

21 Any objection from the State?

22 MR. RICHARDSON: No, sir.

23 THE COURT: Any from defense?

24 MR. WILSON: Yes, sir. Your Honor, my position would be
25 that if the jury is saying to the Court that they can't make a

1 decision, what is the purpose of doing an Allen charge to send
2 them back to doing something that they -- that they're saying
3 to the Court that they can't do?

4 THE COURT: What does the State have to say about that?

5 MR. RICHARDSON: Judge, I think it's a pretty standard
6 task when a jury says that they are unable to reach a decision
7 that the Allen charge is what's provided, and it's done one
8 time. And then if they send a similar thing back out, then
9 that's it.

10 THE COURT: That's -- that's my understanding of the law.
11 You -- your objection is noted, but I'm going to give an
12 Allen charge.

13 MR. WILSON: Thank you, Your Honor.

14 THE COURT: We're ready for the jury.

15 (WHEREUPON, the jury entered the courtroom at 10:59 a.m.)

16 THE COURT: Madam Forelady and ladies and gentlemen of
17 the jury, you have stated that you have been unable to reach a
18 verdict in this case. As I instructed you earlier, the
19 verdict of the jury must be unanimous. When a matter is in
20 dispute, it isn't always easy for even two people to agree.
21 So when twelve people must agree, it becomes even more
22 difficult.

23 In most cases, absolute certainty cannot be reached or
24 expected. However, you have a duty to make every reasonable
25 effort to reach a unanimous verdict. In doing this, you

1 should consult with one another, express your own views, and
2 listen to the opinions of your fellow jurors. Tell each other
3 how you feel and why you feel that way. Discuss your
4 differences with open minds.

5 Although the verdict of the jury must be unanimous, every
6 one of you has the right to your own opinion. The verdict you
7 agree to must be your own verdict, the result of your own
8 convictions, and you should not give up your firmly held
9 beliefs merely to be in agreement with your fellow jurors.

10 The majority should consider the minority's position, and
11 the minority should consider the majority's position. You
12 should carefully consider and respect the opinions of each
13 other and reevaluate -- reevaluate your position for
14 reasonableness, correctness, and impartiality. You must lay
15 aside all outside matters and reexamine the questions before
16 you based on the law and the evidence in this case.

17 If you do not agree on a verdict in this case, I must
18 declare a mistrial. In that case, it does not mean that
19 anybody wins. It just means that at some future time, I will
20 try this case with some other jury sitting where you sit now.
21 The same participants will come and the same lawyers will ask
22 basically the same questions and get basically the same
23 answers. And you will go -- and we will go through this whole
24 process again. You were selected in the same manner and from
25 the same source as any future jury will be, and there is no

1 reason for me to suppose that the case will ever be submitted
2 to twelve more intelligent, impartial, conscientious, and
3 competent jurors than you, or that more or clearer evidence
4 will be produced on one side or the other.

5 I therefore ask that you return to your deliberations
6 with hope that you can arrive at a verdict within a reasonable
7 time. I'll ask that you return to the jury room.

8 (WHEREUPON, the jury exited the courtroom at 11:03 a.m.)

9 THE COURT: Anything from the State?

10 MR. RICHARDSON: No, sir.

11 THE COURT: Anything from defense?

12 MR. WILSON: Yes, sir. Your Honor, I understood the
13 charge that His Honor gave, and I would ask the Court to add
14 to that charge or I believe that the Court should have added
15 in that charge, that the State has the burden of proof and
16 that if the State fails to meet that burden, then the -- then
17 the jury has an obligation to find the defendant not guilty.
18 In addition to that, that the -- that any doubt that the jury
19 has regarding the evidence should be resolved in favor of the
20 defendant.

21 THE COURT: Well, that -- that's basically getting into
22 recharging the law. I charged them all of that. They
23 understood that, and they've taken that into consideration.

24 But of course, the State would be in a position to ask
25 for -- you know, you don't have to prove a case with absolute

1 certainty, and it just gets into all of that. I've explained
2 all that to them. That's on the record.

3 And your objection is noted but denied.

4 MR. WILSON: Thank you, Your Honor.

5 THE COURT: All right. I understand that the jury has
6 messed up the verdict form, and they want another one. We're
7 going to reprint it, and I'm going to let you all look at it
8 and we'll resubmit it.

9 (WHEREUPON, the jury note was marked and entered as
10 Court's Exhibit Number 7.)

11 (WHEREUPON, there was a break in the proceedings from
12 11:05 a.m. until 12:08 p.m., after which the proceedings
13 resumed as follows.)

14 THE COURT: The first request is can we see all of the
15 videos again, and the answer to that is yes, and we'll bring
16 them in. How long do you think that would take?

17 MR. RICHARDSON: I mean, probably 15 -- 20 minutes.

18 THE COURT: Okay. And then the next question is what is
19 the Fourth Amendment? How about that? Did y'all mention the
20 Fourth Amendment?

21 MR. RICHARDSON: I did not.

22 MR. JEPERTINGER: Ralph may have done it. Did he do it
23 during the opening?

24 MR. WILSON: Not in front of the jury. I would remember
25 that.

1 THE COURT: I don't think so either, but it is certainly
2 relevant to this -- to this case. Unless I hear an objection,
3 I think I just need to read them the Fourth Amendment.

4 What does State have to say about that?

5 MR. RICHARDSON: Well, I mean, there -- there are
6 numerous exceptions to the Fourth Amendment that might come
7 into play.

8 THE COURT: They didn't ask about the exceptions.

9 MR. RICHARDSON: They just asked about what that is. I
10 guess you just --

11 THE COURT: Well, they asked that, and I'm going to -- do
12 you object to me reading the Fourth Amendment?

13 MR. RICHARDSON: No, sir.

14 THE COURT: All right. Does the defense -- certainly,
15 the defense doesn't object to me reading the Fourth Amendment,
16 do you?

17 MR. WILSON: Yes, sir.

18 THE COURT: You do?

19 MR. WILSON: Judge --

20 THE COURT: That inures to the benefit of the defendant.

21 MR. WILSON: I don't -- I don't disagree with the Court
22 that the Fourth Amendment is the law, but the Court didn't --
23 in its original charge, the Court didn't read anything about
24 the Fourth Amendment to this jury. I don't recall any
25 testimony about the Fourth Amendment before this jury.

1 So I don't know then that it's proper to bring something
2 extraneous from the outside, even though they've asked
3 specifically about the Fourth Amendment. I don't know that
4 it's proper when it's -- when there's no issue about it that's
5 been raised in the case and no testimony presented during the
6 course of the trial about that. I don't -- I don't know how
7 that's -- I mean, I don't --

8 THE COURT: Listen, listen, it's probably been a while
9 since you've read the Fourth Amendment. I'm going to read it
10 to you.

11 MR. WILSON: Okay.

12 THE COURT: The right of the people to be secure in their
13 persons, houses, papers, and effects against unreasonable
14 searches and seizures shall not be violated, and no warrant
15 shall issue but upon probable cause, supported by oath or
16 affirmation, and particularly describing the place to be
17 searched and the persons or things to be seized.

18 MR. WILSON: Yes, sir.

19 THE COURT: That inures to the benefit of the defendant.
20 If you don't -- if you don't want me to read it and they're
21 hesitant about it and I did not talk about it in my charge,
22 but it -- it does -- I mean, it's relevant to the case.

23 MR. WILSON: Well, it may very well be. Well, I'm not
24 even going to say that I think it's relevant. What I will say
25 is simply that it's not been raised during the course of this.

1 trial. It was not in His Honor's charge to the jury and,
2 therefore, it should not -- if they were asking for you to
3 explain something in your charge, I'd have no objections
4 whatsoever. That is not what they're asking. This -- suppose
5 they come back and ask what does the Constitution say about
6 the First Amendment? Then we're going to do that, too? I
7 mean, no, I just think that that's beyond the scope of this
8 trial.

9 THE COURT: All right. Do you --

10 MR. JEPERTINGER: I think --

11 THE COURT: Do you have an objection?

12 MR. JEPERTINGER: Yeah, I do have an objection. I kind
13 of agree with Ralph in this regard.

14 That issue in terms of suppression of illegal search and
15 seizure premised on the Fourth Amendment and the -- whatever
16 our Fourth Amendment is in the State constitution was raised
17 pretrial outside the presence of the jury, and Your Honor
18 ruled that there was no violation of the Fourth Amendment in
19 terms of the procurement of a search warrant.

20 THE COURT: All right. Since both of you all -- that's
21 all -- that's all I need to hear is that --

22 MR. JEPERTINGER: Very good.

23 THE COURT: -- you don't want it charged, and you don't
24 want it charged.

25 MR. WILSON: No, sir.

1 THE COURT: So we're in good shape with that. We will
2 not charge that.

3 Can we be refreshed on the charge regarding trafficking
4 of meth? Yes.

5 MR. JEPERTINGER: Yes, sir.

6 THE COURT: All right.

7 MR. JEPERTINGER: And, Your Honor? Your Honor, in their
8 verdict form, it said trafficking meth, but to clarify, it was
9 400 grams or more. I believe that's what Mr. Smith testified
10 to yesterday. That was in your charge, in other words?

11 THE COURT: Yes.

12 MR. JEPERTINGER: Okay. Very good.

13 MR. WILSON: Your Honor, in charging -- in charging on
14 meth, if -- and I'm -- I guess this is more of a question at
15 this point than an objection. Is the Court just charging a
16 legal definition of trafficking? Because my concern is, is
17 that if the Court is just saying this is what the definition
18 of trafficking is, I don't really have an objection.

19 My concern though is, is that if the jury -- I'm trying
20 to make sure that -- that they still understand that the
21 burden of proof is upon the State and not the defendant, and
22 I'm -- and when you charge piecemeal from your -- your charge,
23 then something gets lost in the process, and I --

24 THE COURT: I don't think it gets lost. They -- they
25 heard the entire charge.

1 MR. WILSON: Yes, sir.

2 THE COURT: And they don't have any confusion about
3 anything other than trafficking, and I'm going to --

4 MR WILSON: Well, they -- I beg to differ. The fact that
5 that's why we're back here now, they've had questions about
6 not understanding how to even decide if a person is guilty or
7 not guilty. So there is some confusion on the part of this
8 jury about what -- what their -- even what their duty is or
9 how they are to perform their duty. I think that's indicative
10 from the first question that they asked.

11 And then now, they're asking about the Fourth Amendment,
12 which has certainly not been brought up, as best I can recall,
13 during the course of this trial. Now, I don't know if
14 somebody's doing some research or if they heard something
15 about the Fourth Amendment. I don't know the answer to any of
16 that.

17 But when you look at this together, there is definitely
18 some confusion on the part of this jury about what's going on,
19 what the law is, how to perform their duties and
20 responsibilities, and when -- and my point is by giving them a
21 piecemeal by saying, okay, I'm going to tell you what
22 trafficking is without telling them that the State has the
23 responsibility to prove to their satisfaction beyond a
24 reasonable doubt, I have a real issue with that. And -- and
25 if the Court's intention is just to charge that, then I take

1 exception.

2 MR. RICHARDSON: Your Honor, at this time, I raised it
3 earlier, given their litany of questions regarding the law, I
4 think maybe it would be a good idea to consider just sending
5 the charge back with them so that they could have it and read
6 it at their leisure.

7 THE COURT: What does the State have to say about that?

8 MR. WILSON: The defense?

9 THE COURT: I mean the defense.

10 MR. WILSON: I would prefer that over a piecemeal charge
11 of one thing, yes. If I had to pick a poison, I would
12 certainly pick that one.

13 THE COURT: Well, your objection is noted on the record.
14 I'm going to charge what they've requested that I do, and I've
15 been doing it for 20 years and that's the way I've done it.
16 If they ask a question, I give them the answer to their
17 question. So that's what I'm going to do.

18 I might be wrong. You're protected on the record, and we
19 have an agreement that neither side wants me to read the
20 Fourth Amendment. All right? And we will play the video, and
21 I'm going to charge them trafficking of meth.

22 Let's -- let's bring the jury back in.

23 MR. RICHARDSON: Madam Clerk, could you queue up to where
24 things are showing on the screens, video and audio?

25 MR. WILSON: One last thing, Your Honor. During the

1 playing of these videos, there was commentary by the -- by one
2 of the officers who testified regarding the two videos. That
3 is not being played, as I understand, just the video without
4 the commentary?

5 THE COURT: Just the video. That's what they're asking
6 for is the video.

7 MR. WILSON: Okay.

8 MR. RICHARDSON: Just to clarify, we're playing the
9 videos. Some of them were on mute, as --

10 THE COURT: We're going to play them like they were
11 introduced into evidence.

12 MR. RICHARDSON: Very good. Yes, sir.

13 (WHEREUPON, the jury entered the courtroom at 12:20 p.m.)

14 THE COURT: Madam Forelady and ladies and gentlemen of
15 the jury, you've asked to see all of the videos, and we're
16 going to play those momentarily.

17 The request with regard to the Fourth Amendment, I'm not
18 going to charge that.

19 And with regard to the charge of trafficking of meth, pay
20 very close attention.

21 A person who knowingly sells, manufactures, delivers,
22 purchases, or brings into this state, or who provides
23 financial assistance or otherwise aids or abets, attempts, or
24 conspires to sell, manufacture, deliver, purchase, or bring
25 into this state, or who is knowingly act -- in actual or

1 constructive possession, or who knowingly attempts to become
2 in actual or constructive possession of 400 grams or more of
3 methamphetamine.

4 All right. And we will proceed forward with the videos.

5 (WHEREUPON, the requested videos were played. Not
6 transcribed herein.)

7 MR. RICHARDSON: Those are the videos.

8 THE COURT: All right. Madam Forelady and ladies and
9 gentlemen of the jury, I'm going to ask that you return to the
10 jury room and resume deliberations. Thank you.

11 (WHEREUPON, the jury exited the courtroom at 12:51 p.m.)

12 MR. RICHARDSON: Your Honor, I neglected to do this
13 earlier in the trial, but I probably need to put on the record
14 where the starting and stopping points are on the various
15 video exhibits.

16 THE COURT: Yes, I think that would be a good idea.

17 MR. RICHARDSON: I don't have the particular exhibit
18 numbers with me because they're in the back with the jury, but
19 on the -- the Cody Jordan video, that one I started at about
20 the 33-second mark. This is the helmet cam video. It's on
21 mute entirely and played it until about the 50-second mark.

22 Then the -- Shannon McKenzie's body camera. Those are
23 the two videos that show the location of the guns on the
24 ground and the roof. On his first one, I started it at 9:15
25 minute mark on mute and ended at 10:42. On his second one, I

1 started it at 1:15 on mute and ended it at 3:30.

2 Then on Officer Buxton on his first video where the
3 Miranda warnings are read, I started it at 13 minutes even
4 with audio playing and ended it at 13:45.

5 With Officer Spears, audio playing, I started at 17:30
6 mark and ended it at 23:35 mark.

7 And on Officer Buxton's second video, I started at the
8 beginning, muted it at the 4:00 mark and then played it until
9 the end.

10 THE COURT: Very good. All right. We'll stand at ease.

11 (WHEREUPON, the jury note was marked as Court's Exhibit
12 Number 7.)

13 (WHEREUPON, there was a break in the proceedings from
14 12:54 p.m. until 1:34 p.m., after which the proceedings
15 resumed as follows.)

16 THE COURT: I understand we have a verdict. Before we
17 bring the jury in, I want everybody to understand that not
18 only am I supposed to preside over these proceedings, but it's
19 my responsibility to ensure that there's order maintained in
20 this courtroom, and these are important matters. It's
21 important matters to the State and to the defense and to the
22 defense's family.

23 There will be no outbursts. We have law enforcement
24 officers here. If there is -- if you feel as though you can't
25 maintain the proper demeanor and you feel like you can't

1 resist the need to have an outburst, you need to leave right
2 now before the reading of the verdict.

3 But if there is an outburst, I'm going to order these
4 officers to take whoever has the outburst into custody, and we
5 will deal with them accordingly. And in the event the verdict
6 is positive for the defendant, we aren't going to have any
7 celebration. Everybody's going to keep the proper demeanor
8 here today. Does everybody understand that?

9 UNIDENTIFIED PEOPLE: Yes, sir. Yes, sir.

10 THE COURT: Very good.

11 All right. We're ready for the jury.

12 (WHEREUPON, the jury entered the courtroom at 1:36 p.m.)

13 THE COURT: Madam Forelady, have you reached a verdict?

14 THE FORELADY: Yes, Your Honor.

15 THE COURT: Is it unanimous?

16 THE FRELADY: Yes, Your Honor.

17 THE COURT: All right. I'm going to ask you, if you
18 could, to give the verdict form to the bailiff.

19 All right. The verdict form is in proper order.

20 I'm going to ask that you publish it.

21 VERDICT

22 THE CLERK: State of South Carolina, County of Florence,
23 in the Court of General Sessions, Case Number 2023-GS-21-1976,
24 2023-GS-21-378, and 2023-GS-21-379, State of South Carolina
25 versus Tyquan Jamar Johnson, verdict form.

1 As to the offense of trafficking methamphetamines, we,
2 the jury, unanimously -- unanimously find the defendant
3 guilty.

4 As to offense of possession of stolen pistol, we, the
5 jury, unanimously find the defendant not guilty.

6 As to the offense of possession of a weapon during
7 commencement -- commencement --

8 THE COURT: Commission.

9 THE CLERK: -- of a violent crime, we, the jury,
10 unanimously find the defendant guilty.

11 Signed by the forewoman on the 12th day of January, 2024.

12 Madam Forelady and members of the jury, if this is your
13 verdict, please raise your right hand.

14 (WHEREUPON, all jurors complied.)

15 THE CLERK: Okay. Thank you.

16 THE COURT: Any additional requests for polling?

17 MR. RICHARDSON: No, sir.

18 MR. WILSON: No request for polling, Your Honor.

19 THE COURT: Very good. All right.

20 Madam Forelady and ladies and gentlemen of the jury, I
21 want to -- the law doesn't allow me to comment. Even after
22 the fact, I can't comment on the facts, but what I can do is
23 thank you for your service. You've been able to do what
24 nobody's been able to do in this courtroom, and that's bring
25 closure to this matter, and I want to thank you for that.

1 You've earned a three-year exemption. If called upon to
2 serve in this courtroom within the next three years, you tell
3 them you served this week, and you'll be -- you'll be entitled
4 to an exemption, and if you choose to do so.

5 You'll be paid handsomely for your service. I think it's
6 \$25 a day and maybe \$0.10 a mile. That's hardly just
7 compensation, but it's a small token of appreciation for your
8 service.

9 Do y'all have any questions? How many of you have never
10 served on a jury before? Well, you know, I think I've said
11 earlier I practiced law for 18 years and been on the bench --
12 or practiced law for 20 years and been on the bench for 18
13 years, and I've never served on a jury before, and I've always
14 wanted to do that.

15 I appreciate what you've done, and I'll answer any
16 questions that y'all have. Hopefully, y'all have learned a
17 little bit more about how our judicial system works for those
18 who've never served before. Do y'all have any questions?

19 Yes, sir?

20 A JUROR: I want to know what the Fourth Amendment is.

21 THE COURT: It's the -- it is an amendment to the
22 Constitution that prohibits unreasonable search and seizure,
23 and that sort of is involved in this case but was not really
24 one of the issues that was brought before this Court here
25 today. And this is -- hang on just one second and I'll just

1 read it to you.

2 The right of the people to be secure in their persons,
3 houses, papers, and effects against unreasonable searches and
4 seizures shall not be violated. No warrant shall issue but
5 upon probable cause, supported by oath or affirmation, and
6 particularly describing the place to be searched and the
7 person or things to be seized.

8 That is the Fourth Amendment, which protects all of us in
9 the United States against unreasonable searches and seizures,
10 and it -- that was not an issue in this case, at least not
11 before y'all with regard to the factual issues.

12 And this is a first. I have been on the bench for a long
13 time. I always ask people if they have any questions. Nobody
14 -- nobody ever asked me a question, but, well, there's a first
15 for everything.

16 Thank y'all. Y'all have discharged your duty. Your job
17 is to listen to the facts, render a verdict, and your duty has
18 been discharged. However, this is a public forum. And at
19 this juncture, I will call upon Mr. Wilson to bring his client
20 forward, and we -- and I will sentence him. That's my job as
21 a -- as the arbiter of the law. And y'all are welcome to
22 participate or to observe that.

23 Those of you who would like to observe the sentencing,
24 since you have time invested in it, you're welcome to have a
25 seat there. Those of you who would like to get on with your

1 weekend, you're welcome to leave at this time. And -- oh,
2 yeah, the -- the -- the health food that we ordered for you
3 from Miguel's is back there, and y'all -- and it'll be to go
4 so y'all can put it in the microwave when you get home or
5 y'all can stay back there in the jury room and have a good
6 time and eat it there as well.

7 All right. Those of you who would like to leave, you can
8 leave at this time. Otherwise, you can remain seated.

9 MR. WILSON: Your Honor, do you want to hear motions at
10 this point or --

11 THE CLERK: She can go. Go ahead. You can go.

12 THE COURT: We can entertain motions at this time if
13 you'd like to do so or if you would rather wait until after
14 the sentencing. Either is fine.

15 MR. WILSON: However you --

16 THE COURT: All right. Why don't we go forward with the
17 sentencing and then we'll have plenty of time to address those
18 issues later?

19 MR. WILSON: All right.

20 THE COURT: Certainly, you have ten days. You have ten
21 days to do it anyway.

22 MR. WILSON: Yes, sir.

23 THE COURT: Okay. All right. And -- and I'll -- I'll
24 recognize the State with regard to sentencing.

25 MR. RICHARDSON: Thank you, Your Honor.

1 You've heard the facts of the case. I don't need to go
2 over that again. I will go over the defendant's prior
3 history. He's got a federal record and a state record. So
4 I'll go over the federal history first.

5 In 2007, he had cocaine sales and public order crimes,
6 possession of a weapon. That was disposed of in 2008 with a
7 63-month jail time. It looks like four years supervised
8 release.

9 He had a conditional release violation in 2012, and time
10 was revoked on that. He was committed for five months based
11 on that violation.

12 In terms of a state record, that goes back to the early
13 2000s. Criminal conspiracy in 2002. Assault and battery of a
14 high and aggravated nature in 2002. He did an active youthful
15 offender prison sentence on that.

16 Loafing and loitering, 2004. Driving without a license,
17 2005. A parole revocation on the YOA in 2006. Breach of
18 peace in 2013. Failure to stop for a blue light and child
19 endangerment in 2014. Financial transaction card theft and
20 two counts of financial transaction card fraud in 2015.
21 Assault and battery, third degree, in 2015. Possession of
22 marijuana in 2016.

23 And, Your Honor, in addition to these charges, he is also
24 out on -- or was out on bond for murder and some other charges
25 when this occurred, and those are still pending and have to be

1 dealt with.

2 THE COURT: All right.

3 All right. Mr. Wilson, you're recognized. I'll be glad
4 to hear from you, your client, and anybody who would like to
5 speak on his behalf.

6 MR. WILSON: Thank you, Your Honor. I'll be brief.

7 The Court has heard the defendant testify, so there's not
8 a lot I can add to that. You understand the -- the testimony
9 that was -- that he presented to this Court about his
10 situation and about why he claimed the drugs that this Court
11 has found him guilty of today. That was his explanation.
12 That's been his position throughout this process.

13 And, obviously, this was an issue for a jury to make a
14 determination. They made a determination. Whether we agree
15 with it or disagree with it is immaterial. That's their role,
16 and they did that.

17 I would simply ask the Court, Your Honor, to --
18 understanding that these are very -- obviously very serious
19 charges and -- and to some degree, the Court has very limited
20 ability to do anything beyond what the statute allows, and I
21 understand that as well. So I just ask the Court for whatever
22 mercy the Court can -- can grant this defendant.

23 THE COURT: All right. Mr. Johnson, would you like to
24 say anything?

25 THE DEFENDANT: I'd just like to say he did a great job,

1 man, and still, if I go back to the day and just this
2 happened, I still would take the charge for my mom and it
3 wouldn't matter.

4 THE COURT: Very good.

5 THE DEFENDANT: I apologize for the jury being here today
6 too still.

7 THE COURT: All right. Very good.

8 All right. And the trafficking offense is a violent
9 offense which will adversely affect your custody status, and
10 you're aware of that. And it's a serious offense subject to
11 the three-strike rule, and everybody's in agreement that it's
12 a minimum mandatory 25, maximum 30. Is that correct?

13 MR. RICHARDSON: Yes, sir.

14 THE COURT: None of that 25 can be suspended in any way,
15 shape, or form. Isn't that correct?

16 MR. RICHARDSON: That's correct.

17 THE COURT: All right. How much time is he entitled to
18 credit for?

19 MR. RICHARDSON: Your Honor, he --

20 MR. WILSON: I'm not sure, Your Honor.

21 MR. RICHARDSON: He was arrested on the day of this event
22 and has been in continuous custody since on these charges. So
23 it would be from May the 4th of '22.

24 MR. WILSON: Approximately 20 months.

25 THE COURT: All right. We'll probably need to put a date

1 of that. Let's -- let's do that.

2 MR. WILSON: May the 4th. He was arrested May 4th.

3 THE COURT: All right.

4 MR. HOPE: 618 days.

5 THE COURT: 618 days. Mr. Hope is all over it. 618
6 days.

7 (WHEREUPON, there was a pause in the proceedings, after
8 which the proceedings resumed as follows.)

9 SENTENCE

10 THE COURT: Mr. Johnson, on Indictment 2023-GS-21-01976,
11 trafficking in meth, the sentence of the Court is that you be
12 committed to the State Department of Corrections for a period
13 of 25 years. The sentence is to run concurrent, and credit
14 for 618 days.

15 With regard to Indictment 2023-GS-21-00379, possession of
16 a weapon during the commission of a violent crime, the
17 sentence of the Court is you be committed to the State
18 Department of Corrections for a period of 5 years. Sentence
19 is to run concurrent. Credit for 618 days.

20 Good luck to you.

21 MR. WILSON: Thank you, Your Honor.

22 MR. RICHARDSON: Thank you, Judge.

23 MR. WILSON: Your Honor, I would like to go ahead and put
24 these motions on the record --

25 THE COURT: Yes.

1 MR. WILSON: -- today --

2 THE COURT: Yes.

3 MR. WILSON: -- if at all possible.

4 THE COURT: Yes, we can do that.

5 MR. WILSON: All right.

6 THE COURT: And you can just have a seat there.

7 MR. WILSON: Yes, sir. It will be quick.

8 THE COURT: And Madam Forelady and ladies and gentlemen
9 of the jury, you have discharged your duty. Thank you so
10 much. Y'all have a good weekend and enjoy your meal.

11 (WHEREUPON, the remaining jurors exited the courtroom.)

12 MR. WILSON: Your Honor, I'll be brief. I just -- you
13 know, just -- and I'm doing this just so that we won't have to
14 do a written motion to submit to the Court.

15 At this point, we would move for a judgment of acquittal
16 notwithstanding the verdict or for a new trial, whichever the
17 Court deems appropriate.

18 Your Honor, in regards to the verdict, I would -- I would
19 submit to the Court that the jury came back, said that they
20 were unable to reach a verdict. It was after that that the
21 Court ordered that they go back under an Allen charge and --
22 and try to -- to -- you know, try to come up with a decision
23 and -- and my position over the years has been that and I
24 still believe that that Allen charges are sometimes punitive
25 when it comes to a defendant because usually in the Allen

1 charge, there is no mention of the fact that -- that the State
2 has the burden and that if they have any disagreement, that
3 the defendant has a right to the benefit of any doubt.

4 That is not a part of most of the Allen charges that I've
5 ever heard. And I understand that, and that's why I'm making
6 this motion in the way that I'm making it, because I do think
7 that that's something that the Supreme Court ought to consider
8 or should consider in these Allen charges in general.

9 And I'm not saying that the Court's not following the law
10 because, as I understand it, that's been the law as it -- as
11 it stands now. I just think that -- that that needs to be
12 added, which is why I asked about it during the course of the
13 -- of the -- of the Allen charge.

14 In addition to that, Your Honor, I would like to renew
15 all of the motions that I made during the course of the trial,
16 renew the objections that I made during the course of the
17 trial, and I think that's it.

18 THE COURT: All right.

19 MR. WILSON: Thank you.

20 THE COURT: And renew your motion for a directed verdict?

21 MR. WILSON: Yes, sir. And I renew for a directed
22 verdict.

23 THE COURT: All right. Mr. Jepertinger?

24 MR. JEPERTINGER: I think all the issues have been
25 litigated thoroughly throughout the course of this trial,

1 including the Allen charge and suppression motions, the
2 identity of the confidential informant and everything objected
3 to. And I think you placed everything on the record, and I
4 think you had legal reasons to do what you did, Judge. Thank
5 you.

6 THE COURT: All right. Well, both -- the advocates for
7 both sides did a very fine job, very efficient trial and in a
8 very professional way.

9 I wish you the best of luck, Mr. Johnson. Good luck.

10 MR. WILSON: Thank you, Your Honor.

11 (WHEREUPON, the proceedings ended at 1:55 p.m.)

12

13 --- END REQUESTED TRANSCRIPT ---

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WITNESSES

Kevin A Buxton Florence, Police Department

DOCKET NO. 2023-GS-21-00379

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

MARCH TERM 2023

THE STATE

vs.

TYQUAN JAMAR JOHNSON

Ryan White

ARREST WARRANT NUMBER

2022A2120200709

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 3/1/23

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

WEAPONS / POSS. WEAPON DURING
VIOLENT CRIME, IF NOT ALSO
SENTENCED TO LIFE WITHOUT PAROLE
OR DEATH

DOUGLAS POLICE DEPARTMENT
CCCP & GS
FLORENCE COUNTY, SC

2023 MAR -9 2:30

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

INDICTMENT FOR

WEAPONS / POSS. WEAPON DURING
VIOLENT CRIME, IF NOT ALSO SENTENCED
TO LIFE WITHOUT PAROLE OR DEATH

At a Court of General Sessions, convened on MARCH 9, 2023 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE – WEAPONS / POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO
SENTENCED TO LIFE WITHOUT PAROLE OR DEATH**

CDR: 0549 16-23-0490

That Tyquan Jamar Johnson did in Florence County, on or about May 4, 2022, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, 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

STATE OF SOUTH CAROLINA

COUNTY OF Florence

STATE

VS.

Tyquan Jamar Johnson

AKA:

Race: Black Sex: M Age: 39DOB: 1-1984 SS#: [REDACTED]Address: N Lawson StCity, State, Zip: Florence, SC 29501-2174DL# [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023-GS-21-00379AW#: 2022A2120200709Date of Offense: 5/4/2022S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death 0-5In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s Initials):

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:
[Signature]
Solicitor74742
SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 172-24☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.6/18 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Tyquan Jamar Johnson INDICTMENT/CASE#: 2023-GS-21-00379

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SODPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	128.75
TOTAL		\$	128.75

Clerk of Court/Deputy Clerk: E. Ragni
Court Reporter: K. SmithPresiding Judge: Michael J. Trotter
Judge Code: 2140
Sentence Date: Jan 12, 2024

WITNESSES

Kevin A Buxton Florence Police Department

MATT RYAN MR

DOCKET NO. 2023-GS-21-01976

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JULY TERM 2023

THE STATE

vs.

TYQUAN JAMAR JOHNSON

Ryan White

ARREST WARRANT NUMBER

2023GS2101976

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 7/13/23

VERDICT

Foreperson of Petit Jury

Date:

Indictment for
TRAFFICKING METHAMPHETAMINE

2023 JUL 13 PM 4:50

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF FLORENCE)

TRAFFICKING METHAMPHETAMINE

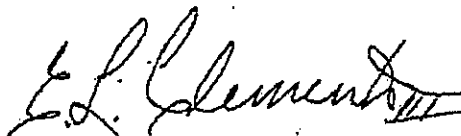
At a Court of General Sessions, convened on JULY 13, 2023 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE - TRAFFICKING METHAMPHETAMINE

CDR: 0370 44-53-0375(C)(5)

That Tyquan Jamar Johnson did in Florence County on or about May 4, 2022, 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 Methamphetamine in an amount of four hundred grams or more, same being a controlled substance all within the meaning of Section 44-53-110, et seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized and in violation of Section 44-53-375(C)(5), S. C. Code of Laws, 1976, as amended, for the crime of trafficking.

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

STATE OF SOUTH CAROLINA

COUNTY OF Florence

STATE

VS.

Tyquan Jamar Johnson

AKA:

Race: Black Sex: M Age: 39DOB: -1984 SS#: [REDACTED]Address: N Lawson StCity, State, Zip: Florence, SC 29501-2174DL# [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023-GS-21-01976AW#: 2023GS2101976Date of Offense: 5/4/2022S.C. Code §: 44-53-0375(C)(5)CDR Code #: 0370

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above Indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Drugs / Trafficking in meth. or cocaine base - 400 g or more (Felony, 25Y to 30Y) + \$200,000.00 fineIn violation of § 44-53-0375(C)(5) of the S.C. Code of Laws, bearing CDR Code # 0370
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives
 Presentment to Grand Jury. (def.'s Initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

[Signature] 74742
 Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term 25 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ____ years

and/or to pay a fine of \$____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable; the balance is suspended with probation for ____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 1-12-24☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SDOC.618 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Tyquan Jamar Johnson INDICTMENT/CASE#: 2023-GS-21-01976

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
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§14-1-213 (Drug Court Surcharge)	\$150	\$	150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	8.25

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
- ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL

\$ 283.25

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Presiding Judge: _____
Judge Code: _____
Sentence Date: _____

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter

Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

May 07 2025

SC Court of Appeals

This 7th day of May, 2025.

RECEIVED

May 07 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County

Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYQUAN JAMAR JOHNSON,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Brian H. Gibbs, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 7th day of May, 2025.



Wanda H. Carter

Deputy Chief Appellate Defender