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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANGEL MISAEAL IBARRA,

APPELLANT.

APPELLATE CASE NO. 2022-000774

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1 she like everybody else had a job and I could not
2 excuse her. I don't find anything based on race or
3 even -- at all. So I'm going to deny the motion.

4 MR. SAUNDERS: Thank you, Your Honor.

5 THE COURT: Thank you. Tell the
6 bailiff that the jury can be excused and I'll see
7 them at a quarter to 9 in the morning. All right.
8 I'll take up pretrials after lunch, say at 1:30.
9 Let me get this other jury picked. I'll see y'all
10 at 1:30.

11 MS. OPPENHEIMER: Thank you, Your
12 Honor.

13 MR. SAUNDERS: Thank you.

14 (WHEREUPON, court was adjourned on this
15 case until 1:30 p.m.)

16 THE COURT: All right. Any motions
17 from the State?

18 MS. OPPENHEIMER: Your Honor, just
19 briefly. We would make a motion to exclude any
20 mention of the codefendant's statements in this
21 case as hearsay. We don't intend to call the
22 codefendant as a witness. He wasn't on our witness
23 list. He wasn't on any witness list of the
24 Defense's, so we'd move to exclude that or any
25 reference to it as hearsay.

1 And then we would also move to exclude
2 any statement made by the Defendant. About a month
3 after this incident, Your Honor, the Defendant and
4 his attorney sat down with Investigator Dabkowski
5 and Investigator Colwell with the Richland County
6 Sheriff's Department and gave a statement
7 minimizing his involvement in this case.

8 The State's argument is that it's
9 self-serving hearsay and is not applicable under
10 the rules and should not be admitted.

11 THE COURT: All right. Mr. Saunders,
12 let me hear about the codefendant's statement
13 first.

14 MR. SAUNDERS: Well, Your Honor, and I
15 don't know that the codefendant helps us in this.
16 And the codefendant is not going to be testifying.

17 THE COURT: It would be one thing if he
18 was.

19 MR. SAUNDERS: Right. Right. Right.
20 So I don't -- yeah, I don't intend to go into
21 things that the codefendant said, I don't believe,
22 Your Honor. So at this moment, I don't intend to
23 do that, Your Honor, unless something changes.

24 THE COURT: Well, if something comes up
25 during the process of this trial then we'll revisit

1 that.

2 Let me ask you about the Defendant's
3 statement that he gave.

4 MR. SAUNDERS: I've read the brief,
5 sort of a report of that, and, Your Honor, I don't
6 intend to go into that.

7 THE COURT: Okay. All right. So this
8 is the ruling: We're not going to go into the
9 codefendant's statement unless something is brought
10 to the attention of the Court and then I'll revisit
11 that along with the Defendant's statement that he
12 gave law enforcement. We're not going to go into
13 that unless somebody opens the door somewhere or
14 it's brought to the Court's attention.

15 MS. OPPENHEIMER: Yes, Your Honor.

16 THE COURT: All right. Next motion?

17 MS. OPPENHEIMER: Your Honor, we would
18 move to exclude any mention in front of the jury
19 about this charge, specifically the trafficking
20 heroin charge carrying a mandatory minimum of 25
21 years. We believe that will just play to their
22 sympathies and pull on their heart strings. It's
23 not relevant at all. So we believe there should be
24 no mention whatsoever as to the mandatory minimum
25 or any potential punishment or sentence that this

1 THE COURT: Well, number one, I don't
2 know that there was an enforceable plea agreement.
3 I don't see anything in writing, you know. But on
4 top of that, even if there was an agreement and I
5 believe, you know, that there probably was an
6 agreement to give him a deal from everything I've
7 read, 0 to 15 years; however, the State certainly
8 didn't bargain for him going out and committing a
9 burg first and an armed robbery in order to get
10 that deal.

11 So, therefore, I'm going to deny that
12 motion.

13 MR. SAUNDERS: Thank you, Your Honor.

14 THE COURT: You're welcome. The next
15 motion?

16 MR. SAUNDERS: Your Honor, I don't --
17 there's been some talk about gang affiliation and I
18 just don't know the State's intention to provide
19 any testimony regarding that.

20 MS. OPPENHEIMER: We don't intend to
21 bring that up in our case in chief.

22 THE COURT: Yeah, I'm not going to
23 allow anything gang related.

24 MR. SAUNDERS: Thank you, Your Honor.

25 THE COURT: Unless y'all can show me

OPENING STATEMENT BY MS. GARRICK

1 Okay. With that said, any objection
2 from the State as to my opening?

3 MS. OPPENHEIMER: None from the State,
4 Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. SAUNDERS: No, Your Honor.

7 THE COURT: All right. Is the State
8 ready to proceed?

9 MS. OPPENHEIMER: We are, Your Honor.

10 THE COURT: We'll be happy to hear from
11 you.

12 MS. GARRICK: Thank you, Your Honor.
13 May it please the Court.

14 THE COURT: Yes, ma'am.

15 OPENING STATEMENT

16 BY MS. GARRICK:

17 MS. GARRICK: I want to introduce
18 myself again. My name is Angela Garrick and Kelly
19 Oppenheimer and I are the State's attorneys for the
20 solicitors in this case. We'll be presenting the
21 case to you for your determination. The first
22 think I want to tell you is, if I have a coughing
23 attack, don't pay -- I do not have COVID. I
24 promise. I have been checked and checked and
25 checked. I get a pre-summer cold every year, this

OPENING STATEMENT BY MS. GARRICK

1 time of year, so I just don't want to do anything
2 that will distract y'all and make y'all
3 uncomfortable because this case is so very, so
4 very, very important.

5 The Judge has told you a little bit
6 about what it's like to be a juror, but I'd like to
7 tell you, I've been doing this 30 something years
8 and I've had a lot of conversations with jurors
9 after trials and they tell me that when they sat
10 where you're sitting now, they were nervous. They
11 were a little bit anxious. They felt a little bit
12 uncomfortable because they didn't know what really
13 was going to be asked of them. Ladies and
14 gentlemen, you're going to be fine. Everything is
15 going to go the way the Judge has told you. When
16 you left that gallery and came into this jury box,
17 you brought everything with you that you need to
18 make a good decision.

19 You brought your life experiences and
20 you brought your common sense. That's what you
21 need. The three L's: Look at the evidence, listen
22 to the testimony, and follow the law. That is what
23 is required for you to fulfill your juror's oath
24 that you just took. The three L's.

25 Now, ladies and gentlemen, you've heard

OPENING STATEMENT BY MS. GARRICK

1 | that Mr. Ibarra is presumed innocent. He is. He
2 | is presumed innocent and it's the State's job to
3 | convince each and every one of you beyond any
4 | reasonable doubt that he is guilty of the four
5 | charges. But please notice it's not proof beyond a
6 | shadow of a doubt. You don't have to be a hundred
7 | percent convinced. That would be impossible.
8 | There's no way that a state's attorney could
9 | convince twelve different people from twelve
10 | different backgrounds a hundred percent of
11 | something. That is not the burden the state has.
12 | It's proof beyond any reasonable doubt.

13 | There are few things that you can know
14 | with absolute certainty. But after you've looked
15 | at the evidence, you've listened to the testimony
16 | and you followed the law, if you are firmly
17 | convinced that Mr. Ibarra is guilty, then you must
18 | find him guilty.

19 | He's charged with four different
20 | criminal offenses: Possession of meth. You'll
21 | hear testimony that meth was found in his bedroom.

22 | Unlawful possession of a pistol.
23 | You'll hear when he was arrested pursuant to a
24 | traffic stop he had a gun shoved down in the seat.
25 | Not a concealed weapons permit holder, no exception

OPENING STATEMENT BY MS. GARRICK

1 applied. That's unlawful carrying of a pistol.

2 Possession of a weapon during the
3 commission of a violent crime. The violent crime
4 is trafficking heroin. That's a statutory
5 designation. The weapons. You're going to hear
6 many weapons found pursuant to a search warrant at
7 his home and at his shed at [REDACTED] Leica Lane.

8 Trafficking heroin, 28 grams or more.
9 The highest level of trafficking there is in state
10 court. Trafficking heroin.

11 You're going to hear from a chemist who
12 performed analysis of the drugs, the meth and the
13 heroin. You're going to hear that the amount it's
14 over three times that legal limit. That 28 we had
15 to prove, 28 or more. You're going to hear about
16 that.

17 Now, ladies and gentlemen, how did this
18 case happen? How did it come to be? You're going
19 to hear that in late September/October of 2018,
20 Richland County Sheriff's Department narcotics
21 officers contacted Lexington County narcotics
22 officers and said, hey, y'all need to look at Angel
23 Ibarra, he lives at [REDACTED] Leica Lane in West Columbia
24 and he's involved in a drug enterprise.

25 So what happens? Lexington County,

OPENING STATEMENT BY MS. GARRICK

1 this officer here, Meg Dabkowski jumps on it.
2 Starts working the case. She's going to tell you
3 what she saw, what she heard, what she did. They
4 start working the case.

5 It all boils down to October 24th of
6 2018, there is a major operation planned. It
7 involves Lexington County, it involves Richland
8 County, it involves the SWAT team and all their
9 specialized equipment. It even involves a Richland
10 County plane that provides aerial assistance.
11 They're going to serve a search warrant at the
12 Defendant's home in West Columbia that address,
13 that [REDACTED] Leica Lane, West Columbia. Search warrant
14 looking for evidence of this young man's drug
15 enterprise.

16 So what do you think they're looking
17 for? Drug enterprise? They're looking for guns,
18 ammo, drugs and money. Guns, ammo, drugs and
19 money. And, ladies and gentlemen, you will find,
20 there will be evidence and testimony of all of
21 those things. You'll hear that that morning when
22 all the officers met and finalized the plans
23 because SWAT doesn't go out on every search
24 warrant, just the high level risky search warrants.
25 When there are dangerous drug dealers who are known

OPENING STATEMENT BY MS. GARRICK

1 to have weapons and other workers involved in the
2 drug trade.

3 When that was planned that morning,
4 Angel Ibarra had been home. It's a Wednesday
5 morning. A random Wednesday morning during the
6 week, October 24th, he leaves the home in a
7 vehicle. They decided to go ahead and execute the
8 search warrant. They go to the house, you're going
9 to hear about that, how entry was made. You'll
10 also hear how other SWAT members pulled over the
11 Defendant, he goes by Ace. That's his street name.
12 They pull Ace over. They stop him on his way back
13 to the house and what's in that vehicle? Guns,
14 ammo, money, a lot of money.

15 He has a pistol shoved down in the side
16 of the seat. There's magazines and ammo and other
17 things related to drug enterprise in the vehicle.
18 The search warrant, what does it produce? You're
19 going to hear about it. You're going to see
20 photos, you're going to have items in evidence that
21 are going to be for you to observe. Guns, ammo,
22 drugs and money. In the shed behind the house
23 which is the hub of the drug activity. Lots of
24 guns. Long guns, short guns, ammo. Drugs? Yes.
25 Lots of drugs. Cash money.

OPENING STATEMENT BY MR. SAUNDERS

1 What else do you think would be
2 involved in a drug enterprise? A cutting agent
3 that you mix with heroin? Yep. Digital scales. A
4 surveillance system from the house that shoots the
5 feed to the shed. Now that's interesting.

6 Search of the house. Drugs in the
7 Defendant's bedroom. Scales in his 15-year-old
8 brother's bedroom. Money. In the shed, I forgot
9 to mention, there's balloons. Balloons are used to
10 put drugs in to transport. You can tie them up,
11 you can move them easily. That's found in the
12 shed. Some were found in the house. Evidence of a
13 drug enterprise, ladies and gentlemen. That's what
14 this case is about.

15 Harrison Saunders is one of the nicest
16 and accomplished defense attorneys you will ever
17 meet. And he no doubt is going to do a fine job
18 representing his client and being an advocating for
19 his client, Ace.

20 This handsome young man made a lot of
21 bad life choices, ladies and gentlemen. And in
22 2018, he was wrapped up in a big part of a drug
23 enterprise here in Lexington County and the State
24 is going to prove all of this to you beyond any
25 reasonable doubt. Thank you.

OPENING STATEMENT BY MR. SAUNDERS

1 THE COURT: Thank you, Ms. Martin. Mr.
2 Saunders?

3 MR. SAUNDERS: Thank you, Your Honor.
4 May it please the Court.

5 THE COURT: Yes, sir.

6 OPENING STATEMENT

7 BY MR. SAUNDERS:

8 MR. SAUNDERS: Good morning, ladies and
9 gentlemen. My name, again, Harrison Saunders and I
10 represent Angel Ibarra. The service now that
11 you're involved in, being on a jury, I know that
12 you get a jury summons in the mail, some people get
13 frustrated. You know, it's inconvenient, it takes
14 you away from your work and your family, from your
15 life and it just seems like why do I have to do
16 this? And I'll tell you and you hear it on TV, you
17 know, it gets sort of grandized on television, you
18 know, jury service in the criminal system, but what
19 you're doing right now is so very important.
20 Because like you, Angel Ibarra is a citizen of this
21 country.

22 And as a citizen of this country, he
23 cannot be just taken from his home and jailed and
24 left there. Charged with a crime without having
25 some sort of recourse, some way to challenge that

OPENING STATEMENT BY MR. SAUNDERS

1 evidence, some way to hold the government
2 accountable. And it could happen to any of us.
3 I'm not saying that any one of you would be
4 involved in heroin or guns or that kind of thing,
5 but something could happen to every one of us. Me,
6 you, where the police someone, the police someone
7 else, they say you did something and you get
8 arrested. You're accused of something.

9 And think about when you're reading the
10 paper and you read about somebody accused of a
11 crime, I do it, we all do it. You know what, I'm
12 glad they got that guy. I can't believe what they
13 did. We don't think about the other side of this.
14 Maybe they didn't do it. Maybe there's some
15 circumstances here to give rise to the person not
16 doing exactly what the paper said, not doing
17 exactly what the government said.

18 And we're asking you to sit here and
19 listen to what you hear on the witness stand.
20 Think about what's going on. We have a citizen of
21 this country. The government has brought -- they
22 brought these serious charges against him. Very
23 serious. These charges will impact his life. If
24 he is convicted, the impact that it will have on
25 him is severe. It's very serious and he's come

OPENING STATEMENT BY MR. SAUNDERS

1 forward and said, I'm not guilty. He sits over
2 there and he relies upon you. He relies upon you.

3 And we've gone through this jury
4 selection process and the State and the Defense,
5 we're all satisfied. We all agreed upon all of
6 you. You are the jurors that will be fair and
7 impartial. I'm asking you to not pass judgment on
8 Angel Ibarra. I'm asking you to listen to the
9 evidence. I'm asking you to wait until the end of
10 this trial to make a decision.

11 Now, the State talked about the burden
12 of proof. Okay. The burden of proof, this beyond
13 a reasonable doubt. The State has to bring proof
14 beyond a reasonable doubt. What is a reasonable
15 doubt? Well, it's that kind of doubt that would
16 cause a reasonable person to hesitate to act. And
17 what is proof beyond a reasonable doubt? Well, I
18 think it's proof that leaves you firmly convinced
19 of the Defendant's guilt. And that's what you're
20 going to have decide. Am I firmly convinced?

21 Now, like I was saying with you being a
22 citizen of this country, Mr. Ibarra being a
23 citizen, we are innocent until proven guilty. The
24 government comes forward, brings these charges.
25 Innocent until proven guilty. It's not a punch

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 line. It's not a TV show. It is a real thing.
2 And I think through this trial, you will see that
3 it is a real thing. This is reality for Angel
4 Ibarra. Innocent until proven guilty. And all of
5 us enjoy that right. No matter if it's a speeding
6 ticket or something like this.

7 So please listen, please wait until the
8 end of this until you've heard everything in this
9 case. Think about him sitting over there and he
10 is, as they say, it's a little dramatic, but he is
11 shrouded in a cloak of innocence. And until the
12 State removes that shroud by bringing forth
13 evidence that convinces you beyond a reasonable
14 doubt, then he still remains innocent.

15 So I thank you for being here. Mr.
16 Ibarra thanks you for being here. Because to him,
17 I mean, this is -- you stand between him and the
18 rest of his life. So please listen, thank you for
19 your attention. I look forward to spending the
20 next couple of days with you. Thank you.

21 THE COURT: Thank you, Mr. Saunders.
22 Is the State ready to call their first witness?

23 MS. OPPENHEIMER: Thank you, Your
24 Honor. The State calls Investigator Meghan
25 Dabkowski.

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 MEGHAN DABKOWSKI,

2 being first duly sworn, was examined and testified
3 as follows:

4 THE CLERK: Have a seat, please, ma'am.
5 Once you're seated, speak up loud and clear, state
6 your full name spelling your last.

7 MS. DABKOWSKI: Detective Meghan
8 Dabkowski. And it's M-E-G-H-A-N. Last name is
9 D-A-B-K-O-W-S-K-I and I'm with Lexington County
10 Sheriff's Department.

11 DIRECT EXAMINATION

12 BY MS. OPPENHEIMER:

13 Q. Good morning, Investigator Dabkowski.

14 A. Good morning.

15 Q. I think you already told us, but you're
16 employed with the Lexington County Sheriff's
17 Department?

18 A. Yes, ma'am, I am.

19 Q. In what capacity?

20 A. Currently, I am an investigator with
21 south region property crimes.

22 Q. Okay. And how long have you been in
23 law enforcement?

24 A. November will be 13 years.

25 Q. And have you been with the property

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 crimes division your entire career at Lexington
2 County?

3 A. No, ma'am.

4 Q. What other units have you been assigned
5 to?

6 A. Prior to transferring over, I was four
7 years with Lexington County narcotics.

8 Q. And would you have been in that role in
9 2018?

10 A. Yes, ma'am.

11 Q. And what were your main duties and
12 responsibilities as a narcotics investigator?

13 A. So the main responsibilities of a
14 narcotics investigator is into criminal
15 investigations into the use, sell and distribution
16 of illegal narcotics.

17 Q. And turning your attention to this case
18 here, at some point in 2018, did you receive
19 information regarding a subject, Angel Ibarra?

20 A. Yes, ma'am, I did.

21 Q. And was he known by any other names at
22 that time?

23 A. Yes, ma'am. He had the street name of
24 Ace.

25 Q. And do you see Angel Ibarra in the

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 courtroom today?

2 A. I do, ma'am.

3 Q. Can you please identify him for this
4 jury?

5 A. He's sitting right there at the
6 Defendant's table.

7 MS. OPPENHEIMER: Your Honor, will the
8 record reflect that Agent Dabkowski has identified
9 the Defendant?

10 THE COURT: The record so reflects.

11 Q. Investigator Dabkowski, is the
12 Defendant the same individual who was the subject
13 of your investigation in 2018?

14 A. Yes, ma'am, he is.

15 Q. And how did the name, without telling
16 us what anyone told you, how did the name Ace or
17 Angel Ibarra come to you?

18 A. We received information from Richland
19 County narcotics --

20 MR. SAUNDERS: Objection, Your Honor.
21 She's talking about information she received from
22 someone or some people. Just hearsay.

23 MS. OPPENHEIMER: She's not going into
24 the context of it, just the --

25 THE COURT: Rephrase it.

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 Q. What led you to your investigation into
2 the Defendant?

3 A. We opened up an investigation with
4 Richland County at [REDACTED] Leica Lane in reference to
5 drug sales at that location with the Defendant
6 being already identified through various means.

7 Q. All right.

8 MS. OPPENHEIMER: Your Honor, may I
9 approach the witness?

10 THE COURT: You may.

11 Q. Agent Dabkowski, I'm showing you what's
12 been previously marked at State's Exhibit Number 1.
13 Can you tell me whether or not you recognize this?

14 A. I do, ma'am.

15 Q. And what is it a depiction of?

16 A. It is [REDACTED] Leica Lane which is in the
17 West Columbia area of Lexington County.

18 Q. And was [REDACTED] Leica Lane the subject of
19 your investigation in 2018?

20 A. Yes, ma'am, it was.

21 Q. And does this map appear to be altered
22 in any way?

23 A. No, ma'am.

24 MS. OPPENHEIMER: Your Honor, at this
25 point, I'd move State's Exhibit Number 1 into

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 evidence.

2 THE COURT: Any objection?

3 MR. SAUNDERS: Your Honor, no
4 objection.

5 THE COURT: It's admitted.

6 (WHEREUPON, State's Exhibit Number 1
7 was entered.)

8 MS. OPPENHEIMER: Permission to
9 publish, Your Honor?

10 THE COURT: Yes, ma'am.

11 Q. All right. Agent Dabkowski, I'm
12 showing you State's Exhibit Number 1 again for the
13 jury. Can you explain what this map depicts?

14 A. It's the location of the Defendant's
15 residence at [REDACTED] Leica Lane. It's an aerial map
16 that was taken, so it's an overview.

17 Q. And this blue square there, what is
18 that surrounding?

19 A. The Defendant's address at [REDACTED] Leica
20 Lane.

21 Q. And you keep saying it's the
22 Defendant's address, how were you able to connect
23 him to [REDACTED] Leica Lane?

24 A. So during the course of our
25 investigation, we observed a Dodge Ram vehicle

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 truck that was at this location when upon running
2 the tag through South Carolina DMV, it came back
3 registered to the Defendant, Mr. Ibarra. Then we
4 proceeded to run his information and his driver's
5 license also showed he resided at that address.

6 Q. So the truck that was parked outside of
7 the residence was seen by you; is that correct?

8 A. Yes, ma'am.

9 Q. And it was registered to the Defendant?

10 A. Yes, ma'am.

11 Q. What was the address it was registered
12 to?

13 A. [REDACTED] Leica Lane.

14 Q. And I believe you testified that you
15 ran the Defendant's license through DMV?

16 A. Yes, ma'am. So when we run a vehicle,
17 we receive what as a customer number connected to
18 the vehicle which was Angel's -- the Defendant's
19 customer number. At that time, it brings us up his
20 DL information, again, all through South Carolina
21 DMV and it showed that he had that address on his
22 driver's license of [REDACTED] Leica Lane.

23 MS. OPPENHEIMER: Beg the Court's
24 indulgence.

25 THE COURT: Take your time.

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 Q. Going back to this map, Agent
2 Dabkowski, can you kind of describe the property
3 that we are looking at here? What is on the
4 property of [REDACTED] Leica Lane?

5 A. So there is the residence that's right
6 there up in front. And then there's the shed, back
7 there. And then there's additional property and a
8 fence around the residence.

9 Q. Okay. Do you recall about how tall
10 that fence is?

11 A. Taller than me and I'm 5-4, so.

12 Q. All right. And part of your
13 investigation, did you conduct surveillance around
14 this location?

15 A. We did.

16 Q. And during your investigation, were you
17 able to determine that any illegal narcotics
18 activity was being conducted there?

19 A. Yes, ma'am, we were able to.

20 MS. OPPENHEIMER: Your Honor, may I
21 approach the witness?

22 THE COURT: You may.

23 Q. Showing you what's been marked as
24 State's Exhibits Number 2 through 10. If you could
25 look through those and let me know if you recognize

MEGHAN DABKOWSKI - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 | them?

2 | A. Yes, ma'am, I do recognize them.

3 | Q. What do they depict?

4 | A. It is the pictures of the residence at
5 | ■ Leica Lane as well as the Defendant's red
6 | truck.

7 | Q. Do they appear to have been altered in
8 | any way?

9 | A. No, ma'am.

10 | MS. OPPENHEIMER: Your Honor, at this
11 | time, I'd move State's Exhibit Number 2 through 10
12 | into evidence.

13 | THE COURT: Any objection?

14 | MR. SAUNDERS: No objection, Your
15 | Honor.

16 | THE COURT: They're admitted.

17 | (WHEREUPON, State's Exhibit Numbers 2
18 | through 10 were entered.)

19 | Q. Agent Dabkowski, I'm showing you what's
20 | been marked as State's Exhibit Number 2. Can you
21 | tell us what this is a photograph of?

22 | A. The front door to ■ Leica Lane.

23 | Q. And is that the property that you were
24 | surveilling in 2018?

25 | A. Yes, ma'am, it is.

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1 Q. Showing you State's Exhibit Number 3.

2 What does this photograph depict?

3 A. It's the -- it's a picture of the front
4 of the house at [REDACTED] Leica Lane.

5 Q. All right. And in the background here
6 there appears to be a blue or a gray building, what
7 is that?

8 A. That's the shed.

9 Q. And is that incased within the fence?

10 A. Yes, ma'am, it is.

11 Q. Belonging to [REDACTED] Leica Lane?

12 A. Yes, ma'am, it is.

13 Q. Showing you State's Exhibit Number 4,
14 what is this picture of?

15 A. It's of the shed in the background, but
16 that is the red Dodge Ram that is registered to the
17 Defendant coming back to [REDACTED] Leica Lane.

18 Q. Was this vehicle periodically parked
19 outside of [REDACTED] Leica Lane?

20 A. Yes, ma'am, it was.

21 Q. And did you observe the Defendant in
22 this vehicle?

23 A. Yes, ma'am.

24 Q. And based on the Defendant's activities
25 at his home, did it appear to you as a narcotics

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1 investigator, that this truck was involved in some
2 kind of narcotics operation?

3 A. Yes, ma'am, it was.

4 Q. Showing you State's Exhibit Number 5,
5 can you tell us what's in this photograph?

6 A. It's an additional picture of the
7 vehicle as well as the tag belonging to the Dodge.

8 Q. And what is that tag number if you can
9 read it?

10 A. I do have -- can I look down at my
11 notes because I -- it's a little difficult to read.
12 But if I remember correctly, it's -- I would like
13 to look at my --

14 Q. Absolutely. Go ahead.

15 A. It's [REDACTED].

16 Q. Is that the license plate you entered
17 into the DMV when determining who this vehicle
18 belonged to?

19 A. Yes, ma'am, it was.

20 Q. Investigator Dabkowski, in your
21 experience as a narcotics investigator, can you
22 tell us whether or not there are surveillance
23 systems surrounding these types of homes that are
24 involved in drug enterprises?

25 A. Yes, ma'am. More often than not there

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1 are. It's very rare to find one that does not have
2 a surveillance system.

3 Q. Were you able to determine whether or
4 not there was a surveillance system at the [REDACTED]
5 Leica Lane, the Defendant's home?

6 A. Yes, ma'am, there was surveillance at
7 this location.

8 Q. Referring back to State's Exhibit
9 Number 1. Do you recall where the surveillance
10 cameras were placed at this home?

11 A. Yes, ma'am, I do.

12 Q. And would it assist your testimony
13 today in showing this jury on this map where those
14 cameras were located?

15 A. Yes, it would.

16 MS. OPPENHEIMER: Your Honor, I'd ask
17 that the witness step down momentarily.

18 THE COURT: Absolutely.

19 Q. Investigator Dabkowski, do you recall
20 approximately how many cameras were surrounding
21 this home?

22 A. Three.

23 Q. And where were they located?

24 A. So we were able to locate -- well, it's
25 a little hard to see because you do have a porch

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1 that's underneath it is right there. There was one
2 here on the corner underneath the roof. There was
3 one right here as well, so these are the steps
4 leading up on to the porch. So it's right there as
5 you enter. And then this picture is a little
6 grainy, but there is an additional porch right here
7 into the side of the residence and there was a
8 camera right here as well.

9 Q. Now, the camera on the side porch, is
10 that inside or outside of the fence?

11 A. It's inside.

12 Q. And what direction was it pointing
13 towards?

14 A. The shed.

15 Q. If you could mark that on the map,
16 please, Detective Dabkowski?

17 A. Just the way it was pointing?

18 Q. Yes, ma'am.

19 A. (Marking the map.)

20 Q. You may return to the witness stand.

21 Thank you. Showing you what's been introduced into
22 evidence as State's Exhibit Number 8. Can you tell
23 us what this photograph depicts?

24 A. It's one of the cameras that were at
25 the location.

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1 Q. And where would this camera have been
2 located?

3 A. That was on the -- so that's underneath
4 the roof on the porch. It's that far one that I
5 marked on the --

6 Q. In the far right corner?

7 A. Yes, ma'am.

8 Q. Showing you State's Exhibit Number 7,
9 can you tell us what this photograph depicts?

10 A. It's another one of the cameras that
11 were located at the residence.

12 Q. And I actually believe this photograph
13 is upside down.

14 A. Yes, it is.

15 Q. Can you tell us where this camera was
16 located?

17 A. That was located right at the corner
18 next to the driveway where you would take the steps
19 up leading to the front -- like the front door of
20 the residence.

21 Q. Showing you State's Exhibit Number 6,
22 can you tell us what this photograph depicts?

23 A. That would be the last camera that we
24 located.

25 Q. And this was the one pointing towards

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1 the shed?

2 A. Yes, ma'am.

3 Q. Detective, in your experience as a
4 narcotics officer, why do drug enterprises put
5 cameras around their residence?

6 A. So they can be notified if law
7 enforcement is in the area as well as to protect
8 their merchandise --

9 MR. SAUNDERS: Your Honor? Your Honor,
10 objection. I mean, there's no testimony -- I mean,
11 there's no testimony or evidence that talks about
12 Mr. Ibarra doing these things that she's talking
13 about. I mean, she is taking a security camera and
14 saying here's what they're doing with them. And I
15 think that's improper, Your Honor. They have a --
16 she's just giving her opinion about what a security
17 camera and, you know, which most people have.

18 THE COURT: All right. I got it. Let
19 me see the lawyers for a second.

20 (WHEREUPON, there was a sidebar
21 conference)

22 Q. Showing you State's Exhibit Number 9,
23 can you tell us what this photo depicts?

24 A. It's a picture of the shed.

25 Q. And is it surrounded by the fence

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1 around the property at [REDACTED] Leica Lane?

2 A. Yes, ma'am, it is.

3 Q. Showing you State's Exhibit Number 10,
4 can you tell us what this photograph depicts?

5 A. It's a closer picture of the shed.

6 Q. Now, after conducting surveillance on
7 the Defendant's home, what if anything did you
8 decide to do?

9 A. We decided to obtain a search warrant
10 for the residence.

11 Q. And were you able to obtain that search
12 warrant?

13 A. Yes, ma'am, we were able to obtain a
14 search warrant for the residence at [REDACTED] Leica Lane.

15 Q. And that search warrant was based on
16 the contents of your investigation?

17 A. Yes, ma'am, it was.

18 Q. And in the search warrant, what did you
19 indicate that you were looking for in the
20 Defendant's home?

21 A. That we were looking for opium -- any
22 opium derivatives to include heroin as well as
23 anything that's commonly associated with the use,
24 packaging, sale, and distribution of it -- of
25 heroin or any derivative of heroin. All papers and

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1 effects to help establish the ownership of the
2 location of the contraband. Any money or profit
3 that we were able to locate during that, as well as
4 any electronics. So cell phones which could be
5 used to help in a drug enterprise to further it as
6 well as any weapons at the residence.

7 Q. And were you able to find some or all
8 of the items that you were looking for at the
9 Defendant's home?

10 A. Yes, ma'am, we were.

11 Q. And did y'all make a determination at
12 some point to execute this search warrant?

13 A. Yes, ma'am.

14 Q. And what day do you recall that you
15 decided to execute the warrant?

16 A. We executed it on Wednesday, October
17 24, 2018.

18 Q. And what planning and prep work went
19 into executing this search warrant?

20 A. It's -- there's a lot of factors that
21 go into planning the search warrant. We did
22 contact our SWAT team because this --

23 MR. SAUNDERS: Your Honor, objection.
24 I don't think this is relevant. They're talking
25 about executing a search warrant. So the back

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1 story on the activities of law enforcement, you
2 know, as I would assume they meet, they do this. I
3 don't think that's relevant as to what the issue
4 here at trial. I don't think that is relevant
5 testimony.

6 THE COURT: Okay. Let's move on.

7 MS. OPPENHEIMER: Your Honor, may we
8 approach just briefly so I can get clarification?

9 (WHEREUPON, there was a sidebar
10 conference)

11 Q. Investigator Dabkowski, did you have a
12 meeting prior to the execution of this search
13 warrant with all law enforcement officers involved
14 in the execution of the search warrant?

15 A. Yes, ma'am, I did.

16 Q. And who was involved in the execution
17 of the search warrant? Just the agencies.

18 A. Lexington County, Richland County.

19 Q. And would those have been narcotics
20 officers?

21 A. Some of them, yes, ma'am.

22 Q. And any additional units involved?

23 A. Yes, ma'am, there were.

24 Q. What additional units?

25 A. We had Richland County's pilot assisted

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1 us as well as the Lexington County SWAT team
2 assisted us as well as Lexington County CRU
3 assisted us.

4 Q. And what is CRU?

5 A. CRU is our Crime Reduction Unit.

6 Q. Okay. And on October 24, 2018, did you
7 execute that search warrant?

8 A. Yes, ma'am, we did.

9 Q. Where did you execute the search
10 warrant?

11 A. At [REDACTED] Leica Lane.

12 Q. And whose home did you know that to be?

13 A. Angel Ibarra, the Defendant's.

14 Q. And prior to executing the search
15 warrant, where were you?

16 A. I was just down the road from the
17 residence.

18 Q. Were you communicating with officers
19 involved in this case?

20 A. Yes, ma'am.

21 Q. How were you communicating with them?

22 A. Our radios.

23 Q. Was there communication between you and
24 the Richland County plane?

25 A. There was.

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1 Q. And based on the observations that you
2 made, were you able to determine the number of
3 males who were present at that home on October 24,
4 2018 prior to executing the search warrant?

5 A. Yes, ma'am, we were able to.

6 Q. About how many was that?

7 A. We knew there was at least two males at
8 the residence.

9 Q. On October 24th, was the Defendant ever
10 seen going to and from the shed?

11 A. He was.

12 Q. Was the Defendant ever seen with Israel
13 Mendoza Cervantes?

14 A. He was.

15 Q. Were they seen together throughout your
16 surveillance?

17 A. Yes, ma'am.

18 Q. Was that just on October 24, 2018 or
19 would it have been additional times?

20 A. Throughout the course of our
21 investigation we did observe the Defendant along
22 with Mr. Cervantes.

23 Q. Now, when y'all went to execute this
24 search warrant at the Defendant's home, what is the
25 first thing that's done?

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1 A. So after the execution or --

2 Q. Prior to entering the home?

3 A. Prior to entering the home, we have to
4 secure it. Which is why the Lexington County SWAT
5 team was involved to secure the residence for us.

6 Q. And was anyone present in that home at
7 the time of the execution of this search warrant?

8 A. They were.

9 Q. Who?

10 A. The Defendant's 15-year-old brother was
11 located inside the residence and Mr. Cervantes was
12 found inside the shed at that location.

13 Q. Were those individuals arrested or
14 detained, if you know?

15 A. Mr. Cervantes was arrested, the
16 Defendant's 15-year-old brother was detained at
17 that time, but he was then later released to his
18 mother.

19 Q. Now, after you cleared the residence,
20 can you briefly explain to us the procedure in
21 actually executing a search warrant?

22 A. So once a scene is secure, so we've
23 essentially established that there's nobody else
24 inside, we take what we know is to be before
25 pictures. So before we ever start searching,

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1 before we ever do anything, the pictures that were
2 shown from, I believe it was Exhibit 2 through 10,
3 those are our before pictures. So we will take
4 complete pictures of the outside of the location as
5 well as the inside location of where we're going to
6 conduct the search warrant that way we can see all
7 the rooms and the layout of the house.

8 MS. OPPENHEIMER: Your Honor, may I
9 approach the witness?

10 THE COURT: You may.

11 Q. Showing you what's been marked as
12 State's Exhibits Number 11 through 27, can you go
13 through those and let me know if you recognize
14 those?

15 A. Yes, ma'am, I do recognize them. They
16 were the initial pictures that we took of the
17 inside of the shed prior to the search warrant.

18 Q. And do they appear to have been altered
19 in any way?

20 A. No, ma'am.

21 MR. SAUNDERS: Beg the Court's
22 indulgence, Your Honor.

23 THE COURT: Take your time.

24 MR. SAUNDERS: Thank you.

25 Q. Investigator Dabkowski, were you

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1 present when these photographs were taken?

2 A. I was.

3 Q. Were you present when the search
4 warrant was executed at [REDACTED] Leica Lane, the
5 Defendant's home?

6 A. I was.

7 MS. OPPENHEIMER: Your Honor, at this
8 time, I'd move State's Exhibits Number 11 through
9 27 into evidence.

10 THE COURT: Any objection?

11 MR. SAUNDERS: Your Honor, we would
12 object to those coming in through Agent Dabkowski.
13 These photos were not taken by Agent Dabkowski.
14 And while she was present at the scene as you can
15 imagine, there's a lot going on, unless she was
16 walking along with the person taking the photos and
17 observing every single thing, I don't think these
18 photos are appropriate to come in through Agent
19 Dabkowski, they would come through the person who
20 actually took them.

21 MS. OPPENHEIMER: I can certainly ask a
22 follow-up question. She was present the entire --

23 THE COURT: Let me see counsel just for
24 one second.

25 (WHEREUPON, there was a sidebar

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1 conference)

2 THE COURT: All right. The Agent's
3 already testified that she was there. It was an
4 accurate depiction of what she saw. They're coming
5 in.

6 MS. OPPENHEIMER: Thank you, Your
7 Honor.

8 THE COURT: I'll note your objection
9 for the record.

10 MR. SAUNDERS: Thank you.

11 (WHEREUPON, State's Exhibit Numbers 11
12 through 27 were entered.)

13 Q. Investigator Dabkowski, do these
14 photographs depict what you yourself observed on
15 October 24, 2018 at the Defendant's home?

16 A. Yes, ma'am, they do.

17 Q. Showing you State's Exhibit Number 11,
18 can you please tell us where this was photograph
19 was taken?

20 A. That was inside the shed.

21 Q. And what does it depict?

22 A. It depicts a table that they had set up
23 inside the shed.

24 Q. And did you photograph this table
25 specifically?

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1 A. We did because of the contents on the
2 table.

3 Q. And the contents on the table, are they
4 consistent with a drug enterprise?

5 A. Yes, ma'am, they were very consistent
6 with a drug enterprise.

7 Q. Showing you State's Exhibit Number 12,
8 what does this picture consist of?

9 A. It's a closer picture of the items that
10 were located on the table that was in the shed.

11 Q. And what kind of things were found on
12 that table?

13 A. A scale, money, balloons, as well as a
14 cutting agent.

15 Q. Why would there be balloons in
16 connection with a drug enterprise?

17 A. It's how they'll package the narcotics.

18 Q. And why are cutting agents used?

19 A. Cutting agents are used to -- so if you
20 buy a little bit of product you can essentially put
21 a cutting agent into it to make it increase the
22 weight so you have a better opportunity to make
23 more money.

24 Q. I'm showing you State's Exhibit Number
25 13, can you tell us what's depicted in this

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1 photograph?

2 A. It's the, again, the table. Just an
3 even closer view of the cutting agent, the scale,
4 as well as the packaging balloons.

5 Q. Showing you State's Exhibit Number 14,
6 can you tell us what's depicted in this photograph?

7 A. Those are packaging balloons that had
8 something located inside of it.

9 Q. And -- so these had already been
10 packaged?

11 A. Yes, ma'am.

12 Q. Showing you State's Exhibit Number 15,
13 what's depicted in this photograph?

14 A. So that would be money, the package --
15 the already packaged balloons as well as balloons
16 that have yet to have been packaged.

17 Q. Showing you State's Exhibit Number 16,
18 what does this photograph depict?

19 A. It's a container that was holding the
20 balloons that had yet to have anything in them.

21 Q. State's Exhibit Number 17, what is
22 depicted in this photograph?

23 A. The already packaged balloons along
24 with money.

25 Q. State's Exhibit Number 18, what does

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1 | this picture depict?

2 | A. It's just the close-up of the money
3 | that's on the table as well as you can still see
4 | some of the packaged balloons.

5 | Q. Now, do you count this money when you
6 | take it into evidence?

7 | A. We do.

8 | Q. And was that just a couple 20s?

9 | A. No, ma'am, it was not.

10 | Q. Approximately how much cash was that?

11 | MR. SAUNDERS: Objection, Your Honor.

12 | I think it's -- I think it's -- either she counted
13 | it herself everything or this is based upon
14 | hearsay.

15 | MS. OPPENHEIMER: She just testified
16 | she counted it and collected it into evidence.

17 | THE COURT: Ask again for the record, I
18 | didn't hear that.

19 | Q. Agent Dabkowski, did you collect this
20 | money into evidence?

21 | A. Yes, ma'am, I did. I'm the one who
22 | actually physically took custody of it from the
23 | residence at [REDACTED] Leica Lane to our evidence room at
24 | Lexington County and I am the one who packaged it
25 | and placed it into the secure location at

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1 | headquarters. So I would have and I did count the
2 | money prior to it being put into our evidence.

3 | THE COURT: Okay. I think she
4 | clarified that. I don't remember hearing that, but
5 | it's clarified. Go ahead.

6 | Q. Agent Dabkowski, approximately how much
7 | money is that found on the table?

8 | A. If you'll just give me a second to
9 | review my report, please. \$2,000.

10 | Q. Showing you State's Exhibit Number 19,
11 | what does that depict?

12 | A. It was another bundle of money, wrapped
13 | up money.

14 | Q. And would that amount have been
15 | included in the \$2,000 or would it have been a
16 | separate amount?

17 | A. Based on the fact it was all located
18 | right there, it would have been -- from reading my
19 | report it would have been packaged together, so we
20 | would have done it all as a total.

21 | Q. Okay. Showing you State's Exhibit
22 | Number 20, can you tell us what this is a picture
23 | of?

24 | A. One of the guns that we located in the
25 | shed.

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1 Q. And where in the shed was this located
2 if you recall?

3 A. I would have to see an overall picture.
4 That one's...

5 Q. Can you tell us whether or not this
6 weapon was hidden or laid out in the open?

7 A. No, it was laid in the open. Because
8 this picture was taken prior to us actually
9 searching the shed, so these would have been the
10 pictures we took prior to actually searching this
11 shed, so that was in plain view.

12 Q. Showing you State's Exhibit Number 21,
13 can you tell us what's depicted in this photograph?

14 A. That's another firearm that was located
15 in the residence -- sorry, in the shed.

16 Q. And would this have been laying about?

17 A. Yes, ma'am.

18 Q. Showing you State's Exhibit Number 22.
19 If you could tell us what's depicted in this
20 photograph?

21 A. That was another one of the firearms
22 that we located inside the shed.

23 Q. State's Exhibit Number 23, can you tell
24 us what that is?

25 A. It is an additional picture of that --

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1 of the one right before it.

2 Q. Okay. Showing you State's Exhibit
3 Number 24.

4 A. That is ammo and more money that was
5 located.

6 Q. Inside the shed?

7 A. Yes, ma'am.

8 Q. And this would have been prior to your
9 search as well?

10 A. Yes, ma'am.

11 Q. Showing you State's Exhibit Number 25,
12 can you tell us what this photograph depicts?

13 A. Another one of the firearms that were
14 located inside the shed.

15 Q. State's Exhibit Number 26, what does
16 this depict?

17 A. That's an additional picture of the
18 firearm.

19 Q. Now, Investigator Dabkowski, do you
20 recall if whether or not these -- all of these
21 weapons found in the shed were loaded or unloaded?

22 A. I would have to check my report to
23 verify that.

24 Q. Go ahead.

25 A. The report is showing they were loaded.

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1 Q. Showing you State's Exhibit Number 27,
2 what's depicted in this photograph?

3 A. That would be a picture of the TV that
4 was inside the shed. So what you will see in that
5 right corner right there is actually one of our
6 SWAT members which was an indication to us that the
7 surveillance camera located on the outside of the
8 residence, the feed was running to inside the shed.

9 Q. Showing you State's Exhibit Number 28
10 through 31, can you tell me if you recognize those
11 photographs?

12 A. I do.

13 Q. And what do they depict?

14 A. They are pictures that we took inside
15 the residence at [REDACTED] Leica Lane.

16 Q. Are they a fair and accurate depiction
17 of what you yourself observed on October 24, 2018
18 at the Defendant's home?

19 A. Yes, ma'am, they are.

20 Q. Do they appear to have been altered in
21 any way?

22 A. No, ma'am, they have not.

23 MR. SAUNDERS: Your Honor, I would just
24 have the same objection as before is that she
25 didn't take the photos. I think it's more

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1 appropriate to come in through the person who
2 actually took them. But that's my objection. I
3 understand your prior ruling --

4 THE COURT: I understand. It's noted
5 for the record again. She was there when the
6 pictures were taken. She's saying they were
7 accurate, so I'm allowing them.

8 MR. SAUNDERS: Thank you.

9 (WHEREUPON, State's Exhibit Numbers 28
10 through 31 were entered.)

11 Q. Agent Dabkowski, would these have been
12 before or after the execution of your search
13 warrant?

14 A. Prior to us searching the residence.

15 Q. And where were these photographs taken?

16 A. They were taken inside [REDACTED] Leica Lane,
17 so inside the residence. Because we take pictures
18 of everything, so these are now pictures that we
19 took physically inside of the location where the
20 Defendant lived.

21 Q. Showing you State's Exhibit Number 28,
22 what is depicted in this photograph?

23 A. You can see the bag of balloons as well
24 as the security system for the cameras.

25 Q. And are those balloons consistent with

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1 | ones that were found in the shed?

2 | A. They are consistent, yes, ma'am.

3 | Q. Showing you State's Exhibit Number 29,
4 | what's depicted in this photograph?

5 | A. That was a balloon that was actually on
6 | the floor inside of the residence.

7 | Q. And is that consistent with the
8 | balloons found in the shed?

9 | A. Yes, ma'am.

10 | Q. Showing you State's Exhibit Number 30,
11 | what's depicted in this photograph?

12 | A. That was the scale that we located in
13 | the younger brother's bedroom.

14 | Q. I'm showing you State's Exhibit Number
15 | 31, what is depicted in this photograph?

16 | A. It's a gun case for a glock that was
17 | located in the Defendant's bedroom.

18 | Q. Anything else of note in this
19 | photograph?

20 | A. The ammunition as well.

21 | Q. And it was found where?

22 | A. In the Defendant's bedroom.

23 | Q. Now, after y'all go through and take
24 | before photographs, what do you do?

25 | A. We then will start a search of the --

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1 well, we mark the rooms, each individual rooms. We
2 have placards and we mark the rooms so we know
3 exactly what item was located in what room and then
4 we will start our search at the residence.

5 Q. And as the lead agent, are you made
6 aware of everything that is found inside or outside
7 of the residence?

8 A. Yes, ma'am, I'm made aware everything
9 and exactly where it was located.

10 Q. And do you physically observe the item
11 located?

12 A. Yes, ma'am.

13 Q. Are you the person who collects it into
14 evidence?

15 A. I was the one who took custody of all
16 the items of evidence located at [REDACTED] Leica Lane. I
17 collected them from the residence and took them to
18 our evidence locker at headquarters so that way
19 they were secure.

20 THE COURT: Hold on just a second. Let
21 me see the lawyers right quick.

22 (WHEREUPON, there was a sidebar
23 conference.)

24 THE COURT: Ladies and gentlemen of the
25 jury, I just want to give y'all a break because

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1 y'all have been sitting there for two hours. So
2 I'm going to let you stretch your legs. We're
3 going to take a 15 minute break. Agent, I can't
4 let you go anywhere.

5 MS. DABKOWSKI: Yes, ma'am.

6 THE COURT: You have to stay right
7 where you are. With that said, I'm going to let
8 y'all go to your jury room. If I've got any
9 smokers, let them smoke. They got 15 minutes. I
10 apologize for keeping y'all that long.

11 THE CLERK: Everyone remain seated
12 until the jury leaves.

13 (WHEREUPON, the jury exits the
14 courtroom at 10:59 a.m.)

15 THE COURT: Okay. That was a long
16 time, I've got to go. We'll take a 15 minute
17 break. We'll come back at 11:15.

18 (WHEREUPON, there was a short break.)

19 THE COURT: All right. Before I bring
20 the jury back in, I'm going to caution the people
21 in the gallery. There is to be no face making. I
22 see people making faces, mouthing words, all that.
23 Please stop. Please stop. If I see it, I'm going
24 to have you escorted out of here. Thank you.

25 All right. Let's bring the jury in.

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1 (WHEREUPON, the jury enters the
2 courtroom at 11:20 a.m.)

3 THE COURT: All right. Madam Forelady,
4 is the jury ready?

5 THE FOREPERSON: Yes, ma'am.

6 THE COURT: Okay. I'm going to tell
7 the witness who is still under oath. Okay. Go
8 ahead.

9 CONTINUED DIRECT EXAMINATION
10 BY MS. OPPENHEIMER:

11 Q. Agent Dabkowski, I believe we were
12 about to discuss what happens after you take before
13 photographs of a residence that you are searching.

14 A. Yes, ma'am.

15 Q. And what do you do?

16 A. So after we take photographs initially,
17 we will then number each room accordingly so that
18 way we know where the item came from for our return
19 and then everybody will get gloves and they will
20 start searching the location.

21 Q. And as the lead agent, are you made
22 aware of all evidence found inside and outside of
23 the house?

24 A. Yes, ma'am, I was made aware of where
25 everything was located as well as I'm the

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1 individual who collected it all from the location
2 and took it to our secure evidence facility at our
3 headquarters in Lexington County.

4 MS. OPPENHEIMER: May I approach the
5 witness, Your Honor?

6 THE COURT: You may.

7 Q. Agent Dabkowski, I'm showing you what's
8 been previously marked as State's Exhibits Number
9 32 through 66. If you can review those and tell us
10 if you recognize those?

11 A. Yes, ma'am, I do recognize them.

12 Q. And are they a fair and accurate
13 depiction of what you yourself observed at the
14 Defendant's home on October 24, 2018?

15 A. Yes, ma'am, they are.

16 Q. And where were the photographs taken?

17 A. Those were taken inside the shed of the
18 location.

19 Q. Do they appear to have been altered in
20 any way?

21 A. No, ma'am.

22 MR. SAUNDERS: Your Honor, just again,
23 the same objection as to these as she did not take
24 these. The testimony is that they're a fair and
25 accurate depiction. You know, we would object

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1 under the pert that they're not coming in through
2 the person who took the photos. That's my
3 objection. Understanding your ruling from before.

4 THE COURT: Same ruling.

5 MR. SAUNDERS: And -- well, I can keep
6 doing that or if you just wanted to note my
7 objection to any of the photos coming in.

8 THE COURT: I'm going to note your
9 objection, but there might be some that she took
10 personally, I don't know.

11 MR. SAUNDERS: You're right. Thank
12 you.

13 THE COURT: I just know what her
14 testimony is and I'm going to allow it in. Can you
15 tell me, Ms. Oppenheimer, it's 32 through --

16 MS. OPPENHEIMER: 66, Your Honor.

17 THE COURT: 66. Thank you.

18 MS. OPPENHEIMER: Yes, ma'am.

19 (WHEREUPON, State's Exhibit Numbers 32
20 through 66 were entered.)

21 MS. OPPENHEIMER: Permission to
22 publish?

23 THE COURT: Yes, ma'am.

24 Q. Investigator Dabkowski, I'm showing you
25 what's been marked as State's Exhibit Number 32,

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1 | can you tell us what's depicted in this photograph?

2 | A. So this is where we start to give
3 | everything that we're locating during the search
4 | that we're going to take with us an actual number.
5 | So we will give it what we call an item number
6 | which is that yellow placard. So we'll give it an
7 | item number so we can put it on the search warrant.
8 | We'll do the item number, what was located, who
9 | located it and where it was found on our return.

10 | Q. And what are these yellow placards for?

11 | A. Those are those numbers. So each item
12 | will get its own number.

13 | Q. And were you ultimately the person who
14 | collected all this evidence?

15 | A. Yes, ma'am.

16 | Q. Showing you State's Exhibit Number 33,
17 | if you could tell us what's depicted in this
18 | photograph?

19 | A. Item Number 4 is the \$2,000 in U.S.
20 | currency that was found in the shed and that was
21 | what was on the table that we had seen in prior
22 | pictures.

23 | Q. And what was in close proximity to that
24 | money?

25 | A. The already packaged balloons.

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1 Q. Showing you what's been marked as
2 State's Exhibit 108, can you tell me if you
3 recognize that?

4 A. I do.

5 Q. And what is that?

6 A. That is going to be item 4. And I can
7 clearly see that because I've written the \$2,000 in
8 U.S. currency where it was located and by who and
9 then I'm the one who initialed and dated it,
10 sealing it into this bag.

11 Q. So these are your initials on this bag?

12 A. Yes, ma'am.

13 Q. And do you do that in every instance
14 when you collect any item of evidence?

15 A. Yes, ma'am. Anytime we seal any
16 evidence for chain of custody purposes, we will use
17 tape to seal it and then we'll put our initials and
18 date the day we did that.

19 Q. And does it appear to have been
20 tampered with or altered in any way?

21 A. No, ma'am.

22 MS. OPPENHEIMER: Your Honor, at this
23 time, I'd move State's Exhibit Number 108 into
24 evidence.

25 THE COURT: Any objection?

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1 MR. SAUNDERS: No objection.

2 THE COURT: Thank you.

3 (WHEREUPON, State's Exhibit Number 108
4 was entered.)

5 MS. OPPENHEIMER: Permission to publish
6 to the jury, Your Honor?

7 THE COURT: You may.

8 Q. Agent Dabkowski, did you indicate the
9 different bills that were collected in this \$2,000?

10 A. We did take photos of the money.

11 Q. All right.

12 A. But not in my report.

13 Q. Okay. Showing you State's Exhibit
14 Number 34, if you can tell me what's depicted in
15 this photograph?

16 A. So that is going to be search warrant
17 item number 5 which was 29 multicolored balloons
18 which we documented on the search warrant having
19 unknown substance, but we did know they were filled
20 with something located in the shed.

21 Q. Okay. And you would have collected
22 those?

23 A. Yes, ma'am, I did collect them from the
24 scene. They were placed into a best kit for us to
25 have them be tested.

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1 Q. Can you tell us a little bit about what
2 a best kit is?

3 A. So a best kit is what we put anything
4 that we believe to be illegal narcotic to be
5 tested. So a best kit is have the information and
6 we'll do custody with it. So we fill out forms
7 saying where we located it, how we located it, we
8 put it in an additional sealed bag and it's again
9 turned over to our evidence room where it is
10 secured until it can be tested.

11 Q. Showing you State's Exhibit Number 35,
12 can you tell us what's depicted in this photograph?

13 A. Item number 6 is multicolor cut balloon
14 tops and a container of balloons found in the shed.

15 MS. OPPENHEIMER: Beg the Court's
16 indulgence.

17 Q. Investigator Dabkowski, I'm showing you
18 what's been marked as State's Exhibit Number 110.
19 Do you recognize that item?

20 A. Yes, ma'am.

21 Q. And what is that item?

22 A. It's item number -- search warrant item
23 number 6. So it would be the multicolored balloon
24 tops.

25 Q. And did you collect that item into

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1 evidence?

2 A. Yes, ma'am, I did collect it from the
3 scene and then take it to our secure location
4 located at 521 Gibson Road and then put it into
5 evidence as well as sealed it in this bag because
6 those are my initials as well as the date that I
7 sealed them which was October 24, 2018.

8 Q. Does the seal appear to have been
9 tampered with at all?

10 A. No, ma'am.

11 MS. OPPENHEIMER: And, Your Honor, at
12 this time, I'd move item Number 110 into evidence.

13 THE COURT: Any objection?

14 MR. SAUNDERS: No objection, Your
15 Honor.

16 THE COURT: It's entered.

17 (WHEREUPON, State's Exhibit Number 110
18 was entered.)

19 MS. OPPENHEIMER: Your Honor, at this
20 time, I'd ask Agent Dabkowski to open the bag and
21 publish for the jury.

22 THE COURT: Sure. Does she need some
23 scissors?

24 MS. OPPENHEIMER: She's got some.

25 THE COURT: Okay. Perfect.

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1 Q. Agent Dabkowski, are balloons typically
2 used in a drug enterprise to package narcotics?

3 A. They are.

4 Q. So were you surprised when you found
5 those in the shed of the Defendant's home?

6 A. No, ma'am, we were not.

7 Q. Showing you State's Exhibit Number 36,
8 can you tell us what's depicted in this item?

9 A. It is a container that appears to have
10 some powder residue along with a scooping.

11 Q. And would you have collected that item?

12 A. Yes, ma'am.

13 Q. Would you have sent it off for testing?

14 A. I would have to see if we did send it
15 off for testing.

16 Q. Is it common in your experience as a
17 narcotics investigator to send anything that
18 contains any kind of powder, unknown powder, is it
19 common to send that off for testing?

20 A. Yes, ma'am, it is.

21 Q. Showing you State's Exhibit Number 37,
22 can you tell us what this photo depicts?

23 A. That is number 8 is a container of
24 powder or as we called it cut that was located in
25 the shed.

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1 Q. And what is a cut?

2 A. A cut -- people that run drug
3 enterprises will use cut if they have product to
4 increase the amount of weight of it. So if they
5 have 10 ounces, they might add something into it to
6 increase it to 20 grams. Ten grams to 20, 10
7 ounces to 20 ounces, however because it will
8 increase their profit.

9 Q. And did you collect this item?

10 A. We did.

11 Q. Showing you what's been marked as
12 State's Exhibit Number 11, can you tell me if you
13 identify that -- or recognize that? Excuse me.

14 A. I do.

15 Q. And what is it?

16 A. It's search warrant item number 8
17 that's a photo right there. It's the container of
18 powder that we saw as cut that was located in the
19 shed at [REDACTED] Leica Lane.

20 Q. And does it bear your initials
21 anywhere?

22 A. It does on the sealed top. So I sealed
23 this into the bag as well as dated it with my
24 initials.

25 MS. OPPENHEIMER: Your Honor, at this

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1 time, I'd move State's Exhibit Number 111 into
2 evidence.

3 THE COURT: Any objection?

4 MR. SAUNDERS: Your Honor, I would just
5 object that there's a bottle, we see what it says
6 on here and she's testified what it may be, but
7 there is no test that's been done as to what's
8 actually in the bottle. So, I mean, the testimony
9 has been that this is cut to use in drug dealing
10 and we don't know what's in the bottle, so I would
11 object to it being admitted.

12 MS. OPPENHEIMER: Your Honor, I don't
13 believe she has to specifically identify what the
14 substance is if it wasn't sent off for testing. It
15 was seen by her and other agents and the course of
16 this drug enterprise it seen right next to all the
17 other evidence that they collected and --

18 THE COURT: But she can't testify
19 what's in the bottle.

20 MS. OPPENHEIMER: She's testified as to
21 it's a common cutting agent used.

22 THE COURT: But it hasn't been tested.
23 You don't know that. It could be aspirin for all I
24 know. She can testify that she found it at the
25 scene, but she can't testify to what's in it if it

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1 hasn't been tested.

2 MR. SAUNDERS: Thank you, Your Honor.

3 MS. OPPENHEIMER: Is it entered into
4 evidence?

5 THE COURT: You can make it a Court's
6 exhibit.

7 MS. OPPENHEIMER: I'll move on.

8 Q. Investigator Dabkowski, in your
9 experience as a narcotics investigator, what types
10 of substances are used as cuts?

11 A. They can use various different powders
12 to use as cuts. It just depends.

13 Q. How common are cuts used in drug
14 enterprises?

15 A. Quite common because they want to
16 increase their profits.

17 Q. Do you often send any cutting agent
18 that's found on scene off for testing?

19 A. No, ma'am, we do not.

20 Q. Why?

21 A. Because there's no reason to verify
22 what the cutting agent is because they can use
23 anything as a cutting agent.

24 Q. Thank you. Showing you State's Exhibit
25 Number 38, can you tell us what's depicted in this

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1 photograph?

2 A. That would be item number 9 which was a
3 black and silver digital scale that was found in
4 the shed on the table.

5 Q. And can you tell us why digital scales
6 are used in drug enterprises?

7 A. They're used to weigh out the product.

8 Q. Did you collect this item of evidence?

9 A. We did.

10 Q. Showing you what's been marked as
11 State's Exhibit Number 12, can you tell me if you
12 recognize that?

13 A. I do.

14 Q. And what is it?

15 A. It's the item there -- item number 9
16 that was located in the shed and my initials are
17 sealing it into this bag for evidence purposes.

18 Q. So you did collect that item?

19 A. Yes, ma'am.

20 Q. Does it appear to have been tampered or
21 altered in any way?

22 A. No, ma'am, it has not.

23 MS. OPPENHEIMER: Your Honor, at this
24 time, I'd move State's Exhibit Number 112 into
25 evidence.

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1 THE COURT: Any objection?

2 MR. SAUNDERS: No, Your Honor.

3 THE COURT: So entered.

4 (WHEREUPON, State's Exhibit Number 112
5 was entered.)

6 MS. OPPENHEIMER: Permission to
7 publish, Your Honor?

8 THE COURT: Yes, ma'am.

9 Q. Is it common to find scales of varying
10 sizes in homes that are conducted in drug
11 enterprises?

12 A. Yes, ma'am, it is.

13 Q. Showing you State's Exhibit Number 39,
14 can you tell us what's depicted in this photograph?

15 A. It was a small composition notebook
16 that we found in the shed.

17 Q. What is the significance of this
18 composition notebook?

19 A. It's a ledger.

20 Q. Can you please tell us what a ledger
21 is?

22 A. It will have documentation of drug
23 sales of product information as well as money that
24 they might be owed.

25 Q. And did you observe this in this

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1 composition notebook?

2 A. Yes, ma'am.

3 Q. And are they commonly used in drug
4 enterprises?

5 A. Yes, ma'am, they are.

6 Q. Showing you what's been marked as
7 State's Exhibit Number 113. If you can tell me if
8 you recognize that item?

9 A. I do, ma'am.

10 Q. And what is it?

11 A. It is the small composition notebook
12 that was found in the shed during the execution of
13 the search warrant at [REDACTED] Leica Lane. And as you
14 can see, I sealed the bag with my initials and
15 dated it.

16 Q. Does it appear to have been tampered
17 with or altered in any way?

18 A. No, ma'am.

19 MS. OPPENHEIMER: Your Honor, at this
20 time, I'd like to move State's Exhibit Number 113
21 into evidence.

22 THE COURT: Any objection?

23 MR. SAUNDERS: Your Honor, may we
24 approach on that one, please?

25 THE COURT: Sure.

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1 MR. SAUNDERS: Thank you.

2 (WHEREUPON, there was a sidebar
3 conference.)

4 THE COURT: All right. For the record,
5 Defense counsel, we opened the package, you looked
6 at it, I'm going to rule and let it in.

7 (WHEREUPON, State's Exhibit Number 113
8 was entered.)

9 Q. Agent Dabkowski, did you in the course
10 of your investigation determine whether or not this
11 notebook was being used as a ledger?

12 A. Yes, ma'am.

13 Q. Showing you State's Exhibit Number 40,
14 can you tell us what this item depicts?

15 A. That is the -- so item Number 11, there
16 was a substance actually located inside that
17 container. So that was the initial picture we took
18 prior to opening it.

19 Q. So you would have opened this box?

20 A. Yes, ma'am.

21 Q. Showing you State's Exhibit Number 41,
22 can you tell us what's depicted in that photograph?

23 A. It is a powder substance that we
24 located inside that.

25 Q. State's Exhibit Number 42, can you tell

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1 us what's located in that?

2 A. It's additional pictures of what was
3 located inside that container.

4 Q. State's Exhibit Number 43, can you tell
5 us what's that?

6 A. That's after we pulled it all the way
7 out to get a better picture of it.

8 Q. And would you have collected this item?

9 A. Yes, ma'am.

10 Q. Why?

11 A. It was our belief that it was an
12 illegal narcotic and we needed to put it in for
13 testing.

14 Q. State's Exhibit Number 44, can you tell
15 us what's in this item?

16 A. It was an additional bag that was
17 pulled out of that. Again, with a substance inside
18 that we took for testing.

19 Q. State's Exhibit Number 45, can you
20 please tell us what's depicted in this photograph?

21 A. Another plastic bag that was found in
22 that container that we took for testing.

23 Q. And State's Exhibit Number 46, can you
24 tell us what's depicted in that photograph?

25 A. Another picture of the substance

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1 | located in there that we took and put in for
2 | testing.

3 | Q. These were all found in that silver
4 | box; is that correct?

5 | A. Yes, ma'am.

6 | Q. And how many total bags of suspected
7 | narcotics in that box alone did you find?

8 | A. We had four plastic bags of suspected
9 | products in that container.

10 | Q. Showing you what's been marked as
11 | State's Exhibit Number 14, can you tell me if you
12 | recognize that item?

13 | A. Yes, ma'am. It's the container that
14 | those items were found in.

15 | Q. And did you collect that container?

16 | A. Yes, ma'am, we did and placed it into
17 | evidence. And that's where I sealed it with my
18 | initials and the date.

19 | Q. And does your seal appear to have been
20 | tampered at all --

21 | A. No, ma'am, it has not.

22 | MS. OPPENHEIMER: Your Honor, at this
23 | time, I'd move State's Exhibit Number 114 into
24 | evidence.

25 | THE COURT: Any objection?

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1 MR. SAUNDERS: Your Honor, that's just
2 a box, so there's no objection.

3 THE COURT: It's admitted.

4 (WHEREUPON, State's Exhibit Number 114
5 was entered.)

6 MS. OPPENHEIMER: Your Honor; may I
7 have Agent Dabkowski open up the box and show the
8 jury?

9 THE COURT: You may.

10 Q. And was that box closed or opened when
11 you found it?

12 A. Closed.

13 Q. So can you tell us whether or not the
14 drugs are being concealed?

15 A. Yes, ma'am, they were inside the box
16 closed. So we actually had to -- we actually
17 wouldn't have seen that when we initially did it,
18 we actually would have had to locate it while
19 opening items to see if there was anything inside.

20 MR. SAUNDERS: Your Honor, I would just
21 -- there's just one objection with that. The
22 mention of drugs inside. And we've not -- we've
23 not established that yet.

24 THE COURT: I agree. The jury
25 disregard that last statement.

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1 THE COURT: Any other correction you
2 want me to do?

3 MR. SAUNDERS: No, thank you, Your
4 Honor.

5 Q. These items found in the box, did you
6 suspect them to be anything?

7 A. We suspected them to be heroin.

8 Q. Showing you what's been marked as
9 State's Exhibit Number 109 for ID only at this
10 time, can you please tell me what is in this item?

11 A. This is the best kit that was anything
12 that we suspected to have been illegal narcotics or
13 heroin was put into for testing.

14 Q. And would that have been the suspected
15 narcotics from the shed?

16 A. Yes, ma'am.

17 Q. Would that have included any of the
18 other substances found in the shed that may or may
19 not contain narcotics?

20 A. Yes, ma'am.

21 Q. And when you collect them and put them
22 into a best kit, what do you do with that best kit?

23 A. That best kit is then sealed. And just
24 like I did with the other items of evidence, on the
25 seal we do initial and date and then we put it into

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1 a secure location at our headquarters for testing.

2 Q. Can you identify whether or not your
3 signature and/or initials are on that best kit?

4 A. My signature is on the best kit and
5 that's my handwriting filling out the best kit as
6 well.

7 Q. Thank you. I'm showing you what's been
8 marked as State's Exhibit Number 47, can you tell
9 us what's depicted in this photograph?

10 A. Item number 12 is a Ruger .9mm with a
11 serial number of 381-85416.

12 Q. Why would the magazine have been taken
13 out of that weapon?

14 A. When we collect firearms, we do take
15 the magazine out as well as any ammo to secure it.
16 Because we don't want an accident to occur during
17 transport or anything like that. As well as we
18 want to document if it was loaded or not.

19 Q. Was this the state in which item number
20 12 was found at the time of the search?

21 A. No, ma'am.

22 Q. How was it found?

23 A. The magazine was inside the gun at the
24 time.

25 Q. Do you know whether or not it was

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1 loaded?

2 A. The -- it had 15 rounds in the
3 magazine.

4 Q. Showing you State's Exhibit Number 48,
5 can you tell us whether or not -- can you tell us
6 what's depicted in this photograph?

7 A. It's the magazine that was located
8 along -- inside that firearm.

9 Q. Showing you State's Exhibit Number 115,
10 can you tell me if you recognize this item?

11 A. Yes, ma'am.

12 Q. What is it?

13 A. It is going to be item number 12 from
14 the search warrant which is the Ruger .9mm.

15 Q. Did you collect that for evidence?

16 A. Yes, ma'am, we did.

17 Q. And did you seal into an evidence bag?

18 A. Yes, ma'am, I did.

19 Q. Did you initial it?

20 A. Yes, ma'am, I did.

21 Q. Did you date it?

22 A. Yes, ma'am.

23 Q. And, Investigator Dabkowski, there is a
24 lock on that weapon. Can you tell us why that lock
25 is there and if you yourself placed it there?

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1 A. We would have -- that particular lock,
2 no, but we would have secured it open like that
3 just so there is a clear understanding that it's
4 not a loaded gun that we're putting into evidence.
5 Because, again, we don't want any accidents to
6 happen when our evidence technicians are securing
7 it in our evidence room. So that would have been a
8 lock that evidence put on, but we would have done
9 the same thing, but we would have used zip ties at
10 the time that it was initially done.

11 Q. And is that done not only for safety
12 purposes in the evidence room, but also for all of
13 us in court today?

14 A. Yes, ma'am.

15 MS. OPPENHEIMER: Your Honor, at this
16 time, I'd move State's Exhibit Number 115 into
17 evidence.

18 THE COURT: Any objection?

19 MR. SAUNDERS: No objection.

20 THE COURT: It's admitted.

21 (WHEREUPON, State's Exhibit Number 115
22 was entered.)

23 MS. OPPENHEIMER: Your Honor, I'd ask
24 that Agent Dabkowski open up that bag and safely
25 show the jury the contents of it.

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1 THE COURT: Absolutely. Go ahead.

2 A. So that is the firearm as well as the
3 magazine.

4 Q. Thank you, Investigator Dabkowski.
5 Showing you State's Exhibit Number 116, can you
6 tell me if you recognize that item?

7 A. Yes, ma'am. These were -- this was the
8 ammo that was located in the magazine from that
9 gun.

10 Q. And did you collect that ammunition?

11 A. Yes, ma'am, I did. I sealed the bag
12 and initialed then dated it.

13 Q. Does it appear to have been tampered or
14 altered in any way?

15 A. No, ma'am, it does not.

16 MS. OPPENHEIMER: Your Honor, at this
17 time, I'd move State's Exhibit Number 116 into
18 evidence.

19 THE COURT: Any objection?

20 MR. SAUNDERS: No objection.

21 THE COURT: It's admitted.

22 (WHEREUPON, State's Exhibit Number 116
23 was entered.)

24 Q. Agent Dabkowski, can you tell us why
25 the ammunition would have been bagged separately

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1 from the gun and magazine?

2 A. Again, it comes down to safety. We do
3 not bag firearms and ammunition together nor are
4 they kept in the same location in our evidence room
5 just for safety purposes, the same thing for when
6 we're presenting it in court.

7 Q. Showing you State's Exhibit Number 49,
8 what's depicted in this photograph?

9 A. It's a rifle. Item number 13 is a CZ
10 and I'm going to say this wrong, so I'm going to
11 spell it. It's S-C-O-R-I-O-N. And then EBO .9mm
12 rifle with a serial number of C594438 along with
13 magazines and ammunition.

14 Q. Showing you State's Exhibit Number 50,
15 can you tell us what's depicted in this photograph?

16 A. It's an additional photo of that with
17 the magazine on the outside of the firearm after
18 unloading it.

19 Q. And y'all would have unloaded it?

20 A. Yes, ma'am.

21 Q. Agent Dabkowski, showing you State's
22 Exhibit Number 117, can you tell me if you
23 recognize this item?

24 A. Yes, ma'am. It's item number 13.

25 Q. Did you put that item into evidence?

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1 A. Yes, ma'am, I did.

2 Q. And does it appear to have been
3 tampered or altered in any way other than for
4 safety measures?

5 A. No, ma'am, it has not.

6 Q. And is that lock connected to that
7 weapon to safely secure it as well?

8 A. Yes, ma'am, it is.

9 MS. OPPENHEIMER: Your Honor, at this
10 time, I'd move State's Exhibit Number 117 into
11 evidence.

12 THE COURT: Any objection?

13 MR. SAUNDERS: No, Your Honor.

14 THE COURT: It's admitted.

15 (WHEREUPON, State's Exhibit Number 117
16 was entered.)

17 MS. OPPENHEIMER: Permission to publish
18 to the jury, Your Honor?

19 THE COURT: You may.

20 A. So in there you can see where I
21 initialed and dated it the day it was put into
22 evidence.

23 Q. Showing you State's Exhibit Number 118,
24 can you tell us whether or not you recognize that
25 item?

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1 A. This is the magazine that was located
2 in that firearm.

3 Q. All right. And did you collect that in
4 evidence?

5 A. Yes, ma'am.

6 Q. Did you initial and date it?

7 A. Yes, ma'am.

8 Q. Does it appear to have been tampered or
9 altered in any way?

10 A. No, ma'am.

11 MS. OPPENHEIMER: Your Honor, at this
12 time, I move State's Exhibit Number 118 into
13 evidence.

14 THE COURT: Any objection?

15 MR. SAUNDERS: No objection.

16 THE COURT: It's admitted.

17 (WHEREUPON, State's Exhibit Number 118
18 was entered.)

19 MS. OPPENHEIMER: Permission to publish
20 to the jury, Your Honor?

21 THE COURT: You may.

22 Q. Agent Dabkowski, is that the magazine
23 that was found in State's Exhibit Number 117?

24 A. Yes, ma'am, it was.

25 Q. And was it loaded at that time?

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1 A. Yes, ma'am, it was.

2 Q. Showing you State's Exhibit Number 119,
3 do you recognize what I am handing you?

4 A. Yes, ma'am. This was the ammunition
5 found in the magazine of the rifle.

6 Q. And did you collect that ammunition?

7 A. Yes, ma'am.

8 Q. Did you initial and date it?

9 A. Yes, ma'am.

10 Q. Does it appear to be tampered at all in
11 any way?

12 A. No, ma'am, it does not.

13 MS. OPPENHEIMER: Your Honor, at this
14 time, I'd move State's Exhibit Number 119 into
15 evidence.

16 THE COURT: Any objection?

17 MR. SAUNDERS: No objection.

18 THE COURT: It's admitted.

19 (WHEREUPON, State's Exhibit Number 119
20 was entered.)

21 Q. And, again, you would have removed this
22 ammunition from that weapon?

23 A. Yes, ma'am, for safety.

24 Q. Showing you State's Exhibit Number 51,
25 can you tell us what's depicted in this photograph?

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1 A. Item number 15 is \$1,000 of U.S.
2 currency that was found in the shed.

3 Q. Showing you State's Exhibit Number 52,
4 can you tell me what that is a photograph of?

5 A. That is a photograph of ammunition that
6 was found in that backpack as well along side the
7 currency.

8 Q. And State's Exhibit Number 53, what is
9 depicted in this photograph?

10 A. That is the money along with the
11 ammunition.

12 Q. State's Exhibit Number 54, what's
13 depicted in this photograph?

14 A. That is going to be, again, the money
15 that was located in that backpack in the shed.

16 Q. Showing you what's been marked as
17 State's Exhibit Number 120, can you tell me if you
18 recognize that item?

19 A. I do. That's the \$1,000 that was
20 located in item number 15 that's depicted right
21 there on the screen.

22 Q. Did you collect that into evidence?

23 A. Yes, ma'am, I did.

24 Q. And did you initial and date it?

25 A. Yes, ma'am. It has my initials and

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1 date on it from it being sealed.

2 Q. Did it appear to have been tampered or
3 altered in any way?

4 A. No, ma'am, it did not.

5 MS. OPPENHEIMER: Your Honor, at this
6 time, I'd move State's Exhibit Number 120 into
7 evidence.

8 THE COURT: Any objection?

9 MR. SAUNDERS: No objection.

10 THE COURT: It's admitted.

11 (WHEREUPON, State's Exhibit Number 120
12 was entered.)

13 Q. Agent Dabkowski, I believe you
14 previously testified that you found \$2,000 laying
15 on that table, how much additional cash was found?

16 A. Sorry, that's an additional thousand.

17 Q. Making the total?

18 A. In the shed, \$3,000.

19 Q. And these are not all \$100 bills?

20 A. No, ma'am.

21 Q. Showing you State's Exhibit Number 121,
22 can you tell me whether or not you recognize that
23 item?

24 A. Yes, ma'am. It's a box of ammo that we
25 located in the shed during the execution of the

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1 search warrant.

2 Q. Did you collect that item into
3 evidence?

4 A. Yes, ma'am, I did. Because you can
5 see, again, the initials and the date.

6 Q. Does it appear to be tampered with at
7 all?

8 A. No, ma'am, it does not.

9 MS. OPPENHEIMER: Your Honor, at this
10 time, I'd move State's Exhibit Number 121 into
11 evidence.

12 THE COURT: Any objection?

13 MR. SAUNDERS: No objection.

14 THE COURT: It's admitted.

15 (WHEREUPON, State's Exhibit Number 121
16 was entered.)

17 Q. Do you know approximately how many
18 rounds were contained in this box of ammunition?

19 A. It's marked on the outside of the bag.

20 Q. Would you like to look at it?

21 A. Yes, please. So 121 rounds.

22 Q. Showing you State's Exhibit Number 55,
23 can you tell me what's depicted in this photograph?

24 A. It's a magazine.

25 Q. And that was found in the shed?

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1 A. Yes, ma'am.

2 Q. State's Exhibit Number 56?

3 A. A magazine.

4 Q. Is it loaded or unloaded?

5 A. Loaded.

6 Q. State's Exhibit Number 57, what's
7 depicted in that photograph?

8 A. That is a Rebel .22 caliber AK with a
9 serial number A558647.

10 Q. State's Exhibit Number 58, can you tell
11 us what that is?

12 A. That's the box as well as additional
13 magazines.

14 Q. State's Exhibit Number 59, can you tell
15 us what that is?

16 A. That's an additional firearm that was
17 located in the shed.

18 Q. Was it found within the case or outside
19 the case?

20 A. It was found exactly like you see it.
21 So it was outside the case.

22 Q. Showing you what's been marked as
23 State's Exhibit Number 122, can you open up that
24 box and tell us whether or not you recognize what's
25 inside of it?

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1 A. Yes, ma'am, I do.

2 Q. And what is it?

3 A. It is one of the firearms that we
4 located inside of the shed.

5 Q. Did you collect that item into
6 evidence?

7 A. Yes, ma'am. I initialed and dated it
8 on an evidence tag on the firearm.

9 Q. Does it appear to be altered or
10 tampered with in any way other than putting a lock
11 on it for court safety purposes?

12 A. No, ma'am.

13 MS. OPPENHEIMER: Your Honor, at this
14 time, I'd move State's Exhibit Number 122 into
15 evidence.

16 THE COURT: Any objection?

17 MR. SAUNDERS: No objection.

18 THE COURT: It's admitted.

19 (WHEREUPON, State's Exhibit Number 122
20 was entered.)

21 MS. OPPENHEIMER: Permission to
22 publish, Your Honor?

23 THE COURT: Yes, ma'am.

24 Q. Detective Dabkowski, it appears there
25 are rubber bands on that rifle, did y'all place

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1 those on there?

2 A. No, ma'am, they were on there.

3 Q. Was that weapon loaded or unloaded when
4 you found it?

5 A. It was loaded.

6 Q. Showing you State's Exhibit Number 60,
7 can you tell us what's depicted in this item?

8 A. It's an additional firearm that we
9 located within the shed.

10 Q. Showing you State's Exhibit Number 125,
11 can you tell us whether or not you recognize that
12 item?

13 A. Yes, ma'am, I do.

14 Q. And what is it?

15 A. It was the firearm that -- one of the
16 firearms that we located inside the shed.

17 Q. Did you collect that into evidence?

18 A. Yes, ma'am, I did. My initials are on
19 there and dated.

20 Q. Does it appear other than putting a
21 lock on it for court safety purposes to appear to
22 be altered or tampered in any way?

23 A. No, ma'am, it does not.

24 MS. OPPENHEIMER: Your Honor, at this
25 time, I'd like to move State's Exhibit Number 125

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1 into evidence.

2 THE COURT: Any objection?

3 MR. SAUNDERS: No objection.

4 MS. OPPENHEIMER: Your Honor,
5 permission to publish to the jury?

6 THE COURT: It's admitted and you may
7 publish.

8 (WHEREUPON, State's Exhibit Number 125
9 was entered.)

10 Q. Was that weapon loaded or unloaded when
11 you found it in the shed at the Defendant's home?

12 A. It was loaded.

13 Q. Showing you State's Exhibit Number 126,
14 can you tell me if you recognize this item?

15 A. Yes, ma'am. It's two rounds that were
16 loaded inside the rifle.

17 Q. And did you collect that into evidence?

18 A. Yes, ma'am. I initialed and dated it.

19 Q. Does it appear to have been tampered in
20 any way?

21 A. No, ma'am, it does not.

22 MS. OPPENHEIMER: Your Honor, at this
23 time, I'd move State's Exhibit Number 126 into
24 evidence.

25 THE COURT: Any objection?

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1 MR. SAUNDERS: No, Your Honor.

2 THE COURT: It's admitted.

3 (WHEREUPON, State's Exhibit Number 126
4 was entered.)

5 Q. And these are found in that rifle that
6 you just showed the jury?

7 A. Yes, ma'am.

8 Q. Showing you State's Exhibit Number 61,
9 can you tell us what is depicted in this
10 photograph?

11 A. So that would be item number 18 which
12 was three digital scales that we located inside the
13 shed.

14 Q. How many total scales were found inside
15 of the shed?

16 A. Including the previous one found, we're
17 up to four.

18 Q. Showing you State's Exhibit Number 127,
19 can you tell me if you recognize that item?

20 A. I do.

21 Q. And what are they?

22 A. It's item number 18 of the search
23 warrant, the three digital scales that we located
24 inside the shed.

25 Q. And did you collect those into

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1 evidence?

2 A. Yes, ma'am. I am even the one that
3 actually located all three of these.

4 Q. And you dated and initialed that bag?

5 A. Yes, ma'am, I initialed and dated it.

6 Q. Does it appear to be tampered or
7 altered with in any way?

8 A. No, ma'am, it does not.

9 MS. OPPENHEIMER: Your Honor, at this
10 time, I'd move State's Exhibit Number 127 into
11 evidence.

12 THE COURT: Any objection?

13 MR. SAUNDERS: No objection.

14 THE COURT: It's admitted.

15 (WHEREUPON, State's Exhibit Number 127
16 was entered.)

17 Q. Agent Dabkowski, why would you find
18 multiple digital scales in a home that might be
19 connected with a drug enterprise?

20 A. They're used to weigh out the drugs.
21 So if you have additional scales you're able to do
22 or have multiple people help you do that, so you
23 have the ability to weigh out --

24 MR. SAUNDERS: Your Honor, objection.
25 I mean, it's -- there's -- what do drug dealers do

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1 with scales and it's going into you could have
2 multiple people do this. I mean, there are scales
3 found, they're in evidence, I think this is
4 irrelevant as to, you know --

5 THE COURT: Testify on what you picked
6 up and you saw unless you want to put an expert on
7 the stand.

8 Q. State's Exhibit Number 62, can you tell
9 me what's depicted in this?

10 A. Item number 20 is 121 .9mm rounds found
11 in a box.

12 Q. State's Exhibit Number 63, what's
13 depicted in this photograph?

14 A. It's the inside of the boxes.

15 Q. State's Exhibit Number 64?

16 A. Just a close-up of the inside of the
17 boxes with the different rounds inside of it.

18 Q. State's Exhibit Number 65?

19 A. Additional magazines that were located
20 inside the shed.

21 Q. And State's Exhibit Number 66?

22 A. Is a magazine with two loading assists
23 that were located in the shed.

24 Q. Agent Dabkowski, I'm going to show you
25 State's Exhibit Number 123, can you tell me if you

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1 recognize that item?

2 A. I do.

3 Q. And what is it?

4 A. It's the magazine depicted right there
5 along with the two loading assists that were found
6 in the shed.

7 Q. And did you collect those into
8 evidence?

9 A. Yes, ma'am, I did. I initialed and
10 dated it.

11 Q. Does it appear to be altered or
12 tampered in any way?

13 A. No, ma'am, it does not.

14 MS. OPPENHEIMER: Your Honor, at this
15 time, I'd move State's Exhibit Number 123 into
16 evidence.

17 THE COURT: Any objection?

18 MR. SAUNDERS: No objection.

19 THE COURT: It's admitted.

20 (WHEREUPON, State's Exhibit Number 123
21 was entered.)

22 Q. I'm showing you State's Exhibit Number
23 128, if you can identify those. Do you recognize
24 that item?

25 A. Yes, ma'am, I do.

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1 Q. What are they?

2 A. They are boxes of .9mm rounds that we
3 found during the execution of the search warrant.

4 Q. Did you collect those items into
5 evidence?

6 A. Yes, we did.

7 Q. And did you initial and date those
8 items?

9 A. Yes, ma'am, I did.

10 Q. Does it appear to be tampered or
11 altered with in any way?

12 A. No, ma'am, it does not.

13 MS. OPPENHEIMER: Your Honor, at this
14 time, I'd move State's Exhibit Number 128 into
15 evidence.

16 THE COURT: Any objection?

17 MR. SAUNDERS: No objection.

18 THE COURT: It's admitted.

19 (WHEREUPON, State's Exhibit Number 128
20 was entered.)

21 Q. Agent Dabkowski, can you tell us how
22 many rounds of ammunition were found in those two
23 boxes alone?

24 A. Adding the total up, it's going to be
25 139 rounds of ammunition.

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1 Q. And did you collect any and all
2 ammunition found in the course of the search of the
3 shed?

4 A. Yes, ma'am, we did.

5 Q. Showing you State's Exhibit Number 124,
6 can you tell me if you recognize that?

7 A. I do.

8 Q. And what is that?

9 A. They were rounds that were found loaded
10 into the rifle that was in the shed -- that was
11 located in the shed.

12 Q. And did you collect that into evidence?

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

14 Q. And did you initial and date?

15 A. Yes, ma'am, I did.

16 Q. Does it appear to be tampered or
17 altered with in any way?

18 A. No, ma'am, it does not.

19 MS. OPPENHEIMER: Your Honor, at this
20 time, I'd move State's Exhibit Number 124 into
21 evidence.

22 THE COURT: Any objection?

23 MR. SAUNDERS: No objection.

24 THE COURT: It's admitted.

25 (WHEREUPON, State's Exhibit Number 124

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1 was entered.)

2 Q. Agent Dabkowski, during your search of
3 this property at [REDACTED] Leica Lane, were you able to
4 further connect the Defendant, Angel Ibarra, to the
5 home?

6 A. Yes, ma'am, we were.

7 Q. How were you able to do that?

8 A. In the bedroom we located insurance
9 information, mail, as well as banking information
10 all with his name on the paperwork as well as that
11 address.

12 Q. Showing you State's Exhibits Number 71
13 through 74, can you tell me if you recognize those?

14 A. Yes, ma'am. It's pictures of the
15 documentation we found in the -- one of the
16 bedrooms in the residence that has the Defendant's
17 name on it as well as the address.

18 Q. Did you personally observe that mail
19 located in the Defendant's bedroom at his home?

20 A. Yes, ma'am, I did.

21 Q. And do those pictures appear to be
22 altered or changed in any way?

23 A. No, ma'am, it does not.

24 MS. OPPENHEIMER: Your Honor, at this
25 time, I'd move State's Exhibit Number 71 through 74

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1 into evidence.

2 THE COURT: Any objection?

3 MR. SAUNDERS: No objection.

4 THE COURT: It's admitted.

5 (WHEREUPON, State's Exhibit Numbers 71
6 through 74 were entered.)

7 Q. Showing you State's Exhibit Number 71,
8 what is this item?

9 A. It is the insurance information on the
10 Dodge Ram.

11 Q. And who did that Dodge Ram belong to?

12 A. The Defendant, Angel Ibarra.

13 Q. And whose name is depicted on this
14 insurance policy?

15 A. The Defendant's name is.

16 Q. And what address is depicted as being
17 his address?

18 A. [REDACTED] Leica Lane.

19 Q. Showing you State's Exhibit Number 72,
20 what is this item?

21 A. It's the information that -- it's mail
22 that was received from Allstate.

23 Q. Agent Dabkowski, I don't know if you
24 can tell from this picture, but do you recall from
25 your investigation and personally observing this

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1 piece of mail who it was addressed to?

2 A. It was addressed to the Defendant.

3 Q. And what address was it sent to?

4 A. [REDACTED] Leica Lane.

5 Q. Showing you State's Exhibit Number 73,
6 can you tell us what this item is?

7 A. That's mail that appears to have come
8 from Wells Fargo based on the half logo in the left
9 corner.

10 Q. Whose name is on it?

11 A. Angel's.

12 Q. Do you know if there are any other
13 Angel's that live at [REDACTED] Leica Lane?

14 A. No, ma'am, I do not.

15 Q. The only Angel that you know who lives
16 at [REDACTED] Leica Lane is who?

17 A. The Defendant, Angel Ibarra.

18 Q. Showing you State's Exhibit Number 74,
19 can you tell us what this is?

20 A. That was banking information that was
21 located inside the residence.

22 Q. Whose name is on that banking
23 information?

24 A. The Defendant's is.

25 Q. Investigator Dabkowski, throughout your

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1 investigation and search of this home, did you
2 obtain any knowledge that any other adult males
3 lived in that home?

4 A. No, ma'am, we did not.

5 Q. Was there any evidence that Israel
6 Mendoza Cervantes lived there?

7 A. No, ma'am.

8 Q. Did you have an address for Israel
9 Mendoza Cervantes?

10 A. Yes, ma'am, we did.

11 Q. And how did you obtain that address?

12 A. Through DMV records.

13 Q. And do you recall where it was?

14 A. It was on -- off of -- on Wayne Street
15 in Gaston, South Carolina.

16 Q. Agent Dabkowski, did you have
17 information of who else lived at that home?

18 A. We knew that there were other
19 individuals living in the home, yes, ma'am.

20 Q. How many adults lived in that home?

21 A. We were aware of at least one other
22 adult.

23 Q. And who would that have been?

24 A. The Defendant's mother.

25 Q. Were there any children in the home?

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1 A. There were.

2 Q. Going back to your search, showing you
3 State's Exhibits Number 67 through 70 and 75
4 through 88, can you go through these and let me
5 know if you recognize them?

6 A. Yes, ma'am, I do.

7 Q. Are those all fair and accurate
8 representations of what you personally observed at
9 the Defendant's home on October 24, 2018?

10 A. Yes, ma'am.

11 Q. Do they appear to have been altered in
12 any way?

13 A. No, ma'am, they do not.

14 MS. OPPENHEIMER: Your Honor, at this
15 time, I'd move State's Exhibit Numbers 67 through
16 70 and 75 through 88 into evidence.

17 THE COURT: Any objection?

18 MR. SAUNDERS: Can I just see them real
19 quick, please.

20 MS. OPPENHEIMER: I apologize.

21 MR. SAUNDERS: Thank you. No
22 objection, Your Honor. Other than the same
23 objection, that I don't believe Agent Dabkowski
24 took these photos. And I'm not sure who did and
25 who found these things, number 1, 2, 3, 4, and 5,

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1 | so we would object to them being admitted through
2 | this witness.

3 | THE COURT: And my ruling is going to
4 | be the same. She was there. She recognize them.
5 | So it's an accurate depiction of what she saw, so
6 | I'm going to let them in. Go ahead.

7 | MR. SAUNDERS: Thank you.

8 | THE COURT: Objection noted for the
9 | record though.

10 | (WHEREUPON, State's Exhibit Numbers 67
11 | through 70 and 75 through 88 were entered.)

12 | MS. OPPENHEIMER: Permission to
13 | publish, Your Honor?

14 | THE COURT: Go ahead.

15 | Q. Showing you State's Exhibit Number 67,
16 | can you tell me what's in this photograph?

17 | A. That was multicolored balloons found in
18 | the living room of the residence.

19 | Q. Were balloons found anywhere else on
20 | this property?

21 | A. In the shed as well.

22 | Q. Do those appear to be the same type?

23 | A. They appear to be consistent.

24 | Q. State's Exhibit Number 68, what does
25 | this photo depict?

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1 A. That was as we were ending the search
2 warrant so we were bringing all the items in and
3 it's just an overall picture of some of the
4 firearms that were located inside the shed.

5 Q. And why would you have laid them out
6 like this?

7 A. Just to get an overall picture to see
8 everything as well as make sure that we have every
9 item of evidence that we collected from the scene
10 prior to us leaving.

11 Q. State's Exhibit Number 69, what does
12 that depict?

13 A. That is a picture of the security
14 camera system that was located -- that was located
15 inside the house, but some of the cameras were
16 located outside of the residence as well.

17 Q. And where was the feed streaming to?

18 A. The shed.

19 Q. State's Exhibit Number 70, what's in
20 this?

21 A. That's one of the cameras that we
22 located.

23 Q. Agent Dabkowski, can you tell us what
24 direction this camera in State's Exhibit Number 70
25 is pointed towards?

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1 A. The shed.

2 Q. Showing you State's Exhibit Number 129
3 and 130, if you can tell us if you recognize those?

4 A. I do. This is the security system
5 along with the cameras that we located during the
6 execution of the search warrant at the residence.

7 Q. And did you collect them?

8 A. Yes, ma'am.

9 Q. And did you place them into those
10 evidence bags?

11 A. Yes, ma'am. And you can see where I
12 dated and initialed the seal.

13 Q. Do they appear to have been tampered
14 with in any way?

15 A. No, ma'am, they do not.

16 MS. OPPENHEIMER: Your Honor, at this
17 time, I'd move State's Exhibit Number 129 and 130
18 into evidence.

19 THE COURT: Any objection?

20 MR. SAUNDERS: No objection.

21 THE COURT: They're admitted.

22 (WHEREUPON, State's Exhibit Numbers 129
23 and 130 were entered.)

24 Q. Agent Dabkowski, would every room of
25 that home have been searched?

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1 A. Yes, ma'am.

2 Q. And were you able to make a
3 determination that one of the rooms belonged to the
4 Defendant?

5 A. We did.

6 Q. Do you recall if you found anything in
7 the Defendant's room?

8 A. Yes, we did.

9 Q. Showing you State's Exhibit Number 75,
10 can you tell us what's depicted in this photograph?

11 A. So that is two magazines.

12 Q. And where were these found?

13 A. In the Defendant's bedroom.

14 Q. State's Exhibit Number 76, what does
15 that depict?

16 A. That is three loaded glock magazines
17 with the rounds that were in the magazines.

18 Q. Were the magazines loaded or unloaded
19 before y'all searched?

20 A. All three of them were loaded.

21 Q. And would y'all have taken the
22 ammunition out?

23 A. Yes, ma'am, we would of.

24 Q. And where were these found?

25 A. In the Defendant's bedroom.

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1 Q. State's Exhibit Number 77, what's
2 depicted in that that photograph?

3 A. It's the two boxes of .9mm rounds.

4 Q. And where was that found?

5 A. In the Defendant's bedroom.

6 Q. State's Exhibit Number 78, what does
7 this photo depict?

8 A. More ammunition that was located.

9 Q. Where was it found?

10 A. It was found in the Defendant's
11 bedroom.

12 Q. Showing you State's Exhibit Number 79,
13 what does this photo depict?

14 A. It's an empty glock handgun box.

15 Q. And where was it found?

16 A. Located in the Defendant's bedroom.

17 Q. Agent Dabkowski, I'm showing you
18 State's Exhibits Number 131 through 134, if you can
19 tell us whether or not you recognize these items?

20 A. Yes, ma'am, I do.

21 Q. And what is in State's Exhibit Number
22 131?

23 A. It's the three magazines that were
24 located in the Dodge Ram.

25 Q. And 132, can you tell us what that is?

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1 A. These were rounds of ammunition that
2 were found in the Defendant's bedroom.

3 Q. 133, can you tell us what that is?

4 A. These were additional rounds of
5 ammunition that were found in the Defendant's
6 bedroom.

7 Q. And 134, can you tell us what that is?

8 A. That is the empty glock box that was
9 found in the Defendant's bedroom.

10 Q. Did you collect all these items into
11 evidence?

12 A. Yes, ma'am, I did.

13 Q. Do they all have your initials and date
14 on them?

15 A. Yes, ma'am, they do.

16 Q. Do they appear to be tampered with at
17 all?

18 A. No, ma'am, they do not.

19 MS. OPPENHEIMER: Your Honor, at this
20 time, I'd move State's Exhibits Number 131 through
21 134 into evidence.

22 THE COURT: Any objection?

23 MR. SAUNDERS: No objection.

24 THE COURT: It's admitted.

25 (WHEREUPON, State's Exhibit Number 131

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1 through 134 were entered.)

2 MS. OPPENHEIMER: Your Honor, I'd ask
3 that Agent Dabkowski open up State's Exhibit Number
4 134 to show to the jury.

5 THE COURT: Granted.

6 Q. Agent Dabkowski, were any other weapons
7 found in anyone else's bedroom other than the
8 Defendant's?

9 A. No, ma'am, it was not.

10 Q. What about any other ammunition?

11 A. No, ma'am, it was not.

12 Q. Showing you State's Exhibit Number 80,
13 can you tell us what that is?

14 A. It's \$1,500 in U.S. currency that was
15 located in the Defendant's bedroom.

16 Q. State's Exhibit Number 81, can you tell
17 us what this is?

18 A. Additional money that was located.

19 Q. State's Exhibit Number 82?

20 A. It's the item number 38 which was the
21 \$1,500 and then it was laid out and taken a picture
22 of.

23 Q. And where was this found?

24 A. In the Defendant's bedroom.

25 Q. State's Exhibit Number 83, can you tell

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1 us what that is?

2 A. It's \$1,000 in U.S. currency that was
3 found in the Defendant's bedroom.

4 Q. State's Exhibit Number 84, can you tell
5 us what that is?

6 A. That was additional money located.
7 That's the additional -- that's actually search
8 warrant item number 40 which was \$297 that was
9 found in the shed.

10 Q. Now, were any other large sums of cash
11 found anywhere else in the home other than the shed
12 and the Defendant's bedroom?

13 A. No, ma'am.

14 Q. Showing you State's Exhibit Number 85,
15 can you tell us what this is a photograph of?

16 A. Yes, ma'am. That was a plastic bag
17 with a crystal like substance that we believed to
18 be narcotics that was located in the Defendant's
19 bedroom.

20 Q. Did you collect those narcotics?

21 A. Yes, ma'am, we did.

22 Q. Did you place those narcotics into a
23 best kit?

24 A. Yes, ma'am.

25 MR. SAUNDERS: Objection --

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1 Q. Suspected narcotics?

2 MS. OPPENHEIMER: I apologize.

3 THE COURT: Let him make his objection.

4 MR. SAUNDERS: Objection, Your Honor.

5 She's referring to the substance as narcotics and
6 that has not been established.

7 THE COURT: It hasn't been established
8 yet, so we don't know what it is. Y'all strike
9 that. Disregard it. I'm telling the jury to
10 disregard that statement.

11 Q. Did you collect the suspected
12 narcotics?

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

14 Q. And did you place those into a best
15 kit?

16 A. Yes, ma'am, I did.

17 Q. Showing you State's Exhibit Number 136
18 for ID only, can you tell us if you recognize that
19 item?

20 A. Yes, ma'am, I do.

21 Q. And what is it?

22 A. It's the best kit that that suspected
23 narcotics was placed into for testing.

24 Q. Did you collect that item into
25 evidence?

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1 A. Yes, ma'am, I did.

2 Q. Did you initial and date it?

3 A. Yes, ma'am, I did.

4 Q. Did you sign it?

5 A. Yes, ma'am.

6 Q. Does it appear to have been -- it
7 appears the same way that you saw it on October 24,
8 2018?

9 A. Yes, ma'am.

10 Q. Agent Dabkowski, were any other
11 suspected narcotics found in any of the bedrooms of
12 the Defendant's home?

13 A. No, ma'am.

14 Q. Where was the only location that
15 suspected narcotics were found?

16 A. The two locations that suspected
17 narcotics were found were the shed and the
18 Defendant's bedroom.

19 Q. Showing you State's Exhibit Number 86,
20 can you tell us what's depicted in this photograph?

21 A. It's just a picture of the gun box.

22 Q. And would this have been found in the
23 shed -- where in the house would this have been
24 found?

25 A. That I believe was found on the front

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1 porch.

2 Q. Showing you State's Exhibit Number 135,
3 if you can tell me if you recognize that item?

4 A. Yes, ma'am, I do.

5 Q. And what is it?

6 A. It's the magazines that were located
7 with the rifle that were located in the shed.

8 Q. Did you collect those?

9 A. Yes, ma'am, we did.

10 Q. Did you initial and date those?

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

12 Q. Does it appear to be tampered or
13 altered in any way?

14 A. No, ma'am, it does not.

15 MS. OPPENHEIMER: Your Honor, at this
16 time, I'd move State's Exhibit Number 135 into
17 evidence.

18 THE COURT: Any objection?

19 MR. SAUNDERS: No objection.

20 THE COURT: It's admitted.

21 (WHEREUPON, State's Exhibit Number 135
22 was entered.)

23 Q. Showing you State's Exhibit Number 87,
24 can you tell us what's depicted in this photograph?

25 A. It's a green ammo can with 119 .223

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1 caliber rounds which was found in the Dodge Ram
2 truck that was in the driveway at the location.

3 Q. Showing you State's Exhibit Number 88,
4 can you tell us what --

5 A. That is a picture of the Dodge Ram
6 truck that was located at the residence that has
7 been identified as belonging to the Defendant.

8 Q. Showing you State's Exhibit Number 137,
9 can you tell us if you recognize this item?

10 A. Yes, ma'am. It's the ammo case with
11 the ammo inside of it.

12 Q. And did you collect that?

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

14 Q. Did you initial and date it?

15 A. Yes, ma'am, I did.

16 Q. Does it appear to have been tampered or
17 altered in any way?

18 A. No, ma'am, it does not.

19 MS. OPPENHEIMER: Your Honor, at this
20 time, I'd move 137 into evidence.

21 THE COURT: Any objection?

22 MR. SAUNDERS: No, objection.

23 THE COURT: It's admitted.

24 (WHEREUPON, State's Exhibit Number 137
25 was entered.)

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1 MS. OPPENHEIMER: Your Honor, may I
2 have Agent Dabkowski open up the bag to show the
3 jury the contents of the box?

4 THE COURT: Go ahead.

5 Q. Agent Dabkowski, prior to the execution
6 of the search warrant, can you tell us whether or
7 not you had any knowledge that the Defendant's
8 15-year-old brother was involved in the trafficking
9 of narcotics?

10 A. No, ma'am, we did not.

11 Q. And there's been some talk about an
12 individual named Israel Mendoza Cervantes. Did you
13 have information whether or not he associated with
14 the Defendant?

15 A. We did.

16 Q. Did you have information whether or not
17 he lived at [REDACTED] Leica Lane?

18 A. No, ma'am, we did not.

19 Q. Did y'all ever conduct surveillance at
20 Israel Mendoza Cervantes' home?

21 A. No, ma'am, we did not.

22 Q. Why not?

23 A. During the course of our investigation,
24 everything we observed pointed to [REDACTED] Leica Lane
25 being the main location of the suspected drug

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1 enterprise.

2 Q. In your experience as a narcotics
3 officer, can you tell us whether or not the head of
4 a drug enterprise keeps their drugs at their
5 worker's home?

6 MR. SAUNDERS: Your Honor, objection.
7 I mean, even with experience, you know, what does a
8 drug dealer do? You know.

9 THE COURT: I agree. All right. Let's
10 move on, Ms. Oppenheimer.

11 Q. Following the execution of this search
12 warrant, did you determine that you would be making
13 charges against the Defendant?

14 A. I did.

15 Q. And what evidence did you base that
16 determination off of?

17 A. Based on the evidence located in the
18 shed as well as his bedroom as well as what was
19 located upon him when he was arrested.

20 Q. Okay. And we'll get to that in a
21 second. Did you make charges against the
22 Defendant's mother?

23 A. No, ma'am, I did not.

24 Q. Why not?

25 A. Because there was no indication that

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1 anybody else that lived at that residence was
2 involved.

3 Q. Did you make charges against the
4 Defendant's 15-year-old brother?

5 A. No, ma'am, we did not.

6 Q. Why not?

7 A. Because, again, there was no indication
8 during the execution of the search warrant that
9 anybody else that lived at that residence was
10 involved.

11 Q. And you testified that the Defendant
12 was ultimately arrested on those charges, do you
13 recall when?

14 A. Shortly thereafter the execution of the
15 search warrant.

16 Q. So the same day?

17 A. Yes, ma'am.

18 Q. And do you recall where he was
19 arrested?

20 A. Not far from the residence.

21 Q. Was any other evidence collected by you
22 or any other officers following the arrest of the
23 Defendant?

24 A. Yes, ma'am, there was additional items
25 located.

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1 Q. Did you collect all of that evidence?

2 A. Yes, ma'am, I did.

3 MS. OPPENHEIMER: Beg the Court's
4 indulgence.

5 THE COURT: Take your time.

6 Q. Agent Dabkowski, I'm showing you what's
7 been marked as State's Exhibit Number 142 and 143,
8 can you tell us if you recognize those items?

9 A. Yes, ma'am, I do.

10 Q. And what are they?

11 A. This would be a firearm that was
12 located in close proximity to the Defendant during
13 his arrest.

14 Q. Did you collect those items into
15 evidence?

16 A. I did.

17 Q. Did you seal them into the evidence
18 bags?

19 A. Yes, ma'am, I did.

20 Q. Did you initial and date them?

21 A. Yes, ma'am, I did.

22 Q. Do they appear to be altered in any
23 way?

24 A. No, ma'am, they do not.

25 MS. OPPENHEIMER: Your Honor, at this

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1 time, I'd move State's Exhibits Number 142 and 143
2 into evidence.

3 THE COURT: Any objection?

4 MR. SAUNDERS: Your Honor, may we
5 approach real quick, please?

6 THE COURT: Sure.

7 (WHEREUPON, there was a sidebar
8 conference.)

9 THE COURT: All right. Ms.
10 Oppenheimer, go ahead.

11 MS. OPPENHEIMER: Are they entered into
12 evidence?

13 THE COURT: Any objection?

14 MR. SAUNDERS: No objection.

15 THE COURT: It's entered.

16 (WHEREUPON, State's Exhibit Numbers 142
17 and 143 were entered.)

18 Q. Agent Dabkowski, do you know whether or
19 not this weapon was loaded at the time of the
20 Defendant's arrest?

21 A. It was.

22 Q. Do you know whether or not it was in
23 close proximity to him?

24 A. It was.

25 Q. Do you know whether or not he would of

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1 -- or excuse me. Do you know whether or not it was
2 easily accessible in the vehicle?

3 A. Yes, ma'am, it was.

4 Q. Showing you State's Exhibits Number 144
5 through 146, if you can tell me if you recognize
6 those items?

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

8 Q. And can you tell us what State's
9 Exhibit Number 144 is?

10 A. It's magazines.

11 Q. And where were those found in?

12 A. In the vehicle located -- in the
13 vehicle the Defendant was located when he was
14 arrested.

15 Q. And State's Exhibit Number 145, what is
16 that?

17 A. It is a gun light.

18 Q. Where was it found?

19 A. In the vehicle that the Defendant was
20 in when he was arrested.

21 Q. And State's Exhibit Number 146?

22 A. Was the ammo located with the firearm
23 that was located in the vehicle that the Defendant
24 was in at the time of his arrest.

25 Q. Did you collect all of those items into

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1 evidence?

2 A. Yes, ma'am, I did.

3 Q. Did you initial and date them?

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

5 Q. Do they appear to be altered in any
6 way?

7 A. No, ma'am, they do not.

8 MS. OPPENHEIMER: Your Honor, at this
9 time, I'd move State's Exhibits Number 144 through
10 146 into evidence.

11 THE COURT: Any objection?

12 MR. SAUNDERS: No objection.

13 THE COURT: They're admitted.

14 (WHEREUPON, State's Exhibit Number 144
15 through 146 were entered.)

16 Q. Agent Dabkowski, do you have any
17 information as to whether or not the Defendant was
18 with anyone else at the time of his arrest?

19 A. He was not with anybody else.

20 Q. And throughout the course of your
21 investigation, were you able to determine if the
22 Defendant worked with anyone else or associated
23 with anyone else with this drug enterprise?

24 A. Yes, ma'am.

25 Q. And was that individual arrested as

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1 well?

2 A. He was.

3 Q. Now, in preparation for this trial
4 today, have you obtained knowledge of where the
5 Defendant presently resides?

6 A. Yes, ma'am, I did.

7 Q. And what address does he live at?

8 A. He still resides at [REDACTED] Leica Lane.

9 MS. OPPENHEIMER: Beg the Court's
10 indulgence.

11 Q. I apologize, Agent Dabkowski. Got a
12 little out of order, there's a lot of evidence.
13 Showing you State's Exhibit Number 138 through 141,
14 if can you tell us whether or not you recognize
15 those items and what they are?

16 A. I do recognize items 138 through 141.
17 They are initialed with my initials as well as
18 dated.

19 Item 138 is a magazine that was located
20 in the shed during the execution of the search
21 warrant.

22 139 was ammo that was located into the
23 -- an extra magazine for one of the rifles that was
24 located in the shed.

25 This is the ammunition for -- that were

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1 found in the magazine that was located in the Dodge
2 truck that was registered to the Defendant at the
3 location.

4 And then this would be the digital
5 scale that was found in the 15-year-old brother's
6 bedroom.

7 Q. Do they appear to be altered or
8 tampered in any way?

9 A. No, ma'am, they do not.

10 MS. OPPENHEIMER: Your Honor, at this
11 time, I'd move State's Exhibits Number 138 through
12 141 into evidence.

13 THE COURT: Any objection?

14 MR. SAUNDERS: No objection.

15 (WHEREUPON, State's Exhibit Number 138
16 through 141 were entered.)

17 Q. And, Agent Dabkowski, again, in 2018,
18 who was the center of your investigation?

19 A. The Defendant, Angel Ibarra was.

20 Q. Did you have any information that his
21 15-year-old brother was involved?

22 A. No, ma'am, we did not.

23 Q. Did you have any information as to
24 whether or not any other adult males lived at [REDACTED]
25 Leica Lane other than the Defendant?

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1 A. No, ma'am, we did not.

2 Q. And on October 24, 2018, did you
3 observe the Defendant going to and from the shed at
4 [REDACTED] Leica Lane?

5 A. Yes, ma'am.

6 Q. Thank you. I have no further
7 questions. Please answer any questions that Mr.
8 Saunders may have for you.

9 THE COURT: All right. Let me see the
10 lawyers for just a second.

11 (WHEREUPON, there was a sidebar
12 conference.)

13 THE COURT: All right. Madam Forelady,
14 I'm going to go ahead and send y'all to lunch. If
15 y'all will be back in your jury room at 2 o'clock
16 we'll get started again, okay? Thank you.

17 Remember, and I'm going to say this 50
18 million times, no talking about this case. No
19 using cell phones to make any kind of communication
20 and you can't even talk about this case amongst
21 yourselves just yet, okay. Thank you. I hope you
22 have a good lunch.

23 (WHEREUPON, the jury exits the
24 courtroom at 12:50 p.m.)

25 THE COURT: Okay. Yeah, I want to just

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 courtroom at 2:16 p.m.)

2 THE COURT: Madam Forelady, is the jury
3 ready?

4 THE FOREPERSON: Yes, ma'am.

5 THE COURT: Okay. Let me remind you,
6 Detective, you're still under oath.

7 MS. DABKOWSKI: Yes, Your Honor.

8 THE COURT: You didn't speak to anyone?

9 MS. DABKOWSKI: No, Your Honor, I did
10 not.

11 THE COURT: Okay. Mr. Saunders, we're
12 happy to hear from you.

13 MR. SAUNDERS: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. SAUNDERS:

16 Q. Good afternoon, Agent Dabkowski.

17 A. Good afternoon, sir.

18 Q. All right. So -- all right. Let's
19 first -- a lot was made out of these surveillance
20 systems that were attached to the house, running in
21 the house. From the surveillance systems, did you
22 collect any recordings or watch any recordings of
23 the surveillance?

24 A. No, sir, we did not.

25 Q. Okay. And you said there was a camera

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1 pointed at the shed. Okay. And you look at this
2 camera to determine that?

3 A. Yes, sir.

4 Q. Okay. And you looking at the camera,
5 you could tell what that camera was picking up?

6 A. From standing behind it, yes, sir.

7 Q. So you knew that that -- you knew that
8 that camera was taking in, I guess, recordings of
9 the shed? You knew that?

10 A. The direction that the camera was faced
11 was towards the shed.

12 Q. Okay. So if I point a camera from here
13 to that screen, couldn't that camera also be
14 picking up the doorway over there, the corner over
15 here, could it not, depending on how it's focused?

16 A. I can't attest to what the camera would
17 have picked up.

18 Q. But you knew that it was pointed --

19 A. It was pointed in the direction of the
20 shed.

21 Q. Physically pointed at the shed?

22 A. It was physically pointed in the
23 direction of the shed. And we also know as in one
24 of the prior exhibits with the photos that they had
25 a live feed into there from the cameras because it

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1 caught one of our SWAT operators on the property.

2 Q. Okay. So you don't disagree with me
3 though that a camera if it's going this way
4 depending on how it's focused, just your general
5 knowledge, that it could pick up to the right, to
6 the left, and not necessarily that item that screen
7 right there or not just that screen?

8 A. It can pick up a variety of things.
9 But normally you point a camera in the direction of
10 the main thing you want it to be focused on.

11 Q. You point in the direction of the main
12 thing. Okay. Thank you.

13 Now, with this feed that you were
14 watching, now, you just said you haven't watch any
15 surveillance footage whatsoever from the system at
16 the house; correct?

17 A. No, sir.

18 Q. Okay. You haven't?

19 A. No, sir.

20 Q. All right. And I believe that was
21 State's Exhibit Number 27 maybe, where would that
22 be?

23 MR. SAUNDERS: Thank you. Your Honor,
24 I think it's Number 27.

25 Q. All right. I'm going to show you

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1 State's Exhibit Number 27. Okay. You said that's
2 a member of the SWAT team right there?

3 A. Yes, sir.

4 Q. Who is that?

5 A. I couldn't tell you definitively which
6 individual that is, but I know based on the time we
7 were on scene as well as the way our SWAT team is
8 attired that that would be one of the SWAT members.

9 Q. Okay. You don't know where he's
10 standing, do you?

11 A. No, sir.

12 Q. Okay. You don't know if he's standing
13 by the shed or standing in the driveway or standing
14 out back by the dog pen, you don't know?

15 A. Not based on that, no.

16 Q. Okay. All right. So the -- all we
17 know then is there was surveillance cameras set up
18 at the residence?

19 A. To a live feed to the shed, yes, sir.

20 Q. And you had testified about, you know,
21 it's not uncommon for a homeowner to have security
22 cameras, is it?

23 A. No, sir.

24 Q. Okay. And it's not uncommon for those
25 cameras to surveil the entire property if possible;

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1 correct?

2 A. I wouldn't know what's common or not.
3 I don't know what everybody does in their security
4 systems or how they set up their cameras, no, sir.

5 Q. Right. Okay. So when you went into
6 the shed, your -- you said that you collected all
7 the evidence?

8 A. Yes, sir.

9 Q. All right. There are other officers
10 involved in this?

11 A. Yes, there are.

12 Q. Okay. There's an Officer Purdy?

13 A. Uh-huh.

14 Q. Okay. What was his role in this?

15 A. Everybody that was on scene is
16 assisting with the search.

17 Q. Okay. So when you say that you
18 collected evidence, you don't mean to say that you
19 found, personally you, every piece of evidence on
20 that scene?

21 A. No, sir. What they would have done was
22 located it and then notified me of what was there.
23 Then we would have taken the pictures as you've
24 seen with the placards and then it would have been
25 collected from that position and we would have put

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1 it all in one spot. So it was collected and then
2 all the evidence was put together so none of it was
3 lost and then I physically took it from the house.

4 Q. Okay. All right. And when -- when
5 SWAT came in and executed the search warrant, there
6 was an adult male on the scene; correct?

7 A. Located in the shed, yes, sir.

8 Q. In the shed amongst all of the evidence
9 that you collected; right?

10 A. Yes, sir.

11 Q. Okay. Who was that?

12 A. That was Mr. Cervantes. Israel
13 Cervantes.

14 Q. Okay. All right. And Mr. Ibarra was
15 not there at the time; right?

16 A. At the time, no. But prior to the
17 execution of the search warrant, yes, he was.

18 Q. He was there. Okay. We saw that there
19 were a lot of guns and ammo collected at the scene;
20 correct?

21 A. Yes, sir.

22 Q. Were there prohibited persons -- people
23 prohibited from having firearms? Was Mr. Cervantes
24 prohibited?

25 MS. OPPENHEIMER: Objection, Your

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 Honor.

2 THE COURT: The basis for your
3 objection?

4 MS. OPPENHEIMER: Prior bad acts, Your
5 Honor. And Mr. Cervantes isn't on trial here and
6 it's irrelevant. We're talking about the Defendant
7 and his actions, we're not talking about Mr.
8 Cervantes.

9 MR. SAUNDERS: Your Honor, they brought
10 up Mr. Cervantes. He was there when they got there
11 and there were guns lying around. So what I'm
12 getting at -- I'm just asking a question about
13 whether anyone there at the home was a prohibited
14 person, meaning a person who legally cannot own a
15 gun.

16 THE COURT: I'm going to allow it.

17 A. I wouldn't know without looking at
18 their record.

19 Q. All right. So you don't know. All
20 right. Now, Mr. Ibarra was pulled over at a
21 traffic stop; correct, during the search or after
22 the search was completed?

23 A. Shortly after the execution of the
24 search warrant, yes, sir.

25 Q. Okay. And he was pulled over in a

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1 vehicle?

2 A. Yes, sir.

3 Q. Do you know whose vehicle that was that
4 was pulled over?

5 A. It had a temporary tag on it so at the
6 time we did not know who the vehicle belonged to.

7 Q. Do you know now?

8 A. I don't have any paperwork on that, no,
9 sir.

10 Q. But you don't -- you don't have any
11 paperwork to show that it was Mr. Ibarra's vehicle?

12 A. No, sir.

13 Q. All right. Did Mr. Cervantes ever tell
14 you it was his vehicle?

15 A. No, sir.

16 Q. Okay. All right. And when the -- when
17 all of the agents are there, all the law
18 enforcement they're collecting all of this stuff
19 right here, you're saying that when they find
20 there's a gun, they find a gun, they notify you to
21 come over to look at it?

22 A. Yes, sir.

23 Q. Okay. On every piece of evidence
24 there?

25 A. Yes, sir.

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 Q. Okay. All right. And you do not take
2 photos of this stuff. That's somebody else's job?

3 A. It just depends on the search warrant.
4 But it can vary. I could be the one taking the
5 photos or somebody else could take the photos.

6 Q. Okay. All right. And Mr. Ibarra never
7 resisted during this traffic stop, did he?

8 A. I was not over there when he first got
9 stopped, so I would not be able to comment on that.

10 Q. Okay. Where were you?

11 A. I was at the residence.

12 Q. Okay. So you didn't pull him over?

13 A. No, sir. We had our SWAT agents pull
14 him over.

15 Q. Okay. And when you got to the traffic
16 stop, what did you do?

17 A. I collected the evidence that they had
18 located there.

19 Q. Okay. Collected it from them or from
20 where it was placed?

21 A. They would have taken pictures of it in
22 the vehicle and then I went to the scene and
23 physically got it from them.

24 Q. So the police officers there didn't
25 touch any of the evidence?

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. We did have a sergeant of narcotics go
2 over there to assist in the search of the vehicle
3 to make sure that it was all taken up properly and
4 nothing was missed.

5 Q. Before you got there?

6 A. Yes, sir.

7 Q. Okay. So when you got there, the
8 sergeant had already collected the evidence?

9 A. Found the items, sir. He located the
10 items.

11 Q. Okay. Well, explain that to me.

12 A. So when we conduct a search warrant,
13 because of the amount of space it could take, we do
14 have people that locate items. So what they will
15 notify us is, hey, I've located say in this case, a
16 gun. We will then come with a number, put a number
17 next to it and then we will collect it from that
18 location. So the person locating it is not
19 necessarily a person who collected it from the
20 scene. It varies.

21 But I ended up physically collecting
22 all of the evidence from the residence as well as
23 the traffic stop and taking it into my custody to
24 then take it down to evidence.

25 Q. So, for example, there was money taken

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 from the vehicle?

2 A. Yes, sir.

3 Q. Right?

4 A. Yes.

5 Q. Okay. When you -- you put your hands
6 on that money --

7 A. Yes, sir.

8 Q. -- when you put your hands on that
9 money, where was the money?

10 A. At the traffic stop.

11 Q. The traffic stop. Where in the traffic
12 stop?

13 A. What do you mean where in the traffic
14 stop?

15 Q. What I'm trying to figure out is was
16 the money like sitting on the hood of the car, you
17 know how police officers will put out stuff on the
18 hood of the car or was it --

19 A. We won't do that because on the off
20 chance it's windy, we don't want any evidence to
21 disappear. So it would have been at the very least
22 placed in the vehicle say on the driver's seat and
23 it would have been counted by the officer who
24 located it. And then when I collected it, I would
25 have verified the amount that was located.

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 Q. Okay. So there was money found there,
2 a gun found in the car?

3 A. Yes, sir.

4 Q. Was that everything? Well, I just
5 thought you might know.

6 But you -- and the money, you don't
7 know where it was when you put your hands on it,
8 you don't know. You just said it might be on the
9 seat, you don't know?

10 A. I would have to look at the officer's
11 supplement that did the supplement for that and he
12 would have specified exactly where it is in his
13 supplement.

14 Q. All right. And the gun, the gun, you
15 don't -- where did you get that?

16 A. After --

17 Q. Did you put your hands on the gun?

18 A. I collected the gun from them, yes,
19 sir. They would have secured it because we're not
20 going to leave an unsecured firearm in the exact
21 position they would have taken photos. Rendered it
22 safe which is like we showed to the guns here. We
23 would have taken the magazine out, the ammo's out
24 and then I as before physically went and collected
25 it from them at the traffic stop.

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 Q. Okay. All right. The police officers,
2 they're doing -- you show up and the evidence is
3 wherever they've put it when you put your hands on
4 it?

5 A. As I said, we had a sergeant in
6 narcotics on scene, he's a sergeant with narcotics
7 who documented in his search warrant where the
8 items were located specifically prior to me
9 collecting them from him.

10 Q. Okay. All right. So back to the shed
11 and the residence. When you're at the shed and all
12 the searching is going on, where is Mr. Cervantes?

13 A. He is detained in the front yard.

14 Q. Okay. Just in handcuffs sitting there
15 in the front yard?

16 A. Yes, sir. We had an officer with him.

17 Q. Okay. Did you bring Mr. Ibarra back to
18 the scene?

19 A. No, sir.

20 Q. He just went to jail?

21 A. Yes, sir.

22 Q. Okay. All right. So everything that
23 was collected there, the -- you put -- does
24 everything that you collect from a crime scene like
25 this, does it go in the same -- I believe you said

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 an evidence locker?

2 A. So we have a secure evidence
3 property -- it's our property room up at
4 headquarters which behind the gated area in the
5 back, so you have to work there to be able to have
6 access to it. Then we put everything into evidence
7 which means like I did, I sealed the bag, I then
8 have vouchers I have to fill out and then it is
9 depending on the day and the time either directly
10 turned over to physically from us to an evidence
11 custodian or in a secure locker and then it's
12 collected by the evidence custodian from there.

13 Q. Okay. So that would be -- all of that
14 would go to one place?

15 A. Yes, sir.

16 Q. Okay. All right. So at the house,
17 lots of guns, obviously, but there is no -- there's
18 no evidence in this case of any violence that Mr.
19 Ibarra had committed was involved in?

20 A. In connection to the execution of the
21 search warrant, no, sir.

22 Q. Okay. All right. And let's see. The
23 red truck is one vehicle involved. Isn't there
24 another vehicle involved in this?

25 A. That was the main vehicle that we

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 observed during the course of our investigation.

2 Q. Okay. And that vehicle, you saw Mr.
3 Ibarra drive that vehicle?

4 A. We've seen Mr. Ibarra in it, yes, sir.

5 Q. See anybody else drive that vehicle?

6 A. Yes, sir, we have.

7 Q. Who?

8 MS. OPPENHEIMER: Objection, Your
9 Honor. Can we have a side bar?

10 THE COURT: Sure.

11 (WHEREUPON, there was a sidebar
12 conference.)

13 THE COURT: Okay. Continue on.

14 Q. So just to be clear, other than Mr.
15 Ibarra, you've seen other individuals drive that
16 car -- that truck?

17 A. Yes, sir.

18 Q. Thank you. All right. So we've
19 established that the -- so there was a surveillance
20 system of some sort. You believe that that's a
21 SWAT team member in that picture; correct?

22 A. Yes, sir.

23 Q. Are you sure of that? Are you sure
24 that that's a SWAT team member on that day that
25 y'all were doing the search? Do you know that?

MEGHAN DABKOWSKI - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. That was a live feed while we were
2 executing the search warrant.

3 Q. So the answer is, yes, you're sure?

4 A. Yes, sir.

5 Q. Okay. And then we've also established
6 that Mr. Cervantes was there at the house in the
7 shed?

8 A. Yes, sir.

9 Q. Okay. Amongst all this stuff? All
10 this evidence?

11 A. Yes, sir.

12 Q. Okay. Mr. Ibarra wasn't there?

13 A. Not at the time the search warrant was
14 executed, but he was seen going to and from the
15 shed prior to the execution of the search warrant
16 several times.

17 Q. Okay. And I believe you testified
18 right before the State was finished that Mr.
19 Cervantes was also charged in this case; correct?

20 A. Yes, sir, he was.

21 Q. Okay. Thank you.

22 MR. SAUNDERS: Beg the Court's
23 indulgence.

24 Q. Agent Dabkowski, we've established you
25 put all of the evidence into the evidence locker,

MEGHAN DABKOWSKI - REDIRECT EXAMINATION BY MS. OPPENHEIMER

1 | that was at Lexington County Sheriff's Department;
2 | correct?

3 | A. Yes, sir.

4 | Q. All right. And since that time when
5 | you put all this evidence in there after October
6 | 24, 2018, have you handled the evidence, looked at
7 | the evidence? And I'm not -- I guess I'm not
8 | really talking about close in time to trial right
9 | now -- well, actually maybe I am. When have you
10 | looked at the evidence or handled the evidence?

11 | A. The day it all went into evidence and
12 | then preparing for the trial.

13 | Q. Okay. And when would that have been
14 | preparing for the trial?

15 | A. In the last couple weeks.

16 | Q. Okay. So from October 24th of '18
17 | until the past couple of weeks in '22, you never
18 | looked at or handled any of this evidence?

19 | A. No, sir, because it was in a secured
20 | location at our headquarters.

21 | Q. Okay. All right. So, no. All right.

22 | MR. SAUNDERS: Your Honor, those are
23 | all the questions I have.

24 | THE COURT: All right. Thank you. Any
25 | redirect?

MEGHAN DABKOWSKI - REDIRECT EXAMINATION BY MS. OPPENHEIMER

1 MS. OPPENHEIMER: Very briefly, Your
2 Honor.

3 THE COURT: All right.

4 REDIRECT EXAMINATION

5 BY MS. OPPENHEIMER:

6 Q. Detective Dabkowski, have you
7 previously seen the Dodge Durango that the
8 Defendant was arrested in at his home?

9 A. Yes.

10 Q. And there's been a lot of talk about
11 Mr. Cervantes. Did you have evidence that he lived
12 with the Defendant at [REDACTED] Leica Lane?

13 A. No, we did not.

14 Q. And can you explain to us if the
15 Defendant wasn't there at his home at the time of
16 the execution of the search, how he was arrested
17 and charged with these crimes and all the evidence
18 found at his home?

19 A. Due to being seen going to and from --
20 because the location was under surveillance prior
21 to the execution of the search warrant. So due to
22 it being his residence, he lives there, being seen
23 going to and from the shed prior to the execution
24 of the search warrant as well as then what was
25 found during the traffic stop was why he was

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 | charged accordingly.

2 | MS. OPPENHEIMER: Thank you. I have no
3 | further questions.

4 | MR. SAUNDERS: That's all I have.
5 | Thank you.

6 | THE COURT: Okay. Can I excuse the
7 | Detective?

8 | MS. OPPENHEIMER: Subject to recall,
9 | Your Honor.

10 | THE COURT: Well, she's the lead
11 | investigator, so I think she's staying. You can
12 | step down.

13 | MS. DABKOWSKI: Thank you, Your Honor.

14 | THE COURT: Does the State want to call
15 | their next witness?

16 | MS. GARRICK: Yes, Your Honor. The
17 | State calls Kristen Boyles and that's where Ms.
18 | Oppenheimer went to get the next witness.

19 | THE COURT: Okay.

20 | KRISTEN BOYLES,
21 | being first duly sworn, was examined and testified
22 | as follows:

23 | THE CLERK: Have a seat up there,
24 | please, ma'am. Once you're seated, state your full
25 | name spelling your last.

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 MS. BOYLES: My name is Kristen Boyles.
2 Last name is B-O-Y-L-E-S.

3 DIRECT EXAMINATION

4 BY MS. GARRICK:

5 Q. Where are you employed?

6 A. At the Richland County Sheriff's
7 Department.

8 Q. And how long have you been at the
9 Richland County Sheriff's Department?

10 A. Going on my 18th year.

11 Q. Eighteen years. What division are you
12 in?

13 A. Right now I'm in the aviation unit.

14 Q. Okay. So Richland County has an
15 aviation unit?

16 A. Yes, ma'am. Sergeant and supervisor of
17 the aviation.

18 Q. Okay. And were you working in that
19 department back in 2018?

20 A. Yes, I was. I was doing -- at that
21 time I was on modified duty and was placed over
22 there while I was on modified duty.

23 Q. Okay. And can you tell us why you were
24 on modified duty?

25 A. I was on modified duty because I had a

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 broken right hand.

2 Q. Okay. So you had trouble writing; is
3 that right?

4 A. Yes, ma'am.

5 Q. Okay. So tell us about the aviation
6 unit that Richland County has. Does that mean
7 there are planes involved?

8 A. Yes, we have planes and helicopters.

9 Q. Okay. And the planes that you have,
10 are there cameras located on these planes?

11 A. Yes, ma'am. On one plane we do have a
12 camera.

13 Q. Okay. And what's the purpose of the
14 camera?

15 A. The camera is to aid us to be able to
16 see from 3,000 feet where we normally fly down to
17 the ground. We have color, it shows as acting
18 obviously just like you're looking -- using a cell
19 phone camera from the air, but just a little more
20 magnified.

21 Q. Okay. And do the cameras record?

22 A. No, ma'am, they do not record.

23 Q. Okay. And are you a pilot?

24 A. Yeah, I just got my pilot's license.

25 Q. Okay. And in 2018, were you involved

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 in a joint interaction between Richland County and
2 Lexington County?

3 A. Yes, ma'am.

4 Q. And can you tell us how Richland County
5 got involved in a Lexington County case?

6 A. We have a joint task force team that
7 works in conjunction with each other and the deputy
8 that worked on that unit from the Richland County
9 side contacted us and asked us if we would take a
10 flight to help them for over watch for a search
11 warrant and stuff they were doing.

12 Q. Okay. All right. You said -- you're
13 so soft spoken --

14 A. I'm sorry.

15 Q. No, it's fine.

16 A. I've got allergies going on too.

17 Q. Tell me about it. So you said do an
18 over watch for a search warrant. Can you explain
19 to us non-law enforcement folks what that means?

20 A. Right. So if we have a search warrant
21 being served and they've asked us for over watch,
22 what that means is that they've got a location
23 they're going into, we go over the top of it.
24 We're watching on the ground to make sure that one,
25 the community's safe. If I see like a car coming

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 | in before they come in or if I see like a school
2 | bus come up, I will tell them that's going on and
3 | that way they can kind of time their entrance a
4 | little safer for the community.

5 | Also in that situation we could see if
6 | there's anybody that runs out the back that they
7 | may not get or out of a window or so forth or so on
8 | we can kind of keep an eye and kind of give them
9 | that information as a real time happens so they
10 | know what's going on around them for their safety.

11 | Q. Okay. So while you're providing over
12 | watch, are you in communication with the ground
13 | units?

14 | A. Yes, ma'am. Yes, ma'am. We usually
15 | have a designated channel that we work off of. For
16 | each one may be different. We may be on a regional
17 | channel. Maybe on this situation I think we're
18 | probably -- usually we'll take a special one that
19 | both jurisdictions can have that they both can
20 | communicate at the same time because we're not --
21 | we don't always be able to listen to what's going
22 | on from county to county, so we'll pick one that's
23 | common for each radio system to be able to utilize.

24 | Q. So Lexington officers and Richland
25 | officers involved with the search warrant could

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 hear you?

2 A. Yes, ma'am.

3 Q. Okay. And are you -- when you're doing
4 over watch, are you the pilot?

5 A. No, ma'am, I'm the observer.

6 Q. Okay. So there's a pilot with you?

7 A. Yes. Pilot sits up front, I sit in the
8 back, and that's where our computer screen is that
9 projects from what the camera. Then there's a
10 control, I say a handle, it's like a box like this
11 with a handle on it that you control. You can
12 control the angle of the camera where you're
13 looking and making sure you're staying on wherever
14 you're going to stay on and then you can control
15 the zoom on it, but it's not but so far. I mean, I
16 can pretty much tell you most of the time
17 mannerisms and looks. I can tell you if it's a
18 male or female. I can see some colors depending on
19 the sun. You might say white, but it might be
20 silver just because of the way the sun hits it on a
21 car or something like that. Blue/black kind of
22 blends sometimes you can't really tell. So I
23 usually confirm it with the ground units if what
24 I'm seeing is what they're seeing.

25 Q. Okay. And when you were called to work

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 this case, have you had a chance to look back at
2 that date and that kind of information in
3 preparation for trial?

4 A. Yes, ma'am.

5 Q. Okay. If you told you it was October
6 24th of 2018, does that sound right?

7 A. Yes, ma'am.

8 Q. Okay. And do you remember what the
9 target location was?

10 A. [REDACTED] Leica Lane.

11 Q. And that's here in Lexington. So if
12 you're given a target location, how can you be sure
13 you're looking at the right house?

14 A. So when we get above, we will actually
15 give a description of the house. All the way down
16 if there's a trash can by the road. Most of the
17 time the ground units will have already done a
18 drive-by to let kind of give you a layout of what's
19 there that day at that time so that when we get up
20 on the site, we can say it's like a brick house
21 with shutters that are, you know, brown or dark
22 colored and the door's on the left and the driveway
23 is on the left and the trash can or, you know,
24 mailbox or whatever, we give as much information to
25 kind of visually describe what we're looking at to

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 make sure we're on the right house.

2 Q. And did you communicate that with the
3 ground units --

4 A. Yes, ma'am.

5 Q. -- before this search warrant was
6 executed?

7 A. Yes, ma'am.

8 Q. If I can have you look at State's 1.
9 The box here, does that seem familiar?

10 A. Yes, ma'am.

11 Q. Okay. Is that the target address that
12 you were looking at from the sky?

13 A. Yes, ma'am.

14 Q. And prior to the execution of the
15 search warrant, were you in the sky for a while
16 before the search warrant was executed -- before
17 SWAT went in, had you been watching?

18 A. I wouldn't say five minutes, I would
19 say it was probably a good hour, thereabouts.

20 Q. Okay. And can you tell us whether or
21 not you observed movement between the house and the
22 shed there on the property at Leica Lane?

23 A. Yes, ma'am.

24 Q. What kind of movement?

25 A. I saw individuals either coming in,

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 getting out of vehicles, going through the gate on
2 the left and then going into the shed or from the
3 front porch of the house back to the shed and from
4 the shed back to the house.

5 Q. Okay. And can you tell us whether or
6 not you saw any vehicles leave the address there at
7 Leica Lane?

8 A. Yes, ma'am.

9 Q. Would that have been before the search
10 warrant was executed?

11 A. Yes, ma'am.

12 Q. And can you tell us if you ever saw the
13 vehicle that left Leica Lane, did you observe that
14 vehicle anytime later that morning, that same
15 vehicle?

16 A. Yes, ma'am.

17 Q. Can you tell us about that?

18 A. So while watching the house, we saw the
19 vehicle leave. We actually stayed with the
20 vehicle. So when we see that a vehicle is leaving
21 and we're relaying that information to the ground,
22 sometimes they'll ask us to stay with that vehicle.
23 And what we do, is we fly along and I keep the
24 camera on that vehicle as we're flying. Because I
25 have controls just simultaneously move with the

KRISTEN BOYLES - DIRECT EXAMINATION BY MS. GARRICK

1 vehicle. And I follow that vehicle until it was
2 stopped on the traffic stop.

3 Q. Okay. So you observed a traffic stop
4 yourself?

5 A. Yes, ma'am.

6 Q. Okay. Can you tell us if you observed
7 males moving between the house and the shed --

8 A. Yes, ma'am. Yes, ma'am. I could tell
9 there was two maybe three may have even been --
10 maybe a female, I'm not sure. We'd been on the
11 house before and I believe we've done surveillance
12 before and of this actual search warrant, I don't
13 remember. Sometimes we get asked to go help just
14 to kind of watch for over watch them they're
15 working the case or something and I can't remember
16 right off the top of my head.

17 Q. Okay.

18 MS. GARRICK: Beg the Court's
19 indulgence one moment.

20 Q. Please answer any questions Mr.
21 Saunders may have.

22 THE COURT: Mr. Saunders?

23 MR. SAUNDERS: Thank you, Your Honor.
24 I don't have any questions for this witness.

25 THE COURT: Okay.

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 MS. GARRICK: Your Honor, we'd ask that
2 she be excused.

3 THE COURT: Absolutely. Thank you for
4 coming.

5 MS. BOYLES: Yes, ma'am.

6 THE COURT: State want to call their
7 next witness?

8 MS. OPPENHEIMER: State calls Sergeant
9 Mike Burke.

10 MICHAEL BURKE,
11 being first duly sworn, was examined and testified
12 as follows:

13 THE CLERK: Thank you, sir. Have a
14 seat. Once you're seated, state your full name
15 spelling your last.

16 MR. BURKE: Michael Allen Burke,
17 B-U-R-K-E.

18 DIRECT EXAMINATION
19 BY MS. OPPENHEIMER:

20 Q. Good afternoon, Sergeant Burke.

21 A. Good afternoon.

22 Q. Where are you presently employed?

23 A. Lexington County Sheriff's Department.

24 Q. And in what capacity?

25 A. I'm sergeant over narcotics.

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 Q. How long have you been in law
2 enforcement?

3 A. Just shy of 27 years.

4 Q. And has the entirety of your career
5 been at the Lexington County Sheriff's Department?

6 A. Yes, it has.

7 Q. Have you worked for any other agencies
8 other than the Lexington County Sheriff's
9 Department?

10 A. No, ma'am.

11 Q. Have you worked for any other units at
12 Lexington County other than the narcotics
13 enforcement team?

14 A. Yes, I have.

15 Q. What other units are those?

16 A. I worked on patrol when I first began
17 and I've been a member of the Lexington County SWAT
18 team for approximately 24 years maybe.

19 Q. So as a member of the SWAT team, what
20 are your primary duties and responsibilities?

21 A. These days I am now the assistant team
22 leader over the sniper team. At the time of this
23 incident on this case here I was an entry team
24 leader.

25 Q. And what is the primary goal of SWAT?

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 A. To save lives.

2 Q. And is SWAT used in every execution of
3 every single search warrant?

4 A. No, it's not.

5 Q. What factors go into determining
6 whether or not SWAT is going to be used?

7 A. We have numerous factors that we look
8 at beginning with location factors. What is the
9 physical make-up of the target location. Are there
10 any kind of barriers or fortifications to a house
11 or a structure that we're going to be executing a
12 search warrant at. Other factors would include any
13 kind of weapons factors. Do we know of any weapons
14 that are going to be involved at the location. Do
15 we have intelligence saying there are weapons
16 there. Have we actually seen the weapons there
17 during the investigation.

18 Criminal history factors for the target
19 personnel that we're going after. What is their
20 propensity for violence. What is the propensity to
21 use weapons and other general risk factors such as
22 any kind of known criminal organizations or
23 affiliations such as gangs, cartels, anything like
24 that of that nature. Drug use, alcohol use.

25 Q. And what special equipment does SWAT

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 use?

2 A. Whenever we're going on a raid or
3 executing a search warrant, typically the standard
4 list of equipment that each operator is wearing is
5 going to be a level four hard armor plate vest, a
6 protective helmet, your gun belt with your side
7 arm. Typically an AR15 type weapons platform as
8 well.

9 We also have an armored vehicle that we
10 travel in. Based upon the threat assessment of the
11 target location, it gives us a point of mobile hard
12 cover. We have breaching equipment. We have
13 chemical munitions, assets that we can call upon if
14 needed. We have noise flash diversionary devices,
15 commonly called flash bangs, things of that nature.
16 Breaching equipment.

17 Q. And do you recall in October of 2018
18 was SWAT asked to assist the execution of a search
19 warrant at [REDACTED] Leica Lane in Lexington County?

20 A. Yes.

21 Q. Did you have knowledge of who lived in
22 that home?

23 A. Yes.

24 Q. Who did you know to live in that home?

25 A. The intel we had was Angel Ibarra.

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 Q. On October 24th of 2018, how many
2 different SWAT teams were present?

3 A. We were broken down into three
4 different subteams.

5 Q. And why do you break down into
6 different subteams?

7 A. Each subteam had a different mission of
8 the overall grand scheme of the mission for taking
9 the search warrant down and taking subjects into
10 custody. We had one team that was designated to
11 clear an outbuilding on the property, one team that
12 was designated to clear the main structure of the
13 residence, and another team that was designated to
14 track and take into custody another outstanding
15 suspect that we had visual surveillance on at the
16 time.

17 Q. And what team were you a member of?

18 A. I was on the team tasked with clearing
19 the shed out behind the house.

20 Q. And can you tell us whether or not that
21 shed was enclosed in any type of fencing or walls
22 or anything?

23 A. Yes. The house had a six foot -- a
24 standard six foot wooden privacy fence extending
25 off the side of it and did surround the backyard.

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 The shed was back behind that fence off the
2 driveway -- or off of the driveway on the left side
3 of the house.

4 Q. Okay. Now, prior to the breach of that
5 fence, where would you have been located?

6 A. The four-man team, we were not in an
7 armored vehicle. Each team for the residence was
8 in the armored vehicle. Our team, we moved to the
9 location in an unarmored Tahoe and then parked
10 outside the residence and then moved from the Tahoe
11 to the fence.

12 Q. And did y'all breach the fence?

13 A. We did. We had to breach the fence --
14 breach the gate in the fence in order to access the
15 backyard to move to the shed.

16 Q. And what happened once y'all breached
17 that gate?

18 A. We were immediately met with two large
19 pit bulls.

20 Q. And can you explain to us how those
21 dogs were acting?

22 A. Obviously, they rushed up to the
23 threshold of the gate, they stood their ground
24 barking, not wanting us to penetrate into the
25 backyard of the property. They didn't immediately

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 go on the attack to attack any of us in that
2 four-man team, but they were acting aggressively
3 toward us. Just they didn't have that final
4 provocation that made them attack.

5 Q. And once y'all breached this gate and
6 are met by the dogs, what do you do next?

7 A. From there we did a quick evaluation of
8 the backyard getting eyes on the shed. As we're
9 pulling up prior to moving to the fence, you could
10 see kind of the top portion of the shed. One of my
11 guys on the four-man team he did announce that he
12 saw the doors to the shed open and then close, so
13 we had a pretty good idea there was probably
14 somebody in the shed.

15 Got the fence open -- or the gate open
16 in the privacy fence. Did an evaluation of the
17 dogs. Kind of gave what their demeanor was. They
18 weren't immediately attacking us. We knew we had
19 to get to that shed to get it secure and to get
20 anyone inside it secure. We basically just pushed
21 through the dogs. They stayed very tight on us.

22 As we moved to the shed, I prepared a
23 noise flash divisionary device, commonly called a
24 flash bang. My breach man, he moved up to the
25 door. The dogs were still right in very close

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 proximity to us, still were not attacking.

2 We breached the door. As the door
3 breached, my guys told me they saw a male subject
4 laying face down with his arms out on the floor of
5 the shed. I had the flash bang that was already
6 prepared to be deployed. You don't just stick a
7 pin back in a flash bang because it can very well
8 go off in your hand at that point, so I spotted a
9 clear area in the backyard, threw the flash bang
10 against the clear area and let it go off there.
11 Probably in hindsight probably should have done it
12 a little bit sooner because that would have kept
13 the dogs completely away from us and drove into the
14 backyard and got away from us completely.

15 Q. So kind of breaking that down a little
16 bit. Why would you have used -- or needed to use a
17 flash bang in this case when breaching the shed
18 door?

19 A. The flash bang, they're typically used
20 to distract someone from a present course of
21 thought at the moment. We weren't sure exactly
22 what we were going to be opening up so it's up to
23 you once that door opened up. With what we planned
24 for, we planned for subject barricading themselves,
25 we planned on people to be ready to fight us with

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 | weapons. The initial plan was that if we opened
2 | that door and the suspect was not immediately
3 | willing to give himself up and trying to fight,
4 | we're going to drop that flash bang right in the
5 | threshold of the doorway to get us an extra second
6 | or two to maybe try and change his thought process.

7 | Q. And I believe you testified that
8 | someone was lying face down in the shed?

9 | A. Yes.

10 | Q. Do you know who that was?

11 | A. It was -- we knew his street name as
12 | Mego initially, but he was later further identified
13 | as Israel Mendoza Cervantes.

14 | Q. And was that individual taken into
15 | custody?

16 | A. He was attained at that time, yes.

17 | Q. When you entered the shed, did you
18 | personally observe anything in the shed?

19 | A. Yes, I did.

20 | Q. And what did you observe?

21 | A. Several weapons right in very close
22 | proximity to where Mr. Mendoza Cervantes was laying
23 | on the ground.

24 | Q. And after clearing that shed, what did
25 | you do?

MICHAEL BURKE - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 A. After that, I grabbed one of my other
2 operators off the four-man team. None of the other
3 perimeter units had moved to the backyard along
4 with us, so we still had a lot of area we had to
5 cover in the backyard, so he and I went and placed
6 a two-man clear of all the other areas in the
7 backyard and then we went back to the shed and
8 linked back up with our other two operators that
9 were holding Mr. Mendoza Cervantes.

10 Q. Now, Sergeant Burke, I believe you
11 testified that you have about 22 years of narcotics
12 experience?

13 A. Yes.

14 Q. Twenty-seven years overall in law
15 enforcement?

16 A. Yes.

17 Q. And you're the supervisor of the
18 narcotics -- or one of the supervisors of the
19 narcotics team?

20 A. That's correct.

21 Q. Can you explain in your role as a
22 supervisor why an individual who was not present at
23 a home at the time of the execution of a search
24 warrant would have been arrested and charged for
25 everything found in the home and the shed?

MICHAEL BURKE - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. Basically, it goes back to the
2 intelligence game during the investigation of this
3 case. If you have two people who were knowingly
4 committing a criminal act together, based on that
5 criminal act it starts getting to the point of what
6 one person's actions are in regard to that criminal
7 act. Also translates to the other person so kind
8 of hand of one is hand of all --

9 MR. SAUNDERS: Your Honor, objection.

10 MS. OPPENHEIMER: May we have a side
11 bar, Your Honor?

12 (WHEREUPON, there was a sidebar
13 conference.)

14 THE COURT: All right. I'm going to
15 ask the jury to disregard that last question. I'm
16 the only one who can charge you on the law. Okay.
17 So move on.

18 Q. Sergeant Burke, can you tell us whether
19 or not it is common that people who are not present
20 at the execution of a search warrant at the time it
21 is executed are charged with the items found in the
22 home and the shed?

23 A. Yes.

24 Q. No further questions. Please answer
25 any questions that Mr. Saunders may have.

MICHAEL BURKE - CROSS-EXAMINATION BY MR. SAUNDERS

1 THE COURT: Mr. Saunders?

2 CROSS-EXAMINATION

3 BY MR. SAUNDERS:

4 Q. Good afternoon, Sergeant Burke.

5 A. How you doing?

6 Q. Good. So you're on the SWAT team?

7 A. Yes.

8 Q. You came in and executed the search
9 warrant?

10 A. Yes.

11 Q. Okay. Dogs came out aggressive, but
12 you didn't get bitten?

13 A. No.

14 Q. Not attached -- no one got attacked by
15 the dogs?

16 A. No.

17 Q. Okay. And Mr. Cervantes was facedown
18 on the floor when you encountered him?

19 A. Yes, in the shed.

20 Q. Okay. All right. And you didn't have
21 any interaction with Mr. Ibarra that day, did you?

22 A. I did not, no.

23 Q. All right. Thank you very much.

24 That's all I have.

25 THE COURT: Any redirect?

1 MS. OPPENHEIMER: Nothing, Your Honor.

2 THE COURT: Can I excuse this witness?

3 MS. OPPENHEIMER: You may.

4 THE COURT: Thank you, Sergeant Burke.

5 MS. OPPENHEIMER: Your Honor, our next
6 witness is en route.

7 THE COURT: En route?

8 MS. OPPENHEIMER: Yes. We got a little
9 -- we thought that cross of our first witness might
10 be a little bit longer.

11 THE COURT: Is the next witness a short
12 witness?

13 MS. OPPENHEIMER: Yes, ma'am.

14 THE COURT: Okay. I'd like to probably
15 try to get through that. Let me give -- Madam
16 Forelady, I'm going to give y'all a break until
17 that next witness gets here.

18 Remember, no talking about the case.

19 (WHEREUPON, the jury exits the
20 courtroom at 3:06 p.m.)

21 THE COURT: All right. Let's be in
22 recess. Did she say -- he or she say how long it
23 was going to take?

24 MS. OPPENHEIMER: She's coming from the
25 Sheriff's Department, so it should take too long.

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 THE COURT: Oh, Lexington?

2 MS. OPPENHEIMER: Yes, ma'am.

3 THE COURT: All right. I'll be back in
4 15 minutes then. Let's take a 15 minute break.

5 (WHEREUPON, there was a short break.)

6 THE COURT: All right. Can I bring the
7 jury in?

8 MS. GARRICK: Yes, ma'am.

9 MR. SAUNDERS: Yes, ma'am.

10 (WHEREUPON, the jury enters the
11 courtroom at 3:28 p.m.)

12 THE COURT: Madam Forelady, is the jury
13 ready?

14 THE FOREPERSON: Yes, ma'am.

15 MS. GARRICK: Thank you, Your Honor.
16 We call Candy Kyzer.

17 CANDY KYZER,
18 being first duly sworn, was examined and testified
19 as follows:

20 THE CLERK: Have a seat, please, ma'am.
21 Once you're seated, state your full name spelling
22 your last, please.

23 MS. KYZER: Candy Kyzer, K-Y-Z-E-R.

24 DIRECT EXAMINATION

25 BY MS. GARRICK:

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Ms. Kyzer, where are you employed?

2 A. With the Lexington County Sheriff's
3 Department.

4 Q. And how long have you been employed
5 there?

6 A. Almost 27 years.

7 Q. Goodness. What department do you work
8 in?

9 A. In the evidence room.

10 Q. Okay. And how long have you been in
11 the evidence room?

12 A. For 19 years.

13 Q. All right. Can you tell us what it
14 means when you say I work in the evidence room?

15 A. We get in any kind of items whether it
16 be evidence, found property, seized items, and we
17 store it to whether it's time for court, whether
18 it's ready to be deposited in the bank, whether
19 it's to be released to the owners or the victims,
20 whatever it may be.

21 Q. Okay. And you've been here with us
22 pretty much all day today; right?

23 A. Yes, I have.

24 Q. And you've been present in court when
25 we put all of those items there into evidence?

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 A. I have.

2 Q. And you brought them with you from the
3 Sheriff's Department this morning?

4 A. I did.

5 Q. Okay. All right. If I can direct your
6 attention specifically, this is State's 136, it's
7 ID only and it is 21525.

8 MS. GARRICK: If I may approach the
9 witness, Your Honor?

10 THE COURT: You may.

11 Q. As I said, this is State's 136, ID
12 only, can you tell us if you recognize that
13 document?

14 A. I do.

15 Q. Can you tell us what it is?

16 A. It's a best kit.

17 Q. All right. So that best kit, can you
18 tell us after review of your records when that best
19 kit was dropped into evidence at the sheriff's
20 department?

21 A. It was dropped by Meghan Dabkowski on
22 October 24th of 2018.

23 Q. Okay. And when it's dropped where does
24 it go to next?

25 A. I signed it in on the 26th of October.

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Of 2018?

2 A. 2018.

3 Q. Okay. And when you check it in, do you
4 look at it to see what it is and where it should go
5 and how it should be classified?

6 A. I do. Which -- I'd have to check and
7 make sure that all of the seals are still intact
8 and all the paperwork is in proper order and
9 everything.

10 Q. Okay. And is it fair to say that there
11 are different rooms at the sheriff's department
12 where items of evidence are stored?

13 A. That is true.

14 Q. Like guns are in one place and ammo's
15 in another and drugs are in another?

16 A. That is correct.

17 Q. Okay. And when you checked in that
18 best kit there, did you notice any damage to the
19 packaging?

20 A. No, I did not.

21 Q. Okay. And can you tell me when or if
22 that item moved out of evidence and went to the
23 chemist?

24 A. It did. I signed it out on July 17th
25 2019 and signed it out to our chemist Meg Walker.

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Okay. And does Meg Walker work for the
2 sheriff's department?

3 A. She does.

4 Q. Okay. And after the chemist finishes
5 with whatever she's signed out, does it return back
6 to evidence to y'all?

7 A. It does.

8 Q. Okay. And how did it get to court
9 today?

10 A. I brought it.

11 Q. Okay. When it was in the custody and
12 control of the sheriff's department, do other
13 people have access to that evidence?

14 A. Just the evidence custodians. There
15 are -- it's my sergeant and myself and another
16 evidence custodian.

17 Q. Okay. And would you ever add to a best
18 kit bag, add something into it?

19 A. No.

20 Q. Would you ever take anything from it?

21 A. No.

22 Q. Okay. Would you in fact ever break the
23 seal on a best kit?

24 A. No.

25 Q. All right. We've also heard today

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 about money that was seized or taken into evidence
2 by the sheriff's department with this case. Would
3 that money have ended up at the sheriff's
4 department into evidence?

5 A. It would have.

6 Q. And you've been here this morning;
7 right?

8 A. Yes.

9 Q. And we have a lot of that money in
10 evidence?

11 A. Yes.

12 Q. Do we have all of the money that was
13 collected in evidence?

14 A. No, you do not.

15 Q. Can you explain that to us, please?

16 A. Money that we get in, a lot of times
17 for like drug cases, it's seized. They do seizure
18 paperwork and so that money goes into a narcotic
19 account, so we deposit that money on a regular
20 basis. So some of the money that was turned in on
21 this case was actually deposited into the narcotic
22 account.

23 Q. Okay. So that would explain if
24 testimony is different from the amount of money in
25 evidence?

CANDY KYZER - DIRECT EXAMINATION BY MS. GARRICK

1 A. That's correct.

2 Q. Okay.

3 MS. GARRICK: Your Honor, I'm going to
4 approach her one more time.

5 THE COURT: Absolutely.

6 Q. State's 109, if you could take a moment
7 and look at this and use your records to see if you
8 can recognize that?

9 A. I do.

10 Q. Can you tell us what that is?

11 A. It's a best kit. It's best kit
12 C023321.

13 Q. Okay. And can you tell us was this
14 dropped by Detective Dabkowski?

15 A. It was.

16 Q. On what date?

17 A. On October 24, 2018.

18 Q. Okay. And would you have had an
19 opportunity when you checked it in to look at the
20 packaging of this best evidence kit?

21 A. I would have.

22 Q. And did you note anything wrong with
23 it?

24 A. No, I did not.

25 Q. Does it look different today?

CANDY KYZER - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. It does. It would not be in that extra
2 large plastic bag, but when our chemist sometimes
3 when she tests best kits, she can't get all the
4 packaging or all the items back in that package so
5 she puts it in an extra large plastic bag and heat
6 seals it.

7 Q. Okay. Would it have been in the
8 sheriff's department evidence room, would anything
9 have been added to it or taken away from it?

10 A. No.

11 Q. And can you tell us when this best kit
12 or if it went to the chemist?

13 A. It did go to the chemist on July 17,
14 2019.

15 Q. The same date as the other best kit?

16 A. Yes.

17 Q. Okay. And after the chemist finished
18 with it, did it come back into evidence?

19 A. It did.

20 Q. And it's larger now?

21 A. It is.

22 Q. And did you bring it to court today?

23 A. I did.

24 Q. Please answer any questions Mr.
25 Saunders has.

CANDY KYZER - CROSS-EXAMINATION BY MR. SAUNDERS

1 THE COURT: Mr. Saunders?

2 MR. SAUNDERS: Thank you.

3 CROSS-EXAMINATION

4 BY MR. SAUNDERS:

5 Q. Hello, Ms. Kyzer.

6 A. Hey.

7 Q. How are you?

8 A. I'm good.

9 Q. Your name is Candy Kyzer?

10 A. Yes.

11 Q. Are your initials CB?

12 A. Yeah -- well, CBK.

13 Q. CBK. Right. Okay. Thank you. With
14 regard to, let's see, the first piece of evidence
15 we talked about. The -- and I guess this is -- I
16 don't know which number to give you here. But this
17 first piece of evidence with -- it was a Ziplock
18 bag containing a crystal substance? Or how about
19 the container number, would that help you?

20 A. Is it the best kit that you're talking
21 about?

22 Q. Not the best kit that we just talked
23 about, not the last thing she just talked about.

24 A. But the first best kit?

25 Q. That's right.

CANDY KYZER - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. Okay.

2 Q. Okay. I believe the numbers at the end
3 are 22?

4 A. Yes.

5 Q. Okay. All right. That one there. So
6 you testified that Agent -- that Detective
7 Dabkowski dropped it off at the evidence room or
8 evidence locker?

9 A. Correct. Uh-huh.

10 Q. Okay. And it was signed out to the
11 chemist at some point?

12 A. Yes.

13 Q. Okay. And you have records of that?

14 A. I do.

15 Q. Okay. Is there anybody else that
16 handled that, that particular specimen or piece of
17 evidence?

18 A. No, sir.

19 Q. No one else?

20 A. No, sir.

21 Q. Okay. And it was -- when you sign
22 out -- so when the chemist needs it, how does that
23 process happen?

24 A. Usually she notifies me of the cases
25 that she wants to get in a week -- or that

CANDY KYZER - CROSS-EXAMINATION BY MR. SAUNDERS

1 particular week. I pull those cases for her and do
2 all the Form Cs for her. Then she'll come and pick
3 them up. And we have an automatic signature pad
4 hooked up to my computer, so I'll sign and then
5 she'll sign and it signs it out to her on the
6 computer.

7 Q. Okay. All right. And was that done in
8 this case?

9 A. It was.

10 Q. And Dabkowski and you and the chemist?

11 A. Right.

12 Q. The only three people?

13 A. Right.

14 Q. In this chain of custody?

15 A. Yes.

16 Q. That's all?

17 A. That's it.

18 Q. Okay. Thank you. Next, this is the
19 best kit that ends in 221.

20 A. Yes.

21 Q. You just testified about that a moment
22 ago?

23 A. Yes.

24 Q. Okay. This one -- and you have a
25 record there with you of this?

CANDY KYZER - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. I do.

2 Q. All right. So what date do you have
3 Dabkowski dropping this off in the evidence locker?

4 A. October 24, 2018.

5 Q. Okay. And then is there anything that
6 happens on 10/25 of '18?

7 A. It is. It could have been that for
8 some reason we rejected the voucher. Sometimes if
9 they don't fill something out correctly or they
10 miss something that we don't -- they don't enter it
11 like we wanted or something, we reject it and send
12 it back to them and that could have been what
13 happened in this case. Without looking at the
14 transfer list or anything, I really don't know what
15 that is.

16 Q. But what you're saying is there's some
17 problem with --

18 A. It's not really a problem, it's just
19 like maybe she didn't initial a seal to an item or
20 she didn't -- she left off something like the
21 serial number to the gun could have been -- the
22 number could have been wrong. We check everything
23 whenever it comes in. We're very particular about
24 what comes in and what we look for and everything.

25 Q. Okay. But as far as this when

CANDY KYZER - CROSS-EXAMINATION BY MR. SAUNDERS

1 Dabkowski handed in the evidence locker, there was
2 some issue with what she handed in?

3 A. It could have been, I'm not sure.
4 Without looking at the computer and I didn't have
5 time, I hurried over here.

6 Q. And when I asked you about did
7 something go on on 10/25 with this, you said you
8 recognize that as there being some activity?

9 A. Yes. There was some kind of activity
10 and it could have been that it was rejected. I'm
11 not sure without looking at the computer.

12 Q. But there was some activity with this
13 piece of evidence, but it's sitting here today, you
14 don't know what it was?

15 A. I don't know.

16 Q. Okay. And then after the 25th, did
17 something go on on the 26th of October?

18 A. I signed it in.

19 Q. Okay. And then on the 26th -- well,
20 you sign it in, are there two things that go on and
21 you sign it in and then you move it somewhere?

22 A. Yes. It signs it in showing that I
23 picked it up or got it out from whenever it was
24 actually located at. And then it shows that I
25 placed it in the locker -- or the storage location

CANDY KYZER - REDIRECT EXAMINATION BY MS. GARRICK

1 | until the chemist is ready for it.

2 | Q. Okay. And then on -- you transferred
3 | this to the chemist at some point?

4 | A. I did. On July 17th of 2019.

5 | Q. Okay. And then did the chemist give it
6 | back to you?

7 | A. She did. On November 8th of 2019.

8 | Q. Okay. What -- after that are there any
9 | entries as to what happened with this?

10 | A. It stayed in the evidence room until
11 | today.

12 | Q. Okay. So still on the 25th of October,
13 | something went on with this evidence and we don't
14 | know what it was?

15 | A. Without looking at the computer, I
16 | can't say.

17 | Q. But you think your computer would
18 | reflect what the actual problem was?

19 | A. It could.

20 | Q. Okay. All right. Thank you very much.
21 | No further questions.

22 | THE COURT: Any redirect?

23 | MS. GARRICK: Briefly, Your Honor.

24 | REDIRECT EXAMINATION

25 | BY MS. GARRICK:

1 Q. When you say that it was rejected, does
2 that mean all the evidence was given back to Meg
3 and she left with it and went somewhere else?

4 A. No. No. We keep all the evidence
5 there and she has to come back in to fix whatever
6 it is.

7 Q. And so you say a voucher problem is a
8 paperwork error; is that correct?

9 A. That's correct.

10 Q. Okay. I think that's all I have.

11 MS. GARRICK: I'd ask that she be
12 excused if Mr. Saunders is finished.

13 MR. SAUNDERS: Yes, I'm finished.
14 Thank you.

15 THE COURT: All right. You may be
16 excused. Call your next witness.

17 MS. GARRICK: Yes, ma'am. Your Honor,
18 we'd call Meg Walker.

19 MR. SAUNDERS: Your Honor, can we take
20 up one matter, please? And I don't, we may need to
21 do this -- it has to do with this last witness's
22 testimony.

23 THE COURT: Sure. Y'all want to let's
24 step out in the hall or do you need to go on the
25 record?

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 MS. GARRICK: Thank you, Judge. We
2 call Meg Walker.

3 MARGARET WALKER,
4 being first duly sworn, was examined and testified
5 as follows:

6 THE CLERK: Have a seat, ma'am. Once
7 you're seated, state your full name spelling your
8 last, please.

9 MS. WALKER: Margaret Walker,
10 W-A-L-K-E-R.

11 DIRECT EXAMINATION
12 BY MS. GARRICK:

13 Q. Ms. Walker, where do you work?

14 A. I work at the Lexington County
15 Sheriff's Department.

16 Q. And how long have you been working
17 there?

18 A. I've been at the sheriff's department
19 for about five and a half years.

20 Q. Okay. And what is your occupation
21 within the sheriff's department?

22 A. My position is a chemist.

23 Q. Okay. Let's talk a little bit about
24 your educational background. Did you go to
25 college?

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 A. Yes, ma'am.

2 Q. Where did you go and when did you
3 finish?

4 A. I went to York College of Pennsylvania
5 and I graduated in 2015.

6 Q. Okay. And what is your background in?

7 A. My degree is forensic chemistry with a
8 minor in criminal justice.

9 Q. As far as training in the chemical
10 analysis field, have you had any other updates and
11 seminars that you've attended throughout the last
12 five years?

13 A. I attended the South Carolina Law
14 Enforcement Division commonly known as SLED for my
15 training.

16 Q. Okay. And do you participate in a
17 competency testing yearly?

18 A. Yes, ma'am.

19 Q. Okay. Have you ever testified in the
20 past as an expert in chemical analysis of drugs?

21 A. Yes, I have.

22 Q. And do you know how many times you've
23 done so?

24 A. Eight times.

25 Q. Eight times. Okay. And has that been

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 | mostly here in this courtroom?

2 | A. Yes, ma'am.

3 | Q. Okay.

4 | MS. GARRICK: Your Honor, I would offer
5 | her as an expert in the chemical analysis and
6 | identification of narcotics.

7 | THE COURT: Any objection?

8 | MR. SAUNDERS: No objection, Your
9 | Honor.

10 | THE COURT: All right. Let me address
11 | the jury right quick. Normally, a person cannot
12 | give opinion testimony. Usually when somebody
13 | testifies, they testify to something that they
14 | smell, heard, something of that nature. However,
15 | there is an exception when someone is qualified
16 | because of education or experience. They are
17 | permitted to give their opinion in certain areas if
18 | the Court qualifies them that way. This witness
19 | will be qualified as an expert in the area of
20 | chemical analysis and --

21 | MS. GARRICK: Chemical analysis and the
22 | identification of drugs or narcotics.

23 | THE COURT: -- and identification of
24 | drugs. So, therefore, I'm going to allow her to
25 | give opinion testimony. That does not mean that

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 you must accept the opinion, but it is evidence for
2 you to use in any way that you see fit. Go ahead.

3 MS. GARRICK: Thank you, Judge.

4 Q. If I could call your attention to this
5 case here today, what were you asked to do in
6 regards to this case of the State versus Angel
7 Ibarra?

8 A. Part of my position is to help identify
9 suspected narcotics that are brought in from our
10 deputies and our narcotics agents.

11 Q. Okay. If I can show you what's been
12 marked for ID, State's 136.

13 MS. GARRICK: If I may approach?

14 THE COURT: You may.

15 Q. This is ID only, 136. If you could
16 take a moment and see if you can identify what's
17 within that package?

18 A. I recognize it.

19 Q. Okay. Can you tell us what that is?

20 A. This is best kit control number
21 C023222.

22 Q. Okay. And where would you have
23 received that item?

24 A. I received it from the evidence room.

25 Q. Okay. And do you know what date you

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 would have received it?

2 A. May I refer to my notes, ma'am?

3 THE COURT: You may.

4 A. Thank you. I received this item on
5 July 17, 2019.

6 Q. Okay. And when you received it, was it
7 packaged exactly like that or was it different?

8 A. This item was packaged differently.

9 Q. Okay. Can you explain that to us,
10 please?

11 A. The outer most packaging is packaging
12 that I added to it. But everything inside of the
13 best kit that is inside was the original packaging
14 that I received it.

15 Q. Okay. Are your initials on that
16 document?

17 A. Yes, they are.

18 Q. When you received that package from the
19 sheriff's department, in the best kit, can you tell
20 us if the item was sealed or unsealed?

21 A. The item was sealed. The seal was
22 intact noted on the best kit.

23 Q. Okay. And how can you be sure that the
24 item was sealed in the best kit?

25 A. The best kit has specific designs and

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 figures that are all around the seal of the bag.
2 So if there was pulling or cutting or the seal
3 wasn't done properly, I would have noticed this.
4 It's pretty evident within this bag.

5 Q. Okay. And you did not notice any
6 problems with that best kit there; is that correct?

7 A. No, ma'am.

8 Q. Okay.

9 MS. GARRICK: Beg the Court's
10 indulgence one moment.

11 THE COURT: Take your time.

12 MS. GARRICK: If I may approach her one
13 more time, Judge?

14 THE COURT: You may.

15 MS. GARRICK: Your Honor, at this time,
16 I would offer State's Exhibit 136 that previously
17 was ID only into evidence.

18 THE COURT: Any objection?

19 MR. SAUNDERS: No, Your Honor.

20 THE COURT: It's admitted.

21 (WHEREUPON, State's Exhibit Number 136
22 was entered.)

23 Q. Ms. Walker, if you could use your
24 gloves and if you could open that best kit. In
25 regards to the items within that best kit, can you

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 tell us what you would have done first in a testing
2 procedure?

3 A. When I receive the best kit, it's all
4 in this original packaging. I first then open it
5 up. Once I've opened it up, I note the case
6 number, if the seal was intact, the date that I had
7 it and my initials. The date that I opened it up
8 and the initials. Once I've done that, I will pull
9 everything out to itemize my worksheet. And once
10 that is done, I then start the weighing process on
11 each item noting them on the itemized worksheet and
12 then I go into the testing process.

13 Q. Okay. So as far as items within that
14 best kit, one item; is that correct?

15 A. Yes, ma'am.

16 Q. Okay. And you weighed it?

17 A. Yes, ma'am.

18 Q. And you weighed it without packaging or
19 with packaging?

20 A. Without.

21 Q. Okay. All right. After you weighed
22 it, what test did you do next? Would it be a color
23 test?

24 A. It's the presumptive test. It's to
25 give an idea of what the substance could be.

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Okay. And did you do that in this
2 case?

3 A. Yes, I did.

4 Q. And what does that involve?

5 A. It involves Marquis testing. So I put
6 a small sample onto a -- into a wave of -- do a few
7 drops of the solution on top of it and it will give
8 me a color reaction which is indicative to a
9 certain substance.

10 Q. And did you receive a color after this
11 testing?

12 A. Yes, I did.

13 Q. What was the color?

14 A. Orange.

15 Q. And what is that indicative of?

16 A. Methamphetamine or amphetamine.

17 Q. Okay. After this indicative test, what
18 is the next test done in this process?

19 A. The next step is confirmatory testing.

20 Q. Okay. Can you tell us how that's
21 accomplished?

22 A. I then take another small sample, place
23 it into a test tube to do a extraction process in
24 which I place it into a small vile and goes on to
25 the ARC confirmatory instrument which is the gas

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 chromatography mass spectrometer commonly known as
2 the GCMS.

3 Q. The mass spec is what nonchemist call
4 it; is that correct?

5 A. GCMS mass spec, yes, ma'am.

6 Q. Okay. Is that a machine that's common
7 throughout South Carolina used for testing of
8 narcotics?

9 A. Yes, ma'am.

10 Q. So on that day, did you have any
11 concerns that the equipment was working properly or
12 not properly?

13 A. It was working properly.

14 Q. Okay. And can you tell us -- I would
15 assume that you do many tests per day?

16 A. Yes, ma'am.

17 Q. I mean, this is what you do every day
18 all day long; right, you test presumptive drugs?

19 A. Yes, ma'am.

20 Q. Okay. So in between all different
21 testing, how do you clean out the machine so to
22 speak?

23 A. In between each sample there is a blank
24 to make sure there is no carryover or making sure
25 that the sample is clear for the next case number.

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Okay. So when testing this item,
2 without giving us the result yet, were you able to
3 reach a conclusion as to what drug was identified?

4 A. Yes, ma'am.

5 Q. And can you tell us if this drug was a
6 legal or illegal narcotic?

7 A. It is illegal.

8 Q. I'm sorry?

9 A. Illegal.

10 Q. Okay.

11 MS. GARRICK: Your Honor, I'm going to
12 approach her one more time.

13 Q. If I can show you what's State's ID
14 109.

15 THE COURT: Absolutely.

16 Q. Do you recognize State's 109?

17 A. Yes, ma'am.

18 Q. Can you tell us what it contains?

19 A. This contains best kit. Best kit
20 number C023221.

21 Q. Okay. And can you tell us who packaged
22 that best kit according to the records?

23 A. Who submitted it into evidence?

24 Q. Yes, sorry.

25 A. M. Dabkowski.

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. And can you tell us when you received
2 it?

3 A. I received this on July 17th, 2019.

4 Q. And when you received it, would it have
5 been in one bag?

6 A. Yes, ma'am.

7 Q. Okay. Are there multiple items within
8 that bag?

9 A. Yes, ma'am.

10 Q. Okay. When you received it, can you
11 tell us the condition of that package? Was it
12 sealed or not sealed?

13 A. It was sealed.

14 Q. Would you have absolutely checked that?

15 A. Yes, ma'am.

16 Q. Okay.

17 MS. GARRICK: Your Honor, I would offer
18 State's 137 into evidence.

19 THE COURT: Any objection?

20 MR. SAUNDERS: Your Honor, just my
21 earlier objection about this I do object based upon
22 what we've already gone over.

23 THE COURT: So noted for the record.

24 MR. SAUNDERS: Thank you.

25 MS. GARRICK: I think it's 109; is that

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 right?

2 THE COURT: 109 is admitted into
3 evidence.

4 (WHEREUPON, State's Exhibit Number 109
5 was entered.)

6 MS. GARRICK: Thank you.

7 Q. Ms. Walker, if you could use the
8 scissors and open that and tell us what items are
9 within it and how you would have classified those
10 items.

11 Ms. Walker, do you think you need a
12 mask?

13 A. I should be fine. I'm just looking for
14 a safe place to cut the seal.

15 Ma'am, am I pulling out everything?

16 Q. Please.

17 A. May I have some pieces of paper? I
18 would rather not put this on the bench.

19 Q. As you pull this out, can you tell us
20 what the items are and how you would have listed
21 them in your written report, if at all?

22 A. I'm sorry, what was the question?

23 Q. Can you tell us how you would have
24 listed these items, subitems within your report and
25 what they are?

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 A. Each item is -- once I pulled it out, I
2 itemize it into my worksheet like I've done in the
3 previous case or the previous best kit, I'm sorry.
4 I'm trying to pull everything out. So this is
5 the -- this was the first bag that I got which was
6 item 1.1 which is in a Ziplock bag containing. I
7 then went to the next items that were in it and
8 that was item 1.1.1 which was three plastic
9 sandwich bags containing a compressed powder -- I'm
10 sorry, three plastic sandwich bags containing --
11 plastic sandwich bag containing rock substance.

12 Q. So you have three items that were
13 within one package?

14 A. Yes, ma'am.

15 Q. All right. Can you hold those up for
16 us to see please?

17 A. (Ms. Walker complies.)

18 Q. And we're going to go back to them in a
19 moment, okay.

20 A. The next one was item 1.1.2 which is a
21 Ziplock bag containing a rock substance.

22 Q. Okay.

23 A. Next was a -- which was item 1.1.3.
24 Which is pink balloon containing orange balloon
25 containing piece of plastic containing powder

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 substance.

2 Q. And hold that up. Okay.

3 A. Next was item 1.2. This is a Ziplock
4 bag containing metal spatula and handheld grinder
5 containing residue.

6 Next was item 1.3 which is Ziplock bag
7 containing 29 multicolored balloons containing
8 powder substance. This is the original packaging
9 and my packaging.

10 Q. And just to reiterate, the original
11 packaging, whose initials are on that?

12 A. My initials are in green.

13 Q. Okay. Let me see it for one second.

14 All right. So once you spread
15 everything out, what do you elect to do first?
16 After you subitem each thing, what is your next
17 course during this testing procedure?

18 A. I would individually weigh each of the
19 substances that I'm going to test separately.

20 Q. Okay. And do you weigh them with
21 packaging or without packaging?

22 A. Without.

23 Q. And then the next test is an indicative
24 test; is that right?

25 A. The presumptive test, yes.

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Okay. And that's the color test?

2 A. Yes, ma'am.

3 Q. And did you do that with all of these
4 items?

5 A. Yes, ma'am.

6 Q. Okay. And did you receive different
7 results?

8 A. Different substances equal different
9 results, yes.

10 Q. Okay. All right. After that, did you
11 use your machine again?

12 A. Yes, I did.

13 Q. Okay. And any problems with this
14 testing procedure?

15 A. No, ma'am.

16 Q. Any problems with the equipment?

17 A. No, ma'am.

18 Q. And this is the same day as you did the
19 other meth; correct?

20 A. I believe so.

21 Q. Okay. And without giving us your final
22 result, were you able to conclude that there were
23 drugs in those items?

24 A. Yes, ma'am.

25 Q. And did you in fact identify different

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 | drugs?

2 | A. Yes, I did.

3 | Q. After you obtained results, do you
4 | prepare written reports?

5 | A. Yes, I type a report.

6 | Q. And did you prepare written reports for
7 | these two best kits?

8 | A. Yes, ma'am.

9 | Q. Did you also prepare data compilations
10 | of your findings?

11 | A. Yes, ma'am.

12 | Q. And were your reports and your testing
13 | procedures and your data shared with anyone else?

14 | A. I did a peer review, so they were able
15 | to review everything.

16 | Q. And what does peer review mean?

17 | A. I exchange my case files with three
18 | other agencies and they verify that everything is
19 | making sure that the data is correct with my
20 | report, making sure names are correct, and making
21 | sure other important dates are on there.

22 | Q. Is that a common practice within the
23 | state?

24 | A. Yes, it is, ma'am.

25 | Q. So do you peer review others?

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 A. Yes. Along with -- they peer review
2 mine to three other agencies. I peer review for
3 them as well.

4 Q. Okay. And was anything wrong during
5 the peer review?

6 A. No, ma'am.

7 Q. Okay. If I can show you what's been
8 marked State's 147, do you recognize this?

9 A. Yes, ma'am.

10 Q. And what is that?

11 A. This is my report.

12 Q. If I can show you what's been marked
13 148, do you recognize this?

14 A. Yes, this is my report as well.

15 MS. GARRICK: Your Honor, I would move
16 147 and 148 into evidence.

17 THE COURT: Any objection?

18 MR. SAUNDERS: Your Honor, I just want
19 to be sure about the numbers so I can note.

20 147, Your Honor, no objection. 148,
21 the same objection as we had before.

22 THE COURT: So noted for the record
23 that I ruled on earlier.

24 (WHEREUPON, State's Exhibit Number 147
25 and 148 were entered.)

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 MS. GARRICK: Your Honor, may I
2 publish?

3 THE COURT: You may.

4 Q. Can you tell us -- this is State's 147.

5 THE COURT: Can you blow that up? I
6 can't see it.

7 Q. Okay. Can you tell us what this result
8 is?

9 A. Methamphetamine C2 (someone coughing,
10 inaudible). One tested, net weight 1.28 grams,
11 19.75 grains.

12 Q. So 1.28 grams of meth; is that correct?

13 A. Yes, ma'am.

14 Q. And what best kit?

15 A. This one is C0232222.

16 Q. That's the testing of 136; is that
17 right?

18 A. Yes, ma'am.

19 Q. Meth. If I can show you 148, State's
20 exhibit. All right. We're going to have to go
21 slower on this. What best kit are we talking
22 about?

23 A. 23221.

24 Q. Okay. Item 1.1.1 was tested. What did
25 you find?

MEG WALKER - DIRECT EXAMINATION BY MS. GARRICK

1 A. Heroin C1 found in sample tested.
2 Three tested. Total net weight 83.78 grams,
3 1292.92 grams.

4 Q. Okay. These are the subitems that had
5 the three bags together; correct?

6 A. Yes, ma'am.

7 Q. Okay. What about item 1.1.2?

8 A. Ziplock bag containing rock substance.

9 Q. What is the weight?

10 A. Heroin C1 found in sample tested. One
11 tested, net weight 12.64 grams, 195.06 grains.

12 Q. Okay. Can we pull those three --
13 sorry. So this is heroin. What about item 1.1.3?

14 A. Cocaine C2 found in sample tested. One
15 tested. Net weight 7.58 grams, 116.97 grains.

16 Q. Can you show us that, please?

17 A. (Witness complies.)

18 Q. Cocaine. And what was item 1.2?

19 A. Heroin found in sample tested. One
20 tested. No weight obtained.

21 Q. What was the item, the 1.2, was that
22 the grinder?

23 A. Yes.

24 Q. Thank you. Page 2 of 148, the 29
25 multicolored balloons?

MEG WALKER - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. Heroin C1 found in sample tested.
2 Three tested. Total net weight 1.16 grams, 17.90
3 grains.

4 Q. Okay. If I can see those. Now, you
5 didn't test every single one of these balloons, did
6 you?

7 A. No, ma'am.

8 Q. Why is that?

9 A. I have met the statutory threshold for
10 the substance.

11 Q. Which is 28 grams?

12 A. Yes, ma'am.

13 Q. Ms. Walker, is heroin a legal or
14 illegal substance here in South Carolina?

15 A. Illegal.

16 MS. GARRICK: Thank you. Please answer
17 any questions Mr. Saunders may have.

18 THE COURT: Mr. Saunders?

19 MR. SAUNDERS: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SAUNDERS:

22 Q. Good afternoon, Ms. Walker.

23 A. Hi.

24 Q. So you testified that you picked up the
25 substance -- and, actually, I'm talking about --

MEG WALKER - CROSS-EXAMINATION BY MR. SAUNDERS

1 this is State's Exhibit 109. I'm not talking about
2 the State's Exhibit 136 which you testified is
3 methamphetamine. I'm talking about the evidence
4 that you testified was heroin just now.

5 A. For best kit 23221 just to clarify?

6 Q. 23221, that's correct. Thank you. You
7 testified you picked this up on July 17, 2019;
8 correct?

9 A. Yes, sir.

10 Q. And when did you return it to the
11 evidence room?

12 A. I do not recall, sir.

13 Q. Okay. After you test a substance, do
14 you immediately return it to the evidence room
15 or --

16 A. I -- this is for my personal practice.
17 I wait until my peer review has been completed and
18 then I take it to evidence.

19 Q. And the peer review, how does that
20 work? Are you required to do that every time you
21 test a substance?

22 A. Yes. It's practiced at SLED, so it's
23 practiced by all the chemists in the state.

24 Q. Okay. So once you come to your result,
25 you go to the peer review, how do you -- what steps

MEG WALKER - CROSS-EXAMINATION BY MR. SAUNDERS

1 do you take to make sure that happens?

2 A. I go to the location that we've been
3 going to. I hand them however many cases. They
4 take them. They write -- they overlook them, make
5 note of anything and then I get them back about a
6 week later.

7 Q. What is it that they receive from you
8 to look at? Do they receive the actual substances?

9 A. No, sir.

10 Q. They get the report and anything else?

11 A. They get the report and they also get
12 the data as well just to verify.

13 Q. Okay. And once you get back the peer
14 review information, is that when you create -- is
15 that -- at that point the substance can go back to
16 the evidence locker; right?

17 A. Once I received it and it's been
18 approved by whichever chemist has approved it, I
19 then make it a point to take the substance back to
20 evidence, yes.

21 Q. Okay. And would it be uncommon for
22 that substance to sit around for -- I mean, a
23 couple of months? Or to not go back -- I don't
24 mean sit around. To not make it back to the
25 evidence room for a couple of months?

MEG WALKER - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. Not that I know of. I try to keep it
2 in a short amount of time. It does stay in a safe
3 until it goes back to evidence.

4 Q. Okay. If you took out the evidence
5 from the evidence room on July 17th of '19, would
6 it be uncommon that you would return it on November
7 8, 2019?

8 A. Yes.

9 Q. That would be uncommon?

10 A. No. It's -- no, because I did the
11 analysis. I opened that best kit on October 1st of
12 2019.

13 Q. October 1, 2019. Oh, okay. So you
14 received it in July?

15 A. Yes, sir.

16 Q. But didn't open it until October?

17 A. Yes, sir.

18 Q. Okay. I understand now. So once you
19 pick it up and it's in your possession -- so in
20 this case, you get it in July, you open it in
21 October, where does the -- where does it sit until
22 you get to it?

23 A. It sits in my lab in a safe which I
24 only know the pin code to.

25 Q. Just you?

MEG WALKER - REDIRECT EXAMINATION BY MS. GARRICK

1 A. Yes, sir.

2 Q. Okay. Sits there. Okay. And then you
3 took it out in October and then you did your test
4 here?

5 A. Yes, sir.

6 Q. All right. Let's see. And is -- when
7 you take -- when you take the substance, you said
8 you don't use the packaging, you weigh it. Well,
9 there's testing it and I guess there's weighing it
10 or does that happen at one time?

11 A. That's something -- it's in a different
12 step. So when I take the item out of the
13 packaging, I itemize it on a worksheet. I then
14 take it out of it's original packaging, place it
15 into a weigh vote. Place it on to my balance. It
16 gives me a weight and then I take a sample for the
17 presumptive test and the confirmatory test.

18 Q. I understand. So the entire substance
19 from the package gets weighed?

20 A. Yes, sir.

21 Q. All right. All right. And a small
22 portion gets tested?

23 A. Yes, sir.

24 MR. SAUNDERS: All right. Thank you.
25 Those are all the questions I have.

MEG WALKER - REDIRECT EXAMINATION BY MS. GARRICK

1 THE COURT: Any redirect?

2 MS. GARRICK: Beg the Court's
3 indulgence one moment.

4 REDIRECT EXAMINATION

5 BY MS. GARRICK:

6 Q. Ms. Walker, are you looking for cutting
7 agents within the narcotics?

8 A. I'm not looking for anything specific.
9 The instrument tells me what's in the substance
10 itself.

11 Q. Okay. So in the best kit that he's
12 talking about, 23221, you found heroin; correct?

13 A. Yes, ma'am.

14 Q. Quite a bit?

15 A. Yes, ma'am.

16 Q. On the weight.

17 MS. GARRICK: That's all I have.

18 MR. SAUNDERS: No further questions.

19 Thank you.

20 THE COURT: Can I excuse Ms. Walker?

21 MS. OPPENHEIMER: Please.

22 THE COURT: All right. Madam Forelady,
23 I'm going to let y'all go home for the day. We
24 will start at 9 o'clock in the morning. So you
25 need to be here about a quarter to 9. I anticipate

1 we will finish this case tomorrow and have y'all
2 deliberate. But until then, there's no research.
3 No TVs. No reading about this case. No talking to
4 friends, not even amongst yourselves and I'll see
5 you in the morning. Thank you. Y'all have been
6 very attentive.

7 (WHEREUPON, the jury exits the
8 courtroom at 4:43 p.m.)

9 THE COURT: Okay. How many witnesses
10 do we anticipate for tomorrow?

11 MS. OPPENHEIMER: A couple, Your Honor.
12 And we don't know if the Defendant is going to
13 testify or not. So a couple for the State.

14 THE COURT: Okay. So I anticipate
15 we'll finish sometime in the morning; right?

16 MS. OPPENHEIMER: Yes, ma'am.

17 THE COURT: All right. Mr. Ibarra, if
18 you could stand for me. I want to talk to you for
19 a second. I anticipate the State's going to rest
20 tomorrow on their case. So when I get the
21 opportunity to, I like to at least let you know
22 about your right to testify or not to testify and
23 give you the opportunity to think about it
24 overnight and we'll talk about it again tomorrow,
25 okay?

1 THOMAS HODGES,
2 being first duly sworn, was examined and testified
3 as follows:

6 MR. HODGES: Thomas Hodges,
7 H-O-D-G-E-S.

9 BY MS. GARRICK:

12 A. Lexington County Sheriff's Department.

15 A. I've been with the Lexington County
16 Sheriff's Department since October of 2008.

19 A. Yes, ma'am.

20 q. Where were you employed?

21 A. Richland County Sheriff's Department.

22 Q. Okay. And how long did you work with
23 them?

24 A. Four and a half years.

25 q. So how many years is that in law

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 enforcement?

2 A. Actually at the end of this month will
3 be 18 years.

4 Q. Okay. And you're a sergeant; is that
5 right?

6 A. That's correct.

7 Q. Is that a supervisory role?

8 A. It is. It's a supervisory role.

9 Q. And what division of the sheriff's
10 department do you work?

11 A. I'm in the narcotics unit. What we
12 call the narcotics enforcement team.

13 Q. Okay. And how long have you been
14 working in narcotics?

15 A. I've been in narcotics since August of
16 2012.

17 Q. Can you tell us a little bit that maybe
18 differentiates narcotics division from other
19 divisions in the sheriff's department?

20 A. In narcotics we -- obviously, we
21 specialize in narcotics. We're a little bit
22 different than some of the other units in the
23 sheriff's department whereas major crimes, they
24 investigate a multitude of crimes. Same thing with
25 property crimes, we are singularly focused on

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 | narcotics and narcotics offenses. We deal a lot
2 | with confidential informants, undercovers and we're
3 | a plain clothes unit unlike other units where it's
4 | very obvious that they are law enforcement. We're
5 | more of a plain clothes role and not everybody on
6 | first appearance may realize that we're law
7 | enforcement.

8 | Q. Being a sergeant, do you know this
9 | investigator here?

10 | A. I do.

11 | Q. Okay. And was she -- was Meg under you
12 | back in 2018?

13 | A. She was.

14 | Q. Okay. Let's talk a little bit as a
15 | narcotics officer, have you had the opportunity in
16 | the past to prepare search warrants?

17 | A. I have.

18 | Q. And you said a little bit about working
19 | with CI's and undercover officers, have you ever
20 | conducted drug buys in the course of narcotics?

21 | A. I have.

22 | Q. Have you executed numerous search
23 | warrants?

24 | A. I have.

25 | Q. Have you conducted surveillance in

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 investigation of drug enterprises?

2 A. I have.

3 Q. Okay. Have you been involved in the
4 collection of drugs pursuant to arrest?

5 A. I have.

6 Q. Okay. Can you tell us how you first
7 became aware of Angel Ibarra?

8 A. I received a phone call from an
9 investigator over in --

10 MR. SAUNDERS: All right. Objection,
11 Your Honor. That's hearsay.

12 MS. GARRICK: Your Honor, it's
13 explaining the course of his investigation and how
14 Lexington opened their investigation.

15 MR. SAUNDERS: He just said, I received
16 a call from and he was getting ready to say the
17 person's name or whatever law enforcement agency.
18 He's hearing information from a person presumably.
19 I think it's hearsay and I object.

20 THE COURT: Can you rephrase it, Ms.
21 Martin?

22 MS. GARRICK: Yes, ma'am, I'll try.

23 Q. Okay. Let me just back up. Start
24 over. How did the name Angel Ibarra come on your
25 radar? Don't tell what was said, but how did it

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 | come in your radar?

2 | A. From the Richland County Sheriff's
3 | Department.

4 | Q. Okay. And based on that conversation,
5 | what did you do or what did you implement?

6 | A. At that point in time, I decided it was
7 | time to open an investigation in Lexington County
8 | and I signed Investigator Dabkowski to head up that
9 | investigation.

10 | Q. Okay. And who was the target of that
11 | investigation?

12 | A. Angel Ibarra.

13 | Q. Okay. Does he have a street name?

14 | A. Yes, he does.

15 | Q. What is it?

16 | A. Ace.

17 | Q. And did you have information as to
18 | where Ace lived?

19 | A. We did.

20 | Q. And where was that?

21 | A. [REDACTED] Leica Lane in West Columbia, South
22 | Carolina.

23 | Q. Okay. And that's Lexington County?

24 | A. That is correct.

25 | Q. When you talk about opening a narcotics

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 investigation, what does that involve?

2 A. It involves obviously identifying
3 surveillance, hours and hours of surveillance.

4 Q. Okay. Are you watching the home at [REDACTED]
5 Leica Lane?

6 A. Yes.

7 Q. And not just you, are there other
8 members of the team involved as well?

9 A. Correct.

10 Q. Okay. Are you watching to see who
11 comes and goes from the residence?

12 A. We are.

13 Q. Are you identifying people who come and
14 go from the residence?

15 A. That is the goal, yes.

16 Q. Are you identifying tag numbers?

17 A. Yes.

18 Q. Are you tracing tags on vehicles to
19 help you locate people?

20 A. Yes.

21 Q. Okay. Did you become aware where --
22 become aware of exactly where Mr. Ibarra, Ace, was
23 living?

24 A. Yes.

25 Q. And where is that?

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. [REDACTED] Leica Lane.

2 Q. During the course of this investigation
3 of Mr. Ibarra, did you also come across someone
4 named Israel Cervantes?

5 A. Yes.

6 Q. And did you have occasion to see this
7 person in the presence of Mr. Ibarra?

8 A. Yes.

9 Q. Was this something that happened more
10 than once?

11 A. Yes.

12 Q. Did you -- are you aware of the layout
13 of the home and the shed at Leica Lane?

14 A. I don't remember the exact layout of
15 it.

16 Q. Okay. Is it fair to say is the shed
17 beside the home or behind the home? In front of
18 the home? Where is it? Do you recall?

19 A. I don't recall off the top of my head.

20 Q. Okay. I can show you the exhibit. If
21 I can show you what's been marked as State's 1,
22 does that refresh your memory of the home?

23 A. It does.

24 Q. Okay. And the home is here; is that
25 correct?

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. Correct.

2 Q. And could you show us the shed?

3 A. Right here.

4 Q. Here?

5 A. It's in the backyard.

6 Q. All right. Is this the driveway?

7 A. It is.

8 Q. Okay. All right. One more question
9 about Mr. Cervantes. When he was under
10 surveillance and being watched, were you able to
11 determine if he lived at Leica Lane?

12 A. We were able to determine whether he
13 lived there or not, yes.

14 Q. Okay. And did you find where he did
15 live? Was somewhere else?

16 A. It was somewhere else.

17 Q. Okay. And did your investigation ever
18 move to the area where Mr. Cervantes lived?

19 A. The investigation stayed focused on [REDACTED]
20 Leica Lane.

21 Q. Okay. All right. So let's bring your
22 attention specifically to October 24th of 2018. At
23 that time, had a search warrant been issued to
24 search the property there at [REDACTED] Leica Lane?

25 A. Yes.

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 Q. And can you tell us what items of
2 evidence were being sought there?

3 A. Drugs, money, guns, ammunition.

4 Q. Okay. And were you part of the
5 execution of the search warrant?

6 A. I was not a part of the actual
7 execution of the search warrant at the house.

8 Q. Okay. And can you tell us before the
9 search warrant was actually executed, where were
10 you?

11 A. I was in the area of the neighborhood.

12 Q. Okay. And are you aware based on
13 surveillance of the home that morning, had there
14 been comings and goings between the house and the
15 shed?

16 A. Yes.

17 Q. Can you tell us whether or not Mr.
18 Ibarra had been at the home that morning prior to
19 the search warrant?

20 A. Yes.

21 Q. Can you tell us whether or not Mr.
22 Ibarra left the home?

23 A. Yes, he did.

24 Q. And can you tell us what vehicle he
25 would have left in?

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. It was a silver or gray Dodge Durango.

2 Q. Okay. And can you tell us whether or
3 not during the course of this investigation whether
4 the Dodge Durango had been at that home in the
5 past?

6 A. It had, yes.

7 Q. And can you tell us whether Mr. Ibarra
8 had ever been in that vehicle before that morning?

9 A. Yes.

10 Q. All right. So you told us that you
11 were a little bit down the road. Can you tell us
12 when and how you became in contact with the
13 Defendant that morning?

14 A. The Lexington County Sheriff's
15 Department SWAT team, they conducted a traffic stop
16 of the vehicle. Once taken into custody that's
17 when I came in.

18 Q. Okay. Was he the only person in that
19 vehicle at the time of the traffic stop?

20 A. Yes, he was.

21 Q. Okay. And was Mr. Ibarra detained and
22 actually arrested later that morning?

23 A. Yes, he was.

24 Q. And pursuant to -- I guess the car was
25 towed; is that right?

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. It was. It was towed.

2 Q. And when a car is towed is there a
3 requirement of you of any special duties?

4 A. We inventory the vehicle.

5 Q. Okay.

6 MS. GARRICK: Your Honor, if I may
7 approach the witness?

8 THE COURT: You may.

9 Q. If I can show you what's marked right
10 this moment for ID, State's 89 through 106. If you
11 can take just a moment and flip through these. Can
12 you identify these photos?

13 A. Yes, ma'am.

14 Q. Are you aware of who took these photos?

15 A. I am.

16 Q. Okay. Who took them?

17 A. I did.

18 Q. And what do they depict?

19 A. They are the Dodge Durango that Mr.
20 Ibarra was driving that morning.

21 Q. And these are photos you took after the
22 traffic stop on October 24th of 2018?

23 A. Correct.

24 Q. Okay. Are these a fair and accurate
25 depiction of what you yourself saw that morning?

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. They are.

2 MS. GARRICK: Your Honor, I'd move them
3 into evidence.

4 THE COURT: Any objection?

5 MR. SAUNDERS: No objection, Your
6 Honor.

7 THE COURT: All right. They're
8 admitted.

9 (WHEREUPON, State's Exhibit Number 89
10 through 106 were entered.)

11 Q. If I can show you State's 89, can you
12 tell us if you recognize that?

13 A. I do.

14 Q. What is that?

15 A. That is the Dodge Durango that Mr.
16 Ibarra was in that morning.

17 Q. Okay. State's 91, can you identify
18 what's depicted in this photograph?

19 A. Yes.

20 Q. Can you tell us what this is?

21 A. It is Mr. Ibarra's wallet.

22 Q. Okay. Can you tell us what's in the
23 two sides?

24 A. Money on each side.

25 Q. Okay. Is there a driver's license

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 contained in that wallet?

2 A. There is.

3 Q. Can you tell me what side it's on?

4 A. Looks like the right side.

5 Q. If you're looking on the right side
6 here?

7 A. Yes.

8 Q. Okay. If I can show you State's 90.
9 What is this?

10 A. That is the driver's license that was
11 in the wallet.

12 Q. Is that for this Defendant, Angel
13 Ibarra?

14 A. Yes, it is.

15 Q. And what does it note as the address?

16 A. [REDACTED] Leica Lane.

17 Q. And do you know if this wallet was
18 taken into evidence or returned to the Defendant?

19 A. The wallet was returned to the
20 Defendant.

21 Q. Okay. And do you recall where his
22 wallet was? Was it on his person? If you check
23 your report it may refresh your memory.

24 A. It was in Mr. Ibarra's left pocket.

25 Q. Okay. Did you take photographs of the

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 interior of the vehicle?

2 A. Yes, I did.

3 Q. If I can show you State's 92. What is
4 this?

5 A. That was the center console of the
6 Dodge Durango.

7 Q. And what is the purpose of the picture?

8 A. The money that's contained in the
9 center console.

10 Q. Okay. Showing you State's 93, what
11 does that show?

12 A. I believe that's the money that was in
13 the center console.

14 Q. Okay. If I can show you what's marked
15 as State's 94, what does this depict?

16 A. That depicts a handgun in between the
17 driver's seat and the center console of said Dodge
18 Durango.

19 Q. Okay. In relation to the canned drink
20 that is there, where would the gun be?

21 A. It would be on the driver's -- near the
22 driver's right hand within reach.

23 Q. Okay. Is the gun here?

24 A. Yes, that is the gun.

25 Q. Okay.

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. Sorry. I didn't -- sorry.

2 Q. So State's 95, what does this show?

3 A. That is the handle of the previously
4 mentioned handgun.

5 Q. And is that where the gun was when you
6 saw it?

7 A. Yes, it was.

8 Q. And were you the first person and the
9 only person to go into the car?

10 A. To go inside the car, yes.

11 Q. Okay. If I can show you State's 96,
12 what is this?

13 A. That's a picture I took of the sing
14 handgun after it was removed from where it was.

15 Q. Okay. And are you the one who removed
16 the gun from the car?

17 A. Yes, I am.

18 Q. Okay. And do you do anything when you
19 remove weapons from a car? Is there a safety
20 aspect?

21 A. We render them safe, yes.

22 Q. Okay. And what does that mean?

23 A. When we render a weapon safe, we take
24 the magazine out. We make sure that there are no
25 rounds in the chamber of the gun because we are

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 going to be turning this in to our evidence
2 custodians.

3 Q. Okay. And at some point, did you take
4 that gun and turn it over to the assigned
5 investigator?

6 A. Yes.

7 Q. And who would that have gone to?

8 A. Investigator Dabkowski.

9 Q. Okay. If I can show you what's already
10 in evidence State's 143.

11 A. Yes.

12 Q. Is this the gun you collected from the
13 vehicle?

14 A. Yes, it is.

15 Q. Other than the gun lock, is it in the
16 same condition?

17 A. It is.

18 Q. And other than the magazine -- the gun
19 in the car had a magazine; am I right?

20 A. That's correct.

21 Q. Okay. State's 99, can you tell us what
22 this depicts?

23 A. That is a magazine with rounds.

24 Q. And would that have been collected?

25 A. Yes.

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 Q. Is this part of the making the gun
2 safe?

3 A. Yes.

4 Q. This magazine was in that pistol?

5 A. Correct.

6 Q. And was this turned over to Meg
7 Dabkowski?

8 A. Yes, it was.

9 Q. All right. If I can show you State's
10 97, can you tell us what this is?

11 A. That is a box of Winchester ammunition.

12 Q. And this was where? Was it in the
13 Dodge Durango?

14 A. Yes, it was.

15 Q. Okay. State's 101, what does this
16 show?

17 A. That is a gun box for a Ruger.

18 Q. And is this also from the Dodge
19 Durango?

20 A. Yes, it is.

21 Q. State's 98, what is this?

22 A. That is another box of ammunition.

23 Q. Found in the Dodge Durango?

24 A. That is correct.

25 Q. Did the Dodge Durango have a regular

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 tag that could be traced to somebody?

2 A. It was a paper tag that was on the
3 vehicle.

4 Q. Okay. Show you State's 102, what does
5 this depict?

6 A. That is the storage area on the back of
7 one of the front seats.

8 Q. Okay. And is there anything within
9 that netting?

10 A. It is a -- it is a magazine or what we
11 call an extended magazine.

12 Q. Okay. If I can show you State's 103,
13 is that a close-up of the earlier picture?

14 A. That is a picture of the same magazine
15 that we just spoke about that was in the netted
16 area behind the seat.

17 Q. Okay. And would that have been turned
18 over to the investigator?

19 A. Yes, it would of.

20 MR. SAUNDERS: Your Honor, I'm sorry.
21 May we approach, please?

22 THE COURT: You may.

23 (WHEREUPON, there was a sidebar
24 conference.)

25 THE COURT: All right. Go ahead, Ms.

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 Martin.

2 MS. GARRICK: Thank you.

3 Q. State's 104, what does this depict?

4 A. That is the rear cargo area of the same
5 Dodge Durango.

6 Q. And what items are in the back there?
7 If you need to use your report to refresh your
8 memory you may.

9 A. It's a box for another gun as well as
10 an extended magazine for a block.

11 Q. State's 105, can you identify that?

12 A. That was a gun box found inside the
13 vehicle for a .9mm Luger.

14 Q. And 106, I think it might be upside
15 down. Can you identify what this is and where it
16 was?

17 A. Yes. That is a pistol mounted
18 flashlight that was found in the glove compartment
19 of the Dodge Durango.

20 Q. 107, is that a close-up of the same
21 thing?

22 A. That is a close-up of the
23 aforementioned flashlight mount for the gun.

24 Q. I don't understand what you just said.

25 A. It's a flashlight that you mount on a

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 handgun.

2 Q. Okay. Thank you.

3 A. Sorry.

4 Q. And that would have been turned over to
5 the investigator as well?

6 A. That is correct.

7 Q. Are you aware that the Defendant was
8 charged with unlawful carrying of a pistol? Were
9 you aware of that?

10 A. Yes, I am.

11 Q. Okay. Are you aware -- have you made
12 those charges before in your career?

13 A. Yes, I have.

14 Q. And are you aware that there are some
15 people who are allowed to carry weapons; is that
16 right?

17 A. That is correct.

18 Q. And would someone who could carry a
19 weapon be a military person?

20 A. Correct. A military person, yes, they
21 can.

22 Q. A law enforcement person?

23 A. Yes, they can.

24 Q. Someone who had a concealed weapons
25 permit?

THOMAS HODGES - DIRECT EXAMINATION BY MS. GARRICK

1 A. Yes, they can.

2 Q. Several different exemptions apply;
3 correct?

4 A. That is correct.

5 Q. And did the Defendant have a concealed
6 weapons permit?

7 A. No, he did not.

8 Q. Okay. And so he was charged with
9 unlawful carrying of a pistol; correct?

10 A. Correct.

11 Q. In your history of working -- well, let
12 me back up one moment. This Defendant here, is
13 this the man who was arrested in your presence at
14 that traffic stop?

15 A. Yes, it is.

16 Q. Okay. And, again, he was the only one
17 in the Dodge Durango?

18 A. Yes, he was.

19 Q. All right. While investigating drug
20 enterprises, can you tell us whether or not a drug
21 enterprise consists of one person or more than one
22 person?

23 A. Typically when investigating a drug
24 enterprise it contains multiple people.

25 Q. Okay.

THOMAS HODGES - CROSS-EXAMINATION BY MR. SAUNDERS

1 MS. GARRICK: Beg the Court's
2 indulgence one moment.

3 THE COURT: Take your time.

4 Q. In regards to State's 109, the heroin
5 that was found. Take a moment and look at that.
6 Is someone who runs a drug enterprise, is there a
7 lot of money to be made?

8 A. Yes, there is.

9 Q. Okay. And it's approximately 96 grams
10 of heroin, can you tell us based on your training
11 and experience how much the street value of those
12 drugs would be from 2018?

13 A. From 2018, the approximate value would
14 be \$150 per gram.

15 Q. Okay. So if you multiply times 95, a
16 little over \$10,000; is that right?

17 A. That is -- if my math is correct, would
18 be \$14,400.

19 MS. GARRICK: Please answer Mr.
20 Saunders' questions.

21 CROSS-EXAMINATION

22 BY MR. SAUNDERS:

23 Q. Good morning, Sergeant Hodges.

24 A. Good morning, sir.

25 Q. You did not take part in the actual

THOMAS HODGES - CROSS-EXAMINATION BY MR. SAUNDERS

1 search and collection of evidence at the residence;
2 is that correct or did you?

3 A. I did not partake in the collection of
4 the evidence at [REDACTED] Leica Lane.

5 Q. Okay. And you were the one involved in
6 the traffic stop?

7 A. I was not involved in the traffic stop.
8 I showed up after the traffic stop was conducted.

9 Q. Okay. And you mentioned earlier there
10 was -- Solicitor asked you about your familiarity
11 with Israel Cervantes. You -- doing your
12 investigation, you were aware of Israel Cervantes;
13 correct?

14 A. That is correct.

15 Q. And do you believe Israel Cervantes was
16 involved in a drug crime?

17 A. In a drug enterprise, yes.

18 Q. Okay. You said you investigated where
19 he lived; correct?

20 A. Correct.

21 Q. Did you investigate what kind of
22 vehicles he owned, anything else?

23 A. That would be more for the case agent
24 in this case.

25 Q. So you're aware that he was charged --

THOMAS HODGES - CROSS-EXAMINATION BY MR. SAUNDERS

1 as a result of the search warrant and evidence
2 collected from the search warrant, you're aware
3 that Mr. Cervantes was charged with trafficking
4 heroin; correct?

5 A. Correct.

6 Q. And you're aware Mr. Cervantes was
7 charged with possession of a weapon during the
8 commission of a violent crime; correct?

9 A. I would have to go back and look at the
10 charging documents on that. You're going to have
11 to excuse me it's been four years.

12 Q. So you remember some things, but not
13 everything about the investigation?

14 A. Correct.

15 Q. All right. You talked about, you know,
16 your knowledge of drug enterprises that they
17 involve multiple people; correct?

18 A. That is correct.

19 Q. All right. And you also testified that
20 you did some surveillance on the home?

21 A. Correct. Surveillance was conducted on
22 the home.

23 Q. And you watched people coming and going
24 from the home?

25 A. People were seen coming and going from

THOMAS HODGES - CROSS-EXAMINATION BY MR. SAUNDERS

1 the home.

2 Q. People. Okay. You saw Angel Ibarra?

3 A. Angel was observed, yes.

4 Q. You saw Israel Cervantes?

5 A. Israel was also observed.

6 Q. Did you see Mr. Ibarra's mother?

7 A. I did not see her, no.

8 Q. Didn't see her. See his brother?

9 A. I did not see -- I don't know if I saw
10 the brother or not.

11 Q. Okay. You saw other people other than
12 Israel Cervantes and Mr. Ibarra?

13 A. That is correct.

14 Q. Do you know who you saw other than
15 them?

16 A. I do not.

17 Q. All right. The Dodge Durango had a
18 paper tag; correct?

19 A. Correct.

20 Q. Paper tag says the dealership where it
21 came from; right?

22 A. I do not remember if that particular
23 one did or not.

24 Q. Okay. Did you -- the vehicle was then
25 impounded or seized right after that arrest?

THOMAS HODGES - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. It was seized, yes.

2 Q. Okay. All right. Did you at any point
3 learn that that vehicle belonged to Israel
4 Cervantes?

5 A. I don't recall who it belonged to.

6 Q. So you don't recall, but that could in
7 fact be the case?

8 A. It could be, yes.

9 Q. All right. And let's see. The diagram
10 here of the house --

11 MR. SAUNDERS: May I approach, Your
12 Honor?

13 THE COURT: You may.

14 MR. SAUNDERS: Thank you.

15 Q. Would you identify this as being the
16 shed back here?

17 A. Blue with the I guess you'd say a red
18 roof.

19 Q. Uh-huh. Right there?

20 A. I believe that was it.

21 Q. Okay. And did you ever go in there?

22 A. In the --

23 Q. In the shed?

24 A. No, I did not.

25 Q. Okay.

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 MR. SAUNDERS: Those are all the
2 questions for Sergeant Hodges.

3 THE COURT: Any redirect, Ms. Martin?

4 MS. GARRICK: No, Your Honor. We'd ask
5 that he come down.

6 THE COURT: You may be excused.

7 MR. HODGES: Thank you, Your Honor.

8 THE COURT: You want to call your next
9 witness?

10 MS. OPPENHEIMER: Yes, ma'am, Your
11 Honor. State calls Investigator Scott Purdy.

12 SCOTT PURDY,
13 being first duly sworn, was examined and testified
14 as follows:

15 THE CLERK: Have a seat right over
16 there. Once you're seated, state your full
17 name spelling your last, please.

18 MR. SAUNDERS: Before he starts to
19 testify, can I just mention one thing at side bar,
20 please?

21 THE COURT: Sure.

22 (WHEREUPON, there was a sidebar
23 conference.)

24 THE COURT: All right. Ms.
25 Oppenheimer, go ahead.

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 DIRECT EXAMINATION

2 BY MS. OPPENHEIMER:

3 Q. Good morning, Investigator Purdy, how
4 are you doing?

5 A. Well thank you. How are you?

6 Q. Where are you presently employed?

7 A. Lexington County Sheriff's Office.

8 Q. And what unit are you assigned to?

9 A. Assigned to the narcotics enforcement
10 team.

11 Q. Okay. And when did you begin your
12 career in law enforcement?

13 A. 2006.

14 Q. And when did you begin your career in
15 narcotics?

16 A. 2014.

17 Q. Have you had the opportunity as a
18 narcotics officer to execute search warrants?

19 A. Yes.

20 Q. Approximately how many search warrants
21 have you helped with the execution of?

22 A. I really have no idea.

23 Q. A hundred?

24 A. Lots. Maybe.

25 Q. Okay. Fair to say it's a lot?

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 A. It's a lot, yes.

2 Q. Can you please explain to us a little
3 bit about how search warrants are conducted when
4 executed as at a residence?

5 A. Sure. So usually the house is secured,
6 make sure everyone that's there is out. Once that
7 is secure the agents go in, we photograph
8 everything from the inside -- starting from the
9 outside to the inside of the house as it sits.
10 Then the rooms are numbered. Agents are assigned
11 to each room to search. We usually fan out because
12 we bring several people because due to the number
13 of rooms that we have just that we're not there all
14 day long keeping people out of their homes.

15 So once initial photographs are taken,
16 the rooms are numbered, the agents will then begin
17 their search. If they do find something that is
18 evidentiary, they will stop where they're at,
19 photograph it in place, get the case agent usually
20 in and let them know here's what I found, this is
21 where it's at. They'll go and look at it and say,
22 yeah, that's evidence, I want that as part of my
23 case. Then it will be assigned a placard number,
24 photographed again with the number in place and
25 then it's collected and turned into evidence.

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 Q. Okay. So is it fair to say that
2 multiple different officers are searching multiple
3 different areas of a residence at one time?

4 A. Yes.

5 Q. But is it also fair to say that the
6 lead investigating officer is aware of everything
7 that is found in a home?

8 A. Yes. The lead investigator is
9 typically bouncing all over the house wherever
10 something is found noting where it's at for the
11 report and, you know, saying yes or no as far as
12 it's something there for their case.

13 Q. And directing your attention to October
14 24, 2018, did you assist in the execution of a
15 search warrant at [REDACTED] Leica Lane in West Columbia?

16 A. On the 23rd I did, yes.

17 Q. Okay. And was Investigator Meghan
18 Dabkowski the lead investigating officer in that
19 case?

20 A. Yes, she was.

21 Q. Would the search warrant procedure that
22 you just described to us have been applied during
23 that search in 2018 of [REDACTED] Leica Lane?

24 A. Yes, it would.

25 Q. So anything you found, Investigator

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 Dabkowski would have also seen herself?

2 A. Yes.

3 Q. And where was your search primarily
4 located?

5 A. So I was assigned room 10 which was the
6 shed in the backyard.

7 Q. Okay. And when you entered the shed --
8 well, let me back up. Knowing that you're
9 executing a search warrant of [REDACTED] Leica Lane, what
10 types of items are you looking for?

11 A. Well, we're a narcotics team, so
12 anything typically involved with the sale of
13 narcotics. So drugs themselves, guns, ammunition,
14 money from the sale of drugs. A lot of times there
15 would be fortifications, you know, we'd take note
16 of that or security camera systems or anything that
17 would help with, you know, the operation of drug
18 sales.

19 Q. And when you entered the shed, were you
20 able to see anything immediately upon entering the
21 shed?

22 A. Yes, the shed was a plethora. I mean,
23 there was just stuff everywhere.

24 MS. OPPENHEIMER: Beg the Court's
25 indulgence.

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1 THE COURT: Take your time.

2 Q. Investigator Purdy, I'm showing you
3 State's Exhibit Number 11 which has already been
4 introduced into evidence. Do you recognize this
5 photograph?

6 A. I do.

7 Q. Is this what you saw as soon as you
8 entered the shed in 2018?

9 A. Yes. I mean, that's a picture facing
10 back towards the door, so it's the opposite side,
11 but, yes.

12 Q. Was this table arranged exactly how it
13 is in this photograph when you first entered the
14 shed?

15 A. Yes. Those would have been before
16 search pictures.

17 Q. Other than the items immediately seen
18 when you entered the shed, did you dig through the
19 entire shed searching for anything and everything?

20 A. Yes, ma'am, we did.

21 Q. And were you able to locate multiple
22 items that would have been what you were looking
23 for in that search warrant?

24 A. Yes, ma'am, we did.

25 Q. Can you please tell us what you found

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 | in that shed?

2 | A. Yeah. So you can see a lot of it there
3 | in the picture, but right upon entering there,
4 | there's that table. And on the table itself there
5 | was \$2,000 in cash that was bundled up in rubber
6 | bands. There was 29 balloons individually packaged
7 | what we believed to be heroin. There were some
8 | tops of other balloons that were cut off to show
9 | they were actively filling the balloons there on
10 | scene.

11 | There was a container with empty
12 | balloons to be filled. There was a grinder on the
13 | table that is typical for breaking down larger
14 | amounts of powder into a usable amount and in that
15 | was also a tool that you can see they were using to
16 | kind of scoop the powder out and put into the
17 | balloons. There's a bottle of cut which you can
18 | actually see it in the picture there. It's white
19 | with little oval and the cap is next to it.

20 | There was a silver box which is visible
21 | there on the corner just underneath that standing
22 | light which had several bags of larger quantities
23 | of narcotics in it. There was digital scales.
24 | Then there was also just evidence that they were
25 | smoking marijuana while they were out there doing

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1 all that with what they had going on.

2 So that was just all right there on the
3 table. Then also inside the shed we found a rifle
4 that was loaded and which is actually visible in
5 the picture right there next to the chair and that
6 was to the right. In the back right corner there
7 was another handgun which was a Ruger Security .9mm
8 pistol that was fully loaded with 15 rounds. If
9 you walk through the door to the left there was a
10 second rifle that was American Tactical AK47 type
11 rifle that was loaded with, I believe it was 23
12 or 22, more than 20 rounds as well that was just to
13 the left when you walk in the door. And then on
14 the back left corner on the couch there was a third
15 rifle that was a .9mm chamber rifle that had
16 another -- it was also loaded with spare magazines
17 as well.

18 So throughout the shed we did find
19 narcotics. We found several weapons. We found
20 ammunition to reload the weapons. We found
21 magazines to reload the weapons. We found cash in
22 several spots. We found four different digital
23 scales for weighing out drugs and cell phones. I
24 think three or four cell phones as well.

25 Q. And you mentioned cash. Would that

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 have been a large sum of cash or a small quantity?

2 A. I guess it depends on what you consider
3 to be a lot. There was more than 3,000 just in the
4 shed.

5 Q. And you would have brought Investigator
6 Dabkowski's attention to every single item that you
7 just listed for us; is that correct?

8 A. That's right. So we have numbered
9 placards, so we would have gone around and numbered
10 everything that we found. We would have brought
11 her out and said, hey, this is what we found in the
12 shed. That would have been done after -- again,
13 these photographs that particular one is before we
14 looked at anything. We would say, hey, this is
15 what we got, it's a lot. And then she would have
16 gone off to the next room with someone else.

17 And then as we start going, say, you
18 know, we open up a bookbag and find that, you know,
19 in one case we found a bookbag that had over 100
20 rounds in it and some more cash and a phone, I
21 believe. We would have said, hey, you know, oh, my
22 god, this is what we found now in this bookbag and,
23 you know, this is going to be evidence number
24 whatever. And so she would have been in and out of
25 the house in all different rooms multiple times as

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 people were searching depending on, you know, she
2 would have been in one longer than another if there
3 wasn't anything found.

4 Q. And would Investigator Dabkowski have
5 taken all of the evidence found in the shed and the
6 home out of that residence and taken it to
7 evidence?

8 A. Yes. So what we do is as I mentioned
9 everything is numbered -- everything is assigned a
10 number and is photographed with that number in
11 place and from there it would be bagged and labeled
12 and then those bags would all be brought to her and
13 then she would be the one that would take it from
14 the house as far as taking it off to be evidence.

15 Q. Can you tell us whether or not in your
16 experience as a narcotics investigator if the items
17 found in this shed are consistent with a drug
18 enterprise?

19 A. They are. It's everything you need.

20 Q. Okay. And after the fact, did you gain
21 knowledge that these substances found were
22 primarily heroin?

23 A. I was told -- or I know that they were
24 analyzed and a good amount of it was heroin, yes.

25 Q. And can you tell us whether or not in

SCOTT PURDY - DIRECT EXAMINATION BY MS. OPPENHEIMER

1 your experience as a narcotics officer whether or
2 not 96 grams of heroin would have been for personal
3 use?

4 A. So in my experience, you know, buying
5 amounts of heroin such as that, 96 grams is a lot.
6 I mean, most heroin users they buy it by fractions
7 of a gram. Maybe a gram or two if they get
8 together with some other people. 96 grams, I mean,
9 you figure heroin is probably about 100 to \$150 a
10 gram. So anywhere between 9- and \$15,000 worth of
11 heroin on the table in a shed, so that's a lot.

12 Q. And can you tell us, I believe you
13 testified that there was some type of cutting agent
14 on that table in the shed. Can you tell us what
15 the purpose of a cutting agent is?

16 A. Sure. So, you know, typically a drug
17 dealer or drug provider, whatever they buy, they
18 buy their drugs in quantity, but they stretch it.
19 They take it and they break it up and then they add
20 something else that looks like it to it.

21 So in this case, they call it a cut.
22 So if your powder is mostly white and you add
23 something else that's white that the body can
24 absorb and you add it together and fluffing or
25 stretching. And so if you have a gram of heroin

SCOTT PURDY - CROSS-EXAMINATION BY MR. SAUNDERS

1 and you add a gram of, in this case it was called
2 Inositol powder -- no, he had two grams of heroin.
3 Just not as strong. It's basically diluting it,
4 it's the same as kind of like watering down liquor
5 to me. You have more liquor.

6 MS. OPPENHEIMER: Beg the Court's
7 indulgence.

8 THE COURT: Take your time.

9 Q. Thank you, Investigator Purdy. Please
10 answer any questions for Mr. Saunders.

11 CROSS-EXAMINATION

12 BY MR. SAUNDERS:

13 Q. Good morning, Officer Purdy.

14 A. Good morning, sir.

15 Q. When did you arrive at the scene at
16 Leica Lane?

17 A. We would have come in after the SWAT
18 team and secured the house.

19 Q. Okay. You came in and was your job --
20 your job was to be in the shed and take photos?

21 A. Yes. My job was I took all the photos
22 and then I was also searching the shed.

23 Q. Okay. All right. You didn't
24 conduct -- did you conduct any surveillance on this
25 house?

SCOTT PURDY - CROSS-EXAMINATION BY MR. SAUNDERS

1 A. I did not.

2 Q. All right. And were you present at any
3 time during the traffic stop of Mr. Ibarra?

4 A. I was not, no, sir.

5 Q. And did you -- and when I say Leica
6 Lane, you obviously were in the shed. Did you
7 search the home?

8 A. I was not involved in the searching of
9 the home. I was called to photograph anything that
10 was found during other agents' search of the home.
11 So I was in the house, but I wasn't searching
12 inside.

13 Q. All right. Thank you.

14 MR. SAUNDERS: No further questions.

15 THE COURT: Any redirect?

16 MS. OPPENHEIMER: No, ma'am, Your
17 Honor. We'd ask that Investigator Purdy be
18 excused.

19 THE COURT: Investigator Purdy, thank
20 you for coming. State want to call their next
21 witness?

22 MS. OPPENHEIMER: The State rests, Your
23 Honor.

24 THE COURT: Okay. Madam Forelady and
25 ladies and gentlemen of the jury, the State has

1 rested. That means I need to take up a few matters
2 with the lawyers before we can continue, so I'm
3 going to ask that you return to your jury room.
4 Probably won't be for about 15 minutes, okay.
5 Thank you. Remember no talking about the case.

6 (WHEREUPON, the jury exits the
7 courtroom at 10:51 a.m.)

8 THE COURT: Does the State have any
9 motions?

10 MS. OPPENHEIMER: No, ma'am, Your
11 Honor.

12 THE COURT: How about the Defense?

13 MR. SAUNDERS: Yes, Your Honor. We
14 would move for a directed verdict in this case of
15 acquittal. Your Honor, we believe that the
16 evidence presented does not reasonably tend to
17 prove the Defendant's guilt or from which the
18 Defendant's guilt could be fairly and logically
19 deduced and the case should not go to the jury.

20 We've got items in the shed, Mr.
21 Ibarra, they do not have Mr. Ibarra in the shed.
22 They have another person present in the shed. They
23 have gone in the house and searched. I don't
24 believe definitively identifying that Mr. Ibarra --
25 that where the meth was found in the house was

1 definitively Mr. Ibarra's room or in his control.
2 I don't think there's evidence of that. I think
3 there's only evidence it was found in the house.
4 The only evidence they had is that he lives there.

5 But there's also talk of the brother
6 living there. I believe there was some talk of the
7 mother living there. So -- and other people as I
8 believe it was Sergeant Hodges testified. So I
9 don't believe that they've established throughout
10 the trial that Mr. Ibarra's role in this and
11 attributing his control over anything in the shed
12 and of his control over anything in the house
13 namely the methamphetamine.

14 And then, Your Honor, the ownership of
15 the vehicle, the Dodge Durango that he was pulled
16 over in, we don't know who owned that vehicle. The
17 case agent says she does not know. I believe
18 Sergeant Hodges said he did not know. And that the
19 Defendant was there and while a gun was found and
20 some clips in the vehicle, the Defendant did not
21 own the vehicle. And there's no -- there was no
22 evidence about the Defendant coming and going in
23 that vehicle, so we don't have any evidence he was
24 driving that vehicle at any time prior to that and
25 therefore his control or knowledge of anything in

1 the vehicle, there's no evidence that he had any
2 and that would be what my motion is based upon.

3 THE COURT: All right. Any response?

4 MS. OPPENHEIMER: Your Honor, I'll just
5 briefly go through it. I think we've shown ample
6 evidence that would link the Defendant to each and
7 every one of these crimes. It's his home. It's
8 his shed. You know, we've got mail in his room
9 where meth is found and guns are found and
10 ammunition is found and magazines are found and
11 where cash is found.

12 We've got testimony that he was seen
13 going to and from the shed on multiple occasions.
14 Not just the morning of this execution of search
15 warrant, but other times as well. You know, it
16 certainly would be a constructive possession. But
17 as Your Honor knows, constructive -- you don't have
18 to be in actual possession of every single item to
19 prove knowledge or to prove any of these elements
20 of these crimes.

21 We've established multiple ways that
22 the Defendant lives there. That the codefendant
23 does not live there. There were multiple weapons
24 found everywhere. The fact that no one knows who
25 the Dodge Durango belongs to is irrelevant. The

1 Defendant has been seen in that vehicle before.
2 It's been seen at his house. He was the only one
3 in the vehicle. And all of these items are found
4 within arm's reach of where he was sitting when he
5 was arrested.

6 Your Honor, I think we've given the
7 jury more than ample evidence to consider the
8 Defendant's guilt in this case.

9 MR. SAUNDERS: Your Honor, may I
10 mention one thing, please, that I failed to mention
11 before?

12 THE COURT: Sure.

13 MR. SAUNDERS: As to possession of
14 methamphetamine, the Defendant is indicted, charged
15 with knowingly and intentionally possessing less
16 than one gram of methamphetamine or cocaine base
17 controlled substance, et cetera under the statute.
18 The statute reads that he is charged with a person
19 possessing less than one gram of methamphetamine or
20 cocaine base is guilty of a misdemeanor and upon
21 conviction must be in prison not more than three
22 years, et cetera.

23 Your Honor, while there's been evidence
24 that there was methamphetamine found in the house,
25 it was brought in that that methamphetamine weighed

1 over a gram; therefore --

2 THE COURT: 1.28 if I remember.

3 MR. SAUNDERS: Therefore, the statute
4 has not been met. There's evidence of meth
5 possession, there's not evidence to support that.
6 If the jury found -- if it went to the jury and the
7 jury found him guilty of that, they would have to
8 be just -- I mean, the deduction, you know, if you
9 have a gram and .8 something, that does not meet
10 the statute. That's not -- the elements of the
11 offense are less than a gram of methamphetamine.
12 So I would ask for a verdict of acquittal on that
13 one, Your Honor.

14 MS. OPPENHEIMER: Your Honor, certainly
15 the weight -- I mean, he was charged with
16 possession of meth because they believed it was one
17 gram. Basically it came back more. It's a lesser
18 included of possession with intent to distribute
19 methamphetamine. Our legislature has not created a
20 statute of possession of more than one gram of
21 meth. The State would argue that it's simply
22 possession of meth that we need to prove. And it
23 could have been charged PWID --

24 THE COURT: I don't know what else you
25 could have charged him with.

1 MS. OPPENHEIMER: PWID, Your Honor.

2 But -- and then he would have asked for possession
3 of meth because of the weight being so close to one
4 gram. I mean, this is incontestable. And I don't
5 think that it requires an acquittal by the judge on
6 this charge. And it was found in the Defendant's
7 bedroom the testimony has established that.

8 MR. SAUNDERS: Your Honor, whether the
9 legislature has provided, you know, a law that
10 covers possession over a gram, they -- this is the
11 indictment. That's what they charged based upon
12 the statute, Your Honor. It's more than a gram.
13 And it doesn't meet the statute. I mean, that is
14 an element of the offense. And, I mean --

15 MS. OPPENHEIMER: Your Honor, certainly
16 the indictment is simply a notice document,
17 charging document. It's illegal to possess any
18 quantity of methamphetamine in this state.

19 MR. SAUNDERS: And, Your Honor, like I
20 say, they're saying like the weight really doesn't
21 matter here, it's meth. Well, the weight matters.
22 The weight matters. The statutes lay out for this
23 much you get this much time. I mean, it absolutely
24 matters.

25 MS. OPPENHEIMER: Your Honor, certainly

1 if we had indicted him for possession with intent
2 to distribute methamphetamine first offense which
3 carries 0 to 15 years, Mr. Saunders would be asking
4 for a charge on possession of meth.

5 MR. SAUNDERS: Your Honor, this is not
6 a frivolous argument. This is -- it's more than --
7 they knew it was. They knew how much it was from
8 the drug analysis. And they indicted him for this
9 particular charge which is inconsistent. The drugs
10 that they have proven in this court through the
11 chemist, methamphetamine, over a gram.

12 THE COURT: The statute goes on to
13 read: Possession of one or more grams of meth or
14 cocaine base is a prima facie evidence of a
15 violation of this subsection. Notwithstanding any
16 other provisions of law, a person convicted and
17 sentenced pursuant to this subsection for a first
18 offense. It goes on to say: The sentence can be
19 suspended, probation granted.

20 I don't know that it's so cookie cut
21 that you must charge more than one gram in order to
22 get a possession, surely not. I sentence people
23 all day long when that charge is reduced.

24 So I don't read the law to be such a
25 bright red line to say, oh, just because this is

1 1.0005 grams of meth you must charge -- I must
2 dismiss this charge and find him not guilty on it
3 because it doesn't read precisely. It's just a
4 prima facie evidence as the statute says for the
5 meth charge. I don't take it as a cookie-cutter.
6 And that's exactly what we're doing. So I'm not
7 going to do that. I appreciate your argument. I
8 think it's a great argument, but I'm going to deny
9 it.

10 MR. SAUNDERS: All right. Thank you,
11 Your Honor.

12 THE COURT: I am also as far as the
13 directed verdict motion goes, I think the State has
14 proved the elements or certainly enough -- they've
15 given enough evidence that the jury can decide this
16 case. They're the -- they could decide the facts,
17 that's their job. They've entered evidence that
18 it's his house. It was his wallet. They've
19 certainly met the elements of the crime of
20 trafficking heroin, possession of meth. According
21 to the Defense, they might have done too good of a
22 job on that one.

23 But, you know, all of that is for the
24 jury to decide, so I'm going to deny the directed
25 verdict.

1 MR. SAUNDERS: Thank you, Your Honor.

2 THE COURT: Now, let me ask you, Mr.
3 Ibarra. Yesterday before we adjourned for the day,
4 you and I talked about your right to testify and I
5 told you the consequences of all what would happen
6 if you did testify, you'd be treated just like any
7 other witness. And if you had any kind of prior
8 record and this court determines that it goes to
9 truthfulness, then, you know, you could be
10 cross-examined on it.

11 I also told you that if you chose not
12 to testify, I would tell this jury that they could
13 not hold that against you. Can't even be mentioned
14 in their deliberations at all. Do you remember
15 those conversations with me?

16 MR. IBARRA: Yes, ma'am.

17 THE COURT: And I also told you about
18 your Fifth Amendment right, no person is compelled
19 to testify.

20 MR. IBARRA: Yes, ma'am.

21 THE COURT: Okay. By the Fifth
22 Amendment. So let me ask you, I gave you the night
23 to think about it because it's such an important
24 decision. Do you have any questions that I can
25 answer you about your right to testify?

1 MR. IBARRA: No, ma'am.

2 THE COURT: Have you been able to talk
3 to your lawyer about whether you should be able to
4 testify or not?

5 MR. IBARRA: Yes, ma'am.

6 THE COURT: Do you wish to talk to your
7 lawyer anymore?

8 MR. IBARRA: Yes, ma'am.

9 THE COURT: Okay. I'm going to let you
10 talk to him a little bit more. Also, I'm going to
11 tell you, Mr. Saunders, I know he's got family
12 here, if he needs to speak with his family he's
13 more than welcome. I've got a deputy here, she'll
14 have to be there, but he can speak with his family
15 about that also.

16 MR. SAUNDERS: Yes, ma'am. Thank you
17 very much.

18 THE COURT: I mean, it's an important
19 decision. Okay.

20 MR. SAUNDERS: Thank you.

21 (Off the record)

22 THE COURT: All right. Mr. Saunders,
23 are you ready?

24 MR. SAUNDERS: Your Honor, yes. I
25 don't know if you wanted to -- we're getting ready

1 to go into closings; right?

2 THE COURT: Right. First, I'm going to
3 put your client under oath and have him answer me
4 as to whether he's going to testify or not. I want
5 to make sure he's had enough time to talk to
6 everybody that he needs to talk to.

7 MR. SAUNDERS: Yes, ma'am.

8 THE COURT: And then going straight
9 into closings.

10 MR. SAUNDERS: Okay. And the jury
11 charge, the hand of one, hand of all. I'm not
12 saying that it's any problem with the charge as
13 it's written, but I do object to that charge in
14 this case and I just want to put that on the
15 record. And I can do that now or later.

16 THE COURT: Let's go ahead and do it
17 now. Because there was some -- let me hear the
18 State on it and then I'll let you argue it, Mr.
19 Saunders.

20 MR. SAUNDERS: Thank you.

21 MS. OPPENHEIMER: Yes, ma'am.

22 Certainly we requested that charge this morning in
23 chambers. We believe that the testimony has shown
24 that there is at least two individuals involved in
25 this drug enterprise, the Defendant being one of

1 | them. Obviously, Defendant was arrested on the way
2 | back to his home, but there was an individual found
3 | in the shed who was also charged with the exact
4 | same crimes.

5 | We would argue that based on those two
6 | individuals alone that we are entitled to a hand of
7 | one hand, hand of all charge. What one is guilty
8 | of, the other is. I mean, Your Honor, and that's
9 | the law. We're certainly would argue that we're
10 | entitled to that charge.

11 | THE COURT: All right. Let me hear
12 | from you, Mr. Saunders.

13 | MR. SAUNDERS: Your Honor, I think that
14 | there would have to be some sort of
15 | accomplice liability, some sort of connection.
16 | They've mentioned that he was in the shed. There's
17 | drugs in the shed. And -- but Mr. Ibarra was not
18 | there. But there's not been any connection made
19 | between the two. I think to suggest if they're
20 | working in concert together which would give rise
21 | to this hand of one hand, hand of all. There's no
22 | evidence to support that. So I believe that charge
23 | is improper based upon that.

24 | MS. OPPENHEIMER: Your Honor, certainly
25 | there's been ample testimony from Agent Dabkowski

1 and Sergeant Hodges that during the surveillance
2 they saw Mr. Ibarra and Mr. Cervantes together.
3 That Mr. Cervantes was a known associate of the
4 Defendant, Mr. Ibarra. Certainly it can be argued
5 from their testimony alone that they were working
6 in concert together to further this drug
7 enterprise.

8 THE COURT: Anything else, Mr.
9 Saunders?

10 MR. SAUNDERS: Well, I'm sorry, I
11 didn't hear what she said. Who testified to that?

12 MS. OPPENHEIMER: Agent Dabkowski and
13 Sergeant Hodges.

14 MR. SAUNDERS: Testified that...

15 MS. OPPENHEIMER: That they were known
16 associates together. That they had been seen
17 together. That they were -- as they were
18 surveilling the Defendant's home, they saw both he
19 and Mr. Cervantes interacting with one another in
20 going to and from the shed.

21 MR. SAUNDERS: Okay. But, yeah, I
22 thought you had mentioned something about a
23 transaction or something --

24 MS. OPPENHEIMER: No.

25 MR. SAUNDERS: Your Honor, what they've

1 characterized is them being at the scene and
2 knowing one another, apparently. But as far as
3 being -- acting in concert with regard to
4 trafficking heroin or with regard to possession of
5 the weapons during the commission of a violent
6 crime, the methamphetamine and the gun in the car,
7 Your Honor, I just don't think there's been any
8 evidence that they're working in concert, that
9 they're accomplices in this drug enterprise as they
10 say and I just don't think it supports the hand of
11 one, hand of all.

12 I mean, we've got the constructive
13 possession. We've got plenty of law in there to
14 support that, look, you can find him guilty of it
15 if he knows about it, has knowledge of it, dominion
16 and control. I mean, all of that is I think is
17 sufficient, but that's what I have, Your Honor.

18 THE COURT: All right. Well, I think
19 there was testimony they say saw him going back and
20 forth to the shed when they were surveilling.
21 Honestly, it's a jury question, it's not a question
22 for me. I'll let the jury decide, but I will
23 charge hand of one, hand of all.

24 MR. SAUNDERS: Thank you.

25 THE COURT: I want to make sure that

1 y'all have looked at the jury charges. I added --
2 there's only so much you can say about dominion and
3 control. There's not a complete definition, I
4 think is what the State's looking for. But it is
5 what it is. It's pretty straight forward and
6 simple. I don't want this jury to get confused. I
7 lay out the elements and then I tell them there's
8 actual possession. There's constructive
9 possession. It's pretty straight forward.

10 Have you had the opportunity to look at
11 them or I'll give you time to look at them?

12 MR. SAUNDERS: I have. I have. Ms.
13 Garrick gave me a printed copy and I looked at it.

14 THE COURT: Because I went through my
15 old trafficking charges after the law changed and
16 pulled out what I've charged before.

17 I'd say just print him a copy and put
18 it on his desk and that way he'll have it right
19 quick.

20 MR. SAUNDERS: And in what section were
21 you just referring?

22 THE COURT: We're talking about the
23 trafficking charge.

24 MR. SAUNDERS: Okay. Thank you.

25 THE COURT: I think everything else is

ANGEL IBARRA - EXAMINATION BY THE COURT

1 fine. I did take out any inference in the meth
2 charge. Just do not feel comfortable with the
3 latest ruling from *State v Stewart* in charging that
4 and, plus, I don't think the facts fit it.

5 All right. Mr. Ibarra, let me ask you
6 to stand and I'm going to get the clerk to put you
7 under oath.

8 THE CLERK: Raise your right hand,
9 please.

10 ANGEL IBARRA,
11 being first duly sworn, was examined and testified
12 as follows:

13 EXAMINATION BY THE COURT:

14 THE COURT: All right. Mr. Ibarra, I'm
15 going to tell you, we have now reached the stage of
16 the trial where you may present your defense. You
17 have the right to claim the protection under the
18 Fifth Amendment of the Constitution of the United
19 States that states, no person shall be compelled in
20 any criminal case to be a witness against himself.
21 That means you can't be required to testify. It
22 has to be your own decision. It's a personal right
23 and no one can wave that right but you.

24 Again, as I explained to you earlier,
25 if you decide to testify, you will be subjected to

CLOSING ARGUMENT BY MS. OPPENHEIMER

CLOSING ARGUMENTS

BY MS. OPPENHEIMER:

MS. OPPENHEIMER: Guns, money, drugs, and ammo. Guns, money, drugs, and ammo. All of these items were found in the Defendant, Angel Ibarra's home. All of these items were found in his shed or in his bedroom. Guns, money, drugs, and ammo. All of the items needed to run a drug enterprise out of his home at [REDACTED] Leica Lane in West Columbia where his family lives. His mother, his younger brother, his younger siblings and him. Guns, money, drugs, and ammo.

The Defendant's the only one, only adult male who lives there. It's where he gets his mail. It's where his cars are registered to. It's his home. All of the Defendant's drugs, money, guns and ammo. This, ladies and gentlemen, is the evidence of a drug enterprise at no one else's home but the Defendant's. No other adult males, just the Defendant.

Now, if you remember at the beginning of this trial, Angela talked to you about the three L's. You've look ed at the evidence, you've listened to the testimony and now it's time to follow the law. And I'm going to talk to you a

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 little bit about what the law is. The judge is
2 going to more formally instruct you later on. But
3 I want to give y'all a little bit about what it is.
4 Because it's convoluted and it's hard to understand
5 so I'm going to break it down.

6 The Defendant is charged with four
7 crimes. The first is possession of meth. Any
8 individual who knowingly or intentionally possesses
9 a controlled substance. In this case,
10 methamphetamine. We know that the methamphetamine
11 was found in the Defendant's bedroom. How do we
12 know that? His mail is there. His insurance
13 information. His insurance documents.
14 Registration for his Dodge truck. It's all in his
15 bedroom. His banking information. Exactly where
16 the methamphetamine is found. He has control of
17 his bedroom. That methamphetamine is found hidden
18 in his bedroom.

19 Who else but the Defendant could have
20 put it there? Don't you think if you know that
21 something illegal is there you're going to try and
22 hide it? And we know it's methamphetamine because
23 you heard the chemist testify yesterday that it was
24 a little over a gram of methamphetamine.

25 Now, I imagine that the Defense is

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 going to make a big deal about how the statute says
2 or the law says that it's less than one gram.
3 Well, ladies and gentlemen, this is incontestable.
4 The fact that it's a little bit over one gram of
5 methamphetamine does not matter. It's illegal to
6 possess any amount of methamphetamine in the State
7 of South Carolina and the Defendant had possession
8 of that methamphetamine. Simple enough; right?

9 We go on to unlawful carrying of a
10 pistol. It is unlawful for anyone to carry about
11 their person or near their person a handgun unless
12 they are permitted by law to do so. Now, we know a
13 couple of these exceptions, we know law enforcement
14 officers can carry weapons. Is Mr. Ibarra a law
15 enforcement officer? No. That doesn't allow him
16 to carry this weapon. Military personnel?
17 Absolutely are allowed to carry weapons. Is Mr.
18 Ibarra military? No, he's not. And you're allowed
19 to carry a concealed weapon if you have a concealed
20 weapons permit.

21 You heard Mr. Hodges testify that the
22 Defendant did not carry such a permit. And this
23 gun found right next to him in the vehicle that he
24 was driving, the only person in that vehicle right
25 next to his hip with the butt of the gun up where

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 it would have been easy to grab if he needed to.
2 He knew that gun was there. You can't tell me you
3 get into a vehicle and don't know that that gun is
4 right there by your hip. And he's not legally
5 allowed to possess it.

6 What else is found in his vehicle? His
7 wallet. Cash. More than \$2,000 in cash on his
8 person. Now, I don't know about y'all, but I don't
9 know think I've ever had \$2,000 cash in my
10 possession ever in my entire life. That is a lot
11 of cold hard cash as part of the drug enterprise.
12 Guns and money.

13 We have the Defendant's license, [REDACTED]
14 Leica Lane. Again, no question at all that he
15 lives there. He's the only adult male who lives at
16 [REDACTED] Leica Lane. He lives there with his younger
17 siblings, minor children, and he lives there with
18 his mother. He is the only adult male who lives
19 there with all of these guns, drugs, money and
20 ammo.

21 Also found, that gun's loaded,
22 ammunition and there's an extended mag just behind
23 the driver's seat with 30 rounds. Guns, money and
24 ammo all found in his vehicle. Guns, money, drugs,
25 and ammo. He wasn't lawfully allowed to possess

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 that pistol in his vehicle at the time of his
2 arrest, that's unlawful carrying of a weapon. Now,
3 those two were a little bit more simple. Let's
4 talk about trafficking heroin, 28 grams or more.

5 A person is guilty of trafficking
6 heroin 28 grams or more if they knowingly sell,
7 manufacture, cultivate, deliver, purchase or bring
8 into this state. What does that mean? We have
9 evidence of a drug enterprise. You heard
10 Investigator Purdy talk about this table that was
11 immediately in the shed, in the Defendant's shed
12 where he lives, only adult male. All of those
13 items, the balloons that are so commonly used in
14 the packaging of heroin; the cutting agent that is
15 so commonly used to stretch out your product; the
16 grinder that's used to cut down a bigger substance
17 to grind it into a smaller substance to package.
18 Digital scales to weigh what you're putting in
19 these balloons. This is a drug enterprise.

20 Let's not forget about that silver box
21 that's also on that table containing four bags of
22 heroin. That's the product. And the Defendant is
23 seen that morning on October 24, 2018 going to and
24 from the shed. You're telling me you unknowingly
25 all of these things, all of this guns, all of this

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 money, all of these drugs, all of this ammunition
2 is in your home right under your nose and you have
3 no idea that it's there? That makes no sense.

4 He's seen by law enforcement going to
5 and from the shed. He knows all of this is there.
6 He's manufacturing by putting it in the balloons.
7 He's packaging it. Packaging it for what? For
8 sale, for delivery, for purchase. The Defendant
9 knows about it. The Defendant's part of this drug
10 enterprise. This enterprise that's being run out
11 of his home.

12 Or he can also be guilty of trafficking
13 heroin by providing financial assistance or
14 otherwise aiding, abetting, or attempting. The
15 Defendant's home, Defendant's shed, Defendant's
16 vehicles, Defendant's surveillance system,
17 Defendant's electricity, Defendant's guns,
18 Defendant's drugs, Defendant's ammunition,
19 Defendant's money.

20 He provides the location for this drug
21 enterprise. He has financially assisted. He's
22 aided, he's abetted. He's working in concert with
23 at least one other person and we'll talk about that
24 a little bit more. His home, his vehicles, his
25 shed. He's providing assistance to this drug

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 | enterprise.

2 | Or he can also be guilty of trafficking
3 | heroin if you conspire to sell, manufacture,
4 | cultivate, deliver, purchase, or bring into this
5 | state. We all know what a conspiracy is. It's two
6 | or more people talking about committing a crime.
7 | Acting together to commit that crime. Israel
8 | Mendoza Cervantes, we talked a lot about him. He
9 | was in the shed at the time that law enforcement
10 | hit the Defendant's home, the Defendant's shed.

11 | Law enforcement observed Israel Mendoza
12 | Cervantes and the Defendant going to and from the
13 | shed together. They were known associates.
14 | Remember who the target of this drug investigation
15 | was, Ace. The Defendant, Angel Ibarra was the
16 | target of this investigation and through that
17 | investigation they got to Israel Cervantes. Israel
18 | and the Defendant are conspiring together. They're
19 | working in tandem.

20 | Can also prove trafficking heroin to
21 | you if the Defendant is knowingly an actual or
22 | constructive possession or who knowingly attempts
23 | to become an actual or constructive possession.
24 | We'll talk about constructive possession in a
25 | minute.

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 Let's talk about that knowing element.
2 To and from the shed he's seen. All of this right
3 under his nose. He knows about it. He knows it's
4 there. You can't walk into that shed and not see
5 that packaging area that table with these balloons
6 the drugs, the money. You can't walk into that
7 shed and not see that. He knows it's there. It's
8 his house. His shed. His drug enterprise.

9 And he has, we'll talk about this more,
10 dominion and control of that area because it's his
11 home. Dominion and control, you own it, you live
12 there, you have access to it. Clearly the
13 Defendant whose residence is [REDACTED] Leica Lane where
14 this shed is located has dominion and control over
15 that property.

16 I only have to prove one of these to
17 you. I believe we can prove all of these to you
18 and I believe that we have done that, but I just
19 need to prove one. You just have to be firmly
20 convinced of one of them. You've got four. You
21 only need one. And we know that we're talking
22 about heroin. Well, any morphine, opium, salt,
23 isomer or salt of an isomer thereof including
24 heroin or of any mixture of any of these
25 substances.

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 You've heard from Meg Walker, she told
2 you that this is heroin. We've talked a lot about
3 a cutting agent. They're very common in heroin in
4 particular. It's very common to cut heroin with a
5 cutting agent to stretch it out. There's still
6 heroin in those balloons. There's still heroin in
7 that silver box. Trafficking heroin. And the
8 weight must be 28 grams or more.

9 I'm going to do a little bit of math
10 and y'all might know this. Lawyers don't like
11 math, but I'm going to try for you. In that first
12 substance that Meg tested, we have 83.78 grams of
13 heroin in those bags found in that silver box.
14 Well, 83.78 grams is very obviously more than 28,
15 but that's not where we stop. I have 12.64 grams
16 in another balloon or Ziplock bag that Meg tested.
17 This gets us to about 96 grams.

18 And then we've got another balloon
19 that's an additional 1.16 grams of heroin. It's a
20 little over 97 grams of heroin. That's a lot of
21 heroin. That's not personal use at all. And 97
22 certainly is greater than 28 grams. The Defendant
23 is guilty of trafficking heroin 28 grams or more.

24 I told you we would talk about
25 constructive possession. What is constructive

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 possession? You have to have knowledge of the
2 narcotics of the heroin in the shed. The Defendant
3 is seen going to and from the shed multiple times
4 including the morning of October 24, 2018 prior to
5 the search warrant being executed. Prior to his
6 home being hit by law enforcement. He knew about
7 all this stuff found in his shed, on his property,
8 at his home where he's the only adult male who
9 lives there. The only adult male who gets mail
10 there. The only adult male who has his vehicles
11 registered to that address.

12 And we've talked a little bit about
13 dominion and control. It's his shed, his property,
14 his house, his vehicles. He's the owner of them,
15 he certainly can exercise dominion and control of
16 it. It's his. He knows where it is, he can have
17 control of it. He says who can bring what on to
18 his property. And you have dominion and control
19 over either the narcotics or the property on which
20 the narcotics was found. Certainly has dominion
21 and control over the narcotics, they're in his
22 shed.

23 We've talked about the property. He
24 has dominion and control. It's his house. His
25 shed. His vehicles. His drugs. His money. His

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 guns and his ammo. This in and of itself makes him
2 guilty of trafficking heroin and possession of
3 methamphetamine.

4 Now, I imagine the Defense is going to
5 talk a lot about Israel Mendoza Cervantes. Israel
6 Mendoza Cervantes was the one who was in the shed
7 at the time that law enforcement hit the
8 Defendant's house. Just because Israel Mendoza
9 Cervantes is the only one there doesn't mean the
10 Defendant is not guilty of these crimes. Of these
11 guns. Of this ammunition. Of these drugs and of
12 this money found at his home, found in his shed.
13 There's a principle of law called the hand of one
14 is the hand of all. That states if a crime is
15 committed by two or more people, the Defendant and
16 Israel Mendoza Cervantes, they're acting together,
17 they're known associates of this drug enterprise.
18 They've been seen by law enforcement during the
19 course of their investigation together acting in
20 behaviors consistent with the illegal sell and
21 trafficking of narcotics. They're acting together.

22 One person is left in the shed
23 presumably packaging more of those balloons while
24 one person is out running another errand for this
25 drug enterprise. They're working together.

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 They're working in tandem. They're known
2 associates. The act of one is the act of all.

3 The Defendant is guilty of whatever
4 Israel Mendoza Cervantes is guilty of as well. He
5 was found in the shed. The Defendant wasn't. That
6 doesn't negate the Defendant's guilt. The hand of
7 one is the hand of all. This principle of law
8 makes both the Defendant and Israel Mendoza
9 Cervantes equally responsible for the probable or
10 natural consequences of the acts done by the others
11 in carrying out the common plan. They're both
12 guilty of this drug enterprise.

13 It's located and centralized at the
14 Defendant's home. Just because the Defendant isn't
15 there when law enforcement hits the house, doesn't
16 make him any less guilty. It's his home. His
17 shed. His guard dogs. His surveillance system.
18 His vehicles. His guns. His ammunition. His
19 drugs and his money. All of the Defendant's.

20 We have to prove all of these crimes --
21 excuse me. He's also charged with possession of a
22 weapon during the commission of a violent crime.
23 It's pretty simple. Possession of a firearm, long
24 guns, short guns, rifles, handguns, during the
25 commission of a violent crime. Ladies and

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 gentlemen, I don't get to tell you what a violent
2 crime is. The defense doesn't get to tell you what
3 a violent crime is. The judge doesn't even get to
4 tell you what a violent crime is. The only person
5 who can tell you what a violent crime is the
6 legislature. They've written a statute and they've
7 deemed trafficking heroin 28 grams or more is a
8 violent crime.

9 The Defendant is charged with
10 trafficking heroin 28 grams or more, it is
11 statutorily a violent crime. And he was in
12 possession of all of these weapons in commission of
13 that crime. These guns found at his home where he
14 operates this drug enterprise. We have to prove
15 this to you beyond a reasonable doubt. Some juries
16 have problems with beyond a reasonable doubt. They
17 think you have to be really, really sure. You
18 don't. You don't have to be sure beyond any doubt.
19 You don't have to be sure beyond all doubt. You
20 don't have to be sure beyond a shadow of a doubt.
21 You don't even have to be 100 percent convinced.
22 You don't have to be absolutely convinced. You
23 have to be firmly convinced of the Defendant's
24 guilt of each and every one of these crimes.

25 Ask yourselves, is it reasonable that

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 the Defendant didn't know of all of this evidence
2 in his shed? It's not reasonable. Is it
3 reasonable that the leader of a drug enterprise
4 would leave his drugs at his lackey's house? No,
5 you're going to keep your drugs close where you can
6 keep an eye on them. The Defendant could keep an
7 eye on everything that happened at that shed
8 because of the surveillance system, the camera that
9 was pointed right to the shed.

10 You're going to leave your guns at
11 someone else's home? No. You going to leave your
12 money there? No. Are you going to leave your
13 ammunition at someone else's home? No. The
14 Defendant knows all about this. It's his
15 enterprise that's being run out of his home. And
16 we must leave you firmly convinced that the
17 Defendant knew about this drug enterprise in his
18 home using his vehicles. It's not reasonable to
19 believe, ladies and gentlemen, that the Defendant
20 had absolutely no idea about any of this going on
21 in his home, in his shed.

22 And is it reasonable that a person who
23 is not involved in the drug enterprise would have
24 about \$2,000 in cash on their person? No. Even
25 more cash in their bedroom? Tons of ammunition in

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 their vehicles? Tons of cash all throughout that
2 home. Digital scales, guns, all of it found in the
3 Defendant's shed or his bedroom. Nothing found in
4 the little brother's room except for a digital
5 scale. I don't think that this Defendant would
6 suggest to you that his 15-year-old brother is the
7 person who's operating that drug enterprise out of
8 the shed. Is that reasonable?

9 You heard law enforcement. They had
10 absolutely no information as to the 15-year-old
11 brother being a part of this drug enterprise. Who
12 was the target of that investigation? Ace, the
13 Defendant. He was the target. He was the one who
14 was involved in this drug enterprise operated out
15 of his home. Guns, money, drugs, and ammo.

16 Now, I imagine that the Defense is
17 going to try and distract you. That's his job.
18 The Defense is going to shift all of this blame
19 onto Israel Mendoza Cervantes. But, remember,
20 Israel didn't live there. He lived out in Gaston.
21 Nowhere near the Defendant. They were associated
22 together, yes. But law enforcement never shifted
23 their investigation or their surveillance to Israel
24 Cervantes's home. Who was the target? Ace, the
25 Defendant. The only adult male living at [REDACTED] Leica

CLOSING ARGUMENT BY MS. OPPENHEIMER

1 Lane. Israel did not live there. There was no
2 mail of Israel's living in the home. No evidence
3 of his clothing. He didn't even have a bedroom in
4 that home. The Defendant is the only adult male
5 who lived at [REDACTED] Leica Lane. The Defendant was
6 seen going to and from the shed just before SWAT
7 and narcotics officers hit the Defendant's home.
8 The Defendant had left that home just prior to law
9 enforcement hitting his house.

10 All of the information that law
11 enforcement had pointed to Ace being the leader of
12 this drug enterprise, not Israel, not Mego, out in
13 Gaston. They would have switched their
14 surveillance to Gaston if they believed that.
15 Israel is involved, but it does not negate the
16 Defendant's guilt of this drug enterprise being
17 conducted and ran by him in his home.

18 Now, the judge is going to tell you
19 that you cannot base your verdict on sympathy. And
20 this Defendant is not to be sympathized with. He
21 knew exactly what he was doing. Remember Angela
22 told you those bad choices he made? His choices at
23 his home in his shed where his mother lived and his
24 younger siblings lived with him. He knew exactly
25 what he was doing. He provided his home as the

CLOSING ARGUMENT BY MR. SAUNDERS

1 center of this drug enterprise. He was at the
2 home. He was in control. The Defendant's drug
3 enterprise.

4 Ladies and gentlemen, you've looked at
5 the evidence and you'll get an opportunity to look
6 at it again back in your jury room. You've
7 listened to all of the testimony and now it's time
8 to follow the law. Find the Defendant guilty of
9 trafficking heroin, possession of meth, unlawful
10 carrying of a pistol and possession of a weapon
11 during a violent crime. His guns. His drugs. His
12 money. His ammo. Thank you.

13 THE COURT: Thank you, Ms. Oppenheimer.
14 Mr. Saunders, let's give them a minute to get all
15 this stuff out your way.

16 MR. SAUNDERS: Absolutely, Your Honor.
17 Thank you.

18 THE COURT: The good news for the jury
19 is we've ordered you lunch. Y'all are having Jimmy
20 John's today.

21 All right. Mr. Saunders?

22 MR. SAUNDERS: Thank you, Your Honor.
23 May it please the Court.

24 THE COURT: Yes, sir.

25 CLOSING ARGUMENT

CLOSING ARGUMENT BY MR. SAUNDERS

1 BY MR. SAUNDERS:

2 MR. SAUNDERS: Good afternoon, ladies
3 and gentlemen of the jury. Thank you very much for
4 your attention. I know it's getting close to lunch
5 and you've all been very patient through these past
6 few days listening to all this.

7 Like I said before, it's a very
8 important event. A very important day for Angel
9 Ibarra. And the State's brought a lot of evidence
10 into this case. You've seen it. You've seen it
11 over and over again. And I want to tell you that
12 the State has given you -- the evidence that
13 they've given you has given you a snapshot of one
14 day, a definitive period of time, when they
15 executed the search warrant and they went in and
16 they collected all this stuff.

17 You've not heard any evidence of Mr.
18 Ibarra conducting transactions. You haven't heard
19 anything about Mr. Ibarra firing a weapon, using a
20 weapon, holding a weapon. They told you that he
21 has this drug enterprise, but you've been given no
22 evidence to support that. You've been given no
23 evidence to support that Mr. Ibarra has done
24 anything except what they're suggesting that there
25 is a shed on the property where he lives that when

CLOSING ARGUMENT BY MR. SAUNDERS

1 | they showed up there was heroin, drugs, guns,
2 | money. I think that's significant. It's a
3 | snapshot.

4 | Solicitor just got up here and said
5 | over and over, he lives there, he's the only adult
6 | male that lives there. He lives there. Right, he
7 | lives in that home. There's a shed on the property
8 | that you've seen. He doesn't live in the shed.
9 | They said something about him -- about you want to
10 | keep your drugs, you know, close to you. Are they
11 | suggesting that that little ramshackle shed in the
12 | backyard is some secure area where there's a drug
13 | operation is going on? I would suggest that it's
14 | not.

15 | And the reason I bring that is up is
16 | this is a snapshot of one particular day in a short
17 | period of time when Mr. Ibarra, they say, was in
18 | and out of the shed with Mr. Cervantes. Well, I
19 | believe Agent Dabkowski said they saw him going in
20 | and out of the shed. But then I believe it was
21 | Sergeant Hodges, he didn't testify about Mr. Ibarra
22 | going in and out of the shed. He said he saw him
23 | coming from the house. He used the word, the
24 | house.

25 | Mr. Ibarra was not there when the

CLOSING ARGUMENT BY MR. SAUNDERS

1 search warrant was executed. Okay. He was at the
2 house prior to that day and he left, he drove away.
3 Then they executed the search warrant and here's
4 all this stuff in there. You know, when I got home
5 yesterday after court, I walk into my kitchen and
6 nobody's there. My wife's not there. My children
7 aren't there. I walk in, I go in the kitchen and
8 there's tons of stuff strewn everywhere. There's
9 laundry on the counter. There's school backpacks
10 here and there. There's all sorts of mail and
11 miscellaneous stuff. And I'm thinking in my head,
12 I'm like, there's always just so much stuff in this
13 kitchen. It's never straight.

14 Then I had to go out to the grocery
15 store. I go to the grocery store and I come back
16 and all that stuff's gone. It looks completely
17 different in there. You ever had that experience?
18 You go in a room and it looks one way, you leave
19 for two minutes, 20 minutes, an hour, totally
20 different. The laundry's put up. It's gone. It's
21 out of sight. Don't know where it is. Where did
22 the mail go? I don't know. The kids must have
23 gotten their backpacks because they're not here
24 anymore.

25 So what I am suggesting and I think you

CLOSING ARGUMENT BY MR. SAUNDERS

1 know, I mean, you're intelligent people, you
2 understand what I'm saying. If that -- if Israel
3 Cervantes goes in that shed, if he's an associate
4 of Mr. Ibarra's, they call him an associate. Could
5 be a friend of his; right? If Mr. Ibarra is at
6 home and Mr. Cervantes is over at his house and Mr.
7 Cervantes is out in the shed doing whatever he's
8 doing, I think it's very possible that Mr. Ibarra
9 could not be aware that he maybe -- maybe he has a
10 backpack. We saw some pictures of some backpacks.
11 Maybe Mr. Cervantes comes over and he has his
12 backpack and he unloads his heroin and his balloons
13 and he puts everything on that table because you've
14 got that table right there with all that stuff.
15 You could imagine if you had a backpack or a bag
16 you could swipe that table, it would be in there,
17 done.

18 Got a bunch of guns around there. I
19 don't know if any of you are gun owners, but if
20 you're not a convicted felon, you can go buy a gun
21 and own a gun. You don't need a concealed weapons
22 permit. You go and you buy a gun from a pawnshop,
23 from a gun dealer. You see these, well, these
24 pictures of all these guns, you see boxes,
25 Remington this and you see a gun that came in a box

CLOSING ARGUMENT BY MR. SAUNDERS

1 | like packaging from a store. These aren't guns
2 | that you would buy on the street aren't going to
3 | have packaging and things like that associated with
4 | them.

5 | What I am suggesting to you is, is that
6 | these guns, whoever bought them was not a convicted
7 | felon. Was not a prohibited person. And I asked
8 | Agent Dabkowski if she knew if Mr. Ibarra was a
9 | prohibited person. He was prohibited from owning a
10 | gun. She said she didn't know. Okay. I would
11 | suggest that she does know, but she doesn't want to
12 | say it on the stand. Do you think that this
13 | officer and the SWAT team and this long
14 | investigation of a drug enterprise and this kingpin
15 | Ace back here, do you think that they don't know
16 | for sure what his background is? What he's been
17 | charged with in the past if anything? What he's
18 | been convicted of if anything? They know.

19 | Ownership of the guns, not a crime.
20 | Not for Mr. Ibarra it's not. Don't know about Mr.
21 | Cervantes. Because if Mr. Ibarra was a convicted
22 | felon, I can assure you that he would be charged
23 | with possession of a weapon by a convicted felon.
24 | He is not.

25 | Now, as to the house itself, Mr. Ibarra

CLOSING ARGUMENT BY MR. SAUNDERS

1 lives there with his mother, we know his
2 15-year-old brother -- all this stuff about his
3 15-year-old brother being involved, nobody is
4 suggesting that his 15-year-old brother is
5 involved. 15-year-old brother lives in the house.
6 Okay. His mother lives there. He lives there.
7 They're talking about how Mr. Ibarra has all this
8 power, how he financially assisted, I guess they're
9 suggesting that he pays for this house and does
10 everything. I would suggest to you that he
11 doesn't. He lives there with his mother.

12 They've got a security system.
13 Practically everybody has a security system now. I
14 have one. I'm sure many of you if not all of you
15 do. Why not have a security system? They have a
16 security system. They make a big deal about it
17 because there are cameras set up and one is
18 pointing towards the shed. Well, I asked --
19 remember I asked Agent Dabkowski about that. Well,
20 if you have a camera focused on that screen, you
21 know, isn't it possible you could see way over here
22 and way over here? Well, she really wouldn't
23 answer that directly. You know, I don't know. I
24 don't know what everybody does with cameras and
25 security. You know, I don't have the knowledge to

CLOSING ARGUMENT BY MR. SAUNDERS

1 do that. I would suggest to you that that is
2 common sense and that she doesn't want to answer
3 that.

4 What they want you to believe is is
5 that Mr. Ibarra says I've got to focus this camera
6 on my shed where my drugs are. That's what they
7 want you to think, but it's a camera. There was a
8 camera on the front porch. There was another
9 camera not pointed at the shed. Okay. You saw --
10 do you think that the house -- I mean, have you
11 seen anything to suggest that the house was in some
12 nice gated community where there's golf courses and
13 tennis courts? That's not the kind of neighborhood
14 we're talking about.

15 A security system is a good idea to
16 have. I don't care what neighborhood you're in.
17 So with them having a security system and a monitor
18 to see what's going on, I mean, you know, I think
19 that's the smart thing to do. Now, if they're --
20 the monitor that they -- that they showed you a
21 picture of it and the -- Agent Dabkowski said that
22 it was a SLED agent there. Well, I mean -- I made
23 a big deal about are you sure it's a SLED agent and
24 all. But there's a security system there like
25 there is everywhere. And that's what I want you to

CLOSING ARGUMENT BY MR. SAUNDERS

1 think about. I mean, I want you to think about
2 also that she was a little evasive when I was
3 asking her about that. Didn't want to answer that.
4 I mean, what does it hurt? It's normal for someone
5 to have a security system. Okay.

6 All right. We've covered legally
7 authorized possessed guns. Okay. The cash. The
8 money. All right. Well, we don't know what Mr.
9 Ibarra's banking practices are. Some people keep a
10 lot of cash. They just keep a lot of cash around.
11 You know, some people don't trust banks. I mean,
12 again, Mr. Ibarra, you know, I would suggest to you
13 that he's not the type where he's going to have his
14 checking account, his savings account, his 401k.
15 You know, it's just not that kind of lifestyle that
16 we're talking about.

17 A lot of cash. Okay. You pay for
18 things with cash. Some people are like that.
19 They're suggesting to you every single little bit
20 of cash in there is because of the sale of drugs
21 and there's no evidence of that.

22 Now, okay, so -- one thing, Israel
23 Cervantes, he doesn't live there. He lives out in
24 Gaston. Okay. Well, we weren't interested -- oh,
25 I believe it was Sergeant Hodges, we weren't really

CLOSING ARGUMENT BY MR. SAUNDERS

1 interested in investigating out there. You heard
2 there was testimony that there were -- he was a
3 known associate of a drug enterprise run by Mr.
4 Ibarra. They just didn't seem to know much about
5 Mr. Cervantes. He lives out in Gaston, you know.
6 Oh, we don't know if he owns the car or anything.
7 Whose car was that, that Durango that the Defendant
8 was driving like when he got arrested with the
9 pistol in the car? I would suggest to you they
10 know exactly who owns that car and it's Israel
11 Cervantes. But they don't want to say that. And
12 they want you to believe that, you know, we weren't
13 really focused on Cervantes. You know, I mean,
14 come on.

15 SWAT, longtime investigation. Richland
16 County is telling us about this. He's our target,
17 Ibarra is our target. I would suggest to you that
18 they know plenty about Israel Cervantes and Israel
19 Cervantes was sitting there face down when SWAT
20 comes in that shed.

21 Oh, they said that they did a -- the
22 Defendant was working in tandem with him. Working
23 in tandem. If the Defendant who is the leader of a
24 drug enterprise was working in tandem with this
25 person, don't you think they pretty much know

CLOSING ARGUMENT BY MR. SAUNDERS

1 everything about that guy. Yeah, they would. They
2 seem to be pretty thorough police officers.

3 All right. The chemist, Meg Walker.
4 She talked about this, Sergeant Purdy talked about
5 this, we're talking about the cut on the drugs to
6 stretch them and all that. Okay. Well, Meg Walker
7 talked about how she weighed all of the drugs or
8 all of the substance which she determined were
9 drugs. She weighed it all and then she tested a
10 little bit of it. Okay. And then came out with a
11 calculation that it was heroin.

12 Well, we heard from Purdy that says
13 that, you know, they add cut to it. Add cut to it.
14 Add cut to it. Okay. Stretch it out. What did he
15 say? You know, take liquor add water to it make
16 more liquor. You know, that's what he said.

17 So what we've got here is we've got
18 some substance that's weighed. We don't know
19 what's in there. We know that the chemist says
20 it's for presence of heroin, but we don't know how
21 much. She says the whole thing that she weighed
22 was what's on the drug report. We've heard plenty
23 of testimony about cut and stretching drugs. How
24 much? We don't know. How much was therein that
25 wasn't heroin?

CLOSING ARGUMENT BY MR. SAUNDERS

1 Now, the evidence that connects Mr.
2 Ibarra to the drugs in the shed is that he lives at
3 the house and the shed is on that property. That's
4 what we have. That's what we have. When they
5 pulled over Mr. Ibarra, did they find any heroin in
6 the car? No. Did they track him to some drug
7 deal? No. There was some money. There was some
8 guns. There wasn't heroin.

9 They talk about the -- oh, the
10 leader -- I want to go back to the leader of this
11 drug enterprise. And I don't know where any of
12 that comes from, but that's just law enforcement
13 talking about what they think he is. And what
14 you've got, what you have to focus on is a snapshot
15 of that day. Let's say Angel Ibarra walked in that
16 shed that day. And let's say Cervantes is in
17 there. And let's say Cervantes has balloons and
18 heroin, all that stuff, scales in a backpack. One
19 of the backpacks we saw. And there are guns laying
20 around. There's no heroin in sight. No drugs in
21 sight. What's Mr. Ibarra guilty of? Nothing.
22 Nothing. Because the possession of the guns, the
23 only charge associated with the guns in the shed is
24 the trafficking heroin.

25 If there was heroin in there and Mr.

CLOSING ARGUMENT BY MR. SAUNDERS

1 Ibarra is sitting there and he's looking at the
2 heroin and there are no guns, it's trafficking.
3 There's no possession of guns, commission of a
4 violent crime.

5 What we have here is we don't know what
6 Mr. Ibarra knew. We don't know what he saw. I'm
7 sure a lot of things go on without my knowledge at
8 my house by my children, by my wife, I don't know.
9 I do things at my house that they don't know about.
10 But like they said, Mr. Cervantes didn't live
11 there. Okay. No, he didn't. But what Mr.
12 Cervantes is involved with is a bunch of heroin and
13 stuff that's in the shed in the backyard. That's
14 where he is. He's not in the house. He's not
15 getting mail there. There's nothing that ties him
16 to living in the house. We're not saying he lived
17 in the house. They're saying that he was an
18 associate. They're saying that he was around.
19 They're saying they've seen Mr. Cervantes there,
20 but Mr. Cervantes is in the shed. Nobody says Mr.
21 Cervantes is in and out of the house. Okay. He's
22 in the shed. He's in the yard in the shed. A
23 snapshot of that day.

24 Think about that. If Mr. Cervantes
25 went in there with his drugs, with his balloons and

CLOSING ARGUMENT BY MR. SAUNDERS

1 scales and everything, he could have done that
2 without Mr. Ibarra's knowledge. There's been no
3 testimony that on this day in this time, Mr.
4 Cervantes arrived, went in the shed. And on this
5 date and this time, Mr. Ibarra walked in. He was
6 in there for seven minutes and then there's none of
7 that. There's none of that.

8 Search warrant. Drugs found, it's
9 Ibarra's house, Ibarra knows everything that's
10 going on and he's the kingpin, he's leading the
11 drug enterprise. This is what you have in a shed.
12 You don't have the evidence against Mr. Ibarra.

13 Let's talk about the methamphetamine.
14 Not heroin, methamphetamine in the house. They
15 find that methamphetamine in the house. The
16 chemist, Ms. Walker, testified that it was 1.28
17 grams. Well, they say it was in a room where Mr.
18 Ibarra's mail was. Think about your house. If you
19 have families, you know, would your child's stuff
20 be in your room? Would your stuff be in your
21 child's room? Would there be connections? You
22 know, like my son, had to go to prom. Went to
23 borrow some shoes. I took my black dress shoes in
24 there for him to see if he could wear them.
25 They're still there today. Okay. I mean, there's

CLOSING ARGUMENT BY MR. SAUNDERS

1 my property in his room. So I don't think that the
2 meth being in a room that basically has mail and
3 things to identify Mr. Ibarra as being in there is
4 enough to say that he possessed the
5 methamphetamine.

6 And I will also say as the Solicitor
7 said I would, what he's charged with is less than a
8 gram. Less than a gram. Chemist said it was a
9 gram .28. That's not less than a gram. It's not.
10 And that's what he's charged with. That's what
11 they charged him with. An indictment. A grand
12 jury voted on that after evidence presented by them
13 and that's what they charged him with.

14 I would suggest to you that he didn't
15 possess it, didn't know about it. But if you find
16 that he did know about it, it was more than the
17 statutory level. It's more than what he's charged
18 with and he's not guilty of it and you can't find
19 him guilty of it. The statute says less than a
20 gram.

21 All right. So the pistol in the car.
22 He gets pulled over in this Dodge Durango. Now,
23 we've suggested that it is Mr. Cervantes. I
24 believe that it is Mr. Cervantes. I think Agent
25 Dabkowski knew it was Mr. Certantes' vehicle.

CLOSING ARGUMENT BY MR. SAUNDERS

1 Because like I said, I don't know that they just
2 leave a lot of stuff out there. They're going to
3 follow-up and know everything there is to know
4 about these people involved in this drug
5 enterprise. Remember, it's multiple people. Are
6 they just going to know stuff about Mr. Ibarra?
7 They're just like, well, we kind of know about the
8 other people, but we're really focused on him.

9 That's not how it works. Not how it
10 works. You think they want to arrest one person or
11 they want to arrest five people? They want to
12 arrest five people. And look, I'm not suggesting
13 that they shouldn't. I want you to know that I am
14 not trying to bash law enforcement at all. Law
15 enforcement do very hard and important work. Agent
16 Dabkowski does very hard and important work. I'm
17 just saying here today what we've heard, what
18 they've brought to you is not enough to convict Mr.
19 Ibarra. It is circumstantial evidence.

20 Now, the judge is going to tell you
21 what that is. But wouldn't you like to hear
22 that -- wouldn't you like to hear that there's
23 something other than just stuff being in this shed
24 and them finding it with another person there? I
25 would suggest -- there needs to be more. Like I

CLOSING ARGUMENT BY MR. SAUNDERS

1 | said before, all of you share the same right that
2 | Mr. Ibarra does that we all do. You're being
3 | accused of a crime, you want the -- there needs to
4 | be proof beyond a reasonable doubt.

5 | And what I am suggesting to you that
6 | for him to be responsible for the heroin in that
7 | shed there has to be more. All this, I mean, this
8 | mountain of stuff right here. And just a reminder,
9 | all these guns, no one said that he is not
10 | authorized to own them. Nobody has said that
11 | Cervantes isn't authorized to own them. No one
12 | said these guns are illegal in any way, shape or
13 | form. No one said they were used in a robbery.
14 | Used in a shooting. Nothing.

15 | The guns -- if you're not a gun person
16 | or you don't like guns, and you look at all this
17 | stuff, oh, my god, this is overwhelming. All this
18 | ammunition, all these guns. You know, but to
19 | people who are gun enthusiasts, they know about
20 | this stuff. It's not alarming and it's not
21 | illegal. What he's charged with is only illegal if
22 | he has knowledge of this heroin and it's 28 grams
23 | or more and these guns are around and they're
24 | somehow connected to it.

25 | So I didn't get into the Dodge Durango.

CLOSING ARGUMENT BY MR. SAUNDERS

1 All I'd say about that is, he's in that vehicle,
2 gets in that vehicle, it's not his vehicle, they've
3 never seen him in that vehicle, I believe is what
4 they've said. I think they know --

5 MS. OPPENHEIMER: Your Honor,
6 objection. Assumes facts not in evidence and it's
7 a mischaracterization of the testimony that was
8 presented. I let him go on a lot about the
9 Durango.

10 MR. SAUNDERS: I think they said
11 they've seen the Dodge truck. They said they've --
12 they did not see anyone driving the Dodge Durango.

13 MS. OPPENHEIMER: Yes, they did, Your
14 Honor.

15 THE COURT: I honestly, truly don't
16 remember that testimony. Usually I remember all
17 the testimony, but I just don't.

18 MR. SAUNDERS: I can move on from this.
19 I think I've probably made that point already.

20 Let's go to the Dodge truck. I forgot
21 to mention the Dodge truck. Okay. The truck is
22 registered to Angel Ibarra? Yes. Okay. The
23 truck's been moved from at the house. It's gone
24 from the house. It's back at the house. He's
25 driving in it. Was there something else about

CLOSING ARGUMENT BY MR. SAUNDERS

1 that? No. Somebody watches my house, yeah, he's
2 driving back and forth. They didn't say when he
3 drove up that he bought heroin from somebody. Or
4 he collected money. Or he already had a gun and he
5 pointed it at someone. There's nothing. It's his
6 vehicle. Okay. It's his house where he lives.
7 It's his mother's house, but he lives there. No
8 question about it. The vehicle's in his name,
9 insurance, we got all that.

10 So, ladies and gentlemen, what I'm
11 saying is and I think I've sort of made the points
12 I wanted to make. This is not -- this case is
13 about a snapshot that day. It's about what you
14 don't see here. Heroin and all these drugs.
15 That's very alarming and I'm sure it's alarming to
16 you. But we're here about illegal acts. We're
17 here about crimes that they suggest that Mr. Ibarra
18 committed.

19 Please remember what I said about the
20 guns. Nothing illegal about guns. They brought no
21 evidence that guns are illegal. Any of them. Not
22 one of them. Not the ammunition, nothing to do
23 with the guns.

24 The heroin, I would suggest to you that
25 they don't have enough evidence to connect Mr.

CLOSING ARGUMENT BY MR. SAUNDERS

1 Ibarra. It was in the shed. They don't have him
2 in the shed. They have him being in the shed at
3 some point here and there going in and out. We've
4 got a snapshot of that day. Search warrant, open
5 the door, there it is. That's it. Snapshot of
6 that day. How does something look that day? That
7 period of time only.

8 Still presumed innocent. Sits over
9 there presumed innocent. Like we all would be.
10 Proof beyond a reasonable doubt. I would suggest
11 to you they have not carried the burden. There
12 needs to be more. What else? Fill in the blanks
13 on this. You've got all this 100 grams -- 96 grams
14 of heroin, all these guns and everything, where is
15 the rest of it? Where's the rest of the evidence?
16 Where's the rest of the story?

17 Please consider this. This is a very
18 serious crime. Very serious crime. Very serious
19 situation for Mr. Ibarra. But that doesn't matter.
20 Your job is to look at the evidence and see if the
21 State has brought enough evidence or the type of
22 evidence that proves him guilty beyond a reasonable
23 doubt. I just don't think it's there. It's not
24 there. This is what we have. It's not enough and
25 it's still not enough. Thank you very much.

1 THE COURT: All right. Can I see the
2 lawyers real quickly?

3 (WHEREUPON, there was a sidebar
4 conference.)

5 THE COURT: All right. Madam Forelady,
6 I'd like -- your lunch is back in the jury room,
7 I'd like to charge you on the law so I won't have
8 to bring you back. But let me ask because it's
9 going to take me probably about 15, maybe 20
10 minutes. Does anybody need a break because I will
11 tell you, once I start, I cannot stop. Will not
12 stop. So if one goes, we all go. Why don't y'all
13 run go take a real quick break and come back and
14 I'll charge you on the law. Okay. If one goes,
15 you all got to go.

16 (WHEREUPON, the jury exits the
17 courtroom at 1:14 p.m.)

18 THE COURT: I'll be with y'all in just
19 one second.

20 (WHEREUPON, there was a pause in the
21 proceedings.)

22 (WHEREUPON, the Judge exits courtroom
23 at 1:27 p.m.)

24 THE CLERK: Let me see the lawyers
25 right quick and bring the jury in.

1 (WHEREUPON, there was a sidebar
2 conference.)

3 (WHEREUPON, the jury entered the
4 courtroom at 1:33 p.m.)

5 THE COURT: All right. I apologize.
6 All right. I'm now going to charge you on the law
7 applicable to this case. You must consider the
8 charge as a whole and not focus on some portions to
9 the exclusion of others. The indictments charge
10 the Defendant with possession of meth, unlawful
11 carrying of a pistol, trafficking heroin 28 grams
12 or more, and the possession of a weapon during the
13 commission of a violent crime.

14 I remind you that the fact the
15 Defendant was arrested, charged, and indicted in
16 this case is not evidence in this case and cannot
17 be considered by you as evidence of guilt in this
18 case nor does it create any presumption or
19 inference of guilt. These documents are simply the
20 formal written instruments which contain the
21 charges made against the Defendant. These are the
22 formal documents by which this case is brought into
23 this courtroom.

24 The indictments in the case allege four
25 different offenses. Again, possession of meth,

1 unlawfully carrying of a pistol, trafficking heroin
2 28 grams or more, possession of a weapon during a
3 commission of a violent crime. Each indictment
4 charges a separate offense.

5 The Defendant has pled not guilty to
6 these indictments and that plea puts the burden on
7 the State to prove him guilty. A person charged
8 with committing a criminal offense in South
9 Carolina is never required to prove himself
10 innocent. I charge you that it is an important
11 rule of law that the Defendant in a criminal trial
12 no matter what the seriousness of the charge may
13 be, will always be presumed to be innocent of the
14 crime for which the indictment was issued unless
15 guilt has been proven by evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 This presumption of innocence does not
18 end when you begin your deliberations, but it
19 accompanies the Defendant throughout the trial
20 unless you reach a verdict of guilty based on the
21 evidence satisfying you of that guilt beyond a
22 reasonable doubt. The presumption of innocence is
23 like a robe of righteousness placed about the
24 shoulders of the Defendant which remains with the
25 Defendant unless it has been stripped from the

1 Defendant by evidence satisfying you of the
2 Defendant's guilt beyond a reasonable doubt.

3 The presumption of innocence is not a
4 mere legal theory. It is not just a legal phrase.
5 It is a substantial right to which every Defendant
6 is entitled to unless you the jury are satisfied
7 from the evidence of the Defendant's guilt beyond a
8 reasonable doubt and the State has this burden.

9 Some of you may have served as jurors
10 in civil cases where you were told that it's only
11 necessary to prove that a fact is more likely true
12 than not true such as the greater weight or what we
13 call the preponderance of evidence. In criminal
14 cases, the State's proof must be more powerful than
15 that. It must be beyond a reasonable doubt.

16 Proof beyond a reasonable doubt is
17 proof that leaves you firmly convinced of the
18 Defendant's guilt. There are very few things in
19 this world that we know with absolute certainty.
20 And in criminal cases, the law does not require
21 proof that overcomes every possible doubt. If
22 based on your consideration of the evidence, you
23 are firmly convinced that the Defendant is guilty
24 of the crimes charged, you must find him guilty.
25 If on the other hand you think there is a real

1 possibility that the Defendant is not guilty, you
2 must give the Defendant the benefit of the doubt
3 and find him not guilty.

4 I remind you, during this trial you and
5 I have certain duties to perform. As the trial
6 judge, it is my responsibility to preside over the
7 trial of this case and I also have the duty to rule
8 on the admissibility of the evidence offered during
9 this trial. You are to consider only the competent
10 evidence before you. If there was any testimony
11 ordered stricken from the record in this case
12 during the trial, you must disregard that
13 testimony. I don't know that I struck anything,
14 but I think I did tell y'all to disregard some
15 testimony that was given.

16 You are to consider only the testimony
17 which has been presented from this witness stand
18 and any exhibits which have been made part of the
19 record in this case. I have the additional duty to
20 charge you the law. As the presiding judge, I am
21 the sole judge of the law of this case and it's
22 your duty as jurors to accept and apply the law as
23 I now state it to you. If you already have an idea
24 about what the law is or what the law ought to be
25 and it does not agree with what I now tell you the

1 law is, you must abandon this idea because you are
2 sworn to accept the law and apply the law exactly
3 as I state it to you.

4 In every case tried in this court
5 before a jury, the jury becomes the sole and
6 exclusive judge of the facts in a case. A trial
7 judge cannot state, comment on, or make any
8 statement to a trial jury about the facts in a
9 case. Since you the jury are the sole judges of
10 the facts, you are not to infer from what I have
11 said during the progress of this trial in ruling
12 upon the admissibility of evidence or otherwise or
13 anything that I say now during the course of this
14 instruction to you that I have any opinion about
15 the facts in this case. The law does not allow me
16 to have an opinion about any facts in this case.
17 This is a matter solely for you, the jury, to
18 determine.

19 As jurors, it is your duty to determine
20 the effect, value, and weight of the evidence
21 presented during this trial. I'm going to remind
22 you the following things are not evidence and you
23 must not consider them evidence in deciding the
24 facts of this case. The statement and arguments of
25 the attorneys, questions and objections of the

1 attorneys, and testimony that I have instructed you
2 to disregard. All of that is not evidence.

3 Now, there are two types of evidence
4 which are generally presented during a trial.
5 Direct evidence and circumstantial evidence.
6 Direct evidence directly proves the existence of a
7 fact and does not require deduction.
8 Circumstantial evidence is a proof of a chain of
9 facts and circumstances indicating the existence of
10 a fact. Crimes may be proven by circumstantial
11 evidence. The law makes no distinction between the
12 weight or value to be given to either direct or
13 circumstantial evidence. However, to the extent
14 the State relies on circumstantial evidence, the
15 circumstances must be consistent with each other
16 and when taken together point conclusively to the
17 guilt of the accused beyond a reasonable doubt.

18 If these circumstances merely portray
19 the Defendant's behavior as suspicious, the proof
20 has failed. The State has the burden of proving
21 the Defendant guilty beyond a reasonable doubt and
22 this burden rests with the State regardless of
23 whether the State relies on direct evidence,
24 circumstantial evidence or some combination of the
25 two.

1 You must also determine the credibility
2 of witness whose have testified in this case and
3 the evidence presented. Credibility simply means
4 believability. It becomes your duty as jurors to
5 analyze and evaluate the witnesses and the evidence
6 and determine the credibility of the witnesses and
7 the evidence.

8 In determining the credibility of
9 witnesses who have testified in this case, you may
10 believe one witness over several witnesses or
11 several witnesses over one witness. You may
12 believe a part of the testimony of a witness and
13 reject the remaining part of the testimony of that
14 same witness. You may believe the testimony of a
15 witness in its entirety or reject the testimony of
16 a witness in its entirety. You may consider
17 whether any witness has exhibited to you any
18 interest, bias, prejudice, or other motive in this
19 case. You may also consider the appearance and
20 manner of a witness while on the witness stand.

21 We had an expert witness in this case
22 and ordinarily we do not permit witnesses to
23 testify to opinions or conclusions. An exception
24 to this rule exists for witnesses that we call
25 expert witnesses. A witness who by education and

1 experience has become an expert in some art,
2 science, profession or calling. They may state an
3 opinion as to relevant and material matter in which
4 the witness claims to be an expert and may also
5 state the reasons for the opinion. You should
6 consider any expert opinion received in evidence in
7 this case and like any other evidence, give it the
8 weight you think it deserves. If you decide that
9 the opinion of an expert witness is not based on
10 sufficient education and experience or if you
11 conclude that the reasons given in support of the
12 opinion are not sound or that the opinion is
13 outweighed by other evidence, you may disregard the
14 opinion entirely. An expert witness' testimony is
15 to be given no greater weight than that of any
16 other witness simply because the witness is an
17 expert. Further, you are not required to accept an
18 expert's opinion even though it's not contradicted.

19 I remind you that the fact that the
20 Defendant elected not to testify is not a factor to
21 be considered by you in any way in your
22 deliberations and in your consideration on the
23 question of whether the Defendant is guilty or not
24 guilty. It must not be considered in any manner
25 whatsoever against him. An accused has a

1 Constitutional right to remain silent and the
2 assertion of that right cannot be considered by you
3 in your deliberations.

4 Under your oath you are to reach no
5 inference and draw no conclusion whatsoever from
6 the fact that the Defendant elected not to testify.
7 His decision not to testify should not even be
8 discussed in the jury room. It is not to enter
9 your minds in making your decisions. The State has
10 the entire burden of proof and the accused has no
11 burden to prove anything at all.

12 Criminal intent is a state of mind
13 which operates jointly with an act or omission in
14 the commission of a crime. Criminal intent is a
15 mental state of conscious wrongdoing. Criminal
16 intent includes those consequences which represent
17 the very purpose for which an act is done or known
18 to be substantially certain to the result
19 regardless of one's desire.

20 Intent may be shown by acts and conduct
21 of the Defendant and other circumstances from which
22 you may naturally and reasonably infer intent.
23 Criminal intent must be proven by the State beyond
24 a reasonable doubt.

25 To prove possession of meth, the State

1 must prove beyond a reasonable doubt that the
2 Defendant had both the power and the intent to
3 control the disposition or use of the meth.
4 Possession may either be actual or constructive.
5 Actual possession means that the meth was in the
6 actual physical custody of the Defendant. Proof of
7 constructive possession means the State must prove
8 that the Defendant had the right and power to
9 exercise control over the meth. The State must
10 also prove the Defendant had knowledge of the meth
11 and the intent to control the disposition of that
12 drug. Two or more persons may have joint
13 possession of a drug.

14 The Defendant is charged with unlawful
15 carrying of a pistol. The State must prove beyond
16 a reasonable doubt that the Defendant carried a
17 pistol about his person whether concealed or not
18 without the proper legal authority. A weapon is
19 about the Defendant's person if it is readily
20 accessible and convenient for immediate use. The
21 pistol need not be actually touching the person of
22 the Defendant.

23 The Defendant is charge with
24 trafficking in heroin. The State must prove beyond
25 a reasonable doubt that the Defendant knowingly

1 sold, manufactured, cultivated, delivered,
2 purchased, brought into this state, provided
3 financial assistance or otherwise aided, abetted,
4 attempted or conspired to sell, manufacture,
5 cultivate, deliver, purchase or bring into this
6 state or was knowingly in actual or constructive
7 possession or knowingly attempted to become an
8 actual or constructive possession of the heroin.

9 There are three elements to the offense
10 of trafficking in heroin that the State must prove
11 beyond a reasonable doubt. First, the substance
12 involved was heroin or morphine, opium, salt,
13 isomer or salt of an isomer thereof or any mixture
14 containing any of these substances; two, that the
15 Defendant had actual or constructive possession of
16 that heroin or any mixture containing any of these
17 substances that I just previously mentioned. And,
18 number three, that they -- that there were in fact
19 28 grams or more of heroin, morphine, opium, salt,
20 isomer or salt of an isomer thereof or any mixture
21 containing any of these substances.

22 Actual possession means that the
23 illegal drugs were in the actual physical custody
24 of the Defendant. Proof of constructive possession
25 means the State must prove that the Defendant had

1 | dominion and control over the controlled substance
2 | or had the right to exercise dominion and control
3 | over the controlled substance. Stated in other
4 | terms, the State must prove beyond a reasonable
5 | doubt that the Defendant had both the power and
6 | intent to control the disposition or use of the
7 | controlled substance. The State must also prove
8 | the Defendant had knowledge of the drugs and the
9 | intent to control the disposition of these drugs.

10 | The State must also prove beyond a
11 | reasonable doubt that the amount of heroin or a
12 | mixture thereof was 28 grams or more. If you find
13 | from the evidence or the lack of the evidence that
14 | the Defendant was merely present at a scene where
15 | the illegal drugs were found or merely associated
16 | with persons who possessed illegal drugs and do not
17 | find beyond a reasonable doubt that the Defendant
18 | had dominion or control or the right to exercise
19 | dominion and control over the illegal drugs, then
20 | the Defendant would be found not guilty.

21 | The Defendant is also charged with
22 | possession of a weapon during the commission of or
23 | attempt to commit a violent crime. The State must
24 | prove beyond a reasonable doubt that the Defendant
25 | was in possession of a firearm or visibly

1 displaying what appeared to be a firearm during the
2 commission of a violent crime. A firearm means any
3 machine gun, automatic rifle, revolver, pistol, or
4 any weapon which will or is designed to or may be
5 readily converted to expel a projectile. In order
6 to find the Defendant guilty of possession of a
7 weapon during the commission of a violent crime,
8 you must first find the Defendant guilty of either
9 committing a violent crime or attempting to commit
10 a violent crime. Trafficking in heroin is
11 classified as a violent crime by South Carolina
12 statute.

13 The principal in a crime is one who
14 either in person perpetrates a crimes or aids,
15 abets and assists. When one acts in the presence
16 of and with the assistance of another, the act is
17 done by both. Where two or more act with a common
18 design or common intent and are present at the
19 commission of a crime, it does not matter whose
20 immediate agency commits that crime because all
21 would be guilty of that crime.

22 Intent however is a necessary element.
23 There must be a common design or intent to commit
24 the crime and the crime must have been committed
25 with the Defendant aiding and abetting by some

1 | overt act. Mere presence at a scene is
2 | insufficient to prove someone guilty of a crime.
3 | The burden is on the State to prove every element
4 | of the crime charged.

5 | If you find after reviewing all of the
6 | evidence that the State has proven that the
7 | Defendant was merely present at the scene of the
8 | crime and that they have not proven beyond a
9 | reasonable doubt any other participation in the
10 | crime then you must find the Defendant not guilty.
11 | The law says that proof of mere presence at the
12 | scene of the crime is not sufficient to find
13 | someone guilty. Of course the law also says that
14 | the hand of one is the hand of all. The law states
15 | that a crime committed by two or more persons
16 | acting together in the commission of a crime is the
17 | act of both.

18 | A verdict in this case cannot be based
19 | upon sympathy, passion, prejudice or emotion or
20 | some other consideration not found in the evidence.
21 | Let me say something about your deliberations.
22 | Deliberation is defined as a careful consideration
23 | weighing up with a view to decision. The genesis
24 | of our jury system is that it allows twelve good
25 | men and women from twelve different backgrounds,

1 life experiences and perspectives to consider the
2 evidence, talk about it and ultimately reach a
3 verdict. We call them deliberations for a reason.

4 You are to consider the evidence in
5 this case carefully and deliberately and discuss it
6 in a calm, thorough and courteous manner. Listen
7 to the views of your fellow jurors. Consider other
8 people's points and points of view and talk through
9 and discuss the evidence and, remember, if you're
10 doing something deliberately, you are not in a big
11 hurry and you should not be in a hurry here. This
12 case is very important to both sides and it is
13 their only day in court.

14 When you retire to the jury room you
15 should discuss the case with your fellow jurors to
16 reach an agreement if you can do so. Your verdict
17 must be unanimous as to each charge. Each of you
18 must decide the case for yourself, but you should
19 do so only after you have impartially considered
20 all of the evidence, discussed it fully with the
21 other jurors and listened to your views of your
22 fellow jurors. Do not be afraid to change your
23 opinion if the discussions persuade you that you
24 should. But do not come to a decision simply
25 because other jurors think it is right. It is

1 important that you attempt to reach a unanimous
2 verdict as to each charge, but of course only if
3 each of you can do so after having made your own
4 decision. Do not change an honest belief about the
5 weight and effect of the evidence simply to reach a
6 verdict. In other words, do not change your
7 opinion solely for the sake of reaching a unanimous
8 verdict.

9 There are two possible verdicts for
10 each charge which you may find in this case. There
11 is no significance whatsoever in the order in which
12 I state these possible verdicts. It's simply that
13 one must be stated first. If you find the
14 Defendant guilty of the charge of trafficking, you
15 may then consider whether or not he is guilty of
16 the crime of possession of a weapon during the
17 commission of a violent crime. However, if you
18 find the Defendant not guilty on the charge of
19 trafficking, then you must find the Defendant also
20 not guilty on the charge of possession of a weapon
21 during the commission of a violent crime.

22 You will be asked to sign a separate
23 verdict form of guilty or not guilty for each
24 indictment. It's a form, I will give it to you,
25 madam forelady, but each charge is lined out.

1 Again, as I was saying, if you find him not guilty
2 of the trafficking in heroin, it will tell you to
3 stop on the possession of a weapon.

4 Again, I'm going to tell you that your
5 verdict must be a unanimous one as to each charge.
6 Madam Forelady, when the jury agrees on the
7 verdict, you will initial on the line next to the
8 verdict on the verdict form and sign your name as
9 foreperson and then if you will knock on the jury
10 door, they'll let me know that you are ready. If
11 any member of the jury panel has any issue or
12 question about the law to bring to the Court's
13 attention, please do so by having the forelady
14 write me a note.

15 At no time should any member of the
16 jury panel indicate any numerical divisions as to a
17 result of the deliberation. And, additionally, no
18 member of the jury panel shall indicate to the
19 Court how they are thinking of voting while
20 deliberating. I remind you that you've been chosen
21 as fair and impartial individuals. In other words,
22 you have no friends to reward and you have no
23 enemies to punish. Your job is to render a verdict
24 based solely upon the evidence presented and the
25 law as I have instructed to you. Okay.

1 I'm going to let you go back to the
2 jury room. Madam Forelady, do not begin
3 deliberations until the bailiff comes back or the
4 clerk and tells you to start. When you are
5 deliberating, if one of you needs to go outside or
6 go to the restroom, stop deliberating. All twelve
7 jurors must be in the room when you are
8 deliberating.

9 We need to -- we're going to need just
10 a little time to gather up all this evidence and
11 bring it back to the jury room and when we do that
12 they'll instruct you when to begin deliberating.
13 So enjoy your lunch and we'll have this back
14 shortly to you. Thank you.

15 (WHEREUPON, the jury exits the
16 courtroom at 2:04 p.m.)

17 THE COURT: Any objection to how I read
18 the jury charges from the State?

19 MS. OPPENHEIMER: No, ma'am.

20 THE COURT: Any from the Defense?

21 MR. SAUNDERS: No, Your Honor.

22 THE COURT: Okay. Earlier because we
23 were trying to keep from sending the jury out back
24 and forth, back and forth, when the Defense rested,
25 I did tell Mr. Saunders that I would come back to

1 him so he could make his motions. So at this time
2 I'll be glad to hear you.

3 MR. SAUNDERS: Thank you, Your Honor.
4 At a time, I would like to renew the motion for a
5 directed verdict of acquittal as stated before when
6 the State rested based on all those grounds, all
7 those same arguments that I gave then.

8 And, Your Honor, I believe when we were
9 talking at sidebar, there was something you were
10 going to put on the record maybe about was it the
11 methamphetamine statute?

12 THE COURT: Yes, let me do that too.
13 All right. I'm going to take, Mr. Saunders, all
14 your motions and objections have been -- I'm going
15 to renew them -- they've been renewed and they're
16 going to be so noted for the record and I'm going
17 to deny those motions again.

18 As far as the possession of meth. The
19 Defendant -- one of the Defendant's charges is
20 possession of meth less than one gram. When we
21 were doing the jury charges, we went kind of back
22 and forth. The weight -- the drug weight on the
23 meth came back at 1.28. Obviously, it was over the
24 less than one gram. One gram or less. I chose to
25 not put in the drug weight that was listed on the

1 indictment. The argument from the Defense was that
2 they argued for an acquittal. That the drug weight
3 was less than what the statute specifically set
4 out. I think there's also an argument in the
5 record earlier where I denied that. I chose in the
6 jury instructions to leave out the weight and my
7 reasoning is as follows:

8 Weight is just an inference on drugs.
9 Methamphetamine is an illegal drug. It doesn't
10 matter if you have a grain or if you got ten grams,
11 it's illegal. In this case, I think it appears
12 that the State chose and rightfully they can pick
13 and choose their own charges chose to charge the
14 Defendant with possession of less than one gram.
15 The inference is on the weight is that it could
16 have been charged as possession with intent to
17 distribute. So for me to sit here and rule that it
18 doesn't fall within the statute because it's
19 less -- it's over one gram and he's been charged
20 with possession -- I think it's -- it's just not
21 happening. It's an illegal substance. I think the
22 State has every right to charge -- pick and choose
23 their charges. And in this case it just happens to
24 be a little bit of meth, a little bit over a gram,
25 and they chose possession. So I charged possession

1 so not to confuse the jury on the weight because
2 that inference of the weight could have gone either
3 way to a possession with intent to distribute or
4 possession the State chose to charge possession and
5 I charged just a straight possession charge.

6 I hope -- I know that was kind of long
7 winded, but I hope that clarifies my decision in
8 this case.

9 MR. SAUNDERS: Yes. Thank you, Your
10 Honor.

11 MS. OPPENHEIMER: Yes, ma'am.

12 THE COURT: Anything else from the
13 State?

14 MS. OPPENHEIMER: No, ma'am.

15 THE COURT: Anything else from the
16 Defense?

17 MR. SAUNDERS: No, Your Honor.

18 THE COURT: All right.

19 (WHEREUPON, the jury begins
20 deliberations at 2:20 p.m.)

21 THE COURT: All right. Let me address
22 the people in the gallery. No matter what the
23 verdict is, I don't want to hear a peep. Not a
24 peep. Okay. Or this deputy right here is going to
25 help you outside. Not one word.

1 All right. Let's bring the jury in.

2 (WHEREUPON, the jury enters the
3 courtroom at 4:15 p.m.)

4 THE COURT: All right. Madam Forelady,
5 has the jury come to a verdict?

6 THE FOREPERSON: Yes, ma'am.

7 THE COURT: Is it unanimous?

8 THE FOREPERSON: Yes.

9 THE COURT: Okay. If you would hand it
10 to the bailiff, please. All right. Mr. Ibarra, if
11 you would please stand.

12 (Mr. Ibarra complies.)

13 THE COURT: The clerk will read the
14 verdict.

15 THE CLERK: 2019-GS-32-01484, 1485,
16 1487, 1488, the State versus Angel M. Ibarra. The
17 State has proven beyond a reasonable doubt that the
18 Defendant, Angel Ibarra, possessed methamphetamine:
19 Guilty.

20 As to the charge of unlawful carrying
21 of a pistol: Guilty.

22 As to the charge of trafficking heroin
23 in the amount of 28 grams or more: Guilty.

24 As to the charge of committing the act
25 of possession of a weapon during the commission of

1 a violent crime, to wit, trafficking: Guilty.

2 And they're so signed by the Madam
3 Forelady, May 25, 2022. Madam Forelady, ladies and
4 gentlemen, if these are your verdicts, please
5 indicate each of you by raising your right hand.

6 (WHEREUPON, the jury complies.)

7 THE CLERK: All hands raised, Your
8 Honor.

9 THE COURT: Thank you. Would you like
10 the jury polled?

11 MR. SAUNDERS: Please, Your Honor.

12 THE CLERK: Ladies and gentlemen, I'll
13 call you by your juror number. When I do, I need
14 you to wait until I finish the whole question. The
15 question will be: As to the verdicts, were these
16 your verdicts and are they still your verdicts? At
17 that time, give me your response, please.

18 Number 18, as to the verdicts, were
19 these your verdicts and are they still your
20 verdicts?

21 THE JUROR: Yes, ma'am.

22 THE CLERK: Thank you. Number 26, as
23 to the verdicts, were these your verdicts and are
24 they still your verdicts?

25 THE JUROR: Yes, ma'am.

1 THE CLERK: Number 10, as to the
2 verdicts, were these your verdicts and are they
3 still your verdicts?

4 THE JUROR: Yes, ma'am.

5 THE CLERK: 96, as to the verdicts,
6 were these your verdicts and are they still your
7 verdicts?

8 THE JUROR: Yes, ma'am.

9 THE CLERK: 28, as to the verdicts,
10 were these your verdicts and are they still your
11 verdicts?

12 THE JUROR: Yes, ma'am.

13 THE CLERK: 194, as to the verdicts,
14 were these your verdicts and are they still your
15 verdicts?

16 THE JUROR: Yes, ma'am.

17 THE CLERK: 32, as to the verdicts,
18 were these your verdicts and are they still your
19 verdicts?

20 THE JUROR: Yes, ma'am.

21 THE CLERK: 125, as to the verdicts,
22 were these your verdicts and are they still your
23 verdicts?

24 THE JUROR: Yes, ma'am.

25 THE CLERK: Number 70, as to the

1 verdicts, were these your verdicts and are they
2 still your verdicts?

3 THE JUROR: Yes, ma'am.

4 THE COURT: 175, as to the verdicts,
5 were these your verdicts and are they still your
6 verdicts?

7 THE JUROR: Yes, ma'am.

8 THE CLERK: 51, as to the verdicts,
9 were these your verdicts and are they still your
10 verdicts?

11 THE JUROR: Yes, ma'am.

12 THE CLERK: Number 142. As to the
13 verdicts, were these your verdicts and are they
14 still your verdicts?

15 THE JUROR: Yes, ma'am.

16 THE CLERK: All jurors polled, Your
17 Honor.

18 THE COURT: Thank you.

19 MR. SAUNDERS: Thank you, Your Honor.

20 THE COURT: All right. Let me address
21 the jury. Thank you so much. Y'all have done a
22 great job. You're very attentive. I'm going to
23 let you go back to the jury room and I'll come back
24 in just one second to excuse you. Okay. Thank you
25 again.

1 (WHEREUPON, the jury exits the
2 courtroom at 4:20 p.m.)

3 THE COURT: Anything from the State?

4 MS. OPPENHEIMER: Nothing from the
5 State, Your Honor.

6 THE COURT: Anything from the Defense?

7 MR. SAUNDERS: No, Your Honor.

8 THE COURT: All right. I'm going to go
9 excuse the jury. I always give them the
10 opportunity to come in, but I'll be back. Give
11 y'all about ten minutes I'll be ready for
12 sentencing. Okay.

13 MS. OPPENHEIMER: Yes, ma'am.

14 MR. SAUNDERS: Thank you, Your Honor.

15 (Off the record)

16 THE COURT: All right. Mr. Saunders,
17 are you ready to go forward?

18 MR. SAUNDERS: Yes, Your Honor. Can I
19 hand up -- I have a couple of character letters for
20 your consideration in sentencing, please?

21 THE COURT: Yes, sir.

22 MR. SAUNDERS: I have not given the
23 State copies. I will share with them copies.

24 THE COURT: All right. Mr. Ibarra, the
25 jury found you guilty. I'm going to let the State

1 tell me what they need to let me know and then I'm
2 going to turn to you and your lawyer and then I
3 will be glad to hear from you, okay?

4 MR. IBARRA: Yes, ma'am.

5 THE COURT: All right. Ms.

6 Oppenheimer, I will be glad to hear from you.

7 MS. OPPENHEIMER: Thank you, Your
8 Honor. I'm primarily going to be focusing on the
9 sentence for the trafficking heroin charge. As we
10 all know that's the sentence that carries the
11 mandatory minimum of 25 years up to 40 years.

12 Your Honor, I'm not going to ask for
13 the maximum sentence in this case knowing that the
14 Defendant has no prior record and he is young.
15 However, I think that this is a case where more
16 than 25 would be appropriate and I am asking this
17 Court for 30 to 35 years.

18 The amount of heroin that we are
19 talking about in this case was over three times the
20 threshold limit of heroin and 28 grams is the
21 statutory maximum that the legislature has laid out
22 for our courts as being the highest amount of
23 heroin that you can possess illegally.

24 And, Your Honor, as I showed in my
25 closing argument, this was close to 97 grams of

1 heroin. Between -- worth between 10- and \$15,000.
2 Obviously, that is not personal use. I think it
3 was pretty evident from everything found in the
4 shed that this Defendant was involved in what we
5 called a drug enterprise.

6 Your Honor, there's a lot that this
7 jury because of our laws was not able to hear
8 during the case in chief of the State's and I'd
9 like to lay out a little bit of that background for
10 Your Honor.

11 Back in 2018, Richland County did begin
12 an investigation into an individual known as Ace.
13 That was the Defendant, Angel Ibarra. They
14 introduced a UC, an undercover cop to him and
15 Richland County conducted approximately three or
16 four buys in their jurisdiction alone with this
17 Defendant. Your Honor, the UC would call a phone
18 number that was associated with the Defendant and
19 he would set those buys up. Sometimes he would go
20 to those buys and sometimes it was his associate
21 Mego who is Israel Mendoza Cervantes. Your Honor,
22 those distributions of heroin in Richland County
23 have not yet been charged.

24 While Lexington County was running
25 surveillance on him, obviously, you heard about the

1 tip that they got from Richland County that this
2 Defendant had moved into Lexington County and began
3 dealing heroin here. He -- this Defendant did pick
4 up a possession with intent to distribute heroin
5 and a possession of cocaine case shortly before any
6 execution of the search warrant. Lexington County
7 themselves conducted at least three buys from this
8 Defendant.

9 While the Defendant wasn't always the
10 person conducting the hand-to-hand transactions,
11 law enforcement did observe the Defendant following
12 the person with the drugs to the buy, sitting in
13 the same parking lot and keeping a very close eye
14 on that person who he was using as his mule.

15 Your Honor, you know the opium epidemic
16 in this state, in this country. You know that it
17 is killing young people and old people left and
18 right. Heroin is one of the most potent substances
19 that is being distributed in Lexington County right
20 now. And I can only imagine 97 grams of heroin how
21 much that could -- how many lives that could have
22 resulted in, Your Honor.

23 On the morning of the search warrant as
24 Detective Dabkowski was conducted surveillance,
25 there was testimony that the Defendant left his

1 home. Your Honor, the plane did follow his vehicle
2 that he was driving and law enforcement kept eyes
3 on him as well. They know that he made at least
4 two stops before making his way back to his home
5 where they believe that he was on buys to
6 individuals unknown to law enforcement. Obviously,
7 when he was arrested, he did have that \$2,000 in
8 cash. I would argue that that was the cash made
9 from selling these packages of heroin.

10 In addition, Your Honor, this Defendant
11 is a validated member of the Sureños gang which I
12 will let Detective John Geets with the Lexington
13 County Sheriff's Department discuss a little bit
14 about -- and he's a self admitted member of that
15 gang.

16 He was pulled over in October of 2017
17 by Detective Geets with another validated member of
18 the Sureños gang and this Defendant did tell
19 Detective Geets that he was himself a member of the
20 Sureños gang.

21 Your Honor, additionally while he was
22 out on bond for this violent trafficking heroin
23 crime and wearing an ankle monitor, as Your Honor
24 knows, he was again arrested for additional charges
25 of armed robbery, kidnapping, burglary first and

1 assault and battery by mob. Your Honor, it is
2 apparent to the State that this Defendant is
3 increasing in violence. It is a concern that he
4 has been arrested multiple times with a weapon in
5 his vicinity or on his person.

6 These are violent crimes that he's
7 involved in. This is a violent gang that he is
8 involved in. And, Your Honor, the State would ask
9 for 30 to 35 years in this case. We believe it is
10 absolutely appropriate and I will turn it over to
11 Detective Geets at the appropriate time.

12 THE COURT: Well, let me ask you this.
13 What about the PWID that he's got pending and the
14 other charge before this search warrant, are those
15 Lexington County charges?

16 MS. OPPENHEIMER: Yes, ma'am, they are.

17 THE COURT: Are we getting rid of those
18 today?

19 MS. OPPENHEIMER: Your Honor, the State
20 has not made a determination as to those charges at
21 this time. Certainly, a potential plea could be --

22 THE COURT: And then while he was out
23 on bond on the ankle monitor, he's got a burg
24 first, he broke into somebody's home or allegedly
25 and an armed robbery?

1 MS. OPPENHEIMER: Yes, Your Honor. And
2 a kidnapping and assault by mob, Your Honor.

3 THE COURT: Okay. What was the other
4 one?

5 MS. OPPENHEIMER: Assault by mob, Your
6 Honor.

7 THE COURT: Okay. And those charges
8 are still pending?

9 MS. OPPENHEIMER: Yes, Your Honor. And
10 we will be proceeding with those. They're not
11 being resolved at this time. And if you'd like to
12 hear from Detective Geets or --

13 THE COURT: Detective Geets, I will be
14 glad to hear -- I don't know anything about this
15 Sureños gang. Is that a gang here in Lexington?

16 MR. GEETS: Yes, ma'am, Your Honor.

17 THE COURT: Tell me about it.

18 MR. GEETS: Your Honor, if it pleases
19 the Court. Angel Ibarra is a documented member of
20 the Sureños street gang. It's a -- they're
21 considered the foot soldiers to the Mexican mafia.
22 It's a subset of the Mexican Mafia I would say.
23 The Sureños are an international and a traditional
24 gang. They have sets all throughout the United
25 States, Southern America, Mexico, they have a

1 history of violence and narcotics distribution as
2 well as trafficking.

3 Mr. Ibarra himself has these same
4 histories of violent crimes, narcotics distribution
5 and trafficking. I mean, some of those are pending
6 cases, however, he has that history. Your Honor, I
7 can harp on the fact that Mr. Ibarra was
8 trafficking narcotics. I could bring up the times
9 that he was arrested for firearms related offenses
10 or the fact that he's a member of the Sureños. And
11 I'm sure the Defense -- they're going to tell you
12 that Mr. Ibarra is changed and stopped his criminal
13 behavior. But Mr. Ibarra has pending charges for
14 burglary first, kidnapping, armed robbery and
15 assault and battery by mob.

16 Mr. Ibarra also has an open marijuana
17 case that has yet to be resolved. Granted it was
18 only possession, but that's still pending as well.
19 Since he's been out on bond for this case, he's
20 continued his criminal behavior, his violent
21 behavior, his narcotics distribution. Your Honor,
22 it's the State's belief that he hasn't changed his
23 behavior and that if he's granted leniency, he's
24 just going to continue to commit these violent
25 crimes, weapons related offenses, narcotics

1 distribution. Thank you, Your Honor.

2 THE COURT: Thank you for coming,
3 Detective. Anything else, Ms. Oppenheimer?

4 MS. OPPENHEIMER: Nothing further from
5 the State, Your Honor.

6 THE COURT: All right. Mr. Saunders,
7 let me hear from you.

8 MR. SAUNDERS: Thank you, Your Honor.
9 Your Honor, Mr. Ibarra is 24 years old and three
10 years ago -- over three years ago whenever he got
11 arrested the first time like September of '18, he
12 got pulled over. He was charged with possession of
13 cocaine. He had some heroin in his possession and
14 he ends up getting charged with simple possession
15 of marijuana as the officer was saying. And the
16 simple possession of marijuana, there's a speeding
17 ticket as well, and those charges are still
18 pending. Okay. So I was hired on that. Then the
19 search warrant was executed and then all of this
20 stuff that you've witnessed the past three days.

21 I will just say that the -- he's been
22 on bond for, you know, over three years now. He
23 was arrested on March 30th with all these serious
24 charges that you've heard about.

25 THE COURT: That was this year; right?

1 MR. SAUNDERS: That's right. This
2 year. Just this past March 30th. Those charges I
3 have not seen any discovery on that. I'm not
4 representing him on that. We know that the charges
5 are very serious, but what we don't know is the
6 underlying details. All I can tell you is there's
7 a person involved that is one of his longtime
8 friends that there was a fight which then all of
9 this came about. Okay. I'm not sure of the
10 details. But I want you to know, this is not some
11 random act that he went and just picked somebody
12 out of society to do something. I'm not really
13 sure of the details. But I will tell you one of
14 his longtime friends is involved.

15 As to the gang thing, I don't -- I
16 don't know of any evidence or anything that would
17 show that he was acting on behalf of a gang in any
18 capacity. Whether he's a member or not, I don't
19 know. I don't know. They say he is. But I don't
20 know that there is any connection to the gang in a
21 criminal act that he has committed.

22 The officer talked about, you know,
23 pending -- what he has pending is the stuff that
24 happened before the search warrant and these new
25 things. The simple possession of marijuana while

1 -- I mean, that was dismissed over at Judge
2 Morgan's office, I don't know, a month ago.

3 Your Honor, he's 24 years old and the
4 mandatory minimum is 25. It's longer than he's
5 been alive.

6 THE COURT: You don't need to tell me,
7 I know.

8 MR. SAUNDERS: And there's talk of
9 violence. The only violence that I'm aware of is
10 what is alleged in the new case from March 30th of
11 this year. I don't know of any violence that's
12 gone on. And I don't -- and, Your Honor, he has a
13 child on the way, supportive family, you know, he
14 made some bad decisions. He absolutely did. I
15 don't think he even understood the magnitude of
16 what he was dealing with. But he did it and now he
17 sits where he sits. And, Your Honor, the mandatory
18 minimum is 25 years and that -- you know, those
19 numbers get thrown around --

20 THE COURT: 85 percent time.

21 MR. SAUNDERS: Right. These numbers
22 get thrown around like 25, no, let's do 30, 35. I
23 mean, it's -- they just -- think about 25 -- what
24 has gone on in your life the past 25 years. In my
25 life, the past -- I mean, it's hugely significant.

1 And I think proportionate to what has gone on here
2 and we're asking you to consider that. I mean,
3 that is a huge amount of time. And whether it's 25
4 to 35 years, I just don't see how more than the
5 mandatory minimum would somehow make anymore of an
6 impact or have any other effect that is intended by
7 sentencing.

8 And that's what I will tell, Your
9 Honor, if you would consider the letters and I know
10 his mother would probably like to say a few words,
11 Your Honor.

12 THE COURT: I'd like to hear from the
13 mom and then I'd like to hear from Mr. Ibarra.

14 MR. SAUNDERS: Yes, ma'am. Thank you.

15 MOM: Good afternoon, Your Honor.

16 THE COURT: Good afternoon.

17 MOM: Excuse me if I get emotional.

18 THE COURT: No, it's quite all right.
19 I certainly understand.

20 MOM: First of all, they throw around
21 his street name is Ace, it's not. My son's father
22 died when he was 13. He liked to play cards and
23 since he was a baby, I called him Ace. His Little
24 Ace. That's your Little Ace because he liked to
25 play cards. So just for the record, I'll clear

1 that up. That's not his street name. His mama
2 gave him that name when he was little.

3 You know, a single mom, Angel I think
4 he lost his dad at a really hard time in his life.
5 He was 13 trying to figure out how to be a man. Me
6 being a woman, I can only teach him so much. He's
7 not the monster that people try to portray for him
8 to be of course in every mother their son. He was
9 a really hard worker. He's really protective over
10 his family and this stuff about being in a gang and
11 stuff, this little boy lives with me. He's not.
12 And they can say he is and he is and he is and he's
13 not. He's not.

14 And he made a really big mistake
15 thinking he could take care of his family, thinking
16 he can get me out of working 60, 70, 80 hours a
17 week. I told him it wasn't his responsibility to
18 do that. It was mine to take care of him.

19 And I know and I know the day that Ms.
20 Meghan came to my door and took my son, I don't
21 know if she remembered, but I thanked her. I
22 really honestly thanked her because I told Angel, I
23 said, I don't know what you're doing son, and I
24 told him, but I know what you're doing is not good.
25 And I told her, I said, Meghan, it hurts me that my

1 son is getting arrested, but I'd prefer a million
2 times over that you coming to my door and telling
3 me my son's dead. And to a way, I do appreciate
4 that.

5 And I told Angel, I don't know exactly
6 what he was doing, but I know it wasn't good. And
7 he made a big, big, big mistake. And just like the
8 lawyer said, the new stuff that he's got, my son
9 didn't go into a random house and hurt anybody. It
10 was with individuals that he knew that he grew up
11 with. It wasn't right situation. He's not a
12 monster. He's got a baby coming.

13 I know he deserves something, but he
14 doesn't deserve -- he does not deserve to spend
15 more than what he's lived. He deserves a second
16 chance. And him being Hispanic doesn't put a mark
17 on him that he's a street gang and he's bad and
18 this and that. You have all the evidence. He got
19 pulled over, he wasn't violent to the police
20 officer like everyone said he had a gun right
21 there. If he had a bad intention or bad intention
22 or he was a street guy, he would have done other
23 things. He didn't. He turned himself in.

24 He's not a bad person. He made a very
25 bad mistake. He did. He did. I know he did. And

1 as a mother, you tell your kids with actions
2 there's consequences and I know he has
3 consequences, Your Honor, but he doesn't deserve
4 that. And I'm pleading with you to give him a
5 second opportunity. He was 19, 20 when all this
6 started.

7 THE COURT: I understand.

8 MOM: And it wasn't right.

9 THE COURT: Well, thank you for coming.
10 I know that you've been here every single day
11 supporting your son, so that does mean something to
12 the Court.

13 MOM: I appreciate everybody's time.
14 Thank you.

15 THE COURT: Thank you.

16 MR. SAUNDERS: Well, Your Honor, I'm
17 asking you, you know what we would like and it's
18 not very attractive that a sentence like that, but
19 we believe it is an appropriate sentence for the
20 Defendant and we hope that you feel that way as
21 well after what you've heard and what you have to
22 consider. I know Mr. Ibarra will address you.

23 THE COURT: Mr. Ibarra, I'd like to
24 hear from you. Because I got to tell you, you know
25 this trafficking charge, you know it's a strike on

1 you. And there is a certain combination of strikes
2 that you can get that you can end up with a life
3 sentence for the rest of your life; do you
4 understand that?

5 MR. IBARRA: Yes, ma'am.

6 THE COURT: And it worries me that
7 you've got those pending charges because they could
8 LWOP you. That's life without parole on an armed
9 robbery and a burglary. Because those are strikes
10 too; you understand all that?

11 MR. IBARRA: Yes, ma'am.

12 THE COURT: Do you have counsel on
13 those other charges?

14 MR. IBARRA: Ma'am?

15 THE COURT: Do you have counsel on
16 those other charges?

17 MR. IBARRA: What is that?

18 THE COURT: Do you have an attorney for
19 those other pending charges?

20 MR. IBARRA: No, ma'am, not yet.

21 THE CLERK: Before you leave here, I'm
22 going to appoint him a lawyer for those charges. I
23 think they're serious enough. Can we make sure
24 that gets done? He's incarcerated. I know that he
25 will make the cutoff. So whoever is handling that

1 in your office, please let them know.

2 MS. OPPENHEIMER: That's me, Your
3 Honor.

4 THE COURT: That I'm going to appoint
5 him counsel on those charges.

6 But let me hear from you, Mr. Ibarra.
7 Because I'm just going to tell you, it's a lot of
8 dope and you're awfully young.

9 MR. IBARRA: Yes, ma'am. I mean, I'm
10 just -- like, I made a lot of mistakes in my life
11 and I know I can't take back what I did or, you
12 know, everything that, you know, they're trying to
13 put against me. But, you know, I was young and,
14 you know, I was trying to be, you know, the man of
15 the house and take care of my family, you know.

16 THE COURT: I know. Somehow that
17 didn't work out so well.

18 MR. IBARRA: I just wish, you know,
19 like I had the male figure to show me like the way,
20 you know. And I got my daughter on the way, my
21 first kid. And I don't won't her to grow up the
22 same way that I did. I just wish you show mercy on
23 me.

24 THE COURT: You know, Mr. Ibarra, I
25 know you've got some good family support because

1 they've been here all week. Even had to get on to
2 them about talking. But they have been here every
3 single day for you. So, I mean, you know, most
4 people who appear in front of me, they don't have
5 anybody.

6 I don't know, it's just so sad because
7 this heroin is killing everybody. I mean, it
8 really is. It's killing our youth and here I am
9 taking your young adult life away from you.

10 How long has he served in that I can
11 give him credit for?

12 MR. SAUNDERS: Well, Your Honor, the
13 ankle monitor that he's been wearing -- he's been
14 wearing an ankle monitor since he got out on -- so
15 since he bonded out, you know, Judge Griffith heard
16 all this and reduced the bond to \$250,000 and at
17 the moment, I can't remember when it was that he
18 did that and then he got out of jail. I'm sorry
19 about that. I had it in my file and I just didn't
20 think I needed it, but obviously I do.

21 MS. OPPENHEIMER: Your Honor, we can
22 check the clerk's paperwork. I think Ms. Frick is
23 actually checking it now. We would object to him
24 getting any credit for time served while on the
25 ankle monitor. He wasn't sentenced to house arrest

1 as part of that -- or not sentenced, ordered to
2 house arrest as part of that. And while you're
3 wearing an ankle monitor and you commit four new
4 crimes, three of which are violent, it just doesn't
5 go well for giving you credit for the time that
6 you're on that ankle monitor.

7 THE COURT: I understand that. And
8 it's also my understanding that it's in my
9 discretion whether he's on house arrest or not
10 whether I can give him credit or not. I want to
11 know how many days he spent.

12 THE CLERK: Bond was set at \$250,000 on
13 November 27, 2018 by Judge Griffith. I'm trying to
14 locate the original form right now, Your Honor.
15 And I think I have found it, I'm not sure. Because
16 there was a hearing held on February 14th before
17 Judge -- of 2019 to amend bond conditions.

18 MR. SAUNDERS: That was to remove the
19 monitor and that was denied.

20 THE CLERK: And that was denied. It
21 was denied at that time.

22 THE COURT: I've got 1,275 days.

23 MR. SAUNDERS: Thank you, Your Honor.
24 So, Your Honor, up until March the 30th when he
25 gets arrested on this new stuff, there were no

1 other arrests or interaction with law enforcement.

2 THE CLERK: Your Honor, bond was posted
3 two days later after Judge Griffith set it. It was
4 posted and a release on November 29th of 2018.

5 MR. SAUNDERS: Thank you.

6 THE COURT: All right. And you do
7 realize, Mr. Ibarra, you'll never be able to own a
8 gun again?

9 MR. IBARRA: Yes, ma'am.

10 THE COURT: I don't know. You know, I
11 listened to the State, drugs, guns, ammunition,
12 cash, I forgot what their saying was, but it
13 certainly just so true for you today. I just don't
14 know what's happening. With all this gun violence.
15 But in the next breath I'm going to tell you, Mr.
16 Ibarra, you're 24 years old. And I realize that
17 these charges are old. And it's hard for me to sit
18 up here to give -- even if I give you 25, I'm
19 giving you more time than you are old. More time
20 than you've lived. And, you know, I'm just one of
21 those judges, I believe in people. I think they
22 can change and they can make a difference until you
23 come back in front of me for a second time and then
24 I don't care anymore.

25 So I hope -- I mean, 25 years is the

1 rest of your young adult life. You understand how
2 25 years you're going to have to serve 22 of it is
3 85 percent time.

4 Sentence of the Court on the weapons of
5 the unlawful carrying of the pistol, I'm giving him
6 one year time served. That's what it carries zero
7 to one year.

8 The possession of less than one gram of
9 meth, three years. I'm giving him credit for the
10 1,275 days and that will run concurrent with the
11 weapons during a violent crime. I did five years
12 with the credit for the 1275 days.

13 On the trafficking heroin, my hands are
14 tied. I think 25 years is enough time for anybody
15 on a first offense with no prior record. Again,
16 I'll tell you, you'll serve 22 years of it.

17 I've appointed you a lawyer for your
18 other charges because I think those are really
19 serious charges that you might not walk away from.
20 So you need a lawyer.

21 Good luck to you, Mr. Ibarra, I hope
22 you change your ways. You still stand a chance if
23 you can.

24 All right. Court's adjourned.

25 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

WITNESSES

Lexington County Sheriffs Department

Meghan A Dabkowski

Law Enforcement Case #: 18-021525

MFD

ARREST WARRANT NUMBER**2018A3210900112****ACTION OF GRAND JURY****TRUE BILL***Courtney Seely*
Foreperson of Grand Jury

Date: 4-8-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019GS3201484**The State of South Carolina****County of Lexington****COURT OF GENERAL SESSIONS****APRIL TERM 2019****THE STATE****vs.****Angel Misael Ibarra****CDR #: 0149****Indictment for**

Trafficking Heroin, 28 grams or more

§ 44-53-0370(e)(3)(c)

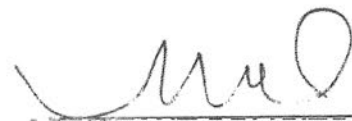
S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Trafficking Heroin, 28 grams or more
COUNTY OF LEXINGTON	)	
	)	§ 44-53-0370(e)(3)(c)

At a Court of General Sessions, convened on April 2019, the Grand Jurors of Lexington County present upon their oath:

That **Angel Misael Ibarra** did in Lexington County, South Carolina on or about October 24, 2018, knowingly and intentionally, willfully and unlawfully sell, distribute, cultivate, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise, aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, posses with intent to distribute or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of Heroin, a controlled substance under provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in the amount of twenty eight (28) grams or more, in violation of § 44-53-370 (e)(3)(c), Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Meghan A Dabkowski

Law Enforcement Case #: 18-021525

MFD

ARREST WARRANT NUMBER**2018A3210900113****ACTION OF GRAND JURY****TRUE BILL**

Caitlyn Seely
 Foreperson of Grand Jury
 Date: 4-8-19

VERDICT

Foreperson of Petit Jury
 Date:

DOCKET NO. 2019GS3201485**The State of South Carolina****County of Lexington****COURT OF GENERAL SESSIONS****APRIL TERM 2019****THE STATE****vs.****Angel Misael Ibarra****CDR #: 0044****Indictment for**

Unlawful Carrying of a Pistol

§ 16-23-0020

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

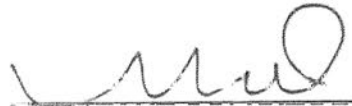
INDICTMENT FOR
Unlawful Carrying of a Pistol

§ 16-23-0020

At a Court of General Sessions, convened on April 2019, the Grand Jurors of Lexington County present upon their oath:

That **Angel Misael Ibarra** did in Lexington County, South Carolina on or about October 24, 2018 knowingly and willfully carry about the person any pistol, to wit: Glock 17 9mm, whether concealed or not, without the proper legal authority to do so, in violation of Section 16-23-20 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

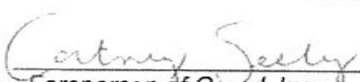
Lexington County Sheriffs Department

Meghan A Dabkowski

Law Enforcement Case #: 18-021525

MFD

ARREST WARRANT NUMBER**2018A3210900114**

ACTION OF GRAND JURY
Foreperson of Grand Jury

Date: 4-8-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019GS3201487**The State of South Carolina****County of Lexington**

COURT OF GENERAL SESSIONS**APRIL TERM 2019****THE STATE****vs.****Angel Misael Ibarra**

CDR #: 3009

Indictment for

Possession of Methamphetamine

§ 44-53-0375(A)

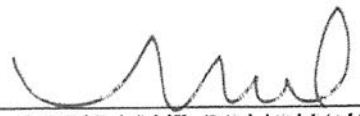
S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	Possession of Methamphetamine
COUNTY OF LEXINGTON	)	
	)	§ 44-53-0375(A)

At a Court of General Sessions, convened on April 2019, the Grand Jurors of Lexington County present upon their oath:

That **Angel Misael Ibarra** did in Lexington County, South Carolina on or about October 24, 2018, knowingly and intentionally possess less than one gram of methamphetamine or cocaine based controlled substance to wit: Methamphetamine under provisions of § 44-53-110, et. Seq. and in violation of § 44-53-375(A) Code of Laws of South Carolina, 1976, as amended. Such being the first offense.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

Lexington County Sheriffs Department

Meghan A Dackowski

Law Enforcement Case #: 18-021525

MFD

ARREST WARRANT NUMBER**2018A3210900115****ACTION OF GRAND JURY****TRUE BILL**

Foreperson of Grand Jury

Date: 4-8-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019GS3201488**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS**APRIL TERM 2019****THE STATE****vs.****Angel Misael Ibarra****CDR #: 0549****Indictment for**Possession of a Weapon During a Violent
Crime

§ 16-23-0490

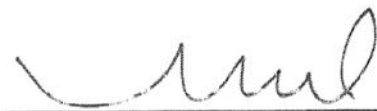
S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
) INDICTMENT FOR
COUNTY OF LEXINGTON) Possession of a Weapon During a Violent Crime
) § 16-23-0490
)

At a Court of General Sessions, convened on April 2019, the Grand Jurors of Lexington County present upon their oath:

That **Angel Misael Ibarra** did in Lexington County, South Carolina on or about October 24, 2018 knowingly and willfully, possess a firearm, during the commission of a violent crime or attempt to commit a violent crime, to wit: Trafficking Heroin, 28 grams or more such weapon described as one CZ-Scorion EVO 9mm Rifle, one Ruger 9mm, one Rebel .22 (AK-47), and one Ruger 30-06, in violation of § 16-23-490 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

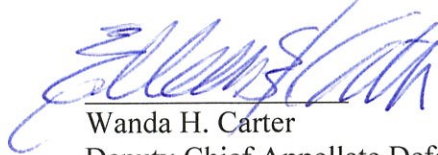
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Sep 20 2023

SC Court of Appeals



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

This 20th day of September, 2023.