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Jul 08 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
Walton J. McLeod, IV, Circuit Court Judge

Appellate Case No. 2024-001430
Lower Case № 2023-GS-32-01924 and 2023-GS-32-01925

The State, ... Respondent,

vs.

Clint Arthur Walker Appellant.

RECORD ON APPEAL

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RECORD ON APPEAL
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WITNESSES

DOCKET NO. 2023GS3201924

Lexington County Sheriffs Department

Tyler H Kennedy

Law Enforcement Case #: 22000837

LAP

ARREST WARRANT NUMBER

2022A3210200276

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2023

THE STATE

vs.

Clint Arthur Walker

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 5-8-23

VERDICT

Guilty

CDR #: 0370

Indictment for

Trafficking Methamphetamine, 400 grams
or more

§ 44-53-0375(C)(5)

Foreperson of Petit Jury
Date: 7-21-24

S.R. Hubbard III, SOLICITOR

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Trafficking Methamphetamine, 400 grams or
more

§ 44-53-0375(C)(5)

At a Court of General Sessions, convened on May 2023, the Grand Jurors of Lexington County present upon their oath:

That **Clint Arthur Walker** did in Lexington County, South Carolina on or about 2022-01-27, knowingly and intentionally, willfully and unlawfully sell, 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, 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 methamphetamine, a controlled substance under provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in a quantity of four hundred (400) or more grams, in violation of § 44-53-370 (C)(5), 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

Tyler H Kennedy

Law Enforcement Case #: 22000837

LAP

ARREST WARRANT NUMBER

2022A3210200277

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 5-8-23

VERDICT

Guilty

Foreperson of Petit Jury

Date: 5-21-23

DOCKET NO. 2023GS3201925

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2023

THE STATE

vs.

Clint Arthur Walker

CDR #: 0549

Indictment for

**Possession of a Pistol during a Violent
Crime**

§ 16-23-0490

S.R. Hubbard III, SOLICITOR

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

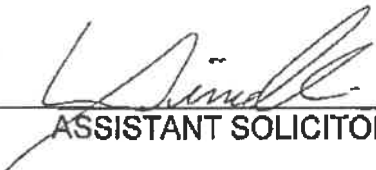
STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Possession of a Pistol during a Violent Crime
§ 16-23-0490

At a Court of General Sessions, convened on May 2023, the Grand Jurors of Lexington County present upon their oath:

That **Clint Arthur Walker** did in Lexington County, South Carolina on or about January 27, 2022 knowingly and willfully, possess a firearm, during the commission of a violent crime or attempt to commit a violent crime, to wit: he did possess a firearm while trafficking methamphetamine such weapon described as a .22 caliber North American Arms pistol 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

RECEIVED

Aug 29 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023GS3201925

Clint Arthur Walker
AKA: _____
Race: White Sex: Male Age: _____
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL#* _____ SID# SC00697017

A/W#: 2022A3210200277
Date of Offense: 01/27/2022
S.C. Code §: 16-23-490
CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Solicitor _____ SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.
_____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Clint Arthur WalkerINDICTMENT/CASE#: 2023GS3201925

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: VAIRIE BENCH WARRANT 8/19/2024

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$100
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$25
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114 (BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
TOTAL			\$125.00

Clerk of Court/Deputy Clerk: Clint Arthur Walker
Court Reporter: Cathy ProctorPresiding Judge: Wab
Judge Code: 2765
Sentence Date: 2-21-2024

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON

STATE

VS.

INDICTMENT/CASE#: 2023GS3201924

Clint Arthur Walker

A/W#: 2022A3210200276

AKA: _____

Date of Offense: 01/27/2022

Race: White Sex: Male Age: _____

S.C. Code §: 44-53-375(C)(5)

DOB: _____ SS#: _____

CDR Code #: 0370

Address: _____

City, State, Zip: _____

DL#* _____ SID# SC00697017

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Drugs / Trafficking in meth. or cocaine base - 400 g or more (Felony, 25Y to 30Y)

In violation of § 44-53-375(C)(5) of the S.C. Code of Laws, bearing CDR Code # 0370

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 25 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$200,000; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc. _____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☒ Other: VALENTINE BENCH WARRANT (8/19/2024)

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ 200,000
§14-1-206 (Assessments 107.5%)	\$ 215,000
§14-1-211 (A)(1)(Conv. Surcharge)	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41
§50-21-114 (BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	TBD
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD
TOTAL	\$ 415,275.00

Clerk of Court/Deputy Clerk: Cathy Jones
Court Reporter: _____Presiding Judge: Walter J. P.Judge Code: 2765Sentence Date: 2-21-2024

1 State of South Carolina) Court of General Sessions
 2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
)
 5 vs.) 2023-GS-32-01924
) 2023-GS-32-01925
 6 Clint Arthur Walker,)
)
 7 Defendant.)

8

9 February 16, 2024
 Lexington, South Carolina

10 B E F O R E:

11 The Honorable Walton J. McLeod, IV, Judge

12

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

14 Lucas A. Pincelli, Deputy Solicitor
 15 Player W. Long, Assistant Solicitor
 On behalf of the State of South Carolina

16 Benjamin A. Stitely, Esquire
 17 On behalf of the Defendant

18

19

20 Stacy S. Johnson, RPR
 Circuit Court Reporter

21

22

23

24

25

I N D E X

PAGE

Pre-Trial Motions

Jackson v. Denno

4

Tyler Huff Kennedy

Direct Examination by Mr. Pincelli

6

Cross-Examination by Mr. Stitely

9

Redirect Examination by Mr. Pincelli

14

Motion to Suppress

20

Tyler Huff Kennedy

Direct Examination by Mr. Stitely

23

Certificate of Reporter

56

E X H I B I T S

NO EXHIBITS MARKED

1 (The following proceedings were held February 16,
2 2024, beginning at 11:13 AM.)

3 BAILIFF: All rise. The Honorable Walton J. McLeod
4 presiding.

5 THE COURT: All right. Good morning, ladies and
6 gentlemen. Please be seated. Thank you.

7 All right. We're here in the matter of the State
8 versus Clint Arthur Walker. This case is number one for
9 trial on Tuesday morning. We're here really to -- we
10 have two trials to do next week and we have a short week,
11 so I appreciate the lawyers kind of getting their people
12 together today to try to knock out pre-trial to save us
13 some time so we can actually start this case Tuesday
14 afternoon.

15 That said, just to get ahead of it for Tuesday, you
16 know, the jury comes in at 9:30 and we'll get through the
17 qualification process, we'll a pick this jury first and
18 probably send them out until three-ish because we've got
19 to pick not one, but two other juries if we have -- there
20 are enough people on the panel, and then I'll have to do
21 pre-trial for the second General Sessions case, so the
22 idea would be if I can knock that out in two hours we'll
23 be in a position to at least start openings and make sure
24 we have a witness or two available Tuesday just to get
25 started. Potentially we could even work a little bit

1 later on Tuesday, but I want to make sure that we don't
2 set ourselves up with a traffic jam for the rest of the
3 week, so.

4 MR. PINCELLI: Sure.

5 THE COURT: Mr. Solicitor, just what are the matters
6 the State has for today?

7 MR. PINCELLI: Your Honor, we have a short Jackson
8 v. Denno hearing. We'll need -- we're gonna be calling
9 Investigator Tyler Kennedy with Lexington County Sheriff's
10 Department. I believe there will probably be some
11 response to a res gestae matter in relation to a 404(b)
12 for some related criminal acts that would tie into this
13 case.

14 THE COURT: Okay.

15 MR. PINCELLI: Additionally, a third-party guilt
16 discussion and then, you know, anything maybe in rebuttal
17 to Mr. Stitely's arguments.

18 THE COURT: Okay. Mr. Stitely.

19 MR. STITELY: Judge, we're gonna have a general
20 Rule 5 motion about delayed discovery. It will have a
21 number of different pieces. It has to do with an offered
22 plea that was deemed to be unaccepted.

23 Additionally, we'll have suppression issues based on
24 Rule 5 if that doesn't go the way I would like, as well
25 as potentially even a continuance motion depending on how

1 the other rulings on Rule 5 go.

2 THE COURT: Very well.

3 MR. STITELY: And then I guess we'll have to have
4 just a general -- so we don't do it later, we probably
5 need to have a hearing on the search warrant, the validity
6 of the search warrant.

7 THE COURT: I put that in the suppression.

8 MR. STITELY: Yeah, that's separate though. That's
9 just a -- separate than discovery issue. Just, once
10 again, I think we have to at least have a hearing on the
11 validity of the search warrant.

12 THE COURT: All right. Why don't we start with the
13 State's motion under Jackson v. Denno and then we'll turn
14 it over to Mr. Stitely.

15 (Discussion off the record.)

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

17 MR. LONG: The State calls Tyler Kennedy from the
18 Lexington County Sheriff's Department.

19 (Whereupon, Tyler Huff Kennedy was duly sworn by
20 the Court.)

21 THE COURT: State your name full name for the record.

22 THE WITNESS: Tyler Huff Kennedy. K-E-N-N-E-D-Y.

23 THE COURT: Proceed.

24 TYLER HUFF KENNEDY,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. LONG:

3 Q. Agent Kennedy, where are you currently employed?

4 A. I am an investigator on the NET team with the
5 Lexington County Sheriff's Department.

6 Q. And how long have you been employed in that capacity?

7 A. I've been employed at the sheriff's department since
8 2016 and I've been on the NET Team since 2019.

9 Q. So when -- you investigated a case against Clint
10 Walker?

11 A. Yes, sir.

12 Q. And when and where did Clint Walker make a statement
13 to you?

14 A. He made it in front of the residence, which is
15 663 Bushberry Road in Lexington County, and that occurred
16 on January 27, 2022.

17 Q. And who was present at the time that statement was
18 made?

19 A. There's multiple people. There was a female
20 identified as Carmen Cruz and potentially ten or fifteen
21 law enforcement officers.

22 Q. And did the defendant appear to have any physical or
23 mental conditions that limited his understanding of what
24 was being asked?

25 A. No.

1 Q. Was the defendant detained at the time you were
2 questioning him?

3 A. He was.

4 Q. And why was he detained?

5 A. We had a search warrant for the residence, which
6 included individuals on the property.

7 Q. So he was not free to leave?

8 A. He was not.

9 Q. And how long were you on-scene before this questioning
10 took place?

11 A. Approximately five minutes.

12 Q. Were there any threats or promises made in exchange
13 for his statement?

14 A. No, sir.

15 Q. Before he made the statement, did you advise him of
16 Miranda?

17 A. I did.

18 Q. And how did you do that?

19 A. Verbally.

20 Q. Can you please state how you advised him of his
21 Miranda rights?

22 A. It's my duty to advise you're under investigation by
23 the Lexington County Sheriff's Department. You have the
24 right to remain silent. Anything you say can be used
25 against you in court. You have the right to an attorney.

1 You have the right to speak to that attorney before
2 answering any questions I have for you. If you cannot
3 afford an attorney, one can be provided for you at court
4 cost. If you wish to speak to me at any point, you can
5 stop. Do you understand your rights?

6 Q. And did the defendant advise that he understood those
7 rights?

8 A. He did.

9 Q. And what questions were asked?

10 A. I asked him if there was any methamphetamine in the
11 residence and I also asked him if there were any firearms
12 in the residence.

13 Q. Did he answer any of those questions?

14 A. He did.

15 Q. What did he say?

16 A. He -- he advised that there was a firearm in the
17 residence and didn't know of any meth.

18 Q. And during -- during your investigation, did the
19 defendant make any other statements to you?

20 A. He did.

21 Q. And what was that statement?

22 A. Later on he advised -- and, Judge, I apologize. I'm
23 gonna use words that were told to me. Obviously you knew
24 the fucking keycard was in there.

25 Q. And when did he say this to you?

1 A. While on-scene.

2 Q. This was -- was he under arrest when he said this?

3 A. Yes, sir.

4 Q. Was this in response to any questioning by you or any
5 other law enforcement officer?

6 A. No.

7 MR. LONG: Your Honor, that's all the questions we
8 have.

9 THE COURT: All right. Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. STITELY:

12 Q. Detective, you don't wear a body cam, do you?

13 A. At the time of this incident, no, sir.

14 Q. Okay. You said there were ten to fifteen officers.
15 Could you list the officers that were present at the scene
16 that day? I guess we could skip that way before you go
17 through it.

18 A. Sure.

19 Q. Were there any uniformed officers there that day?

20 A. There was.

21 Q. Could you tell me who the uniformed officers that were
22 there that day would have been?

23 A. Gabe Mulkey.

24 Q. Uh-huh.

25 A. That's it.

1 Q. He was the only uniformed officer?

2 A. He arrived at some point during the search warrant
3 after three individuals were arrested and transported them
4 to the jail.

5 Q. Okay. So he did transport?

6 A. That's correct.

7 Q. Okay. Was there anyone who was in uniform at the
8 time of the execution of the search warrant pretty much
9 when this conversation happened between you and Mr. Walker?

10 A. I'd like to confirm that, but I don't believe there
11 was.

12 Q. And the reason I'm asking that is uniformed officers
13 are wearing body cams where investigators typically do not,
14 correct?

15 A. Correct.

16 Q. Is there any body cam footage or body cam audio
17 recordings from the actual execution of the search warrant?

18 A. No, sir.

19 Q. Okay. So there's no video to capture these alleged
20 statements?

21 A. No, sir.

22 Q. And as a investigator, you are able to utilize a
23 county-issued cell phone to make recordings if you so
24 choose, aren't you?

25 A. Yes, sir.

1 Q. You didn't do that in this case though?

2 A. No, sir.

3 Q. And you said his initial statement after Miranda was
4 yes, there's a gun here, correct?

5 A. I don't know if that was verbatim, but, yes, he
6 advised there was a firearm there.

7 Q. Okay. And said no meth?

8 A. He said he didn't know.

9 Q. Didn't know or --

10 A. I'll give you the exact statement.

11 Q. Please.

12 A. After I asked he stated I don't know.

13 Q. Okay. What time was that statement?

14 A. The search warrant for the residence, I don't have
15 a copy of that. If you'd like, it would probably take a
16 few minutes, but I could get a copy of the search warrant.
17 The time the search warrant was executed is gonna be when
18 we started that. It would be approximately five to ten
19 minutes after the search warrant was executed.

20 Q. Okay. So pretty early on?

21 A. That's correct.

22 Q. Okay. And the second statement that you said was
23 made, who was that statement made in front of?

24 A. About the keycard?

25 Q. Yes, sir.

1 A. That was made in front of me.

2 Q. Okay. Was there anyone else present at that time?

3 A. Yes.

4 Q. Okay. Who was around you who would have overheard

5 that statement as well?

6 A. Agent Edmondson with SLED would be one in particular.

7 Q. Doug?

8 A. That's correct.

9 Q. You can't miss Doug in a room.

10 A. You can't.

11 Q. And what time was that statement made? I know -- I'm

12 not asking you for specifically the minutes, but like how

13 far after your initial conversation?

14 A. So the one that I mentioned where he was immediately

15 brought out and I asked about the meth, I would say it was

16 approximately ten minutes after that.

17 Q. Okay. So around ten minutes later?

18 A. Yes, sir.

19 Q. And I want you to say it again because I want to make

20 sure I write it down right. What was exactly said to your

21 recollection?

22 A. Obviously you know the fucking keycard was in there.

23 And I can give you a little bit more backstory on that.

24 Q. Please.

25 A. It was -- that comment was made without anything that

1 I said after I was giving his wallet back to him.

2 Q. He was already arrested at that point?

3 A. That's correct.

4 Q. Why were you giving his wallet back to him?

5 A. Because we had already searched it due to the search
6 incident to arrest and there was nothing of value --
7 evidentiary value in the wallet other than the keycard that
8 we removed, so we gave it back to him -- so that it could
9 be booked into his property at the jail.

10 Q. So it would have went with him to the jail?

11 A. Correct.

12 Q. No recordings of that statement to your knowledge?

13 A. No, sir.

14 Q. But you think Investigator Edmondson would have heard
15 that as well?

16 A. I believe it's very possible. I can't speak for him.

17 Q. And there's no question during this entire encounter
18 this was a custodial situation? He couldn't leave?

19 A. That's correct.

20 Q. From the beginning before all the statements?

21 A. Correct.

22 MR. STITELY: No other questions at this time.

23 Thank you.

24 THE COURT: Redirect.

25 MR. LONG: Briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. LONG:

3 Q. Agent Kennedy, do you recall if Agent Sanner or Agent
4 Bert were present during either one of the statements that
5 were made?

6 A. They were.

7 Q. Were they present for both or -- do you recall if they
8 were present for both or what they were present for?

9 A. They were outside in the general area. I believe that
10 they very likely could have heard those statements that
11 were made. And just for the Court's record I mentioned
12 Agent Edmondson due to the fact that he was specifically
13 mentioned in the report.

14 MR. LONG: I beg the Court's indulgence.

15 BY MR. LONG:

16 Q. Where was -- where was the defendant when he made the
17 second statement about the keycard?

18 A. Outside. Right outside the front porch.

19 MR. LONG: No further questions, Your Honor.

20 THE COURT: Recross.

21 MR. STITELY: Nothing, sir.

22 THE COURT: All right. The witness may step down.

23 (Witness excused.)

24 THE COURT: Next witness.

25 MR. LONG: That's the only witness, Your Honor.

1 THE COURT: All right. Well, I guess for Denno
2 purposes, I'd be happy to hear from you Mr. Player --
3 Mr. Long.

4 MR. LONG: Your Honor, in regards to the first
5 statement about the pistol -- about Mr. Walker's statement
6 there was a pistol inside, there's no question that was
7 a custodial statement, Your Honor. He was in custody, he
8 was not free to leave. He was being detained during the
9 execution of a search warrant. The defendant was advised
10 of his Miranda rights. He acknowledged them, he waived
11 them and he made a free, knowing and voluntary statement.

12 In regards to the second statement about the keycard,
13 Your Honor, we believe that statement -- first of all, we
14 believe that statement's not hearsay. It's a statement
15 by a party in regards to something that was happening.
16 It was not made in response to any questioning. If the
17 Court were to find that it is hearsay, we believe it
18 falls under exceptions to the hearsay rule. The first
19 one would be excited utterance, which is Rule 803,
20 Subsection 2. It's a statement related to a startling
21 event or condition made while the declarant was under
22 the stress of excitement caused by the event or condition.
23 He was being arrested for trafficking methamphetamine,
24 four hundred grams or more.

25 THE COURT: And the keycard statement was made by

1 who?

2 MR. LONG: The keycard was made by the defendant,
3 which is also the party in this case, Your Honor.

4 THE COURT: Okay.

5 MR. LONG: If it's not an excited utterance, we
6 believe it's a presence sense impression, which is Rule
7 803, Subsection 1, which is a statement describing or
8 explaining an event or condition made while the declarant
9 was perceiving the event or condition. He was standing
10 right there. It was his wallet. He knew the keycard was
11 in his wallet and that's why he made the statement, Your
12 Honor.

13 THE COURT: So the location of the statement was at
14 the property being search?

15 MR. LONG: It was. It was outside. The narcotics
16 were found inside the residence. He was right outside
17 the front door. Well, I don't know if he was right
18 outside the front door. He was outside on the property.

19 THE COURT: In the vicinity of where the search
20 warrant was being executed?

21 MR. LONG: That's correct, Your Honor.

22 THE COURT: All right. Mr. Stitely.

23 MR. STITELY: Judge, it's not a Miranda issue. I
24 think we all agree it's a custodial interrogation. I
25 don't think it's hearsay in general. I disagree that

1 it's an excited utterance or whatever else.

2 THE COURT: I don't think we get there if it's not
3 hearsay.

4 MR. STITELY: I don't believe so either.

5 Judge, my -- as far as admissibility, I don't think
6 that I have a good argument whether or not the State
7 could admit it. They clearly claim he was provided
8 Miranda, it was custodial. Any other challenge that I
9 would have would be to the veracity of the statement,
10 not specifically to its admissibility, and that would be
11 trial question.

12 THE COURT: All right. Well, based upon the totality
13 of the circumstances I've heard at this point I find the
14 statement was voluntary. The testimony reflects the that
15 defendant was advised of his Miranda warnings and he gave
16 a free and voluntary statement thereafter. That would
17 include the keycard statement, which I don't find is
18 hearsay. I find that was a statement by the defendant
19 and, therefore, not hearsay.

20 So it will be -- to the extent that this is presented
21 to the jury, it's a free and voluntary statement and they
22 can give it the weight they think it deserves.

23 All right. At least from the State's standpoint,
24 we had a brief conference in chambers about third-party
25 guilt. I think you had a motion filed since we're dealing

1 with State's motions.

2 I kind of gathered from our discussion and you can
3 add some information to this, Mr. Pincelli, but it didn't
4 sound like you had a third-party guilt issue based upon
5 our conversation. I mean, Mr. Stitely certainly is
6 free to cross-examine the State's witnesses, including
7 what they did or did not do in the course of their
8 investigation at the scene, and to -- to elicit testimony
9 that could give the inference of more than one conclusion
10 that's not necessarily third-party guilt.

11 So I gather, Mr. Stitely, you don't intend to --

12 MR. STITELY: I will not intend to put my client up
13 to say specifically it was another person's ownership,
14 but I will be in the trial pointing out the other three
15 people who were present at the scene.

16 THE COURT: Okay. Fair enough. I think that
17 satisfies things. Obviously in trial, as I tell everyone,
18 from the State's standpoint if you see Mr. Stitely's
19 questioning or the responses for any given witness heading
20 a certain direction, always just come up to the bench and
21 we'll talk about it and try to head something off before
22 it happens so we can avoid having to try to un-ring some
23 bell, okay?

24 MR. PINCELLI: Sure, Your Honor. And if I could
25 just lay out a little bit of my theory on this, and,

1 again, I don't believe there's any issue right now
2 from my understanding from our in-camera conference,
3 specifically not to cross-examination, but to maybe
4 argument phase, I think there should be a limitation
5 on defense's ability to point to a specific individual
6 for third-party guilt. Because the nature of trafficking
7 and the way our law was written, there can be conspiracy,
8 there can be aiding or abetting, and just because one
9 person might also be guilty, it would might -- it does not
10 necessarily absolve defendant from guilt, and the purpose
11 of third-party guilt is if you're gonna point to another
12 specific individual it must -- that theory must absolve
13 the defendant of guilt to be able to make that argument.
14 I think any vague references could be made. Again,
15 defense has a lot of leeway, but I think there is a line
16 that could be crossed over.

17 THE COURT: Any attorney closing arguments must
18 confine their argument to evidence presented at trial,
19 which would include the testimony on direct and
20 cross-examination.

21 That said, Mr. Pincelli, I would ask that maybe
22 over the weekend if you could find any sort of case that
23 provides some additional guidance as far as ensuring any
24 attorneys avoid any unintentional third-party guilt
25 reference, okay?

1 MR. PINCELLI: Sure, Your Honor. I'll certainly do
2 that for you. I think what I would mostly be depending
3 on would be State v. Williams, 321 SC 327, and that's,
4 you know, specifically on the third-party guilt rules,
5 but just that definition of -- of the evidence having to
6 be inconsistent with the defendant's own guilt.

7 THE COURT: Okay. We'll certainly discuss this again
8 before we close. How about that?

9 MR. PINCELLI: Yes, Your Honor. Thank you.

10 THE COURT: All right. I think that's it for the
11 State; is it not?

12 MR. PINCELLI: Your Honor, I didn't file a formal
13 res gestae motion. I believe it's defense's intent to
14 get into -- and I'll just lay out, I guess, some of the
15 factual connection here. There are controlled buys
16 performed in Lexington County that resulted in probable
17 cause for a search warrant. That search warrant resulted
18 in the case in chief here.

19 To the extent that those controlled buys are
20 discussed or testified to, there may be doors opened
21 to exposure to 404(b) information in regards to who the
22 target of those investigations were and I want to make
23 sure whatever testimony is --

24 THE COURT: You think like the State will open the
25 door or the defense?

1 MR. PINCELLI: No, I have no intention of that.
2 Your Honor, I would -- I would try this case without
3 talking anything about those buys, but to the extent
4 that those buys are talked about, reasonably anticipated
5 questions might open the door to who that target was
6 and it would be the defendant, and I'm not sure how that
7 runs afoul with 404(b) as a prior bad act where he is
8 the target of an investigation that is not part of the
9 indictment that I'm calling for trial.

10 MR. STITELY: And actually I think a lot of this we
11 can see how it flows out when we call Investigator Kennedy
12 and deal with the search warrant issue right now.

13 THE COURT: Okay. We'll come back --

14 MR. STITELY: Because this is all in-camera anyway,
15 so I think we can solve some of these problems right
16 because I'm gonna call Investigator Kennedy when we go
17 through the challenge of the search warrant.

18 THE COURT: All right. Well, let's just -- I think
19 we can move onto Mr. Stitely here for the --

20 MR. STITELY: Well, I think this will solve that
21 problem as long as we kind of hear how the testimony goes
22 in this hearing. We'll know how it sounds in trial.

23 THE COURT: Okay.

24 MR. PINCELLI: That's agreeable. I just wanted to
25 raise the issue so we know where the lines are.

1 THE COURT: Do you want to go ahead and call
2 witnesses?

3 MR. STITELY: On the motion to suppress the search
4 warrant, Judge, I'd call Investigator Kennedy. And
5 ultimately a suppression of a search warrant would lead
6 to a suppression of ultimately everything else, but --

7 THE COURT: Just to be clear, this is the search
8 warrant that you didn't have a copy of a few months ago
9 or is this the one we do have a copy of?

10 INVESTIGATOR KENNEDY: I do not have a copy of the
11 search warrant.

12 THE COURT: Okay.

13 MR. STITELY: You got it for him, Luke?

14 I've got one.

15 THE COURT: I don't either, so.

16 MR. STITELY: Judge, it's mostly the affidavit
17 attached to the search warrant is really what we're
18 getting into.

19 THE COURT: Okay.

20 INVESTIGATOR KENNEDY: Still under oath, Your
21 Honor?

22 THE COURT: Yes, sir.

23 MR. STITELY: Judge, I'm gonna give you my copy.
24 If you could give it back to me, that way you can kind
25 of follow along. I should have had another copy, but

1 this one will work.

2 THE COURT: Let's make a quick copy and that way you
3 can -- we've got one right here, I think.

4 MR. STITELY: Yep.

5 THE COURT: Okay.

6 TYLER HUFF KENNEDY,
7 having been previously sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. STITELY:

10 Q. Investigator Kennedy, we've already kind of gone
11 through your basics, just -- so the long and the short of
12 it, in looking at the affidavit, you have the search
13 warrant in front of you, correct?

14 A. I do.

15 Q. According to the affidavit, you made two purchase --
16 alleged purchases of controlled substances at a location on
17 the 13th and the 20th of 2022 of January; is that correct?

18 A. Yes.

19 Q. Okay. Were those law enforcement purchases or CI
20 buys?

21 A. Can you be more specific?

22 Q. Did you guys do it or did you use a confidential
23 informant?

24 A. Confidential informant.

25 Q. Okay. And in reading the -- where did those two

1 purchases take place?

2 A. Inside the residence at 663 Bushberry Road.

3 Q. Okay. And who is the individual who made the sales of
4 those two alleged purchases?

5 A. Michael Sharpe.

6 Q. Okay. And was this videotaped and audio recorded?

7 A. Yes.

8 Q. Okay. And it's no doubt that Michael Sharpe was the
9 one who did these two sales, correct?

10 A. That's correct.

11 Q. Okay. And that would have been what you presented in
12 the affidavit to Judge Buck to get him to sign a search
13 warrant, correct?

14 A. That's correct.

15 Q. Okay. And the reason that you chose to do the search
16 of this address was that's specifically where those two
17 purchases from Mr. Sharpe took place?

18 A. Yes, sir.

19 MR. STITELY: No other questions.

20 MR. PINCELLI: Nothing from the State, Your Honor.

21 THE COURT: Okay.

22 (Witness excused.)

23 THE COURT: So --

24 MR. STITELY: Once again, I'm just saying that that's
25 the basis for the search warrant and in trial I intend to

1 go down that exact line of questioning. I don't intend
2 to ask any additional questions about the house or the
3 location. I just think that that would be relevant -- so
4 I guess it's not really so much as to suppress the search
5 warrant, but that's -- to answer Luke's *res gestae*, I
6 intend at trial to -- when Investigator Kennedy takes the
7 stand and says we were there executing a search warrant,
8 I'm gonna say the search warrant you executed was because
9 Mike Sharpe sold you drugs twice. That's pretty much the
10 entire -- and Mike Sharpe was present the day of the search
11 warrant.

12 THE COURT: At that address?

13 MR. STITELY: At that address and he was present
14 the day you executed the search warrant. I think that's
15 all just facts kind of answering Luke's motion or --

16 THE COURT: Okay.

17 MR. PINCELLI: And this may further complicate
18 things and maybe a proffer of testimony would be required
19 at this point, first, I would argue that is not relevant
20 to the case in chief. The indictment being called is for
21 trafficking for the amount of drugs found on location on
22 January 27, 2022, for Clint Walker. To prove that case, I
23 don't have to discuss the search warrant at all. I don't
24 know that it's proper for the jury to hear the probable
25 cause for the search warrant other than there was a valid

1 search warrant signed, they searched the residence, found
2 drugs and I'll prove my case for, you know, possession or
3 conspiracy or any other verb involved in the trafficking
4 statute.

5 THE COURT: But you're -- buy by that you're also
6 saying that Mr. Stitely can't bring it up in cross?

7 MR. PINCELLI: I'm saying I don't know what the
8 relevance for it would be in cross to explain the probable
9 cause of the search warrant.

10 MR. STITELY: Because Mr. Sharpe is present when they
11 execute the search warrant, too.

12 MR. PINCELLI: And that is a fair question.

13 THE COURT: Okay.

14 MR. STITELY: So I want to be able to point out to
15 the jury your seller was there that day, too.

16 THE COURT: Okay. Whoever was there, I mean, it's
17 relevant --

18 MR. STITELY: That part is.

19 THE COURT: -- who was at the scene. That would be
20 asked in any trial, so. But --

21 MR. STITELY: I think it's relevant that the reason
22 they get the search warrant for this house on the face of
23 this search warrant is that person who was present was a
24 seller.

25 THE COURT: Okay.

1 MR. STITELY: He's the one who did the selling and
2 he's present when the drugs are found.

3 THE COURT: Fair enough, but the evidence will also
4 show --

5 MR. STITELY: Maybe.

6 THE COURT: Well, I know this from talking with you.
7 I haven't heard it here, but there's other evidence that
8 I suspect will be elicited on direct about what was found
9 and who had the key to it.

10 MR. PINCELLI: Sure, Your Honor, and I guess --

11 THE COURT: I think you're both allowed to frankly
12 do -- you put up your case the way you want, but, I mean,
13 your cross-examination doesn't appear to be improper
14 necessarily.

15 MR. PINCELLI: I don't know to what extent specific
16 questioning on probable cause for a search warrant is
17 relevant. Now there may be cross-examination questions.
18 Were there prior buys from this residence? Was there a
19 drug investigation?

20 THE COURT: Okay. In other words, you don't want
21 him to be able to just drop a hint that there was never
22 probable cause in the first place. Is that what you --

23 MR. PINCELLI: Any mention on the face of a search
24 warrant I don't think is relevant in proving the elements
25 of this trial or defend the elements of this trial.

1 Again, cross-examination about has anybody sold drugs
2 from this residence? Maybe. What were their names?
3 Were they present then and at this instance potentially?
4 But, again, who is written in the affidavit of a search
5 warrant, I don't think that's relevant to the trial.

6 MR. STITELY: And I think it is very specifically
7 in the limited purpose of saying Investigator Kennedy,
8 you told the Solicitor you were there because you were
9 executing a lawful search warrant. In getting that
10 search warrant, the reason you got that search warrant
11 a is Mr. Sharpe did two sales inside the house that day?
12 Yes, sir. And he was present the day you executed the
13 search warrant as well? Yes, sir. He was present when
14 you found these alleged drugs? Yes, sir. That's it.

15 MR. PINCELLI: And, Your Honor, this -- this gets
16 to the point of potential proffered testimony. I think
17 a reasonable redirect on that would be what was the cause
18 to investigate this drug conspiracy and I believe the
19 answers might be problematic and grounds of 404(b).

20 MR. STITELY: But that's not in the body of the
21 search warrant.

22 THE COURT: I just -- well, I -- and maybe I'm over
23 thinking this or under thinking this. If -- I'm just
24 trying to imagine the directs that I've seen now many
25 times and there's gonna be some sort of foundation laid

1 of why you were there, what you found there, and on
2 cross --

3 MR. STITELY: You heard it, Judge. That's all I
4 would intend to ask Investigator Kennedy about this part
5 of course is the reason you were in the house according
6 to what you told a judge to get a search warrant is Mike
7 Sharpe sells drugs.

8 THE COURT: Well, a resident of the house.

9 MR. STITELY: Well, Mike Sharpe -- well, we don't
10 know if he's a resident or not.

11 THE COURT: Well, okay.

12 MR. STITELY: A person who was there named Mike
13 Sharpe did this at this address. That's why you got a
14 search warrant. Now if there's additional extraneous
15 evidence that's outside the search warrant, we have all
16 kind of other problems because I'm limited to the four
17 corners of this document, and that's why I went through
18 the affidavit with him on the cross or whatever you call
19 it, direct, but that's all I would ask him. You bought
20 the drugs from a guy named Mike, which leads you to get a
21 search warrant, you search it and Mike is there and drugs
22 are there. That's it.

23 THE COURT: All right. I don't want to get bogged
24 down here, but my inclination is that on cross for him to
25 ask -- not even ask, to confirm what address you went to

1 and why.

2 I'll be happy -- if you want to give me some law if
3 you think I'm missing something, I'll be happy to look at
4 it, Mr. Pincelli, but generally speaking I don't think
5 what he's talking about in that limited context on
6 cross-examination runs afoul.

7 MR. PINCELLI: I think specifically, I mean, it
8 just gets to a point of confusing the issue to the jury.
9 We're not talking about controlled buys from Michael
10 Sharpe. That might be a defense. He can bring up was he
11 there. My case is Clint Walker on trial for trafficking
12 different drugs.

13 THE COURT: Different? Okay. Well, again --

14 MR. PINCELLI: So, I mean, it confuses the issues
15 of a separate bad act by a separate actor and all I have
16 to -- I don't really have to say anything about a search
17 warrant, Judge. I mean, it's trial strategy, we need to
18 try our own cases, but I have no intention of bringing up
19 -- putting the search warrant into evidence or bringing
20 up what the affidavit said, so I think it's very confusing
21 to a jury to that somebody else was selling drugs when
22 those aren't the drugs we're --

23 THE COURT: Not selling. Buying.

24 MR. PINCELLI: Well, yeah, selling and buying.

25 THE COURT: I mean, this isn't about -- well, again,

1 you-all know the case better than me, but this is a charge
2 -- this is a trafficking offense, which is based upon
3 weight and possession, right?

4 MR. PINCELLI: Correct, Your Honor.

5 THE COURT: So, I mean, how is he asking -- I mean,
6 confusion aside, you can still prove your case based upon
7 the evidence which you'll present that shows weight and
8 possession and that's kind of -- how they got there is --

9 MR. STITELY: And, Judge, it's kind of like -- of
10 course, this is flowing into what he's concerned about,
11 my third-party guilt argument, and he can argue hand of
12 one, hand of all, aid, abet, whatever the heck he wants,
13 potentially, but I'm gonna say flat out --

14 THE COURT: I haven't heard hand of one, hand of all
15 in a trafficking case yet. Is that out there?

16 MR. PINCELLI: Well, I don't think you have to just
17 because of the language of the statute.

18 THE COURT: Okay.

19 MR. STITELY: But I'm going to say the dude you're
20 buying from is there with the drugs. Isn't it completely
21 logical -- I won't ask him this question, but I will
22 extend that those were his drugs. That's all.

23 MR. PINCELLI: Therefore, successfully creating a
24 very confusing situation for the jury about different
25 buys on different dates not related to this indictment.

1 THE COURT: Well, I'm also trying to balance it with
2 what you-all have indicated to me is the evidence against
3 the defendant. I mean, if there was --

4 MR. PINCELLI: Right, which doesn't have anything to
5 do with what we discussed.

6 THE COURT: Which to me makes it a whole lot less
7 confusing, I mean, if you're just looking at the
8 testimony, but let's --

9 MR. STITELY: It will come up at trial. I mean --

10 THE COURT: All right. So basically it's not even
11 a suppression. You just want leeway to go --

12 MR. STITELY: Judge, I'd make a motion generally to
13 suppress the search warrant.

14 THE COURT: I'm not gonna suppress it based on
15 proximate cause --

16 MR. STITELY: That's fine.

17 THE COURT: -- but what you're really asking for is
18 leeway to go into it on cross-examination.

19 MR. STITELY: Well, I don't know that I have to ask
20 leeway until we get to trial, but I just figured that
21 hearing that testimony would flush out this issue of the
22 res gestae or whatever.

23 THE COURT: You're not asking for it, but I'm just
24 trying to anticipate --

25 MR. STITELY: Yes, sir.

1 THE COURT: All right. Let me -- I'll look into
2 this.

3 MR. PINCELLI: Okay. And, Your Honor, if I may?

4 THE COURT: Sure.

5 MR. PINCELLI: Just on follow-up for maybe something
6 to tag onto that thing we need to look into, if a redirect
7 question was "But didn't you go to the house trying to buy
8 from Clint Walker?", depending on the answer to that what
9 other issues does that bring up?

10 THE COURT: I may -- I may limit what Mr. Stitely can
11 ask. I may not, but, I mean, I --

12 MR. PINCELLI: And that -- that's my concern. Not
13 only confusing to the jury, but if we keep walking down
14 the paths of prior incidents --

15 THE COURT: Just for my edification, what were the
16 drugs that Sharpe bought?

17 MR. STITELY: Meth.

18 THE COURT: Meth.

19 MR. STITELY: No, he sold. He sold it to a CI. He
20 sold meth to a CI and then they find meth that day.

21 THE COURT: Okay. But what was found in the safe?

22 MR. STITELY: Meth.

23 THE COURT: Okay. So you said it was two different
24 -- completely different drugs.

25 MR. STITELY: His argument is whatever Mr. Sharpe was

1 selling isn't necessarily having anything to do --

2 THE COURT: I misunderstood you. I thought you meant
3 that he had heroin and they found meth.

4 MR. STITELY: No.

5 MR. PINCELLI: No. Same drug, Your Honor, but in
6 the -- in the report for the first confidential informant
7 buy that Mr. Sharpe did complete, it's written in the
8 report that Clint Walker is the target. They go to that
9 address and try to buy drugs from Clint Walker. So if we
10 walk back to all these prior incidents, it's gonna open the
11 door.

12 THE COURT: Right, and then all of a sudden it's an
13 unfair inference.

14 MR. PINCELLI: And that's where I'm afraid because I
15 don't think it's relevant at all, it's confusing the jury,
16 but if we go that far I think it's only fair for that
17 question to be asked and answered.

18 THE COURT: Okay. We'll try to get ahead of it.
19 What's next?

20 MR. STITELY: Discovery.

21 THE COURT: All right.

22 MR. STITELY: And, Judge, first I'll phrase my
23 discovery motion as a motion to suppress and dismiss
24 the case. So, Your Honor, this case obviously as you
25 heard stems from 2022. January of 2022. There's some

1 extraneous stuff that happens that caused a slight delay
2 in this case. We can just put it that way on the record,
3 but let's skip a year forward to 2023.

4 THE COURT: Okay.

5 MR. STITELY: I mean, we're in-camera, but anyway
6 there was some involvement with another Federal agency
7 that delayed this case from doing anything for a couple
8 months. Let's put it that way. So let's just go ahead
9 and fast-forward to 2023, okay?

10 Your Honor, in this case I received a come to court
11 letter on -- for March 10th of 2023 and then subsequently
12 an e-mail from Mr. Pincelli for a May date, May 20 --

13 MR. PINCELLI: Two.

14 MR. STITELY: -- May 22 of 2023 where my client was
15 to be compelled to either accept or reject a plea offer.
16 The offer at that time would have been a seven-year
17 sentence. We did not go in front of a judge and reject.
18 I don't know why they make people do that, but we can at
19 least say he sent a drop dead date of, in theory, the
20 22nd of May of 2023.

21 At that time I would characterize we were, of course,
22 still in negotiations trying to resolve the case. It
23 is my position, and I believe it's the Supreme Court's
24 position, there was -- it's an old order from Chief
25 Justice Toal, if you're going to compel a defendant to

1 decide if they have to plead guilty or not, they should
2 have the right to have all of their discovery.

3 As a lawyer who defends an individual without the
4 totality of the discovery, I would not be doing my job if
5 I said, sir, I want you to go to prison for a substantial
6 period of time when the State hasn't provided me the
7 evidence in your case. I think that opens me up for bar
8 disciplinary action and it absolutely would open the case
9 up for a PCR because one of the questions Your Honor says
10 during his colloquy on a plea is "Did the attorney go over
11 your discovery with you? Have you seen the State's case?"
12 In this case, the answer would have been no.

13 Prior to the offer/acceptance theory date, I didn't
14 have a chain of custody, I didn't have a drug analysis.
15 So this would have been a plea where my client would
16 have been forced to plead guilty without drugs and go to
17 prison. I would have had to tell my client you go to
18 jail for seven years, whatever, but there's no drugs.

19 THE COURT: Without analysis.

20 MR. STITELY: No chain. No analysis. I don't even
21 know if they exist.

22 THE COURT: Okay.

23 MR. STITELY: And then what happens theoretically
24 down the road? Say you're in a trial and they open a
25 box in the middle of trial and pull out two packages of

1 drugs that have nothing to do with your case. That
2 literally happened in the Steve Brown trial. They opened
3 a box that had drugs that were not part of the case in
4 the box. Nobody knew about it until they got to trial.
5 What if these drugs -- alleged drugs were lost? What if
6 the chain of custody was invalid? He would have gone
7 to prison for no reason at all and I would have been
8 disbarred or at least sanctioned.

9 I don't believe it is fair to hold him accountable
10 for any evidence in this case that was provided to me
11 subsequent to his drop dead plea date, so I'm making a
12 motion to suppress everything after that date. I've got
13 everything that was received by me, which is, you can
14 look at it, it's the discovery packet for the most part.

15 Outside of -- prior to that date, all I had really
16 received was pretty much the initial law enforcement
17 packet. If you even look in the body of these, the drugs
18 weren't even tested until April and they were not provided
19 to me until sometime severely after there. He sent the
20 letter or the e-mail to me on April 21st. The drug
21 analysis wasn't even requested until April 6th. It
22 doesn't appear they did the analysis until the 13th. I
23 did not received it until several months later.

24 Additional items that have come through. There was
25 a search warrant on a cell phone that was executed in

1 this case and speaking to the Solicitor I will openly
2 acknowledge there's nothing I think he intends to offer
3 from the cell phone, but the search warrant's obtained
4 in 2022, I don't get the body of the search warrant until
5 -- or to the actual discovered items from it until
6 December of 2023. It could have been exculpatory.

7 Again, this is a trafficking case. If my client's
8 phone comes back completely clean, which it does, that
9 could be a relevant trial issue. I know they have it in
10 their possession and it hasn't been turned over to me.
11 Whether or not the search has been completed -- or the
12 execution has been completed, I don't think that's even a
13 relevant argument. The fact that I've got my client and
14 I'm saying look, they're searching your phone, I still want
15 you to plead guilty, but I don't know what's in your phone.
16 That's a problem. They executed a search warrant and got
17 all your data, but I can't tell you what's in it. You
18 still should plead guilty. That's a problem.

19 Your Honor, additional stuff, like I said, the chain
20 of custody, the drugs is the biggest part. Without a
21 chain and without an analysis, I'm trying to compel my
22 client to plead guilty to a mandatory -- this isn't a
23 offer of probation, an offer of time served. This is
24 you need to go to prison on a violent charge for
25 seven years, but they don't have drugs yet. That's

1 inappropriate. It's inappropriate to put my client in
2 that position.

3 THE COURT: When you say chain of custody, are you
4 meaning like a written summation?

5 MR. STITELY: Yes, sir. Yes, sir.

6 THE COURT: Okay. All right.

7 MR. STITELY: And I don't have the analysis at that
8 time.

9 Your Honor, it puts me as an attorney in an awkward
10 position to try to tell my client what's in his true best
11 interest. Is it to tell the client to lie to the judge
12 that I've reviewed the discovery with him when I haven't
13 because I don't have it? It's a problem.

14 And I understand the Solicitor's position and I'm
15 not saying it's this Solicitor in general, but if they're
16 gonna try to force us to make a plea or deny on the record
17 if we don't have all of the discovery, it's not fair.

18 I can cite Your Honor to a case that I tried up in
19 Cherokee County, Gaffney.

20 THE COURT: I just want to make a qualification to
21 that real quick.

22 MR. STITELY: Yes, sir.

23 THE COURT: Oftentimes people do a plea without
24 analysis, without maybe full discovery, but that's a
25 choice they make.

1 MR. STITELY: That's a choice they make.

2 THE COURT: All right.

3 MR. STITELY: But they would have to waive it.

4 THE COURT: Fair enough.

5 MR. STITELY: But in this case, I mean -- again,
6 Judge, if this was a time served plea, I understand the
7 situation where you're saying hey, don't worry, you've
8 been in jail for a month; if it's meth, it's meth.

9 THE COURT: You're right. I just wanted to make
10 sure that we had a little bit more context.

11 MR. STITELY: Yes, sir.

12 I tried a case in -- it's Cherokee, but maybe it's
13 Gaffney County.

14 THE COURT: Cherokee County is the town of Gaffney.

15 MR. STITELY: Yes. With Judge Mark Hayes and I had
16 filed a discovery motion, it was a jumped car case, and
17 we got to trial and my guy kept saying I don't want to
18 plea, they haven't given me these log books. We get to
19 trial and the log books are sitting there on the
20 Solicitor's table and I say, Judge, we couldn't resolve
21 this case before today because I haven't been able to go
22 through these log books. He suppressed them. Suppressed
23 everything that was recovered from the log books. Now a
24 lot of the content of it was referenced in reports, but
25 they did not produce them.

1 Your Honor, they produced the discovery in this
2 case before to today. I have everything -- I think have
3 everything. I got the last piece this morning when we
4 walked in here, but my problem is my client was
5 disadvantaged in the preparation of this case and finding
6 a possible outcome. As you know, we are here now on a
7 25-year mandatory, you don't get to do anything more or
8 less situation, when he was being forced to decide to plea
9 before I had the evidence.

10 Now we tried to resolve this case subsequently by
11 doing a plea that was shot down for whatever reason even
12 though we had reached an accord and, once again, that's
13 not necessarily part of this hearing, but it goes back
14 to my problem. My client was put in an impossible
15 situation to decide if he wanted to forego seven years
16 of his freedom without knowing that the State could prove
17 their case. And if he would have come to me and said Ben,
18 if I went to trial on May 22nd instead of plead guilty,
19 what happens and I say I win because I don't have the
20 drugs, that's a fact. Without it I win. But I want you
21 to plead guilty. It's an impossible situation.

22 I think that anything that was delivered past that
23 date should be suppressed. If that's the date that he
24 was being called in front of this Court to say I reject
25 or accept an offer, that's it. That's all the State gets

1 to do. Everything thereafter's suppressed.

2 Additionally, Your Honor, one of their smaller
3 caveat, I guess you can talk about that, there was one
4 interesting situation that kind of came up, Your Honor
5 hasn't seen it yet, we talked about it back in chambers,
6 the alleged drugs are found in a hidden spot let's put it
7 that way. As Detective Kennedy kind of said, you kind of
8 heard the -- within five, ten minutes they find everything
9 they want to find because he's already arrested within
10 ten minutes of them arriving on the scene. There was
11 another party who was present at the scene, a fourth
12 party, who is stopped, questioned and allegedly -- I say
13 allegedly because we only discovered this two weeks ago --
14 tells them exactly where they'll find drugs. He was not
15 provided to me with an opportunity to send an investigator
16 to go speak to this guy, to find out what his criminal
17 history is, to find out any preexisting relationships with
18 law enforcement, which is also in my discovery motion. I
19 make a very specific motion about all contacts, all offers,
20 all pleas, all everything, until two weeks ago and then
21 they follow up and they actually found the guy yesterday
22 or whatever and interviewed him. It's important because
23 this guy apparently tells them that there's drugs in the
24 house and to look here. Without it, and I don't know, we
25 may have to get into a whole hearing on it down the road

1 after we talk to them, but I don't know if they get into
2 this hidden drawer behind a wall without this key witness
3 who miraculously shows up two week before trial after my
4 client's been denied any opportunity to enter into
5 meaningful plea negotiations. I think it's important.

6 THE COURT: Okay.

7 MR. STITELY: It's all prejudice to my client
8 and that's really why we're here. It's not about
9 what's unfortunate for the State, it's my client who's
10 on trial, who has every right to due process and the
11 fairest possible outcome in this case. Just because
12 law enforcement doesn't make a report of something, which
13 they obviously had the knowledge of, that's a problem,
14 Judge, and it is -- and I think it's doubly so when I
15 keep talking about denying my client's opportunity to
16 choose if he wants to take an offered plea is knowing
17 what evidence is out there. I could very well have all
18 kinds of other arguments until the door is closed. Once
19 the door is closed through the discovery, I can tell my
20 client this is what in my legal experience I think is a
21 likely outcome, this is why you should enter a plea, this
22 is why you enter into plea negotiations, but without that
23 we're disadvantaged -- my client's disadvantaged and,
24 that's not fair.

25 And, Your Honor, I have if you want -- we can make

1 it a court exhibit, but I printed out every single --
2 because every time they give me discovery I get an e-mail,
3 of course, and then I get the Bate's stamped versions,
4 and you can look at the dates and times. A lot of this
5 stuff isn't even printed by the Solicitor's office until
6 after that date, so that's when it's provided to me. Some
7 are these are summaries, like recombining of things, but
8 if you look at Luke and I's binders, this is most of the
9 case and it all happened after the alleged plea date.

10 THE COURT: Okay. Anything else for the moment?

11 MR. STITELY: No.

12 THE COURT: Mr. Pincelli.

13 MR. PINCELLI: Thank you, Your Honor.

14 I think most of defendant's arguments for the
15 remedy are misplaced here. To start with, there is
16 no constitutional obligation that the State provide
17 any defendant with an offer ever. That is not a
18 constitutional right. So the argument to suppress any
19 -- any evidence that wasn't available then is just --
20 it's not a reasonable remedy to that. It may be an
21 argument for the plea offer to be reopened or something
22 similar to in relation to this specific offer, but
23 certainly suppression is not the remedy to the lacking
24 evidence during a plea offer.

25 I think the biggest point made was the drug analysis,

1 Your Honor. I don't feel the need at this moment to make
2 a Court's exhibit out of a personal e-mail between counsel,
3 but it was mentioned by Mr. Stitely, so I think we can
4 stipulate that one of the deadlines for Mr. Walker to
5 plead guilty was May 22nd of 2023. The drug analysis was
6 turned over on May 16th of 2023. Now it's not a huge
7 window, but it is before that plea deadline.

8 Your Honor, further, this indictment, this case that
9 we are trying, was not placed on a trial docket until
10 December 27th of 2023. No time between May 22nd, which
11 I said would be the deadline for plea, no time between
12 May 22nd and December 27th was there any discussion about
13 lacking discovery, wanting another plea, anything to do
14 with the case.

15 THE COURT: A point of clarification. You said
16 December 27th. You mean it was noticed. There was
17 obviously no trial docket on December 27th.

18 MR. PINCELLI: I'm sorry. Yes, Your Honor.

19 Judge McCaslin, as the chief administrative judge,
20 gave a trial order, a notice for trial, that this coming
21 week, you know, we would be the first on the docket and
22 that was from December 27th of 2023. So all that time
23 transpired before a trial order, and to maybe get into
24 the weeds, it's the policy of our office that any offers
25 are fully revoked once they're on a trial roster. Well,

1 that didn't happen until December. The drug analysis was
2 available before the initial deadline in May and was
3 certainly available before December 27th. And, again,
4 the appropriate remedy, even if something was not
5 available is not to suppress it for trial. Suppression
6 for trial should be limited to things that were too late
7 -- you know, provided too close to the time of trial,
8 which, again, if that wants to be the remedy for the
9 recent discovery related to the Tommy Newell -- just out
10 of an abundance of caution, if we could have a sidebar
11 before I make another argument on the record.

12 THE COURT: All right.

13 (Proceedings held at the bench; not reported.)

14 THE COURT: All right, Mr. Pincelli.

15 MR. PINCELLI: Your Honor, back on the record
16 following that sidebar, we had that conversation Your
17 Honor. I -- another point to rebut the arguments to
18 suppress any evidence in relation to it not being provided
19 before the plea offer, defendant did take place -- take
20 part in an interview with members of law enforcement.
21 I provided a copy for Your Honor to review to give you
22 context to the situation, but I believe that interview
23 demonstrates full knowledge of evidence that could be
24 used against defendant. Given that, I think the drug
25 analysis was in before that interview, along with all

1 the discovery. There was plenty of opportunity to see
2 what could be proven by the State before the deadline of
3 that plea offer.

4 And just to circle back to my initial point, the
5 defendant never has a right to a plea offer, and to the
6 extent they do, not having discovery at the time of
7 deadline, the appropriate remedy is not suppression for
8 discovery at trial.

9 THE COURT: Okay. Mr. Stitely, any reply?

10 MR. STITELY: And, I guess, in the limited -- and I
11 don't necessarily disagree with Mr. Pincelli that no one's
12 entitled to a plea offer. The Supreme Court has said it is
13 a professional -- when they're talking about professional
14 standards, it is the obligation of a solicitor to involve
15 in what she called meaningful, and then Justice Beatty has
16 gone on to say, meaningful plea negotiations in every case.

17 So whether or not it's a legal requirement, our
18 Supreme Court has said it is your job as a prosecutor to
19 engage in meaningful plea negotiations.

20 THE COURT: It's also a case by case analysis.

21 MR. STITELY: Of course, Judge.

22 THE COURT: I mean, sometimes --

23 MR. STITELY: Murders are murders. I get it.

24 THE COURT: Well, also -- I'm sorry. I'm not trying
25 to delay here, but, I mean, there are times when people

1 want to get out of a plea offer as well. It just depends
2 on a case by case basis.

3 MR. STITELY: And, Your Honor, the other thing, and,
4 once again, I just want to put it on the record so it's
5 on the record to protect my client and protect me later,
6 protect any PCR issues down the road, whenever the e-mail
7 did come out about a potential trial roster for this
8 calendar year, in the reply to -- I believe it was Deputy
9 Solicitor Mayes, I don't know if you were on the e-mail
10 chain or not with McCaslin, I even said I still think that
11 Mr. Pincelli and I are gonna work this case out. At that
12 time we did come to your office I believe shortly after
13 and engaged in a conversation kind of laying out a couple
14 of legal problems, you know, a legal situation, saying --

15 THE COURT: I think that was in late December; is
16 that right?

17 MR. STITELY: Late December, early January. Still
18 two months ago, a month and a half ago. Mr. Pincelli
19 and I attempted to reinitiate some plea negotiations and
20 I do think we have an accord. I actually forwarded to
21 my client with what I believed to be the new extended
22 offer. We accepted it, actually put on the docket, a
23 plea date to be done in January in front of Judge Keesley,
24 it was -- whatever that Tuesday was, the 19th-ish or
25 something like that. I have -- and I can make a Court's

1 exhibit if we need the text chain from both me and Mr.
2 Pincelli and then me and my client confirming that date
3 and then shortly before it, I think the Wednesday before
4 it, Tuesday or Wednesday before that week, I was informed
5 the offer was no longer valid, we had a small status
6 conference in front of Judge McCaslin. Of course, she
7 was not an active participant in the plea negotiations or
8 anything, and then after that status conference I received
9 a call that the offer was, in fact, dead; there would be a
10 separate higher offer made, which I relayed to my client,
11 which he did not want to take.

12 THE COURT: Just to be clear, regarding the status
13 conference you-all had with Judge McCaslin, the finding
14 of that was --

15 MR. STITELY: We didn't have a hearing. We just
16 talked in her office.

17 THE COURT: Okay.

18 MR. STITELY: No, we just kind of discussed it and
19 kind of waited it out because we didn't know who was gonna
20 be trying the case this week. But, again, I know that
21 the concept is the State's not bound to any offers they
22 make, but when you have an offer and acceptance in writing
23 -- Your Honor, if it was a civil case, I'd say we had an
24 offer and an acceptance in writing. It's a tough position
25 and I just want to make sure that's out there so if that

1 comes back down the road, I had my client in agreement
2 with the lowered plea that he was ready to take and we
3 were set to show up in front of Judge Keesley before it
4 was pulled out from under us, so. And, once again, I'm
5 not implying that it had anything to do with --

6 THE COURT: Since you're making a record, the plea
7 also -- there was an additional offer made that was not
8 acceptable?

9 MR. STITELY: Yeah, fifteen.

10 THE COURT: Okay.

11 MR. STITELY: So they offered -- we went back to the
12 seven to twenty-five with the understanding that the plea
13 would be taken by Judge Keesley, sentencing could be
14 deferred to allow my client -- he's sixty-three, has no
15 record, to -- he's in the process of selling his house,
16 to do that, put him on a monitor after acceptance of the
17 plea to come back in front of whatever judge, either
18 Judge Keesley or someone else, in two months, give or
19 take, to be sentenced. Of course, if he didn't play
20 nice while he was waiting, the judge could light him
21 up or if he did he could go with -- I don't think the
22 Solicitor was at that point negotiating the seven, but
23 wasn't gonna fight with me if I asked for the seven.
24 But that -- and we accepted that, Your Honor, and then
25 we were told it was unoffered.

1 THE COURT: Okay. All right. Anything else?

2 MR. PINCELLI: Your Honor, to the extent that we're
3 now talking about how the sausage is made --

4 THE COURT: Well, yeah.

5 MR. PINCELLI: -- these are very informal
6 conversations.

7 THE COURT: Any specific response to Mr. Stitely's
8 motion?

9 MR. PINCELLI: Not to the motion, Your Honor. I
10 just don't think any of that should really be taken into
11 account.

12 THE COURT: I wanted to allow Mr. Stitely to make a
13 further record.

14 MR. PINCELLI: Thank you, Your Honor.

15 THE COURT: All right. On the basis of the
16 discovery motion that was made, I will not dismiss the
17 case or suppress any of the additional discovery. I
18 believe, regarding phone records, the State has already
19 indicated they don't intend to offer them and as far as
20 -- we didn't get into too much of the super specific
21 stuff, but generally in the course of attorneys, the
22 State, preparing for trial, there are usually things that
23 are turned over. I don't -- I didn't hear anything today
24 that strikes an unfair amount of prejudice toward the
25 defendant and I'll deny the motion to suppress any of

1 that discovery that's occurred in the month of December
2 leading up to two weeks ago, okay?

3 What's next?

4 MR. STITELY: I think that's all I have, Judge.

5 MR. PINCELLI: Your Honor, we touched briefly on
6 it in chambers, and it's not necessarily something that
7 needs to be handled today, next week is trial. I would
8 move to either remand bond or place the defendant on an
9 ankle monitor for the duration of trial.

10 THE COURT: Well, that will come up once the jury
11 has been sworn and we'll cross that bridge when we get
12 there, but as of now he's on bond. And I have no idea
13 what those bond conditions are.

14 Is he wearing monitor now?

15 MR. STITELY: He's not, Judge. He -- he wore one
16 for the first year or so, but he's been out.

17 THE COURT: Okay. Needless to say he's on bond now
18 and his bond will not alter until the jury is sworn.
19 Obviously if he were to not show up Tuesday, we would
20 move on and try him in his absence, I'll go ahead and
21 let you know that now, and I will consider -- take into
22 consideration his behavior while out on bond and the
23 charges as far as whether remand or something in between
24 is appropriate for whenever we swear the jury, okay?

25 I anticipate we'll swear the jury Tuesday afternoon.

1 We've got a lot going on in a short amount of time.

2 Anything else from the State?

3 MR. PINCELLI: Your Honor, there was -- we touched
4 on third-party guilt. I don't believe I've gotten the
5 impression that the defendant plans on calling any
6 individuals for those third parties. If that were the
7 case, we would need to, I believe, provide attorneys,
8 read rights, go through any of that before any proffered
9 testimony if that were to be the case.

10 MR. STITELY: I agree, Your Honor. I think they're
11 under subpoena, the other individuals who were present at
12 the time. I don't know if Tommy is as well.

13 MR. PINCELLI: I can't attest that all of them are
14 under subpoena right now. I do not plan on calling them,
15 but -- so I believe this would be a defense issue. If he
16 wants to call anybody, I believe it would be a violation
17 of third-party guilt, depending on the testimony, we would
18 need to proffer it and certainly they would need to have
19 attorneys and be advised of their rights before testimony.

20 THE COURT: You're talking about for his case in
21 chief?

22 MR. PINCELLI: That's correct.

23 THE COURT: Okay. Well, I would just ask Mr. Stitely,
24 depending upon whatever you decide is appropriate legal
25 strategy, we will try to have a little bit of discussion

1 before we put up any witnesses. It may be --

2 MR. STITELY: Judge, I'll list them as potential
3 witnesses whether or not we can find them and get them
4 here. We can absolutely do a proffer before they go up.

5 THE COURT: Okay. Fair enough.

6 MR. STITELY: And he's right. What he's saying
7 though is if we bring them here we need to at least
8 have one of the PD's if they don't have pending charges
9 here so they can advise them that they always have their
10 rights, too, but we can find one in the building.

11 THE COURT: Why don't we try to find --

12 MR. STITELY: Judge, I'll tell you, this is
13 interesting because we had a murder trial in Richland and
14 the Solicitor called someone to the stand and they wanted
15 him to admit to something and we're like well, where's
16 his lawyer, so they went and got a PD and the PD's like
17 he's not gonna say anything because he's got a pending
18 case. So they have to have a right to be advised that
19 they can potentially --

20 THE COURT: I would just ask that we try to get a
21 little bit ahead and maybe communicate and have a public
22 defender or someone who can --

23 MR. STITELY: If it even becomes an issue.

24 THE COURT: -- be a standby person.

25 MR. PINCELLI: Right. Because I think my main

1 concern and, again, I think we'll get well ahead of it,
2 my main concern would be somebody being called to the
3 stand for either the purpose or the result being only to
4 invoke their right to silence. I think that would be
5 inappropriate.

6 THE COURT: Okay. Fair enough.

7 All right. Thank you-all for being available today.
8 It helps move things along for Tuesday.

9 (Whereupon, the proceedings were concluded at
10 12:24 PM.)

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State of South Carolina)
) Court of General Sessions
County of Lexington)
 2023-GS-32-1924, 1925

State of South Carolina)
) vs.) Transcript of Record
)
)
Clint Walker)
) Defendant)

February 20-21, 2924
Lexington, South Carolina

B E F O R E:

Honorable Walton J. McLeod, IV; Judge

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

Luke Pincelli, Assistant Solicitor
Player Long, Assistant Solicitor
Attorneys for the State

Benjamin Stitely, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

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 (DW) - Denotes Defense Witness
 (SW) - Denotes State's Witness

(SW) Tyler Kennedy

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(SW) Austin Sanner

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(SW) Sandra Black

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1 THE COURT: Alright, ladies and gentlemen, we are
2 ready to select the jury for our first case. Is the State
3 ready to call the first case?

4 MR. PINCELLI: The State is ready, Your Honor.

5 THE COURT: The State can call its first case.

6 MR. PINCELLI: Your Honor, the State calls, the State
7 of South Carolina versus Clint Arthur Walker. Indictment
8 number 2023-GS-32-01924 for trafficking methamphetamine,
9 400 grams or more. And an indictment ending, 1925 for
10 possession of a pistol during a violent crime.

11 THE COURT: Alright. Do you have a copy for me.
12 Alright, ladies and gentlemen, the indictments provides as
13 follows. First indictment for trafficking
14 methamphetamine. That the Defendant, Clint Arthur Walker,
15 did in Lexington County on or about the 27th of January,
16 2022 knowingly and intentionally, willfully and unlawfully
17 sell, manufacture, cultivate, deliver, purchase, bring
18 into this State for attempt or conspire to sell,
19 manufacturer, cultivate, deliver or bring into this State,
20 and was in actual or knowing and intentionally and actual
21 possession of methamphetamine in violation of South
22 Carolina law.

23 Further, the second indictment, possession of a
24 firearm during the commission of a violent crime states
25 that Mr. Walker did on about the same date, January 27th

1 of 2022, possess a firearm during the commission of a
2 violent crime; specifically a .22 caliber North American
3 arms pistol in violation of South Carolina law.

4 Now the indictments charge the Defendant with
5 trafficking of methamphetamine and possession of a weapon
6 during the commission of a violent crime. I remind you,
7 the fact that a Defendant was arrested, charged and
8 indicted in this case is not evidence in this case and
9 cannot be considered by you as evidence of guilt in this
10 case; nor does it create any presumption or inference of
11 guilt. This document is simply the formal written
12 instrument that contains the charges made against the
13 Defendant. It is the formal document by which this case
14 is brought into this courtroom. Now the Defendant has
15 plead not guilty to this indictment. And that puts the
16 burden on the State to prove the Defendant guilty. A
17 person charged with committing a criminal offense in South
18 Carolina is never required to prove himself innocent no
19 matter what the seriousness of the charge may be, the
20 Defendant will always be presumed to be innocent of the
21 crime for which the indictment was issued unless guilt has
22 been proven by evidence satisfying you of that guilt
23 beyond a reasonable doubt. Now I have several questions
24 to ask you at this time. Let me allow the attorneys to at
25 least stand up and introduce themselves to you at this

1 time.

2 MR. PINCELLI: Good morning, my name is Luke
3 Pincelli. I am Assistant Solicitor here in the Eleventh
4 Circuit. Again, that is Lexington, Edgefield, McCormick
5 and Saluda. I work for the elected Solicitor, Rick
6 Hubbard. My trial consists of this week will be myself
7 and Player Long, another attorney in our office. Our lead
8 investigator is Tyler Kennedy with the Sheriffs
9 Department; and my paralegal, Jada Hood.

10 MR. STITELY: My name is Ben Stitely. My office is
11 the one right there across the corner, William, Stitely
12 and Brink. I represent Mr. Walker.

13 THE COURT: Alright, ladies and gentlemen, has
14 anyone, first of all, with all of these questions, there
15 is no wrong answer to these responses. If you don't hear
16 the question let me know. But if anything I ask applies
17 to you please stand up and give your jury number and then
18 we will decide how the question applies to you. Okay. Is
19 there anyone on this jury panel related by blood or
20 marriage or have a close, business or social relationship
21 with the Defendant in this case, Mr. Clint Walker, Clint
22 Arthur Walker. If so please stand.

23 (No response.)

24 THE COURT: The following is a list of possible
25 witnesses in this case. Tyler Kennedy, Lexington County

1 Sheriffs Department; Stephen Finley of the Sheriffs
2 Department; John Gietz of the Sheriffs Department; Austin
3 Sanner from the Sheriffs Department; Mike Burke from the
4 Sheriffs Department; Brian Zwolak from the Sheriffs
5 Department; John Donnelly from the Sheriffs Department;
6 Keith Browning from the Sheriffs Department; Sandra Black
7 from the Sheriffs Department; Doug Edmonson from South
8 Carolina Law Enforcement Division; Christine Dadabo, South
9 Carolina Law Enforcement Division; Hannah Jefferson from
10 South Carolina Law Enforcement Division; Thomas Alvin
11 Smith from South Carolina Law Enforcement Division;
12 Maribeth McCormack also from the South Carolina Law
13 Enforcement Division; Michael Sharpe, Carmen Cruz, Tommy
14 Noell and Adam Hardin of the Drug Enforcement Agency. Now
15 is there anyone related by blood or marriage or have a
16 close, personal, business or social relationship with any
17 of the potential witnesses I have just called out. If so
18 please stand.

19 Yes sir, your number?

20 JUROR: 244.

21 THE COURT: Who do you know on that witness list?

22 JUROR: I worked with Mike Burke and with Sandra
23 Black at the sheriffs office.

24 THE COURT: In the past?

25 JUROR: In the past.

1 THE COURT: Okay. The fact that you know there are
2 people who work at the sheriffs office, would that affect
3 your ability to be a fair and impartial juror?

4 JUROR: No sir, it don't.

5 THE COURT: Very well. Thank you. Be seated.
6 Anyone else?

7 (No response.)

8 THE COURT: The attorneys in this case, Mr. Pincelli,
9 Mr. Player Long and Mr. Ben Stitely; does anyone have a
10 close, personal, business or social relationship or been
11 represented by any of them in the past. If so please
12 stand.

13 Yes sir, your number.

14 JUROR: 110, sir.

15 THE COURT: And who do you know?

16 JUROR: Player Long.

17 THE COURT: And how do you just know him, as a friend
18 or?

19 JUROR: High school officiated and I worked with him
20 before.

21 THE COURT: Okay. Would the fact that you worked
22 with him in the past, would that affect your ability to be
23 a fair and impartial juror?

24 JUROR: No, sir.

25 THE COURT: Very well. Thank you. Anyone else?

1 (No response.)

2 THE COURT: Is there any member of this jury panel a
3 member of the Grand Jury that indicted this case.

4 (No response.)

5 THE COURT: Is there any member of this jury panel,
6 who is a member or contributor to any group which has as
7 its primary concern with the promotion of law enforcement
8 or victim's rights. These groups would include, certainly
9 not be limited to, MADD, SADD or CAVE. If so please
10 stand.

11 (No response.)

12 THE COURT: Is there any member of this jury panel
13 aware of any biased or prejudiced toward either the State
14 or the Defendant in this case.

15 (No response.)

16 THE COURT: Has any member of this jury panel formed
17 or expressed an opinion about any issue or a matter
18 involved in this case.

19 (No response.)

20 THE COURT: Is there any member of this jury panel
21 know of any reason whatsoever why he or she should not
22 serve as a juror in this case with particular emphasis
23 being placed on your ability to be fair and impartial to
24 both the State and the Defendant.

25 (No response.)

1 THE COURT: Okay. Any other voir dire from Counsel?

2 MR. STITELY: None from the Defendant.

3 MR. PINCELLI: None from the State, Your Honor.

4 THE COURT: Alright. The Clerk of Court will
5 tabulate a list of potential jurors, strikes are five and
6 five. Counsel, give us one alternate?

7 MR. STITELY: Yes, sir.

8 MR. PINCELLI: One alternate. Yes, Your Honor.

9 THE COURT: Alright, one alternate. Ladies and
10 gentlemen, what we will do at this time is we are just
11 putting together a random list of potential jurors. They
12 will take a minute or two and we will get going with jury
13 selection, we will continue with jury selection.

14 Okay, Madam Clerk.

15 CLERK OF COURT: I will call you by your juror
16 number. If you could please come up to the front, stand
17 at this podium right here and face the gallery. And then
18 we will let you know whether or not you are seated on the
19 jury or have to go back to your seat.

20 Juror number 155. What says the State?

21 MR. PINCELLI: Please seat the juror.

22 CLERK OF COURT: The Defense?

23 MR. STITELY: Please swear the juror.

24 CLERK OF COURT: Please take a seat in the jury box.

25 Number 125. What says you for the State?

1 MR. PINCELLI: Please seat Ms. Hinson.

2 CLERK OF COURT: The Defense?

3 MR. STITELY: Please swear the juror.

4 CLERK OF COURT: Please take a seat in the jury box.

5 Jury number 126. What say you the State?

6 MR. PINCELLI: Please seat Mr. Hite.

7 CLERK OF COURT: What say you the Defense?

8 MR. STITELY: Please swear the juror.

9 CLERK OF COURT: Please take a seat in the jury box.

10 Juror number 290. What say you for the State?

11 MR. PINCELLI: Please seat Mr. Williams.

12 CLERK OF COURT: The Defense?

13 MR. STITELY: Please swear the juror.

14 CLERK OF COURT: Please take a seat in the jury box.

15 Juror number 196. What say you for the State?

16 MR. PINCELLI: Please seat Mr. Peagler.

17 CLERK OF COURT: The Defense?

18 MR. STITELY: Please swear the juror.

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

20 Juror number 242. What say you for the State?

21 MR. PINCELLI: Please seat Ms. Spanko.

22 CLERK OF COURT: The Defense?

23 MR. STITELY: Please swear the juror.

24 CLERK OF COURT: Please take a seat in the jury box.

25 Juror number 2. What say you for the State?

1 MR. PINCELLI: Please seat Ms. Adkins.

2 CLERK OF COURT: The Defense?

3 MR. STITELY: Please swear the juror.

4 CLERK OF COURT: Please take a seat in the jury box.

5 Juror number 123. What say you for the State?

6 MR. PINCELLI: Please seat Ms. Heywood.

7 CLERK OF COURT: What say you for the Defense?

8 MR. STITELY: Please swear the juror.

9 CLERK OF COURT: Please take a seat in the jury box.

10 Juror number 192. What say you for the State?

11 MR. PINCELLI: Please seat Mr. Parker.

12 CLERK OF COURT: What say you for the Defense?

13 MR. STITELY: Just one moment. We ask what Agency,
14 the Federal Government. We just ask which Agency.

15 THE COURT: Sir, what Agency are you in?

16 JUROR: Housing Development.

17 MR. STITELY: Please seat the juror.

18 CLERK OF COURT: Please take a seat in the jury box.

19 Juror number 244. What say you for the State?

20 MR. PINCELLI: Please seat Mr. Spence.

21 CLERK OF COURT: The Defense?

22 MR. STITELY: Please excuse the juror from the trial
23 of the case.

24 CLERK OF COURT: Have a seat back in the gallery,
25 sir.

1 Juror number 287. What say you for the State?

2 MR. PINCELLI: Please excuse Mr. White.

3 CLERK OF COURT: Please take a seat back in the
4 gallery.

5 Juror number 298. What say you for the State?

6 MR. PINCELLI: Please seat Ms. Woodard.

7 CLERK OF COURT: The Defense?

8 MR. STITELY: Please swear the juror.

9 CLERK OF COURT: Please take a seat in the jury box.

10 Juror number 232. What say you for the State?

11 MR. PINCELLI: Please excuse Mr. Sleeter.

12 CLERK OF COURT: Please take a seat back in the
13 gallery.

14 Juror number 93. What say you for the State?

15 MR. PINCELLI: Please seat Mr. Garner.

16 CLERK OF COURT: The Defense?

17 MR. STITELY: Please swear the juror.

18 CLERK OF COURT: Please take a seat in the jury box.

19 Juror number 233. What say you for the State?

20 MR. PINCELLI: Please seat Mr. Slifka.

21 CLERK OF COURT: The Defense?

22 MR. STITELY: Please swear the juror.

23 CLERK OF COURT: Please take a seat in the jury box.

24 And one alternate, Your Honor?

25 THE COURT: Yes.

1 CLERK OF COURT: Juror number 152. What say you for
2 the State?

3 MR. PINCELLI: Please seat Mr. Lahrman.

4 CLERK OF COURT: The Defense?

5 MR. STITELY: Please swear the juror.

6 CLERK OF COURT: Please take a seat in the jury box.

7 THE COURT: Alright, any issues with jury selection?

8 MR. STITELY: Can we approach?

9 THE COURT: Yes.

10 (Whereupon, a bench conference was held in the
11 presence of the jury panel but out of the hearing of
12 the jury panel.)

13 MR. STITELY: Judge, for the record I think we had a

14 --

15 THE COURT: Hold on.

16 MR. STITELY: You asked about the jury question.

17 THE COURT: I know.

18 MR. STITELY: We resolved it at the bench.

19 THE COURT: Very well, very well. We can make for
20 the record later.

21 Alright, ladies and gentlemen, thank you again. You
22 are chosen to be our jury on our first trial which will
23 begin this afternoon. Okay. I will let the jury take a
24 break, I have got two other ones to pick now. Juror
25 number 196, would you be willing to serve as the Foreman

1 of the jury?

2 JUROR: Yes, sir.

3 THE COURT: Alright. Thank you. We are going to
4 start this case at 3:30 this afternoon and we will kick
5 off with opening statement then. I have got a variety of
6 things I have got to do between now and then on various
7 different matters. But the Bailiff will take you back to
8 the jury room, kind of give you the lay of land around
9 here and then you will have a nice three and a half hour
10 lunch. Okay. We will get started, we will do openings,
11 we will continue with the trial in the morning. Just a
12 little bit you need to know. You haven't heard any
13 evidence in this case. What you heard in the indictment
14 is not evidence. All the evidence in this case will come
15 from this witness stand. So don't do any independent
16 research of the case, of the law, of the names you have
17 heard. Please come back this afternoon at 3:30 with an
18 open mind. Don't discuss this case amongst one another or
19 anyone else in this Court House. Okay. Everything you
20 need to hear will come from this courtroom, please don't
21 discuss it with anyone, family, friends, otherwise. But
22 have a nice lunch, Mr. Foreman, and we will see y'all back
23 here. If you can take them back to the jury room and let
24 them know where it is and we will see you in there by 3:30
25 and we will start shortly thereafter and get some work

1 done this afternoon. Okay. Thank you.

2 (Whereupon, the jury was excused from open court.)

3 MR. PINCELLI: We will be back around 3:30.

4 THE COURT: I will let you know when we finish with
5 the other juries.

6 (Whereupon, a break in the case to pick a jury for
7 another case.)

8 (Whereupon, the case will start the next morning,
9 February 21, 2024.)

10 THE COURT: We ended up being here in pretrial
11 yesterday to about 4:45. So it was never going to work
12 out.

13 Mr. Stitely, any updates on your client?

14 MR. STITELY: Well, I spoke to my client's sister
15 who, so I would let them know. I told them yesterday that
16 we were starting at 3:30 and then I sent a message that
17 said that we were not starting until 9:00 o'clock. As far
18 as I know his sister is coming. I ask her to notify all
19 family members including my client.

20 THE COURT: Okay.

21 MR. STITELY: I have notified him appropriately.

22 THE COURT: Very well.

23 MR. STITELY: If he does not show up at the time I
24 will make a motion to continue, an opportunity to find my
25 client.

1 THE COURT: Sure. Well, the record will also reflect
2 that we met here Friday afternoon or Friday morning in
3 pretrial and Mr. Walker was here. And I personally
4 informed him that he was number one for trial. Tuesday
5 morning, after the three day weekend and I think at the
6 time we were talking about potential bond issues once the
7 jury was sworn. At the time he has been out on bond for,
8 I guess, for close to two years, had no issues and didn't
9 have a prior record. So I didn't really foresee an issue
10 on the remand portion.

11 MR. STITELY: That is his family, Judge.

12 THE COURT: Okay. So anyway, the bottom line he was
13 noticed by his attorney and by the Courts. We will
14 proceed forward. The only other pretrial matter, I know
15 we talked about the search warrant stuff. I was trying to
16 find the balance medium between both arguments. But just
17 for the purpose of, Mr. Stitely, on cross you certainly
18 may, the fact that there are multiple people in the house
19 at the time of the search. I don't want a direct
20 reference to probable cause. I have already found the
21 search warrant was proper. Okay. And I don't want a
22 direct reference to Mr. Sharpe being someone who purchased
23 from a confidential informant at this time.

24 MR. STITELY: And, Judge, here is my problem with
25 that.

1 THE COURT: Okay.

2 MR. STITELY: Let me just explain. So the jury is
3 going to hear that they had a search warrant for the
4 house. That implies they knew something was happening at
5 the house, one way or another. I should have a right to
6 tell or ask why they got that search warrant. And it was
7 because two buys were made from an individual, not my
8 client, at the residence. And that person was there when
9 they executed the search warrant, a roommate at the house.

10 THE COURT: An individual but not necessarily Mr.
11 Sharpe.

12 MR. STITELY: He was the roommate who they purchased
13 it from.

14 THE COURT: Right.

15 MR. STITELY: Because here is my problem, Judge,
16 pretend you are sitting in the jury. And they, well, we
17 are searching that house because we had good reason to.
18 The jury can infer all kinds, why they were in the house.
19 I think I have a right to say exactly what was the
20 contents of the probable cause and that was Mr. Sharpe did
21 two sales in that house. And then I could say, and Mr.
22 Sharpe was located in that house the day you executed the
23 search warrant; or else you are putting it out there, it
24 is kind of like when you have a client brought in in
25 custody they know something had happened already. And if

1 you say, well we were there executing a search warrant the
2 jury is able to infer without me getting into why that
3 something had already happened there. I think that is a
4 problem for me and I think creates an unfair prejudice
5 that I have the opportunity to correct. And once again, I
6 will limit it very specifically. I am guessing they are
7 going to put up Officer Kennedy. You executed two control
8 buys from a Mr. James Sharpe at that residence and that is
9 why you got a search warrant. That is what is in the
10 document, I am not going to ask it any further than that.
11 But I will say, you executed two buys from a Mr. Sharpe
12 from that residence and that was the probable cause that
13 you presented to get your search warrant. That is all I
14 want to get, that is all I will say on that front. But I
15 think it is fair to tell the jury what the probable cause
16 was or else there is an inference it could have been
17 something my client did at that house that gave them the
18 ability to search his house. And that is just relying on
19 people watching enough TV shows now, you can't just
20 randomly walk into someone's house without a reason, you
21 have to get a warrant. And I think I have the absolute
22 right to say this was, in the four corners of your
23 document exactly what your reason was.

24 THE COURT: Okay. Mr. Pincelli.

25 MR. PINCELLI: Judge, I mean I appreciate you hearing

1 everybody out. I believe you made the ruling. Just as
2 far as the probable cause, I think it is fair to say this
3 is a probable cause search warrant for a residence for a
4 location. And then it tees out, everybody else that was
5 at that location. I think it is completely inappropriate
6 for the reasons set forth in my email to Your Honor along
7 with case law. I think it confuses the issue to the jury
8 to talk about any matter of law like probable cause for a
9 search warrant that has already been ruled on. I think it
10 confuses the issues because it is different isolated
11 incidents, different person, different sale, not
12 necessarily the same location of drugs or anything like
13 that. And I think it is fair cross-examination to say
14 that the search warrant was for the house and not for any
15 individual. As far as prejudice, because the jury is
16 going to assume that something happened. Well, Mr.
17 Stitely's client is on trial for trafficking
18 methamphetamine. The jury is going to assume something
19 happened anyway. So I don't think that is a compelling
20 point to be able to bring up all of this confusing issues
21 to the jury.

22 MR. STITELY: But he is on trial for trafficking for
23 things that resulted from the search warrant. There is
24 the obvious nexus the jury gets to wonder why were you
25 searching the house to begin with. I think I have a right

1 to flush that out.

2 THE COURT: Okay. Alright. Well, I have heard from
3 both sides. My ruling is that, Mr. Stitely can make
4 reference, there were other people there on
5 cross-examination. But I rule it is a lawful search for
6 it and the specifics of the probable cause, I don't
7 believe are necessary for the jury. You have made a good
8 record on your opinions but that is my ruling. Also, I
9 would like to be clear, I do believe that there is an
10 issue for confusion here should the jury hear the
11 specifics about probable cause. We will move on,
12 otherwise are we ready to proceed?

13 MR. PINCELLI: Your Honor, one quick matter. The
14 State, we spoke about this a little bit in pretrial.
15 Discovery on the supplement regarding a traffic stop
16 during the search warrant, a conversation with Tommy
17 Noell. He did make reference to where drugs may be found
18 in the residence. We have no intention of calling Mr.
19 Noell. I believe any, you know, if we directed, if I
20 listened to testimony based on what he said that would be
21 hearsay. Just based on opening the door I don't know and
22 I am not asking Mr. Stitely what questions might be asked
23 but the State's theory is they go in and search the house
24 and they find drugs. Where are or exactly how they found
25 them, just through the course of their investigation. If

1 anybody is pressured as to how did they know to go
2 somewhere, I don't know if that opens the door to them
3 finding it out somewhere else. But I just want to make
4 sure that we know where the doors are and what lines to
5 cross or not cross.

6 MR. STITELY: Oh, I am one-hundred percent intend to
7 bring up the fact that Mr. Noell knew exactly where the
8 drugs were. I one-hundred percent intend to bring that
9 out. He tells the police officers where to look. He knew
10 where drugs were. I intend to bring that up, he was
11 present and he knew where the drugs were.

12 THE COURT: How does that open the door to anything
13 else?

14 MR. PINCELLI: If they ask on cross I don't know how
15 my, my Investigator's respond without getting into
16 hearsay.

17 THE COURT: If you ask on cross, I mean, and Tommy, I
18 forgot his last name. He was there, what was his
19 location?

20 MR. STITELY: He pulls out as they were kind of
21 rolling in and they stopped him. Your Honor, have you
22 seen the report. Anyway it is a report, it looks like
23 Sanner took a report, at least there is one copy we can
24 talk about it. And I have always, in my cases, been able
25 to say to the case agent, whoever they put up, if they put

1 up one. You were the case agent on this case. Yes. You
2 are in charge of reviewing of all of the reports, full
3 investigation, you are aware of all the supplements
4 involved in your case. This is a Lexington County
5 supplement. It would have been part of your case. He
6 could speak to it, if he doesn't have personal knowledge,
7 it indicates that Officer Sanner wrote it. He is sitting
8 right there.

9 THE COURT: Okay. I think, I guess you can approach,
10 object, depending on where it goes. But I mean, as far as
11 how they got to that specific part of the house, I think
12 that is fair for cross-examination to a certain extent.
13 But --

14 MR. PINCELLI: To emphasize my argument, Judge, I am
15 just, I am not sure where we draw a line of what calls for
16 hearsay. We have the investigating officer that spoke
17 with them, he can sit through the course of the
18 investigation. I just want to make sure we are not
19 crossing any lines unduly just based on a
20 cross-examination question.

21 THE COURT: I suspect if there will be a question
22 from your side, direct, that Mr. Stitely probably wouldn't
23 object to it because he wants it known. But at the end of
24 the day I don't think that negates or prejudiced the
25 State's ability to prove dominion and control of the

1 Defendant in this case based upon other circumstances. So
2 I just kind of have to weigh them all together. I think
3 it is not confusing, I think that's a part of the
4 investigation that that occurred at the scene and it is
5 worth at least someone having the right to bring it up, at
6 least in part. Okay.

7 MR. PINCELLI: Thank you, Your Honor.

8 THE COURT: Do y'all need about an hour for openings?

9 MR. STITELY: Two.

10 MR. PINCELLI: I was going to say maybe about eight
11 minutes. The other thing, I don't know if we would handle
12 it now or at the conclusion of trial but there is concerns
13 from law enforcement that based on the maximum, or even
14 minimum sentence for this, should there be a conviction in
15 this trial, that any amount of head start Mr. Walker might
16 have for leaving the State is a concern.

17 THE COURT: Well, in other words you are asking for a
18 bench warrant?

19 MR. PINCELLI: Yes I am, Your Honor.

20 THE COURT: Great. Anything else?

21 MR. PINCELLI: Nothing from the State, Your Honor.

22 MR. STITELY: Just on my position and I understand,
23 it shouldn't be issued for clarification. I think you can
24 issue a rule to show cause with a bench warrant to pick
25 someone up for violating a condition of their bond. But

1 you have the absolute right to attend or not attend your
2 trial, that you can't be held accountable for. You can
3 issue, this is a bond argument, legal cycle. One of the
4 conditions of your bond is to appear as required. So a
5 Judge can issue a rule to show cause for violation of
6 one's bond. I believe that is always the way we should do
7 it. I have a big problem, generally speaking, say someone
8 doesn't come to a second appearance. You have no
9 obligation in the State of South Carolina whatsoever or
10 any State in this Country to attend your own trial.

11 THE COURT: Okay. Alright. Well, I thought you were
12 about to say appearances.

13 MR. STITELY: No, no. That is a bond condition. But
14 what should not happen, you should not issue a bench
15 warrant on the charge. A Judge should issue a rule to
16 show cause with a pickup order, a bench warrant --

17 THE COURT: What is the amount of bond?

18 MR. STITELY: \$25,000.00.

19 THE COURT: How much?

20 MR. STITELY: \$25,000.00. It should be and this is
21 just a legal general problem with the situation. You are
22 innocent until proven guilty, you have no obligation to do
23 anything. You have an obligation of your bond which can
24 be ruled in by a Judge.

25 THE COURT: Prepare the warrant for me to sign. I

1 will not sign it yet because I just want to get started.

2 MR. STITELY: Yes, sir.

3 THE COURT: And we will talk about it, whether it
4 gets issued now or seven hours from now, at the end of the
5 day. He might show up too.

6 MR. STITELY: I think you can issue a warrant to pick
7 someone up for violating their bond. I just don't think
8 it should be a bench warrant on the charges because there
9 is no constitutional obligation to attend your own case.

10 THE COURT: It could be a bond --

11 MR. STITELY: Yes, I think that you can do, Judge.

12 THE COURT: Okay. Alright.

13 MR. PINCELLI: Outside of those legal matters, Your
14 Honor, I think we might be able to streamline things if me
15 and Mr. Stitely had just a few minutes to go over some
16 pictures before they are admitted and then we will be
17 ready to go.

18 MR. STITELY: I don't think there will be an
19 objection. Make sure we have the numbers.

20 MR. PINCELLI: They were prenumbered but I didn't
21 know what we were going to do.

22 (Whereupon, the attorneys go over exhibits.)

23 MR. STITELY: Judge, we are not going to have any
24 objections to any of the pictures as long as they
25 establish a foundation. I don't know who took them, did

1 Kennedy take them?

2 MR. PINCELLI: We are not planning on calling the
3 individual who took the pictures. There are like 30
4 people on scene. But our lead investigator was present
5 and looked at all the items.

6 THE COURT: They are from the scene?

7 MR. PINCELLI: They are from the scene.

8 THE COURT: Well, make the foundation as you see fit.
9 Don't rely on me. Alright. Are you ready to bring them
10 in, Mr. Pincelli?

11 MR. PINCELLI: Could I have just two minutes?

12 THE COURT: Two minutes, yes.

13 (Whereupon, a short break was taken.)

14 MR. PINCELLI: Alright, Your Honor.

15 THE COURT: Mr. Stitely, are you ready to proceed,
16 sir?

17 MR. STITELY: Yes, sir.

18 THE COURT: Let's bring the jury.

19 (Whereupon, the jury came into open court at
20 approximately 9:20 a.m.)

21 THE COURT: Okay. Mr. Foreman and ladies and
22 gentlemen, welcome back. I hope you had a nice evening,
23 we are ready to begin the trial of the case of the State
24 versus Clint Walker. And I have some opening remarks for
25 you but before I do that I will ask the Clerk at this time

1 to swear you in.

2 (The jury was sworn at approximately 9:21 a.m.)

3 THE COURT: Alright, ladies and gentlemen, before we
4 begin the actual trial of the case I thought it might be
5 helpful if I explain basically how a trial proceeds.
6 First the State will make an opening statement, an opening
7 statement is not evidence. It is simply to help you
8 understand what that party expects will show. The
9 Defendant may, if he wishes, to present an opening
10 statement but does not have to for reasons I will explain.
11 Following the opening statements you will hear testimony
12 and evidence in the case. This will consist of testimony
13 from the State's witnesses as well as any physical
14 exhibits which will be introduced into evidence.
15 Following the completion of the testimony the attorneys
16 will again have an opportunity to make what is called a
17 closing statement for summation to you. This is an
18 opportunity for the attorneys to summarize the case from
19 their respective points of view. Again, those arguments
20 are not evidence. Following the closing arguments of the
21 attorneys I will instruct on the law of South Carolina as
22 it pertains to the issues that have arisen in the case.
23 When I have completed my instructions to you you will then
24 be permitted to begin your deliberations in order to reach
25 a verdict. Now you are the jury in this case and let me

1 take a minute to tell you about your duty as jurors. At
2 the end of the trial I will give you more detailed
3 instructions and those instructions will control your
4 deliberations. It will be your duty to decide from the
5 evidence what the facts are. You and you alone are the
6 judges of the facts. You will hear the evidence, decide
7 what the facts are and then apply those facts to the law
8 which I will give to you. That is how you will reach a
9 verdict. In doing so you must follow that law whether you
10 agree with it or not. The evidence will consist of the
11 testimony of witnesses, documents and other things
12 received into evidence as exhibits and any facts which the
13 lawyers agree or which I will instruct you to accept. You
14 should not take anything that I may say or do during the
15 trial as indicating as to what I think of the evidence or
16 what your verdict should be. And this is a criminal case
17 brought by the State of South Carolina that charges the
18 Defendant with trafficking methamphetamine and possession
19 of a weapon during the commission of a violent crime. The
20 charge, the charges against the Defendant are contained in
21 the indictments. The indictments are not evidence of
22 anything except the description of the charges made by the
23 State against the Defendant. The Defendant has plead not
24 guilty to the charges and is presumed innocent unless and
25 until proven guilty beyond a reasonable doubt. Proof

1 beyond a reasonable doubt is proof that leaves you firmly
2 convinced of the Defendant's guilt. A Defendant has the
3 right not to testify and never has to prove innocence or
4 present any evidence. The burden of proof is always upon
5 the State of South Carolina. Now the following things are
6 not evidence and you must not consider them as evidence in
7 deciding the facts of the case. One, statements and
8 arguments of the attorneys; two, questions and objections
9 of the attorneys; three, any testimony I instruct you to
10 disregard; four, allegations containing the indictments;
11 and five, any questions or responses heard in the jury
12 selection process. Evidence may be direct or
13 circumstantial. Direct evidence is testimony by a witness
14 about what the witness personally saw, heard or did.
15 Circumstantial evidence is indirect evidence. That is it
16 is proof of one or more facts from which one could find
17 another fact. You are to consider both direct and
18 circumstantial evidence. The law permits you to give
19 equal weight to both but it is for you to decide how much
20 weight to give any evidence. Now the rules of evidence,
21 there are rules of evidence which control what can be
22 received into evidence. When the lawyer ask a question or
23 offers an exhibit into evidence and the lawyer on the
24 other side thinks it is not permitted by the rules of
25 evidence, that lawyer may object. If I overrule the

1 objection the question can be answered or the exhibit may
2 be received. And if I sustain the objection the question
3 cannot be answered or exhibit cannot be received.

4 Whenever I sustain an objection to a question or deny a
5 motion to admit an exhibit into evidence you must ignore
6 the question or the existence of the exhibit. And you
7 must not guess what the answer would have been or what the
8 exhibit might have shown. Sometimes it may be necessary
9 for me to request that you leave the courtroom where I
10 discuss the attorneys legal question that come up during
11 the trial. If this occurs you should not speculate about
12 our discussions or the reason that you are asked to leave
13 the room. This is simply a procedure that the law
14 requires when certain legal issues arise. There also may
15 be occasions where I ask the attorneys to approach the
16 bench so that I can discuss a legal issue with them in
17 private. I will do this as often as possible so that you
18 will not be required to leave the courtroom more than is
19 absolutely necessary. Again, if I ask the attorneys to
20 step up to the bench or if I ask you to leave the
21 courtroom please do not think that anybody is trying to
22 hide anything from you or keep any evidence from you.
23 This is simply a procedure used by all lawyers and all
24 courts to determine and decide legal questions. Now
25 deciding the facts of the case you may have to decide

1 which witness to believe and which witness not to believe.
2 You may believe everything a witness says or only part or
3 none of it. In deciding what to believe you may consider
4 a number of factors including the following. The witness'
5 ability to see, hear or know the things testified to. The
6 quality of the witness' memory, the witness' manner while
7 testifying, whether the witness has an interest in the
8 outcome of the case or any motive, biased or prejudiced;
9 whether the witness was contradicted by anything the
10 witness said or wrote before the trial or by other
11 evidence; how reasonable was the witness' testimony when
12 considered in light of other evidence. Now, until I
13 advise you to begin your deliberations you must not
14 discuss this case with anyone including your fellow
15 jurors, friends, family members or anyone involved in the
16 case. This would include face to face discussions,
17 emails, text messages or social media or any sort of
18 communication forum. It is important to remember that
19 while you are here not to do any independent research, any
20 research on the case or facts or the law; or any of the
21 people involved in the case. As I told you yesterday, all
22 the evidence you will hear from this case will come from
23 the witness stand and that is all you need to focus on and
24 paying attention to and not doing any independent research
25 on your own. And after the case is submitted to you you

1 must discuss it only in the jury room with your fellow
2 jurors. Now the attorneys and the parties have been
3 advised not to talk to you. If you are walking through
4 the Court House, you happen to bump into somebody you
5 recognize in the courtroom and they don't speak, they are
6 not being rude. I just ask people not to speak with the
7 jurors to avoid any unnecessary or inappropriate
8 conversations. When you are moving back and forth from
9 your breaks or back into the courtroom the Bailiffs are
10 here to help you to get from point A to point B and answer
11 questions about the Court House, they are not here to
12 discuss the case with you either. So please keep that in
13 mind. It is your solemn responsibility to determine the
14 guilt or innocence of the Defendant and your verdict must
15 be based solely on the evidence as it is presented to you
16 in this trial and on the law as I instruct you during and
17 at the close of the trial. So at this time please give
18 your complete and undivided attention to the attorneys as
19 they make opening statements. You may proceed.

20 MR. LONG: May it please the Court?

21 THE COURT: Yes, sir.

22 MR. LONG: Drugs, that is why we are here today,
23 because of drugs. And more specifically methamphetamine
24 and a whole heck of a lot of it. The Defendant, Clint
25 Walker, is charged with trafficking methamphetamine, 400

1 grams or more. That is the highest weight threshold that
2 South Carolina State statutes lay out. He is also charged
3 with possession of a weapon during the commission of a
4 violent crime. I expect throughout, some time throughout
5 this trial you will hear several names besides Clint
6 Walker. You will hear about a Michael Sharpe maybe; a
7 Carmen Cruz; maybe a Tommy Noell. When the Judge read the
8 indictment yesterday it says State versus Clint Arthur
9 Walker. Today is Clint Walker's day. Clint Walker is the
10 one on trial. Clint Walker is the one who possessed those
11 drugs. The burden is on us, the State, to prove the
12 Defendant's guilt beyond a reasonable doubt. We have to
13 prove it on both charges, on the drug charge and on the
14 gun charge. And I am sure we have all heard the term,
15 beyond, proof beyond a reasonable doubt. But what exactly
16 does it mean. Well, let's start with what it doesn't
17 mean. It doesn't mean proof beyond all doubt or proof
18 beyond a shadow of a doubt. There is very few things in
19 this life that are proved beyond all doubt. And that is
20 not what we have to do throughout this trial. What we
21 have to do is prove the Defendant's guilt beyond a
22 reasonable doubt. As the Judge said, we have to leave you
23 firmly convinced of the Defendant's guilt. And how are we
24 going to do that. Well by calling witnesses and
25 introducing testimony and introducing evidence. You will

1 hear from several witnesses throughout this trial. You
2 will hear from the lead agent in this case, Agent Tyler
3 Kennedy. You will hear from Agent Sanner. They work for
4 the Lexington County Multiagency Narcotics Enforcement
5 Team. That is a lot of words. We just call them NET
6 Agents for short. They will tell you about their roles in
7 this case, what they did when they searched his house,
8 what they found, where they found it. You will also hear
9 from Ms. Sandra Black, she works at the evidence at
10 Lexington County Sheriffs Department. She collects
11 evidence, identifies it and she will tell you the process
12 and procedures that that goes through. And that is
13 important because we have to prove that the drugs that
14 were found in the Defendant's house are the drugs that
15 were proven in this trial. And you will also hear from
16 Maribeth McCormack, she is a forensic chemist who works at
17 the South Carolina Law Enforcement Division, SLED. She is
18 the one who tested these drugs and weighed them. The
19 evidence will show that on January 27th, 2022 law
20 enforcement executed a search warrant at 663 Bush Berry
21 Road. The evidence will show that that address is where
22 Clint Walker lived. And while executing that search
23 warrant law enforcement found nearly 2,000 grams of
24 methamphetamine. And what you may hear what is called a
25 safe, it is a trap door with a locking mechanisms, it is a

1 homemade trap door where all of that meth was found. The
2 evidence will show that during that search law enforcement
3 found only one key that opened that door and that one key
4 was found in the Defendant's wallet. Now Judge McLeod
5 explained the rolls of this case, he is the Judge of the
6 law. He is the only one that can tell you what the law
7 is. But you have a role as well, you are the judges of
8 the facts. You will take the evidence that comes from
9 that witness stand, the evidence that is introduced and
10 you will apply it to the law that he gives you. Now how
11 do we use the evidence. There is two types of evidence.
12 There is direct evidence, evidence that you can see, feel,
13 hear; and there is circumstantial evidence.
14 Circumstantial evidence is evidence that you can infer
15 exist based on a change of, chain effects. For example,
16 there is no one in this Court House, not outside, but if
17 we were in here and we go to leave this afternoon and we
18 see the sidewalk is wet, see puddles of water on the
19 ground and the dirt. You know, we are in here, there are
20 no windows. We can't see that it rained but based on the
21 sidewalk being wet, based on the puddles of water, we can
22 infer rain. You are not asked to leave your brains at
23 home, you are asked to use them, use your common sense,
24 use your own life experiences and apply it to the facts of
25 this case. And just as you judge, my believability, my

1 believability and credibility right now, you are going to
2 do that to each piece of evidence in this case. And,
3 ladies and gentlemen, when you are back there at the end
4 of this trial, once you have heard all of the evidence,
5 once you have heard all the testimony, look at this stuff
6 and the Judge is giving you the law think of the key to
7 this case. The key to this case is the key that was found
8 in the Defendant's wallet. And once you apply the law
9 that the Judge gives you to the facts that is introduced
10 in this case you will have no choice but to find the
11 Defendant guilty to trafficking methamphetamine and
12 possessing a weapon during the commission of a violent
13 crime. Thank you.

14 MR. STITELY: If it please the Court?

15 THE COURT: Yes, sir.

16 MR. STITELY: Ladies and gentlemen, my name is Ben
17 Stitely, I introduced myself briefly yesterday. I
18 practice law right across the street, the old bank
19 building there, it is William Stitely. And I represent
20 Clint Walker. And for those of you have never served on a
21 jury it is kind of interesting. The one thing I would
22 like to say is people ask me all the time, how do I do my
23 job and what is my job as a defense lawyer. There are
24 three groups of people that the Constitution says have to
25 be in this courtroom. You have a right to a jury of your

1 peers, that is you. Any one of you who are charged with a
2 crime has the right to have the State call in, in
3 Magistrate's Court, six; in Federal Court or in State
4 Court; 12 people; to sit a jury of your peers. The
5 Constitution guarantees that a Judge preside over those
6 proceedings. He is an independent arbitrator of what the
7 law is. It guarantees that you have the right to an
8 attorney if you so choose. That is me. It doesn't say
9 anywhere where the case has to be prosecuted. Nowhere in
10 the Constitution does it say that the State has to do
11 this. But what it does say, you are innocent until you
12 are proven guilty. You have absolutely nothing to prove.
13 We don't have to come. If this trial was requested you
14 could have an empty courtroom except for an officer
15 presenting it, a Judge and a jury. The burden is fully on
16 the State. It is interesting is Mr. Long gave my favorite
17 prosecution example. It must have rained, that is
18 reasonable doubt because it was wet outside. What if it
19 was fifty percent humidity last night and you walked out
20 and there was a dew covering and the sun warmed and your
21 lawn is wet, what if you had sprinklers that were running
22 that night. Did it rain or was there another possibility.
23 Reasonable doubt is things that you would assume that
24 reasonably could happen. Mr. Long quickly discussed,
25 there are other names you are going to hear. You are

1 going to hear about four people in that house who lived in
2 that house. You are going to hear that Mr. Walker lived
3 in the house, I acknowledge that. You are going to hear
4 they found drugs in the house. I acknowledge that too.
5 You are also going to hear that one of the people knew
6 exactly where the drugs were in that house and it wasn't
7 Mr. Walker. You are going to hear that one of the people
8 in that house had drugs on their person, that wasn't Mr.
9 Walker either. Beyond a reasonable doubt, maybe they had
10 sprinklers. Thanks.

11 THE COURT: Alright, the State may call their first
12 witness.

13 MR. PINCELLI: The State calls Agent Tyler Kennedy.

14 THE COURT: Very well.

15 Tyler Kennedy, being
16 first duly sworn, testified as follows:

17 CLERK OF COURT: State your name and spell your last
18 name for the record.

19 MR. KENNEDY: Tyler Kennedy. K-E-N-N-E-D-Y.

20 DIRECT EXAMINATION

21 By Mr. Pincelli:

22 Q Good morning, Agent Kennedy. I will call you Agent
23 Kennedy, what is your rank or what is your title.

24 A Investigator.

25 Q Investigator Kennedy. Mr. Kennedy, where do you

1 work?

2 A I work at the Lexington County Sheriffs Department.

3 Q How long have you been employed with the sheriffs
4 department?

5 A Approximately eight years.

6 Q And what is your current duty, what do you do as an
7 investigator there?

8 A I am assigned to the NET Team, it is the Narcotics
9 Enforcement Team.

10 Q And back in January of '22, what were you doing for
11 the sheriffs department?

12 A I was on the NET Team then.

13 Q And what as a member of the Narcotics Enforcement
14 Team, that is NET, right?

15 A Yes, sir.

16 Q As a member, as an investigator for NET what are your
17 job duties, what is your day-to-day?

18 A To put it bluntly, go find drugs.

19 Q And what all does that entail?

20 A It entails suspect interviews, entail search
21 warrants, entails searching residences, entails chasing
22 after bad guys. I mean it entails finding drug dealers.

23 Q And you talked about search warrants. Let's get, I
24 guess, right to the point. How did you become involved in
25 the case that we are here for today, the State versus

1 Clint Walker, for trafficking of methamphetamine?

2 A I obtained a search warrant for the residence on
3 trial today and executed that search warrant.

4 Q And it was for a residence. Where was that
5 residence?

6 A Located at 663 Bush Ferry Road in the Pelion area of
7 Lexington County.

8 Q Right here in Lexington County. What date do you go
9 and search that residence here in Lexington County?

10 A January 27th, the year was 2022.

11 Q And before we get into the specific facts in this
12 case, how do you as a member of law enforcement, how do
13 you plan a search warrant, how do you execute a search
14 warrant. Whom needs to be there and what is everybody
15 doing there?

16 A Once we establish probable cause, obviously a Judge
17 signs the warrant that says we can go do it. Once that
18 warrant is in hand we get with other agents on the NET
19 Team, patrol officers, K-9 deputies, all kind of different
20 deputies that have a different role at the sheriffs
21 department. And we formulate a game plan, and that game
22 plan is the safest, more productive way to execute that
23 search warrant.

24 Q And what was the game plan for that day in January of
25 2022 at 663 Bush Ferry?

1 A We had canine deputies, NET Team agents, and other
2 law enforcement officers. Long story short, we surrounded
3 the house and we called out the individuals that were home
4 by announcing that we were with the sheriffs department
5 and a search warrant was in hand and please step outside.

6 Q You said the house was surrounded but how many law
7 enforcement personnel do you think were on the scene?

8 A I would say, the best guess would be between 15, 20.

9 Q So fairly large presence?

10 A Yes, sir.

11 Q And what is the reason for having that many people on
12 the scene?

13 A We want to be safe. You can obviously execute a
14 search warrant with two deputies. You can do it with ten.
15 But typically the more the better. And the reason for
16 that is there might be multiple people, there might be
17 dogs. There is so many unseen circumstances that you
18 don't know, the more deputies the better.

19 Q Would it be fair that the more personnel you have on
20 scene the more thorough you can be?

21 A For sure.

22 Q An you said you got there and you called out to get
23 the people that might have been inside outside?

24 A That's correct.

25 Q Who came outside?

1 A First was Clint Walker, the Defendant. Next was
2 Carmen Cruz followed by Michael Sharpe.

3 Q What do you do with those individuals when they come
4 outside?

5 A There were detained.

6 Q And what is the purpose for that?

7 A Well, long story short, the search warrant says we
8 can. But to be more clear we do it because it is safe.
9 We detain them so they can't go back in the house because
10 that is where we are going to be executing the search
11 warrant. They are not free to leave because we don't know
12 what is going to happen during that search warrant.

13 Q And during that detention do you speak with Mr.
14 Walker?

15 A Yes.

16 Q Did you ask him any questions and did he tell you
17 anything?

18 A Yes. I asked him if there was any methamphetamine
19 inside and I also ask him if there were any firearms
20 inside.

21 Q And what did he respond to those questions?

22 A He did advise that there was a firearm inside.

23 Q So you are on scene, you got 15 to 20 law enforcement
24 agents on scene. The people are called out of the house.
25 What is your job duty on scene and what are you directing

1 everybody else to do or what is everybody else doing?

2 A So with this being my case, you can call me the lead
3 investigator. So while there I was directing people what
4 to do so that I felt like the search warrant could be
5 executed the best way possible. In doing that I kind of
6 established a home base, if you will, in the residence
7 which was the kitchen. I made that my home base. That is
8 where we brought the evidence, once we found it. And if
9 people did find evidence they would tell me what it was,
10 they would show it to me, I would collect it, bring it
11 back to home base so that it was thorough and well
12 executed.

13 Q And describe a little bit, I mean it sounds like a
14 personal resident, people were living inside. Describe a
15 little bit the location of the search?

16 A Everywhere. The house obviously, and there is a pool
17 in the backyard, there is a shed in the rear of the
18 residence, there is multiple cars out front. We searched,
19 imagine taking a playhouse and dumping it upside down,
20 that is what we do at this house.

21 Q And this was a personal residence?

22 A Yes.

23 Q Is that correct?

24 A Yes, sir.

25 Q Okay. Are you, you said you had a home base, are you

1 involved in helping the search as well?

2 A Not really. When the evidence is found by an
3 investigator they tell me about it so that I can see it
4 myself and then collect it. If you, so yes and no. It is
5 not really searching but it is collecting.

6 Q So you might not be the first one to lay eyes on it
7 but before it moves what happens?

8 A I see it and collect it.

9 Q And that is, is that generally how a lead
10 investigator would run a search warrant scene?

11 A For me, yes sir.

12 Q Was there anybody with you that day taking
13 photographs?

14 A Yes.

15 Q And would those photographs been taken throughout the
16 course of the search to document and show what was found
17 and what you were looking at?

18 A Yes, sir. We take photographs before the search
19 warrant, during the search warrant and after the search
20 warrant.

21 Q Will you look through these photographs and tell me
22 if you recognize what they are?

23 A They are going to be pictures of outside of the
24 residence and inside the residence.

25 Q And are they fair and accurate portrayal's of what

1 you saw that day during the search?

2 A Yes, sir.

3 MR. PINCELLI: Your Honor, I would like to move these
4 into evidence. State's 1 through 7.

5 MR. STITELY: Without objection.

6 THE COURT: State's exhibits 1 through 7 are admitted
7 into evidence. You may publish.

8 (WHEREUPON, State's Exhibit numbers 1 through 7 were
9 admitted into evidence.)

10 Q Investigator Kennedy, we talked a little bit about
11 the outside of the residence and what you searched. And
12 you gave me an address. This is State's 1, what are we
13 looking at here?

14 A It is going to be Bush Ferry Road and that is the
15 mailbox to, now you can see the driveway to turn into the
16 house.

17 Q Okay. And State's 2. Is this the outside of the
18 residence that is searched?

19 A Yes, sir.

20 Q And you talk about searching cars?

21 A Yes, sir.

22 Q Is, you are looking at everything on the property?

23 A Yes, sir.

24 Q Okay. State's 3. What are we looking at here?

25 A That is going to be the kitchen in the residence.

1 Q And that looks like every cabinet and drawer in there
2 is open?

3 A Yes, sir.

4 Q Why is that?

5 A Well, picture that playhouse again. We dumped it
6 upside down.

7 Q This is State's 4. Again, what are we looking at
8 here?

9 A I believe that is the bedroom.

10 Q Okay. What does that say?

11 A That says Clint.

12 Q Okay. What are we looking at here?

13 A I believe that is a corner of the bedroom, like a
14 dresser or nightstand of some sort.

15 Q Based on your training and experience in the field of
16 narcotics can you identify what is on top of that bedside
17 table?

18 A That is a methamphetamine pipe. That is what you are
19 referring to, right there in the black bowl.

20 Q Sure. I think right in front of you you have what
21 looks like a pen, it is a laser pointer, up on that rail.

22 A Yes.

23 Q You can point to the middle of State's five there.

24 A Right there?

25 Q Yes.

1 A Yes, that is going to be a methamphetamine pipe.

2 Q And State's 6. Why is the back off of that toilet?

3 A Because we searched in there as well.

4 Q State's 7?

5 A That is going to be the kitchen and then you can see
6 part of the living room, main room if you will.

7 Q So that is another view of State's 3, am I right?

8 A Yes, sir.

9 Q So you kind of pan over and you get to the rest of
10 that open room?

11 A Yes, sir.

12 Q So we seen some of where we searched and we know who
13 was on scene. In fact we saw Clint's name in his bedroom,
14 is that correct?

15 A Yes, sir.

16 Q What are some of the things that were found in those
17 different locations, how about in Clint's bedroom?

18 A We found a firearm, pistol to be more specific. We
19 found -- like you saw in that picture with Clint's name on
20 it.

21 Q Did you determine, was anybody staying in that room
22 with Clint from, based on your investigation?

23 A Yes, sir. Carmen Cruz was.

24 Q And how did you determine that?

25 A It appeared that people were sleeping on both sides

1 of the bed. And she had a purse in the room.

2 Q Okay. And was there anything in the purse that led
3 you to identify her as being in that room?

4 A Yes, sir. Her wallet with her drivers license in the
5 wallet.

6 Q And was anything, was any drug material found in that
7 room?

8 A Yes, sir. There was methamphetamine found in the
9 purse.

10 Q And again, you have identified that purse would have
11 belonged to who?

12 A Carmen Cruz.

13 Q Investigator Kennedy, I am showing you a few more
14 photographs. Can you tell me if you recognize these
15 photographs?

16 A Yes sir, I do.

17 Q And what were those photographs?

18 A That is going to be a few pictures of the firearm
19 that I just mentioned that was found in the bedroom. And
20 then the methamphetamine that I also just mentioned that
21 was found in Ms. Cruz's purse.

22 Q And are they all accurate portrayals of what you saw
23 that day on scene?

24 A Yes, sir.

25 MR. PINCELLI: Your Honor, I would like to move 8

1 through 11 into evidence.

2 MR. STITELY: No objection.

3 THE COURT: State's exhibits 8 through 11 are
4 admitted into evidence.

5 (Whereupon, State's Exhibits 8 through 11 were
6 admitted into evidence.)

7 MR. PINCELLI: And I would like to publish them to
8 the jury.

9 THE COURT: Very well.

10 Q Investigator Kennedy, you just told us what it is but
11 this is, what was marked on the scene as evidence marker
12 number 9. Where are we looking on scene here. Do you
13 know what room this is in?

14 A Yes, sir. That is the bedroom that we saw pictures
15 of, just a little bit ago. And that is going to be the
16 top of, like the dresser and I believe the mirror to the
17 dresser.

18 Q Okay. And this is State's 9. That gives us a little
19 more perspective. Obviously what is the important part of
20 this picture?

21 A There is a gun in there.

22 Q And earlier in your testimony Mr. Walker told you,
23 that when he was asked about if there were any firearms.

24 A He advised that there was a firearm in his room.

25 Q Is this the firearm you believe he was referencing?

1 A Yes, sir.

2 Q This is State's 10. What is the purpose of taking a
3 photograph like this.

4 A It is going to display the serial number on the
5 firearm.

6 Q Okay. And so that might not be exactly where you
7 found it but this was replaced to take a more clear
8 picture?

9 A That's correct.

10 Q And then State's 11. What are we looking at here?

11 A That is going to be the methamphetamine found in Ms.
12 Cruz's purse and the picture, the drivers license you are
13 seeing there is Ms. Cruz's drivers license.

14 Q Okay. I suppose we can zoom in a little bit and it
15 appears, what does the writing say, can you read that name
16 on there?

17 A Carmen, is it Maria, Cruz.

18 Q And based on your training and experience what can
19 you tell me about that quantity of methamphetamine?

20 A Per State statute it is going to be a distribution
21 amount because the statute says anything more than a gram
22 is distribution. That is slightly over a gram. So in my
23 experience that is going to be what we call a user amount.

24 Q And why, explain to the jury, I am not sure if they
25 have any familiarity with illegal drug use. Why would

1 that be a user amount?

2 MR. STITELY: Judge, I am going to object. I think
3 he is entering territory that he hasn't been qualified as
4 an expert. He said, through my training and experience.
5 But he hasn't been qualified as an expert.

6 MR. PINCELLI: Your Honor, at this time I would like
7 to qualify Investigator Kenney as an expert in the field
8 of narcotics investigation.

9 THE COURT: May I speak with y'all.

10 (Whereupon, a bench conference was held in the
11 presence of the jury but out of the hearing of the
12 jury.)

13 THE COURT: Alright. The State is offering this
14 witness as an expert in the field of narcotics
15 investigation. Any voir dire from the Defense?

16 MR. STITELY: Yes, Your Honor. I don't know if Mr.
17 Pincelli wants to try to do this qualification real quick
18 first.

19 THE COURT: You had already offered.

20 MR. STITELY: I will let him.

21 THE COURT: You can ask more background.

22 MR. PINCELLI: Yes, sir.

23 Q Investigator Kennedy, you got up here this morning
24 and you told us you work for the Lexington County Sheriffs
25 Department on the Narcotics Enforcement Team. Through

1 that course of employment do you have any special training
2 in that field?

3 A I do.

4 Q And what would that be?

5 A I started on the NET Team, Narcotics Enforcement Team
6 in 2019. So I have been on it for approximately five
7 years. Through those five years I have been to courses in
8 Mississippi, Georgia, South Carolina that offers advanced
9 interrogations and investigations in narcotics.

10 Q And how long are some of those courses and what do
11 they entail?

12 A In Mississippi I went through a 40 hour course in
13 narcotics interrogations and investigations. And in South
14 Carolina I went through a 40 hour course that mainly goes
15 into investigations for gang members. However it is
16 specifically into narcotics. In Georgia, it is going to
17 be a 40 hour course dealing with the same thing. In
18 Myrtle Beach I went through an extensive course into
19 cartel investigations which more specifically deals with
20 the quantities, kilos of drugs; how they are moved
21 throughout different States, transportation, things of
22 that nature. And also in Myrtle Beach I went through a 40
23 hour general investigation course.

24 Q So these were all specifics in your training prior to
25 this incident?

1 A That's correct.

2 Q And that is all of your training. What kind of
3 experience, utilizing that training or otherwise do you
4 have in the field of narcotics?

5 A Throughout the five years that I have been on the NET
6 Team I have been involved in over a hundred investigations
7 dealing specifically with narcotics, firearms, charging
8 those defendants, interviewing those defendants. And
9 prior to being on the Net Team I also made multiple cases
10 while, I had a four year stint on patrol.

11 MR. PINCELLI: Your Honor, at this time I would like
12 to qualify Agent Kennedy as an expert in the field of
13 narcotics investigation.

14 THE COURT: Any voir dire?

15 MR. STITELY: I do, Judge.

16 CROSS-EXAMINATION

17 By Mr. Stitely:

18 Q Investigator Kennedy, I am guessing you went to high
19 school. Where did you graduate from?

20 A Byrnes School in Florence.

21 Q Did you go to college?

22 A I did.

23 Q What was your degree in?

24 A Criminal Justice.

25 Q Okay. All of those classes that you talked about,

1 are any of them done by an agency that is not law
2 enforcement?

3 A I am sorry?

4 Q Of those classes, the 40 hours, are any of those done
5 by someone who is not law enforcement?

6 A Yes, sir.

7 Q Which one was that?

8 A In Mississippi. I am sorry, the individuals that
9 taught them were prior to law enforcement. Is that what
10 you are asking?

11 Q No, no. Okay. So I guess my question, so you talk
12 about South Carolina.

13 A Yes.

14 Q We have an agency called SLED?

15 A Yes.

16 Q Okay. And even becoming a police officer you go to
17 the South Carolina Law Enforcement Division's Academy to
18 get certified, correct?

19 A I go to the South Carolina Criminal Justice Academy,
20 yes sir.

21 Q And the courses you talked about, are these law
22 enforcement driven courses?

23 A Sure.

24 Q Have you ever gone to a course that was not driven by
25 some kind of law enforcement agency for training; i.e.,

1 have you gone to a Master's program with a University that
2 is not law enforcement or any other program that was not
3 run specifically by law enforcement or law enforcement
4 personnel?

5 A No, sir.

6 MR. STITELY: Your Honor, I do have an objection.
7 And it is that, in this case the State is attempting to
8 qualify a witness that is self-serving use. He has
9 admitted his only training is through law enforcement, to
10 be qualified as an expert in law enforcement. There is no
11 independent basis outside of self-serving training.

12 THE COURT: Okay. Mr. Pincelli.

13 MR. PINCELLI: I can't think of anybody better to
14 train than a cop to a cop, Your Honor.

15 THE COURT: Well, your objection is noted. I will
16 qualify him in narcotics investigations, correct?

17 MR. PINCELLI: Yes, Your Honor.

18 THE COURT: Ladies and gentlemen, a person that
19 testifies cannot give opinion testimony but testifies to
20 what they personally saw, heard, sense by smell or
21 something of that nature. However there is an exception
22 when someone is qualified because of knowledge, education
23 or experience and they are permitted to give their opinion
24 in certain areas the Court qualifies them in that way.
25 This witness will be qualified in the area of narcotics

1 investigation and give opinion testimony in that area. It
2 doesn't mean you must accept the opinion but it is
3 evidence for you to use in any way you see fit.

4 MR. PINCELLI: May it please the Court?

5 THE COURT: Yes, sir.

6 CONTINUE DIRECT EXAMINATION

7 By Mr. Pincelli:

8 Q Investigator Kennedy, we were talking about this
9 being, in your opinion as an expert, a user amount of
10 methamphetamine?

11 A Yes, sir.

12 Q Please describe to the jury why that amount would be
13 a user amount and what that means?

14 A A user amount, in my opinion, is going to be someone
15 that consumes that narcotic. Not necessarily they
16 distributed it to other individuals but that they have a
17 personal liking of that narcotic and that they possess
18 amounts that they consume.

19 Q And then would there have been other, on the scene,
20 something that indicated on the scene that there was a
21 user of methamphetamine staying in that room. I am going
22 to, point you back to State's 5.

23 A Yes, sir.

24 Q And, again, what did you describe is on that bedside
25 table on State's 5?

1 A Methamphetamine pipe.

2 Q Would that have been the same room that you found
3 Carmen Cruz's purse?

4 A Yes, sir.

5 Q The same place that her, what you would describe a
6 user amount of methamphetamine was?

7 A Yes, sir.

8 Q Investigator Kennedy, we talked about one bedroom,
9 were there more bedrooms in this house?

10 A There were.

11 Q How many more?

12 A One that I am familiar with.

13 Q Is it because there was something potentially
14 relevant or drug related found in this room?

15 A Yes, sir.

16 Q Let me show you a few pictures and see if you
17 recognize them?

18 A I do recognize them.

19 Q And are they related to this case?

20 A Yes, sir.

21 Q How?

22 A They were found during the search of the residence
23 specifically in Michael Sharpe's room. And I can tell you
24 about what is in the pictures.

25 Q Are they fair and accurate photos of what you saw on

1 scene that day?

2 A Yes, sir.

3 MR. PINCELLI: Your Honor, I would like to move
4 State's 12, 13 and 14 into evidence and publish for the
5 jury.

6 MR. STITELY: No objection.

7 THE COURT: State's exhibits 12, 13 and 14 are
8 admitted into evidence. You may publish.

9 (Whereupon, State's Exhibits 12 through 14 were
10 admitted into evidence.)

11 Q You named another individual, Investigator Kennedy,
12 Michael Sharpe, is he one of the people that was detained
13 at the beginning of the search warrant?

14 A Yes, sir.

15 Q Because he was inside the house and was pulled
16 outside of the house?

17 A Yes, sir.

18 Q Or called outside of the house. Is he, how do you
19 identify that his room is his?

20 A We got belongings out of the room that he identified
21 saying that they were from his room.

22 Q And what are we looking at here in State's 12?

23 A That is going to be a safe that was found inside of
24 his bedroom.

25 Q And was that safe right there or was it pulled out

1 from somewhere?

2 A I think it was under the bed.

3 Q And why was it moved for the purpose of a picture?

4 A So that you could see it.

5 Q And State's 13. There is an evidence marker there.

6 What are we looking at here?

7 A That is going to be the safe that is open with items
8 in it.

9 Q Okay. Were some of those items, personal identifying
10 items?

11 A Yes, sir.

12 Q And generally what were they?

13 A You can see the back of it. I will try to point to
14 it. So that is a key, right under that key is a title.
15 And I believe it was like a car title and it has his name
16 on it.

17 Q And we see some money and then this is State's 14.
18 What are we looking at here?

19 A A decent sum of US currency.

20 Q And were there any drugs found in that safe?

21 A No, I don't believe so.

22 Q Were there any drugs found in Michael Sharpe's room
23 at all?

24 A I don't believe so.

25 Q What other areas of the house were of interest when

1 searching this case, searching the home?

2 A Well, like we talked about earlier. During the
3 search, we search everywhere, top to bottom, left to
4 right, up and down. I mean just everywhere. But more
5 specifically a large sum of methamphetamine was found in
6 the kitchen.

7 Q Okay. Let's talk about that a little bit. Where,
8 where in the kitchen was it found?

9 A Above the kitchen sink to the left. There is a, I
10 think we saw it in one of the first pictures, there is a
11 cabinet and at the top of that cabinet was the safe door,
12 if you will. It is what the Solicitor mentioned earlier
13 and that is where the methamphetamine was found.

14 Q And did you question anybody on scene, first let me
15 show you that picture and see if we can get it for you.
16 This is State's 3. And use your pointer to show us what
17 location we are talking about.

18 A Right there.

19 Q Can you see the location from this perspective?

20 A No.

21 Q Okay. But generally in the kitchen that is where it
22 was found?

23 A Yes, sir.

24 Q And did you question anybody about what was found
25 there?

1 A I did.

2 Q How did that occur, what happened. Explain that to
3 me, please.

4 A I spoke to the Defendant, Mr. Walker. And I brought
5 him inside the residence and asked him if he knew of any
6 methamphetamine. If you would like I can go into how that
7 conversation went.

8 Q Sure, what was the purpose for bringing Mr. Walker
9 inside?

10 A I wanted to see body language. Typically in
11 interviews I, there is red flags, if you will, that
12 individuals give off, not necessarily verbal cues but
13 non-verbal cues, body language. When we ask a question
14 they start to breathe heavily. You can visibly observe
15 their chest, went up and down because they are breathing.
16 And a lot of times eye movement gives away an answer.

17 Q And so that is more generally. When you brought Mr.
18 Walker into the room what did you ask and how did he
19 react?

20 A I wanted to observe his body language and to see what
21 verbally he would say. So when I asked if there was any
22 methamphetamine he looked at me, he looked at the top of
23 the sink and he looked back at me and said, no, or that he
24 could not know. I am sorry.

25 Q And you been qualified as an expert. A lot of that

1 qualification was on interrogations. What does that look
2 mean to you as an expert.

3 A When I paired that with his breathing, told me that
4 he knew exactly what I was talking about but didn't
5 obviously want to give me a verbal answer as to what I was
6 talking about.

7 Q Did he give you a verbal answer?

8 A Other than I don't know, when I asked him if there is
9 any methamphetamine, no sir.

10 Q Investigator Kennedy, I am showing you some more
11 photos. Do you recognize those?

12 A Yes, sir.

13 Q Do they relate to this case?

14 A Yes, sir.

15 Q And are they fair and accurate photos of what you saw
16 that day on scene?

17 A They are.

18 MR. PINCELLI: Your Honor, I would like to move
19 State's 15 through 20 into evidence and publish for the
20 jury.

21 MR. STITELY: No objection.

22 THE COURT: State's 15 through 20 are admitted into
23 evidence. You may publish.

24 (Whereupon, State's Exhibits 15 through 20 were
25 admitted into evidence.)

1 Q Investigator Kennedy, you just testified that you had
2 brought Mr. Walker into the kitchen to ask him if he knew
3 about any methamphetamine inside?

4 A Yes, sir.

5 Q Is that correct. And you said he gave you non-verbal
6 cues that indicated that he might know where something is.
7 Is that correct?

8 A Yes, sir.

9 Q And in State's 3, where was he looking. You said he
10 was looking somewhere, where was he looking?

11 A This would be a good picture of exactly where we were
12 standing and what he would be looking at. And obviously
13 when I saw eye movement, it was in this area. I can't, it
14 is like me and you looking at each other and you look over
15 there. I can't specifically say you were looking at the
16 Bailiff in general but you were looking in that direction.

17 Q Sure. Where were you standing?

18 A This would be a good depiction of what I could see.

19 Q Okay. And where was Mr. Walker standing?

20 A He was standing slightly to the left so it would be
21 an accurate depiction of what he could see as well.

22 Q Okay. This is State's 15. Is this showing the same
23 area?

24 A Yes, sir.

25 Q When you bring Mr. Walker in to ask him these

1 questions had you located anything of note, why did you
2 specifically bring him to that area to ask him any
3 questions?

4 A Because that is where the methamphetamine was
5 located.

6 Q I am going to show you State's 20. What are we
7 looking at there?

8 A It is right there is going to be a door that opens.

9 Q Okay. Had that door been opened yet or had you
10 located a door when Mr. Walker was brought in?

11 A We, yes, we already, we had found the
12 methamphetamine.

13 Q Okay. This doesn't look like much. What is, explain
14 that door a little bit for me?

15 A So the door has a locking mechanism behind that
16 wooden piece that you can see. That locking mechanism was
17 released with a key card.

18 Q So that is really a door, that is not a solid panel?

19 A Correct.

20 Q So State's 16. Is that showing, what is that
21 showing?

22 A That is the door that we had to force open to gain
23 entry to.

24 Q Okay. And then State's 17?

25 A That is the door removed and you can see the top of

1 the bags that contain methamphetamine.

2 Q Alright. And State's 18?

3 A I believe that is empty at that point but that is a
4 good look at all the way inside that trap, if you will.

5 Q So this is just a good view, if you are able to look
6 in and potential to see how, but we saw on State's 17 that
7 there are items inside?

8 A Yes, sir.

9 Q And State's 18, after it has been, items that were
10 retrieved?

11 A Yes, sir.

12 Q And State's 19, that looks like the other side of the
13 scene?

14 A Yes, sir.

15 Q Was there anything behind that?

16 A No, sir.

17 Q Why does it look like that has been manipulated or
18 damaged?

19 A Because we tried to check that as well. It was a
20 little different though. The one that actually had the
21 clear opening that we just saw, that panel that had the
22 locking mechanisms on it, you could ever so slightly move
23 and can tell that it had been altered. That one appeared
24 to be affixed but obviously we were going to check just to
25 make sure.

1 Q Sure. And how was that, who located that panel
2 during the search?

3 A Which one?

4 Q Not this one, I am sorry. The panel actually
5 revealed that, the drug evidence, what you believed to be
6 drug evidence?

7 A There is a few people right there. Investigator
8 Sanner was one and Investigator McMillian was also there.

9 Q And what happens once it is located?

10 A We obviously took pictures as you can see, removed
11 the methamphetamine and packaged it.

12 Q Investigator Kennedy, here are some more photos. If
13 you will review those please. Are those case related
14 photographs?

15 A Yes, sir.

16 Q Are they fair and accurate portrayals of what you saw
17 on scene that day?

18 A Yes, sir.

19 MR. PINCELLI: Your Honor, this is State's 21 through
20 24, I would like admitted into evidence and publish for
21 the jury.

22 MR. STITELY: No objection.

23 THE COURT: State's 21 through 24 admitted into
24 evidence. You may publish.

25

1 (Whereupon, State's Exhibits 21 through 24 were
2 admitted into evidence.)

3 Q Investigator Kennedy, I show you State's 23. What
4 are we looking at there?

5 A The methamphetamine that was seized from inside that
6 trap or safe, whatever, whatever word we are referring to
7 it.

8 Q Sure. The hidden compartment?

9 A Sure, yes.

10 Q And you are identifying this methamphetamine now but
11 at this point it has not been tested. You are not an
12 expert in the field of narcotics. When you got it down
13 what did you think it was?

14 A Methamphetamine.

15 Q And is, how do you know what something is when you
16 look at it?

17 A Meth is very specific, it is crystal, it is hard.
18 Obviously you can break it down into powder form. But
19 with sums like that which is large quantities it is going
20 to be crystal, it is going to rocklike and you can tell
21 just based on how it was formed.

22 Q What can you tell me about that quantity of believed
23 methamphetamine?

24 A We are talking kilos, when you are talking kilos, a
25 lot. That is the best way to put it.

1 Q And you are saying kilos to me. Perhaps a term that
2 the jury has heard. But again, maybe not drug
3 traffickers.

4 A Sure.

5 Q And you specify or maybe somebody not familiar with
6 the metric units. What is a kilo of drugs and what does
7 that tell you as a drug expert.

8 A Common ways that drugs are referred to. As far as
9 weighing goes, it is going to be grams, ounces, pounds,
10 kilos. Those are going to be the most common ways that
11 people refer to drug quantities. Kilos obviously being
12 the most. Kilos is 2.2 pounds. It is a thousand grams.
13 A kilo of methamphetamine is a lot. Like the Solicitor
14 said, in South Carolina the highest charge that you, that
15 there is 400 grams or more. A kilo, like we said, is a
16 thousand grams. There is more than a kilo in this
17 picture.

18 Q Would it be fair to say that a kilogram of
19 methamphetamine is a large whole unit that it might be
20 sold or bought?

21 A Yes.

22 Q Much like, I might go the grocery store and buy a
23 gallon of milk. You might buy a kilogram of
24 methamphetamine, that is a large quantity?

25 A Yes, sir.

1 Q This is State's 24. This is one of the bags that is
2 suspected methamphetamine. This is weighed on the scene,
3 we can't test the accuracy. But what does that scale
4 read?

5 A To be honest with you I can't see.

6 Q I will zoom in a little bit for you.

7 A 998.1 grams.

8 Q 998 grams. What did you tell us a kilo gram was?

9 A A thousand, a thousand grams, I am sorry.

10 Q So would this be like finding a gallon of milk, is a
11 whole unit. This is almost one kilogram?

12 A Yes, sir.

13 Q So you find, and again this is all found in the
14 kitchen. Is that correct, in that, this is all from the
15 one location above the kitchen sink?

16 A Yes, sir.

17 Q So everything that is here on the counter was taken
18 out of that compartment above the kitchen sink?

19 A Yes, sir.

20 Q Did you search the rest of the kitchen?

21 A Yes, sir.

22 Q Let's look at State's 21. What are we looking at
23 there, what is item 11?

24 A That is going to be a drawer that is open in the
25 kitchen and right here is going to be a digital scale.

1 Q And a little bit closer, State's 22.

2 A That is a better depiction of the digital scale
3 which, if you like I can speak about.

4 Q Sure. Why is that relevant, why is that even marked
5 as evidence in a drug case?

6 A Well, the picture is, you can get a decent depiction
7 of how big that scale is. You can buy scales in different
8 sizes. One that will be about the size of your palm.
9 Ones that will be slightly bigger but this one is, on the
10 larger scale of scales. It is large so that it can
11 measure large quantities.

12 Q And what does it indicate to you when it is found
13 with drugs or close to?

14 A To me it says that it is used to weigh narcotics.

15 Q So let's step back from what was found and let's talk
16 about everything else that is going on. You just found
17 one bag was almost a kilogram, a kilo as you refer to it.

18 A Yes, sir.

19 Q Was anybody arrested at that point, what happens?

20 A Yes. We, I go speak to Mr. Walker and advise him
21 that he was placed under arrest for trafficking
22 methamphetamine.

23 Q And at that time he is placed under arrest, is he
24 personally searched?

25 A He is.

1 Q And did that search yield anything?

2 A Yes, sir. There was, I don't know the amount of
3 money but he had some of US currency in his pocket. Also
4 he had his wallet. Inside that wallet we found a key
5 card.

6 Q And why is that key card significant. What about the
7 key card?

8 A So the key card is, it is not an actual key. It is
9 a, very similar to a debit card, has nothing on it. It is
10 like a remote access, kind of like little badges that you
11 see on these doors. You put it up to the door and it
12 opens the door. That key card was tested on the door that
13 we removed in the pictures that you showed earlier and it
14 granted access to what we pulled off of the kitchen
15 cabinet.

16 Q I will show you more photographs. Do you recognize
17 those?

18 A Yes sir, I do.

19 Q And are they fair and accurate portrayals of what you
20 saw on scene that day?

21 A They are.

22 MR. PINCELLI: State's 26, I am sorry; 25, 26 and 27
23 into evidence, Your Honor.

24 MR. STITELY: No objection.

25 THE COURT: State's exhibits 25, 26 and 27 are

1 admitted. You may publish.

2 (Whereupon, State's Exhibits 25, 26, and 27 were
3 admitted into evidence.)

4 Q You found a trafficking amount of methamphetamine and
5 you said you placed, you placed Clint Walker under arrest?

6 A Yes, sir.

7 Q This is State's 25. Search incident to arrest, you
8 searched this person and removed his wallet. What is this
9 picture, State's 25?

10 A The wallet that we removed from his back pocket, I am
11 sorry, from the Defendant, Clint Walker's back pocket.

12 Q Taken out of his pocket. Can you read or tell me
13 anything about what that identification card says?

14 A It is going to have his full name, Clint Arthur
15 Walker; and his address which is listed on there as 663
16 Bush Ferry Road.

17 Q You said in his pocket was cash. What are we looking
18 at here in State's 27.

19 A A decent amount of US currency.

20 Q Is it fair to say that is more than a thousand
21 dollars?

22 A Yes.

23 Q Is it more than two thousand dollars?

24 A I believe it was.

25 Q And State's 26. What are we looking at here.

1 A So that is going to be the wallet that we just spoke
2 about, Mr. Walker's wallet. That white card that is
3 behind his debit card, right there is going to be the
4 remote access card that we were speaking about. To the
5 right is going to be the panel that we removed from above
6 the top left of the kitchen sink. That is going to be the
7 safe door, if you will, the hidden compartment door. That
8 black box that is on that piece of wood paneling is a
9 system used to access that door. That key card granted
10 access to open that white box.

11 Q Investigator Kennedy, I want to approach you with a
12 couple of items. Do you recognize what is in this bag?

13 A I do.

14 Q And how do you recognize it?

15 A It is going to be the white key card in that picture.
16 It is the bag that I put it in and that is going to be my
17 initials and the date that I sealed that bag.

18 Q And what is significant about your initials and the
19 date and why would that have been done?

20 A To show that once that item is in that bag, that is
21 where it stays. It is not moving and it indicates that if
22 it was moved, the seal was broken, you can tell.

23 MR. PINCELLI: Your Honor, I believe this would be
24 State's 26, like to admit into evidence.

25 COURT REPORTER: That will be 28.

1 MR. PINCELLI: 28, I am sorry.

2 MR. STITELY: No objection.

3 THE COURT: State's 28 is admitted into evidence.

4 (Whereupon, State's Exhibit 28 was admitted into
5 evidence.)

6 Q And that is the key card that came out of Clint
7 Walker's wallet, is that correct?

8 A That's correct.

9 Q And you said that could be used to open that trap
10 door, correct?

11 A Oh, it was used. Yes, sir.

12 Q And it was using it, to manipulate, to open that trap
13 door?

14 A That's correct.

15 Q And what was found in that trap door?

16 A Almost two kilograms of methamphetamine.

17 Q I am approaching you with another item. Do you
18 recognize this bag, this package?

19 A Yes.

20 Q And what is that package?

21 A It is going to be those panelings that are seen in
22 that picture. Again, it has my initials on it with the
23 date on it so that it was properly sealed. And it hadn't
24 been opened since then except for right here or somebody
25 is indicating that, that was dealt with in evidence.

1 Q Sure. But that is why these are taped and initialed
2 so that we know exactly how and who opened it?

3 A Yes, sir.

4 Q And you said that you recognize that this would be
5 the paneling doors?

6 A Yes, sir.

7 MR. PINCELLI: Your Honor, I would like to move this
8 in as State's 29.

9 MR. STITELY: No objection.

10 THE COURT: State's exhibit 29 is admitted into
11 evidence.

12 (Whereupon, State's Exhibit 29 was admitted into
13 evidence.)

14 Q Investigator Kennedy, what happened to that large
15 quantity of drugs seized from behind those paneling doors?

16 A I put it in a cardboard box and sealed it and turned
17 it into evidence.

18 Q Investigator, take a look at this box and tell me if
19 you recognize it?

20 A I do.

21 Q And how do you recognize that box?

22 A It is going to be the one that I used to package the
23 drugs seen in the pictures and it also has the tape that I
24 put on it to seal all six sides. And it has got my
25 initials on it and it is labeled with the case number just

1 as those things were.

2 Q Does it have any unique identifying markers on that
3 box?

4 A It does.

5 Q And why, what are those?

6 A It is going to be a Best Kit number. Best Kit is
7 something that we use once the drugs are seized to place
8 it in so that it can properly be sealed and tested by a
9 chemist.

10 Q And your initials and that Best Kit number match up
11 with the drugs that you packaged for this case. Is that
12 correct?

13 A Yes, sir.

14 MR. PINCELLI: Your Honor, at this time I would like
15 to move this in as State's 30.

16 MR. STITELY: I am going to object at this point. It
17 is obviously, I don't think they have established the full
18 chain on that box yet. I am guessing this is the one that
19 goes to SLED and it is opened by somebody.

20 THE COURT: Let me discuss it.

21 (Whereupon, a bench conference was held in the
22 presence of the jury but out of the hearing of the
23 jury.)

24 THE COURT: So that will be State's 30 marked for
25 identification only.

1 MR. PINCELLI: That is correct, Your Honor.

2 (Whereupon, State's Exhibit 30 was marked for
3 Identification only.)

4 THE COURT: Very well.

5 Q Agent Kennedy, you collected those drugs and you also
6 collected any other thing related to a crime found at 663
7 Bush Ferry Road, is that correct?

8 A Yes.

9 Q Would that include the gun that was found in Clint
10 Walker's room?

11 A It would.

12 Q Can you identify this item?

13 A Yes. That is going to be packaged the same way, my
14 initials right there, case number and it is the firearm
15 that we saw in the pictures earlier.

16 Q And you say packaged the same way, it has been
17 sealed, has your initials on the seal?

18 A Yes, sir.

19 Q And what is inside of this item?

20 A It is a revolver style pistol.

21 Q And is it unloaded and safe?

22 A Yes, sir.

23 MR. PINCELLI: Your Honor, I would like to move this
24 in as State's 31.

25 MR. STITELY: No objection.

1 THE COURT: State's 31 admitted into evidence.

2 (Whereupon, State's Exhibit 31 was admitted into
3 evidence.)

4 Q Investigator Kennedy, going back through, what
5 happens when these drugs are found?

6 A Sure.

7 Q You locate drugs and you bring in Clint Walker?

8 A Yes, sir.

9 Q And then what, you asked Clint Walker questions, is
10 that correct?

11 A That's correct.

12 Q And he makes an indication to you, what is that?

13 A That he doesn't know what I am talking about,
14 verbally.

15 Q Okay. But based on your training and experience --

16 A Verbal indication that he doesn't know what I am
17 talking about.

18 Q Based on your training and experience what else did
19 you think was going on?

20 A His non-verbal cues gave me the impression that he
21 knew at least what I was talking about when I asked him if
22 there is any methamphetamine in the house.

23 Q And did you have any indication, does he indicate
24 non-verbal cues or otherwise where you might locate a
25 substance?

1 A Yes, sir.

2 Q And where was that?

3 A Well those are his eye movement paired with his head
4 and breathing tells me that there is something afoul, if
5 you will. It tells me that he is not giving me a direct
6 answer for a reason. And his eye movement was above the
7 kitchen sink.

8 Q And where were drugs eventually located?

9 A Right there in the cabinet to the left of the kitchen
10 sink.

11 Q And then you said you arrested Mr. Walker and
12 searched his person?

13 A Yes, sir.

14 Q What was found in his wallet?

15 A A remote access card that granted me access to that
16 wooden panel with the locking mechanism. It unlocked that
17 mechanism.

18 Q You gave a great analogy earlier of taking a
19 dollhouse and turning it upside down, when talking about a
20 search for a residence?

21 A Yes, sir.

22 Q You searched that entire residence, didn't you?

23 A Yes, sir.

24 Q And all, the other people at the residence were also
25 searched?

1 A I searched it with my counter parts.

2 Q Sure. But all law enforcement on the scene, they
3 searched the residence?

4 A Yes, sir.

5 Q They searched the cars out front?

6 A Yes, sir.

7 Q They searched the shed out back?

8 A Yes, sir.

9 Q Did they search the people that were there?

10 A Yes, sir.

11 Q Were any other cards or keys to that safe found?

12 A No, sir.

13 Q Investigator Kennedy, please answer any questions the
14 Defense has for you.

15 THE COURT: Alright, ladies and gentlemen, we have
16 been going for a little while. Let's take a ten minute
17 break, refresh yourselves, head on back to the jury room.
18 Do not discuss the case, we will get you back in a few
19 minutes. Thank you.

20 (Whereupon, the jury was excused from open court for
21 a break.)

22 MR. STITELY: One little legal thing before we go
23 into cross. So in Officer Kennedy's, real quick,
24 beginning colloquy of what he does he says one thing he
25 does is he goes out and looks for bad guys. I intend to

1 ask him if the other individuals in the house,
2 specifically Mr. Tommy Noell who left the residence and
3 Mr. Jamie Sharpe were known to him or law enforcement. He
4 said he was out looking for bad guys. He is around people
5 that NET Team agents have arrested multiple times. So I
6 am just going to ask if these were known to them in their
7 process for looking for bad guys.

8 THE COURT: Mr. Pincelli.

9 MR. PINCELLI: I think it is a stretch to take a
10 figure of speech.

11 THE COURT: I am, I certainly will allow you to use
12 bad guys. I don't know whether they were known to law
13 enforcement. I think that is a little too far. Well, I
14 just think, you can ask the question, were they --

15 MR. PINCELLI: I think we are really trying to sneak
16 inside that door of the probable cause and the search
17 warrant.

18 THE COURT: I don't think we are. I mean --

19 MR. STITELY: He is qualified as an expert so I can
20 talk about these people through his expert knowledge --

21 THE COURT: I am not going to allow you to go into
22 whether there are other investigations of other people.

23 MR. STITELY: I am not going to do that, I am just
24 going to ask --

25 THE COURT: Whatever, if you want to ask him if the

1 other people there were bad guys. I don't want you to go
2 too far with that.

3 MR. STITELY: I am not going to ask if they are bad
4 guys. I was going to ask were they known to law
5 enforcement. That is it.

6 THE COURT: I mean, I kept out that portion in a way.
7 I don't want to open the door to other investigations or
8 whether they were, whether they are bad guys or not. I
9 think you can have a little bit of lead way to bring that
10 up. But we are not going to testimony about any other
11 known investigations.

12 MR. STITELY: Just for the record. I do not intend
13 to ask about other investigations. Just individuals were
14 known to law enforcement specifically to the NET Team
15 through his expertise.

16 MR. PINCELLI: Same issue, Your Honor. Why would it
17 be known if there were no other issues.

18 THE COURT: One of them had drugs, I am just saying
19 whether or not they were bad guys. I think it is a fair
20 question like that.

21 MR. STITELY: Okay. Thank you, Judge.

22 THE COURT: Doesn't need to be any further than that.
23 Alright, you can obviously refresh yourselves too, just
24 don't discuss your testimony in any way during the break.

25 (Whereupon, a short break was taken.)

1 THE COURT: Okay, you want to come on back up to the
2 stand. Mr. Pincelli, Mr. Stitely, are y'all ready to go?

3 MR. PINCELLI: Yes, sir.

4 MR. STITELY: Yes, sir.

5 THE COURT: Bring them back in if they are ready.

6 (Whereupon, the jury came into open court at
7 approximately 10:52 a.m.)

8 THE COURT: Alright, Mr. Foreman, welcome back,
9 ladies and gentlemen. We will pick up where we left off
10 now on cross-examination of this witness. Mr. Stitely.

11 MR. STITELY: If it please the Court.

12 THE COURT: Certainly.

13 CROSS-EXAMINATION

14 By Mr. Stitely:

15 Q Investigator Kennedy, we know each other for years,
16 correct?

17 A Yes, sir.

18 Q You are an Investigator Kennedy, what is best for
19 you?

20 A Whatever you prefer, it really doesn't matter.

21 Q So let's just kind of cover a couple of quick basis.
22 This case you charge Mr. Walker with possession of a
23 firearm during the commission of a violent offense,
24 correct?

25 A Yes, sir.

1 Q And the reason you did that is under our law the
2 charge of trafficking of methamphetamine is a violent
3 offense, under the statute, correct?

4 A 16-1-160.

5 Q Okay. So the gun that you found in the house, absent
6 the meth, there is nothing wrong with having it, correct?

7 A Correct.

8 Q So if Mr. Walker just possessed this gun, and once
9 again, it is safe, correct?

10 A Yes, sir.

11 Q This gun, there is nothing apparently wrong with that
12 in and of itself, correct?

13 A Correct.

14 Q Like if you went into my house and I had this gun
15 there would be nothing wrong with that, correct?

16 A As long as you are not a felon which I don't think
17 you are.

18 Q Okay. So and this is not like a giant assault
19 weapon, correct?

20 A No, sir.

21 Q You didn't find a catch of Pablo Escobar's entire
22 group of people's weapons, correct?

23 A No, sir.

24 Q You found, it is a .22?

25 A Yes, sir.

1 Q Okay. So let's talk about some of the other things
2 you found in the house. You found a digital scale in the
3 kitchen, correct?

4 A Yes, sir.

5 Q I have a digital scale in my kitchen, is that
6 inherently a problem?

7 A By itself?

8 Q Yes, sir.

9 A By itself, no sir.

10 Q Okay. We do the meal plan ratio's where we weigh out
11 our food to make sure we get the right grams of protein.
12 Is it surprising to find someone having a scale in their
13 kitchen?

14 A By itself?

15 Q By itself.

16 A No, sir.

17 Q Okay. Let's talk about a safe in my room. If I had
18 \$2,000.00 dollars in my safe is that inherently a problem?

19 A By itself, no sir.

20 Q Okay. So let's talk briefly about the house. You
21 described two of the bedrooms. Who was the occupant of
22 the third bedroom?

23 A I don't know.

24 Q Did you guys take pictures of that room?

25 A I believe we have several hundred photographs. So,

1 yes sir.

2 Q Did you guys bother finding out who was staying in
3 the third bedroom?

4 A I could make a guess but I do not know based on the
5 evidence and interrogations that I did on scene.

6 Q Okay. I don't want you to make a guess. But you
7 can't say one way or the other for certain?

8 A I cannot.

9 Q Okay. Now when you were speaking to the Solicitor
10 early on you said that you came up to the house, you
11 surrounded it with 15 to 20 police officers, correct?

12 A Yes, sir.

13 Q Okay. Y'all all have guns, correct?

14 A Yes, sir.

15 Q When you go to a scene are you wearing a suit like
16 that or what are you wearing?

17 A I am wearing bluejeans, a tshirt and an outside
18 carrier vest.

19 Q Okay. You say outside carrier, you can see guns on
20 your person, correct?

21 A Yes, sir.

22 Q And some of your guys may have been even carrying
23 rifles and other big guns, correct?

24 A Yes, sir.

25 Q Okay. A couple of uniformed officers as well?

1 A No, sir.

2 Q None. Not routinely or just not in this case?

3 A Not in this case.

4 Q But you are clearly identified as police?

5 A Yes, sir.

6 Q Okay. You guys role up in combination of marked and
7 unmarked police vehicles?

8 A In this case it was, unless K-9 had a marked car, I
9 believe it was all unmarked vehicles.

10 Q Do you have lights though and like sirens and all of
11 that?

12 A We did not utilize our sirens. But, yes sir, we did
13 utilize our blue lights.

14 Q Okay. So when you describe this situation there is a
15 lot of obvious law enforcement rolling up on you pretty
16 quickly?

17 A It is fair to say.

18 Q Even before you were a police officer, you ever had
19 driving down the road blue lights turn on behind you?

20 A Yes, sir.

21 Q Does it normally cause you like a quick, what is
22 going on situation. Just think to the time before you
23 were a police officer?

24 A A few things run in my mind.

25 Q Okay. Sure. And this isn't one police officer

1 showing up behind you, this is a gaggle?

2 A Yes, sir.

3 Q Okay. And when you first arrive at the house you
4 said that three people were detained. That is not exactly
5 how it went down, isn't that correct?

6 A When I arrived at the house three people exited the
7 residence and were detained.

8 Q Do you have your report, please, in front of you. I
9 don't want to put you at a disadvantage.

10 A You can ask me, I am fairly familiar. I will be
11 searching for it as you ask me.

12 Q I will wait. The Court Reporter gets mad when I do
13 that too.

14 A Okay, I have got it right in front of me.

15 Q Alright. So and I am looking at a report. Once
16 again, you create a document to memorialize pretty much
17 what happens, correct?

18 A Yes, sir.

19 Q So as you said you roll up and you announce sheriffs
20 department search warrant, correct?

21 A Yes, sir.

22 Q And then you indicate two people were immediately
23 identified and detained. And who were they?

24 A Clint Walker and Carmen Cruz.

25 Q But then it says that after several minutes, after

1 specifically calling out the name, Michael Sharpe, he
2 comes out of the residence, correct?

3 A Correct.

4 Q So there is a, you wrote it here, several minutes.
5 How would you define several, one or more?

6 A I would say more than one.

7 Q So for some period of time there is a Mr. Michael
8 Sharpe inside the residence while Mr. Walker and Ms. Cruz
9 are outside?

10 A That's correct.

11 Q You don't have eyes on Mr. Sharpe of what he is doing
12 at that point, correct?

13 A I do not.

14 Q Can anyone specifically say they knew what Mr. Sharpe
15 was doing inside the house during these several minutes?

16 A I believe there was a supplement written regarding
17 the fact that he was using the restroom.

18 Q Okay. Alright. Flushing the toilet?

19 A I cannot speak on that, I wasn't inside.

20 Q Okay. Alright. So there actually is another
21 individual who was stopped as he was leaving the scene,
22 correct?

23 A Yes, sir.

24 Q And who was that individual?

25 A I wasn't on the traffic stop but I was made aware

1 through the investigation.

2 Q So let me go ahead and clarify this for the jury's
3 sake. So you are the lead investigator on this case,
4 correct?

5 A Yes, sir.

6 Q So as you said, there are 15 to 20 different people
7 doing their job?

8 A Yes, sir.

9 Q Some of them could be a higher rank than you but this
10 is your puppy?

11 A Yes, sir.

12 Q So any reports done by those other officers in these
13 same kinds of forms would be put together in your case
14 file and you would have access to them?

15 A Yes, sir.

16 Q You would know what the other pieces were doing,
17 correct?

18 A Yes.

19 Q Like you didn't take those pictures but you know that
20 the CSI or whoever was, CSI is crime scene investigator;
21 whoever was taking the pictures was doing their job for
22 you?

23 A Yes, sir.

24 Q So someone was stopped leaving the scene as y'all
25 were rolling up, correct?

1 A Yes, sir.

2 Q Who was that?

3 A That individual was Tommy Noell.

4 Q Who made that traffic stop, do you know?

5 A Investigator Sanner.

6 Q And that is Investigator Sanner sitting right there?

7 A That's correct.

8 Q Okay. And did Mr. Noell indicate whether or not he
9 lived in the home?

10 A I do not know.

11 Q Okay. Now there was, in this case, let me just ask,
12 we will go back into your expertise before we go that way.
13 How many search warrants have you either executed or been
14 on the execution team of, ball park for me?

15 A Two-hundred.

16 Q How many kitchen cabinets have y'all broken into in
17 your two-hundred search warrants?

18 A A few.

19 Q A few. One?

20 A I don't know.

21 Q Can you specifically recall any other times you broke
22 up someone's kitchen cabinets during a search warrant?

23 A Kitchen cabinets, no sir.

24 Q Okay. Now in this case how long did you search the
25 house before you were able to locate this alleged

1 compartment?

2 A Approximately ten minutes.

3 Q Was, now relying on what someone said but through
4 communications you received were you directed specifically
5 to look in that location?

6 A Information that I received was I asked, was I
7 notified to look there?

8 Q Yes.

9 A I was.

10 Q Okay. And that information came from Investigator
11 Sanner, correct?

12 A That's correct.

13 Q A very specific go look here was issued to your
14 search team, correct?

15 A Yes, sir.

16 Q Investigator Sanner kind of standing in the
17 background, the experience that you have?

18 A Yes, sir.

19 Q And he had been speaking to a Mr. Noell, correct?

20 A From my understanding.

21 Q Okay. Alright. And Mr. Walker said to you, when you
22 initially, I am kind of jumping a little bit here. When
23 you first talked to him you said, is there meth, he said
24 no; is there a gun, he said yes.

25 A That occurred outside, yes sir.

1 Q Okay. Alright. And let's just be kind of fair about
2 those pictures. This house wasn't quite the disaster it
3 looks like in the picture when y'all walked in, correct?

4 A No. Some of those pictures were posters.

5 Q And you described flipping over the dollhouse is how
6 it looks, after your search?

7 A We search everywhere.

8 Q Okay. So if you went in that kitchen originally it
9 would have probably looked okay with the cabinets closed,
10 things not all over the place, correct?

11 A The house wasn't a disaster.

12 Q And your testimony is that once you bring Mr. Walker
13 inside he looks over at his kitchen. But you said you
14 couldn't specifically say what he was looking at but he
15 looks at his kitchen and was kind of like, my kitchen.
16 Correct?

17 A I can be more specific if you like.

18 Q Go ahead.

19 A I believe where he was looking at was focused on the
20 area that the methamphetamine was seized based on the fact
21 that the question that I just asked, that response would
22 lead me to believe that he was looking specifically at
23 where the methamphetamine was seized.

24 Q I am putting up State's 3. Is that like the curtain
25 rod that would have been over his window?

1 A On the kitchen counter?

2 Q Yes.

3 A Yes, sir.

4 Q So if he had looked up and said, man, why the heck is
5 my kitchen counter window ripped down. He could have
6 looked for that reason, couldn't he?

7 A Sure.

8 Q And that was not how his kitchen was when he walked
9 out of his house, correct?

10 A No, sir.

11 Q And he walked in and this is what he sees?

12 A Yes, sir.

13 Q And y'all ripped that curtain down, correct, took
14 down?

15 A It was taken down.

16 Q Let's talk about things found in the house. You
17 found a alleged meth pipe, you kept calling it a meth
18 pipe. Did y'all test it?

19 A No.

20 Q So you didn't test to see if was really used for
21 meth?

22 A There was no purpose.

23 Q But the answer is no?

24 A The answer is no.

25 Q Okay. So if I had a pipe for smoking tobacco in my

1 house, does it automatically make it a meth pipe?

2 A I would have to look at it.

3 Q Sure. And test it for, can't they test those pipes
4 for the residue of what was smoked in them?

5 A Sure.

6 Q And y'all did not do that in this case?

7 A We did not.

8 Q Okay. Ms. Cruz, and I, once again, I guess it is
9 speculation. She was not on trial here today. You found
10 a purse with a wallet inside of it, correct?

11 A I did.

12 Q And it looked to be a ladies purse?

13 A Yes, sir.

14 Q And the wallet was clearly identified as her wallet?

15 A Yes, sir.

16 Q And it had drugs. Did you test those drugs?

17 A Yes, sir.

18 Q Had meth in it?

19 A Yes, sir.

20 Q And you did deem it as a, by law, a distribution
21 amount of meth, correct?

22 A Per State statute.

23 Q Okay. You said you think it was for personal use?

24 A Yes, sir.

25 Q But under our law it would have been distribution

1 weight potentially of meth? There is an inference.

2 A To answer your question briefly, yes.

3 Q Let's talk about what you find in Mr. Sharpe's
4 bedroom. That is where the black safe was located,
5 correct?

6 A Yes, sir.

7 Q Okay. State's 13. And once again, he is not on
8 trial here but the reason we are assuming that was Mr.
9 Sharpe's safe is there was a car title with his name on
10 it?

11 A Yes, sir.

12 Q And how much money was that?

13 A I can get you an exact number. I know it was around
14 \$10,000.00 dollars.

15 Q Okay. And what are these?

16 A The rely on bag, (phonetic)?

17 Q Yes.

18 A Needles.

19 Q What are needles in your treatment, your experience
20 commonly in association with for the use of?

21 A In this case I refer needles typically to be used to
22 inject some form of narcotic.

23 Q They don't have to be. They say insulin so that
24 could have been a diabetic's needle?

25 A Very well could have been.

1 Q If I had them in my house and I had nothing else they
2 could have been for a diabetes or B12, whatever?

3 A In your house that is what I would assume.

4 Q Okay. But in this case, in Mr. Sharpe's safe he has,
5 what you think is around \$10,000.00 dollars in cash and
6 needles and a title which makes you think it is his?

7 A Yes, sir.

8 Q Did you ever, I will drop that one. Okay. Now, you
9 found this compartment and broke it open, correct?

10 A Yes, sir.

11 Q So you didn't actually use a key card to enter it
12 first?

13 A That's correct.

14 Q Okay. Speaking about the key card, did you have it
15 forensically tested or figure out if it opened anything
16 else?

17 A I don't know if that is possible.

18 Q Did you ask?

19 A No sir, it had one purpose that I observed from what
20 its purpose was for.

21 Q But you didn't pursue whether it could have been for
22 any other locks or any other devices, correct?

23 A My experience, I have a key card, that key card
24 accesses certain things that it is assigned to.

25 Q Did you have anyone take a look at the device to make

1 any kind of determinations to how many key cards could
2 operate, like take it to a locksmith or some kind of
3 sciencey computer guy?

4 A I have no knowledge on that nor did I, no sir, that
5 was not done.

6 Q Let's got to the alleged drugs that were located.
7 And they are not into evidence yet but they, we saw a
8 picture of the baggies, correct?

9 A The ones on the kitchen counter?

10 Q Yes, sir. I will pull the picture up.

11 A I just didn't want to get it confused with --

12 Q Yes sir, sorry. We will just use number 24. And we
13 are talking about the ones that were found in the
14 compartment?

15 A Got it.

16 Q Did y'all pull latents off of those?

17 A No, sir.

18 Q What are latents?

19 A Fingerprints.

20 Q Did you pull any touch DNA off of those?

21 A No, sir.

22 Q Did you even try?

23 A No, sir.

24 Q Okay. You say that you searched the stuff on the
25 outside. Did Mr. Walker have a car there?

1 A Yes, sir.

2 Q Did you locate any drugs in Mr. Walker's car?

3 A No, sir.

4 Q Did you locate any drug paraphenelia that was put
5 into evidence from Mr. Walker's car?

6 A No, sir.

7 Q Did you locate \$10,000.00 dollars in Mr. Walker's
8 car?

9 A No, sir.

10 Q You did say you think he had around \$2,000.00 dollars
11 on his person or give or take?

12 A Roughly.

13 Q But a lot more in Mr. Sharpe's safe?

14 A Yes, sir.

15 MR. STITELY: I beg the Court's indulgence one
16 moment. I have no other questions for the Detective.
17 Thank you.

18 THE COURT: Any redirect?

19 MR. PINCELLI: Yes, Your Honor, thank you.

20 REDIRECT EXAMINATION

21 By Mr. Pincelli:

22 Q Investigator Kennedy, are you an electric engineer?

23 A No, sir.

24 Q Are you a specialist in electronic safes?

25 A No, sir.

1 Q Did Clint Walker say anything to you to make you
2 think that that key card was his and was used for that
3 safe?

4 A Yes, sir.

5 Q What did he say?

6 A When I removed his wallet, search incident to arrest,
7 he was placed under arrest for trafficking
8 methamphetamine. We removed, we searched him, we removed
9 the wallet, we got the key card. We observed what the key
10 card did. There were no evidentiary value in his wallet
11 so I took his wallet back to him so that it could be
12 transported to the jailhouse with him. Once I put the
13 wallet back in his pocket and I am sorry to the Court but
14 I am going to use the actual words that were given to me;
15 the phrase that was told to me was, obviously you knew the
16 fucking card was in there.

17 Q After that point did you feel like you needed a
18 specialist to review that card?

19 A No, sir.

20 Q Have you been qualified as an expert in the field of
21 narcotics investigations?

22 A Yes, sir.

23 Q That quantity of drugs found, how much street value
24 do you think roughly, you said roughly two kilograms.
25 What is a rough street value of two kilograms of

1 methamphetamine?

2 A At the time, approximately \$15 to \$20 thousand
3 dollars.

4 Q If someone had that amount in their possession, think
5 we could infer that they bought it, would it be safe to
6 say that they might not have a lot of cash on hand because
7 they just spent \$15,000.00 dollars on drugs?

8 A It is fair to say.

9 Q Sometimes when you are searching a residence do you
10 have tips or ideas of where to specifically look to find
11 substances?

12 A Yes, sir.

13 Q Do they help?

14 A Very much so.

15 Q Did they help this time?

16 A Yes, sir.

17 Q Did they help find who trafficked methamphetamine to
18 663 Bush Ferry Road?

19 A They did.

20 Q Who was that?

21 A Clint Walker.

22 Q Thank you, Investigator Kennedy.

23 THE COURT: Recross?

24 MR. STITELY: Yes, briefly.

25 RECROSS-EXAMINATION

1 By Mr. Stitely:

2 Q You got your work still in front of you?

3 A Yes, sir.

4 Q So and I am on your second page. It says page six on
5 mine but it is the second page of your narrative.

6 A Yes, sir.

7 Q It says that you utilized videos at the time. So
8 someone had some recording devices, correct? It says
9 right here it was videotaped and photographed when you
10 were working with the key card?

11 A Yes, sir.

12 Q Where is the video of Mr. Walker making his alleged
13 statement then?

14 A I don't know.

15 Q Thank you.

16 THE COURT: Alright, you may step down. Thank you.
17 Next witness.

18 MR. PINCELLI: The State calls Austin Sanner.

19 Austin Sanner, being
20 first duly sworn, testified as follows:

21 MR. SANNER: My name is Austin Sanner, S-A-N-N-E-R.

22 DIRECT EXAMINATION

23 By Mr. Pincelli:

24 Q Investigator Sanner, where do you work?

25 A Lexington County Sheriffs Department.

1 Q Are you a member of the NET Team, narcotics
2 enforcement?

3 A I am.

4 Q And how long have you been with NET?

5 A Four and a half, almost five years.

6 Q And were you on scene with Investigator Kennedy for
7 this search?

8 A I was.

9 Q At that time was your division equipped with body
10 cameras?

11 A No.

12 Q Would Agent Kennedy been equipped with a body camera?

13 A I do not believe so.

14 Q Were pictures taken?

15 A Yes.

16 Q And in fact we saw a lot of those pictures already
17 today, didn't we?

18 A Correct.

19 Q Going back to the search of this case. How were you
20 involved in the actual search, what was your role on
21 scene?

22 A I was just one of the agents, I was there to search,
23 assist in searching at the location.

24 Q And you made a traffic stop beforehand, didn't you?

25 A I did.

1 Q Tell me about how that occurred?

2 A So prior to the, excuse me, prior to the execution of
3 the search warrant myself and Sergeant Hodges were in my
4 unmarked county pickup truck, we were keeping eyes on the
5 location while the other agents completed their briefing
6 prior to arriving at the location. That was to ensure,
7 that was to ensure that nobody left the scene or if they
8 had spotted law enforcement in the area, try to leave with
9 evidence my role would have been had they left, conducted
10 a traffic stop to investigate who it was, where they were
11 going, that sort of thing.

12 Q And you did, in fact, make a traffic stop based on
13 that?

14 A I did.

15 Q And did you find any evidence, any drug evidence or
16 anything related to this case?

17 A No, I did not.

18 Q Did you learn anything that you relayed back to
19 Investigator Kennedy?

20 A I did.

21 Q What was that?

22 A That there was a potential hiding spot in the kitchen
23 of the home.

24 Q Did you assist in the actual search of the residence?

25 A I did.

1 Q Was sections of the home did you search?

2 A The kitchen was the primary location.

3 Q And with that information that you gained, did you
4 search above the sink?

5 A I did.

6 Q And we seen pictures. Did you find that compartment?

7 A I did.

8 Q We have what has been admitted as State's 29. Can
9 you open that up for me and I will bring up to you also
10 State's 28 which is the key card. Investigator Sanner,
11 when you got that open, I am going to ask that you
12 actually step down.

13 A Okay.

14 Q And bring those items. Show us what is inside that
15 bag. Investigator, were you on scene when the card was
16 utilized?

17 A I was.

18 Q If you can walk us through, what we are looking at
19 and how the card made it work? And you can hold up for
20 the jury and demonstrate.

21 A So this is the piece of wood that would have been,
22 you would have seen if you were to stand at the window,
23 look up into the left. This piece of wood was the in-cap
24 to the natural void that is in the cabinet. If you look
25 inside the cabinets, you don't see anything, you just see

1 the top. That area above the cabinet is a natural void,
2 you may have that in your home as well. This was the
3 in-cap that was sitting there, this white, this white
4 piece of wood and say a male fitting was what you saw to
5 the right, towards the wall. It married into the right
6 side. On the other side there was another male fitting
7 that married into the rear of the other side and appeared
8 to be magnetic in nature. When initially we broke into
9 it, we did not know how it operated. When you knocked on
10 it, felt on it, you could feel slight play, you could tell
11 that it was not the same as the other side. We could not
12 figure out where it was. We looked around for switches,
13 like I said, we looked in the cabinets to see if there was
14 any buttons, anything like that. We could not find it.
15 We, as you can tell, we are prying on it it broke down in
16 the middle and gave way. Once the prox card, key card if
17 you will was located we connected it on the counter and
18 when you would swipe in front of the, there you go, it
19 still works. You hear it operate. So that is it locked.
20 That would be it secured, cannot open it. That is how the
21 hidden compartment would operate. So it was, as I stated,
22 both sides, you can see this in the photograph. If you
23 want to bring up the photograph I can point to it as well.
24 This side is not going to work because it is broken from
25 being forced opened.

1 Q Investigator, this is State's 26. But this has been
2 how it was arranged on scene when you were testing it?

3 A Yes, that is exactly how it was done. The wires in
4 the middle, they connect here. They just connect the
5 power sources between both locks.

6 Q And were you on scene when that key card was
7 acquired?

8 A I was.

9 Q And where did it come from?

10 A The wallet belonging to Clint Walker.

11 Q Would it help you to see a photograph of the actual
12 cabinet?

13 A Yes.

14 Q I have State's 16, 17 and 18. State's 16?

15 A As you can see, that is the white board that had the
16 locking mechanism, the male mechanism, if you will.

17 Q And State's 17, you can better see that?

18 A Yes. As you can see the other one is no longer there
19 because it broke off. You see the male mechanism, you see
20 the white piece of board that was up against the wall.

21 You get a clear picture there. As you see there is a
22 bigger piece, it is what broke off of it when we were
23 trying to take it out. That is the male mechanism again.
24 There is another side to the wood. I may have it flipped
25 backwards but once again, when you, when we would swipe

1 the card it would release the lock. With it play, you can
2 see there is a little bit of play with it being solid,
3 that is what we heard when we knocked on the outside door.

4 Q Thank you, Investigator, if you will take a seat.
5 Were you actually, did you search other areas of the home
6 as well, Investigator?

7 A I did. I know for certain I searched the basement
8 area. There was a basement that went into, I guess the
9 garage. And searched the, Mr. Walker's bedroom as well.

10 Q This is State's 31. It is identified as a pistol
11 found in Mr. Walker's bedroom. Did you locate this item?

12 A I did.

13 Q And, again, this was attributed to Mr. Walker's
14 bedroom. Do you remember why?

15 A He had stated he had a firearm in the room.

16 Q Did you find any other keys in the basement?

17 A We did not.

18 Q Do you know of any other keys found anywhere else on
19 scene?

20 A There were no other keys located on the scene at the
21 house.

22 Q Thank you, Investigator, please answer any questions
23 for Defense.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

1 By Mr. Pincelli:

2 Q Investigator Sanner, how many search warrants do you
3 think you have executed or been a party to or been present
4 at in your tenure?

5 A More than a hundred.

6 Q How many kitchen cabinets have you broke into as part
7 of a search warrant, busted out a wall or kitchen cabinet?

8 A That will be the first.

9 Q Now you were the one who made the traffic stop on a
10 Tommy Noell, correct?

11 A Correct.

12 Q And Mr., not saying I guess, but after that traffic
13 stop you had specific information that directed you to a
14 kitchen cabinet, correct?

15 A Correct.

16 Q Did you inventory Mr. Noell's wallet?

17 A His whole vehicle was searched via consent. That
18 would have been anywhere that we believe methamphetamine
19 could have been. So his wallet would have been searched.

20 Q Sure. Did you inventory it?

21 A No.

22 Q At that point you didn't know you needed a key card
23 to get in the safe, did you?

24 A No, I did not.

25 Q Did you look for a key card in Mr. Noell's wallet?

1 A No, I did not.

2 Q So it is entirely possible he could have had a key
3 card in his wallet?

4 A It is.

5 Q Okay. Now, as you said, you have executed a bunch of
6 search warrants. I am going to kind of go to a common
7 example we work in law school. The hotel room, you are
8 outside of the hotel room, you knock on the door, you
9 announce you are the police, correct?

10 A Correct.

11 Q If you were to hear a toilet start flushing what
12 would your training and experience tell you to do
13 immediately?

14 A To enter the hotel room because there is a
15 possibility, are we having for the purpose of a search
16 warrant?

17 Q Yes, sorry.

18 A Okay. If we are there to execute a search warrant
19 and we hear a toilet flushing we are going to enter due
20 to, enter more rapidly due to the destruction, possible
21 destruction of evidence.

22 Q We don't want people flushing things before you can
23 get inside?

24 A Correct. With that also being said, we take into
25 account safety of all on scene because we are also not

1 going to rush into a home blind and be shot or an ambush
2 just over some drugs being flushed.

3 Q No doubt. I understand that completely. In this
4 case there has been testimony, you have been sitting here,
5 you were part of the investigation though, correct?

6 A Correct.

7 Q And you heard that Mr. Sharpe was inside the dwelling
8 for several minutes by himself before he came out,
9 correct?

10 A Correct.

11 Q In your experience would several minutes alone in a
12 house potentially with drugs, you went inside the house,
13 correct?

14 A Yes.

15 Q Would you have had time to say, go to your bedroom,
16 get your drugs, put them in a cabinet and go flush a key
17 card before you walked outside?

18 A I don't know, flushing a key card would be possible.

19 Q There would be enough time for it, wouldn't there?

20 A There may be time, yes.

21 Q No other questions.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 By Mr. Pincelli:

25 Q Do you remember finding a key card in Tommy Noell's

1 wallet?

2 A No.

3 Q Had you found a key card on Michael Sharpe or Tommy
4 Noell might they also been charged with trafficking
5 methamphetamine?

6 A Absolutely.

7 Q Because they could also be guilty of methamphetamine?

8 A Correct.

9 Q Would that exclude Clint Walker being guilty because
10 he was in possession of the methamphetamine?

11 A No. His house and his key card.

12 Q You recall about how many, did you help get the drugs
13 out of that cabinet?

14 A I did.

15 Q You remember, a large amount of drugs?

16 A Yes. It was, as stated, right under 2,000 grams.

17 Q If any drugs were flushed there was still, how much
18 methamphetamine in that cabinet?

19 A 2,000, roughly, almost 2,000 grams.

20 Q And where did the key card that opened that safe come
21 from again?

22 A Mr. Walker's wallet.

23 Q Thank you.

24 THE COURT: Recross?

25 MR. STITELY: Very briefly.

RECROSS-EXAMINATION

By Mr. Stitely:

Q Did you ever have like college roommates, live in girlfriend, live in roommate at all?

A Yes.

Q And did you at all times know exactly what they had in their possession at every minute?

A No.

Q And under the law, if you were in the same room and they possessed something and you were not aware of it, mere presence does not guarantee you were guilty of whatever they had, correct?

A Constructive possession.

Q But merely being present at the scene --

MR. PINCELLI: Objection, Your Honor, it is a legal --

THE COURT: Well--

MR. STITELY: Mr. Pincelli I would argue opened this door when he was making the argument about could they had been charged as well.

THE COURT: Okay. There was some, we tiptoed around the law here and we have plenty of time for that later.

MR. STITELY: Sure.

Q But there have been times in your life where you couldn't account for a roommate everything they had in

1 their possession, correct?

2 A Right, correct.

3 Q Nothing further.

4 THE COURT: Alright. The witness may step down.

5 Thank you. Call your next witness.

6 MR. LONG: The State calls Sandra Black to the stand.

7 Sandra Black, being

8 first duly sworn, testified as follows:

9 CLERK OF COURT: Have a seat, state your name for the
10 record.

11 MS. BLACK: Sandra Black. B-L-A-C-K.

12 DIRECT EXAMINATION

13 By Mr. Long:

14 Q Sandra, where do you work?

15 A Lexington County Sheriffs Department.

16 Q What is our job title?

17 A Sergeant of evidence.

18 Q How long have you held that title?

19 A This is my fourth year.

20 Q What are some of your job duties?

21 A Sergeant of evidence. What we do is we receive
22 evidence from deposes, investigators, CSI and we store and
23 maintain that evidence. We send it out to be tested if it
24 needs to be tested and maintain and interrogate it, of
25 evidence.

1 Q Do you label evidence in any way?

2 A Yes, we do. So when we get, when evidence is turned
3 in, it is turned in either a box or a bag or an envelope,
4 some sort of container that is sealed with the initials
5 and the date that was sealed by the person who sealed it,
6 has the case number on it. If we cannot see through the
7 package or the box they write on the outside what it is.
8 They do their evidence voucher which has a description of
9 what is, that property is. For Best kits we use the Best
10 kit number so that we can track through and it is easier
11 to track it through with that number. Once we, once we
12 accept it the computer gives us a label, it is a clear
13 weight label that has a bar code on it and also has a PR
14 number which is an identifying number for that specific
15 item only. So every item has their own PR number. The
16 only exception to that is that if they package like a
17 scale or two or three scales in one bag, then they will
18 all share that PR number.

19 Q So the sticker has the PR number and it also has kind
20 of a description of what the evidence is?

21 A Correct. It has the description of what the evidence
22 is, the PR number and the case number on it as well.

23 Q And how do you receive evidence. Is it like, knock
24 on the door and leave it out front. How does law
25 enforcement get the evidence to you?

1 A So there is a couple of different ways they can get
2 it to us. One is, they can hand it to us or slide under
3 the window there and we know it is there, we get it. If
4 we are not there they can put it in a locker, lock the
5 locker, we are the only ones that have a key to the locker
6 and the only one that can open the locker. They have got
7 some refrigerators also, they have locking, locking
8 departments and they lock. And we have some bigger
9 lockers as well. If it is after hours and it is too big
10 to fit into a locker or a certain amount of money then
11 they will call us in and we will come in and get it from
12 them.

13 Q Do you remember seeing any evidence in this case?

14 A We received evidence, yes sir.

15 Q You received several pieces?

16 A Yes, sir.

17 Q Do you recall receiving a box?

18 A Yes, sir.

19 Q I will hand you what has been marked as State's
20 exhibit 30 for ID purposes only. Do you recognize that
21 box?

22 A Yes, sir.

23 Q Does that box have a sticker on it?

24 A Yes sir, it does.

25 Q What does that sticker tell you?

1 A So the sticker tells me that it is associated to case
2 number 22000837. It is a Best kit, number C021574. It
3 has a PR number of 152515. It also tells me where it is
4 stored in our warehouse or in our evidence room. It also
5 gives me a group number and an item number. So this will
6 be group three, item one; group numbers are assigned by
7 the computer just in whatever order is accepted and
8 whatever order, (inaudible).

9 Q Did you take this box to SLED to be analyzed?

10 A Yes sir, I did.

11 Q And do you work with SLED often?

12 A We take things up there, our CSI guys generally takes
13 up there but we also take items up there to be tested as
14 well.

15 Q So you would know some of their policies and
16 procedures for taking evidence?

17 A Yes, sir.

18 Q So this case, there was a Best Kit assigned to it but
19 do you know how SLED operates with a Best Kit versus in a
20 box itself?

21 A So a Best Kit is a folder, it has in there an
22 envelope that you can put drugs in and seal and initial
23 and date that seal. There is some other stuff you can
24 fill out also, Form B and a Form C. Form B is the chain
25 of custody. Form B is filled out by the person who

1 originally seized it, Form C is filled out by everybody
2 else who touches it after that. So for Best Kits in an
3 envelope, you just take the envelope to SLED. For Best
4 Kits that are in a box, they want you to take off the Best
5 Kit itself, write on the box what you believe is in the
6 box as far as what kind of drug you believe it is or what
7 kind of substance, whatever you want to describe it as.
8 And you take the Form B's and C's with the box to SLED.

9 Q And you yourself took this box to SLED?

10 A Yes sir, I did.

11 Q Do you remember when you took, when you took that box
12 to SLED?

13 A I took it to SLED on, on April 11th of 2023.

14 MR. LONG: I beg the Court's indulgence.

15 Q So the number on the box, is that the same number as
16 the Best Kit?

17 A The C021574, yes sir.

18 Q I believe that is all I have for you. If you will
19 just answer any questions the Defense may have.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 By Mr. Stitely:

23 Q Ms. Black, how are you today?

24 A I am good. How are you, sir.

25 Q Good. We have known each other a long time?

1 A Yes, sir.

2 Q So long and the short of it is. You make sure that
3 whatever is sealed in the box doesn't change the way it is
4 until it gets to SLED, correct?

5 A Correct.

6 Q So you have nothing to do with putting things in the
7 box?

8 A No, sir.

9 Q You have nothing to do with taking them out of the
10 box until you get here for trial?

11 A Correct.

12 Q So you think it is drugs because that is what is
13 written on the box, correct?

14 A That is what they told me on their voucher and in
15 their Form B.

16 Q So you don't know if it is drugs or not. You can
17 assume and you have got the reports but other than that
18 you just had a box that you transferred from point A to
19 point B?

20 A Correct.

21 Q You can't say if they are Ben's drugs?

22 A No.

23 Q Luke's drugs?

24 A No, sir.

25 Q Player's drugs?

1 A No, sir.

2 Q Tommy's drugs?

3 A No, sir.

4 Q Okay. Thank you.

5 A You are welcome.

6 THE COURT: Any redirect?

7 MR. LONG: No, Your Honor.

8 THE COURT: The witness may step down.

9 MR. LONG: Your Honor, may we approach?

10 THE COURT: Yes.

11 (Whereupon, a bench conference was held in the
12 presence of the jury but out of the hearing of the
13 jury.)

14 THE COURT: Let's take a short ten minute break here
15 before our next witness. Refresh yourself in the jury
16 room, please don't discuss the case. We will get you back
17 in here in a few minutes.

18 (Whereupon, the jury was excused from open court for
19 a break.)

20 THE COURT: We will take a few minutes. Get back
21 started, it is 11:40, let's try to shoot for 11:50.

22 (Whereupon, a short break was taken.)

23 THE COURT: Are y'all ready to call the next witness?

24 MR. LONG: The State is ready, Your Honor.

25 MR. STITELY: Yes, sir.

1 THE COURT: Let's bring the jury in.

2 (Whereupon, the jury came into open court at
3 approximately 11:56 a.m.)

4 THE COURT: Mr. Foreman, ladies and gentlemen,
5 welcome back. We will continue with our next witness.

6 MR. LONG: The State calls Maribeth McCormack to the
7 stand.

8 Maribeth McCormack, being
9 first duly sworn, testified as follows:

10 CLERK OF COURT: State your name and spell your last.

11 MS. MCCORMACK: Maribeth McCormack;
12 M-C-C-O-R-M-A-C-K.

13 DIRECT EXAMINATION

14 By Mr. Long:

15 Q Ms. McCormack, where are you from, where did you go
16 to school?

17 A I am from Fairfield County and I attended the
18 University of South Carolina in Columbia.

19 Q What did you study while you were at the University
20 of South Carolina?

21 A I had a Bachelor of Science in Chemistry and a
22 Masters in teaching chemistry and physics.

23 Q Where you are currently employed?

24 A At SLED.

25 Q And how long have you been with SLED?

1 A 16 years.

2 Q What is your job title?

3 A I am a forensic chemist in the drug analysis
4 department.

5 Q So what do you do as a forensic chemist in the drug
6 and analysis department?

7 A I analyze evidence for the presence of controlled
8 substances.

9 Q So you analyze drugs?

10 A Yes, suspected drugs.

11 Q And what training and education did you receive on
12 your way to becoming a forensic chemist?

13 A I received my Bachelor's of Science in chemistry and
14 I also have completed training at SLED which was about six
15 months when I first started. And I also have proficiency
16 tests yearly.

17 Q So you still received training on occasion?

18 A Yes.

19 Q Have you ever been asked to analyze a substance that
20 is believed to be methamphetamine?

21 A Yes.

22 Q Approximately how many times?

23 A Thousands.

24 Q Have you ever analyzed a substance that did test,
25 coming out testing as methamphetamine?

1 A Yes.

2 Q And approximately how many times?

3 A Thousands.

4 Q Have you ever testified in court concerning your
5 analysis of a substance that is believed to be a
6 controlled substance?

7 A Yes.

8 Q Approximately how many times have you done that?

9 A Forty-eight times.

10 Q Have you ever been qualified by a Court as an expert
11 witness?

12 A Yes.

13 Q How many times?

14 A Forty-eight.

15 MR. LONG: Your Honor, at this time the State would
16 like to admit Ms. McCormack as an expert in the field of
17 drug analysis.

18 THE COURT: Any voir dire?

19 MR. STITELY: Yes, Your Honor.

20 CROSS-EXAMINATION

21 By Mr. Stitely:

22 Q Do you also do pharmacology?

23 A Pharmacology?

24 Q Yes, ma'am.

25 A No.

1 MR. STITELY: Okay, thank you, nothing else. No
2 objection to her qualification.

3 THE COURT: You offered her in what?

4 MR. LONG: In the field of drug analysis.

5 THE COURT: Ladies and gentlemen, this witness will
6 be qualified in the area of drug analysis and give opinion
7 testimony in that area. It doesn't mean you must accept
8 the opinion but it is evidence for you to use in any way
9 you see fit.

10 DIRECT EXAMINATION

11 By Mr. Long:

12 Q I am turning your attention to this case, Ms.
13 McCormack. Did you receive a box that was suspected to be
14 a controlled substance?

15 A Yes. May I refer to my notes?

16 Q Yes, please. Do you remember, do you have when that,
17 when the box was received by SLED?

18 A On April 11th, 2023.

19 Q Ms. McCormack, what is a lab number?

20 A A lab number is a computer generated number
21 associated with each case that comes into SLED. It is a
22 unique number for each case.

23 Q So no two cases can have the same lab number?

24 A Correct.

25 Q And does that lab number have anything to do with law

1 enforcement is perceived from or is it kind of computer
2 generated?

3 A It is computer generated.

4 Q Is there a lab number assigned to this particular
5 case?

6 A Yes.

7 Q What is that lab number?

8 A L23-06098.

9 Q So kind of backing up, when a case is first assigned
10 to you what do you do?

11 A When it is assigned to me I will pick it up from the
12 evidence log-in department.

13 Q And who has access to the evidence log-in department?

14 A The employees of that department as well as the
15 Captain, the Major.

16 Q And from there where do you take the suspected
17 narcotics?

18 A I take it up to the drug analysis lab and it is
19 placed into our secured drug vault until I am ready to
20 begin analysis.

21 Q So when you are ready to test suspected narcotics,
22 what is the first thing you do?

23 A The first thing I do is observe the packaging to make
24 sure that it is sealed. And once I observe that then I
25 perceive with opening the evidence.

1 Q Do you look and see if the package, there has been
2 talk about a Best Kit but in this case you received a box?

3 A Yes.

4 Q When you receive a box or a Best Kit do you look to
5 see if it has been tampered with in any way?

6 A Yes.

7 Q And would you make notes of that in your report if
8 there was?

9 A Yes. There will be a note on the report and I would
10 also take photographs.

11 Q Was there any evidence that this box had been
12 tampered with in any point when you got it?

13 A No.

14 Q Otherwise you would make a note of it?

15 A Yes.

16 Q I am going to hand you what has been marked as
17 State's exhibit 30 for ID purposes only. Do you recognize
18 that?

19 A Yes, I do.

20 Q And how do you recognize it?

21 A I see the SLED lab number, right here, the bar code.
22 And I also see evidence tape with my initials and date on
23 it.

24 Q And what does that evidence tape with your initials
25 and the date, what does that tell you?

1 A That tells me that I resealed the evidence after
2 analysis.

3 Q When you get, when you get drugs do you weigh them?

4 A Yes.

5 Q Do you weigh it in its packaging material or do you
6 kind of weigh it a raw weight?

7 A Evidence that is tested is weighed without packaging.

8 Q And what is the reason for that?

9 A So the packaging and the, (inaudible, someone
10 coughing).

11 Q And how is it weighed, do you just pour it on a
12 scale, how do you weigh the narcotics?

13 A I use a container, in this case it would be a ziplock
14 bag. I tear the bag to zero out that weight and then put
15 the substance in the bag and I re-equivalate.

16 Q And so what is the first thing you do when you are
17 going to test suspected narcotics?

18 A The first thing I do is inventory the evidence and I
19 weigh the evidence, perform a preliminary test which is
20 the chemical spot test. And then, if necessary a
21 confirmatory test which is the Gas Chromatograph/Mass
22 Spectrometer.

23 Q And that is a lot for me to say, that is also known
24 as GCMS, correct?

25 A Yes.

1 Q That is what I will call it. And that is the
2 confirmatory testing?

3 A Yes.

4 Q What does the, what is the color test, how, so
5 obviously it is a preliminary test. Are you looking for a
6 specific color, how does that work?

7 A Yes. The chemical spot test is a preliminary test.
8 It is reagent that will may or may not give a color
9 reaction. And in this case it did give a color reaction
10 that is indicative of methamphetamine.

11 Q And what color was it?

12 A Orange.

13 Q And you tested, so inside the box, you seen inside
14 the box. It is four bags inside that box, correct?

15 A Yes.

16 Q And you did the color testing on, the preliminary
17 testing on all four bags?

18 A Yes.

19 Q But you didn't put all four bags through the GCMS?

20 A Correct.

21 Q And why didn't you?

22 A Our policies are based on the weight threshold. And
23 in this case I had already met the weight threshold for
24 the substance. So while I did weigh the remaining bags
25 and do a preliminary test, I did not do the confirmatory

1 test because that would not exceed the next threshold.

2 Q And when you are testing drugs, do you test all of it
3 or do you kind of get a little sample out of it?

4 A I take a representative sample.

5 Q And why do you not all, why do you not test the whole
6 thing?

7 A Because then there would be nothing left.

8 Q Because the testing destroys the sample that you use
9 on the test?

10 A Yes.

11 Q You can't put that back in the bag once you test it,
12 correct?

13 A Right, it will be consumed in the analysis.

14 Q So you ran two bags through the GCMS. Did you get a
15 result?

16 A Yes.

17 Q And how does that result work. Does it just shout
18 out at you. This is crack cocaine, this is meth, this is
19 marijuana. How does that work?

20 A The instrument produces a spectrum that we compare
21 with a known chemical standard. And the data is compared
22 with that standard and a conclusion is made.

23 Q And did you get a result in this case?

24 A Yes.

25 Q And what was that result?

1 A Methamphetamine found.

2 Q Can you just briefly explain how you were able to
3 determine it was methamphetamine?

4 A Yes. I ran a chemical, a known chemical standard of
5 methamphetamine from a chemical company. And I compared
6 those results with the results of my sample.

7 Q Did you have any concerns or indications that your
8 instrument was not working properly on the day that these
9 drugs were tested?

10 A No.

11 Q And why not?

12 A We run a tune, at the beginning of each week on our
13 instrument and there are certain parameters that have to
14 be met. And if those parameters are not met then we will
15 take it out of service and perform maintenance. So in
16 this case there was no maintenance needed.

17 Q And can you tell us what the, to a reasonable degree
18 of scientific certainty, what these drugs were?

19 A Methamphetamine, the two bags tested.

20 Q And is methamphetamine a controlled substance?

21 A Yes.

22 Q And what schedule is?

23 A It is a schedule two.

24 Q And you said earlier, you said that you saw the
25 evidence tape and your initials on that box?

1 A Yes.

2 Q So once you tested the drugs what did you do with the
3 drugs that you tested. What did you do with all the drugs
4 once you tested them?

5 A I would repackage them, put them back in the original
6 container and seal it.

7 Q In the original container and seal that box, correct?

8 A Yes.

9 Q Did that box appear to be in the same condition as
10 when it last left you?

11 A Yes.

12 Q Is the original SLED sticker on that box with the lab
13 number on it?

14 A Yes.

15 MR. LONG: Your Honor, at this time the State moves,
16 what has been premarked as State's exhibit 30 for Id
17 purposes into evidence.

18 MR. STITELY: With an abundance of caution I would
19 ask you to verify the contents. And I am not going to
20 object to it. Unless you are not going to open it.

21 MR. LONG: Yes, I am going to open it, yes.

22 MR. STITELY: Do that first and I have no objection.
23 Just verify of what is in there.

24 A You want me to hold it up?

25 MR. STITELY: I just want to verify.

1 Q What is in that box, you are looking in the box right
2 now. Is what is in the box what you received when you
3 first received the drugs?

4 A Yes.

5 MR. STITELY: No objection.

6 THE COURT: State's exhibit 30 is admitted into
7 evidence.

8 (Whereupon, State's Exhibit 30 was admitted into
9 evidence.)

10 Q And just to be clear, there is four bags of
11 methamphetamine in there, correct? It should be, one
12 second. It should be two ziplock bags with a pink top.

13 A Yes.

14 Q You can go ahead and take those out, if you don't
15 mind. And by pink top what you mean is a pink zipper,
16 correct?

17 A Yes. I am just trying to distinguish the difference
18 between the bags, the pink ziptop.

19 Q They are all one bag with a clear top which would be
20 a clear zipper. Just to be clear, both of these bags that
21 are already out right here on this table, those are the
22 two pink bags or pink tops?

23 A Yes.

24 Q And which one do you have right now?

25 A 4.2 which was the clear top.

1 Q And 4.2, that is your item number?

2 A Yes.

3 Q And why does it have an item number?

4 A Just to distinguish between the evidence.

5 Q And what is the other bag in there?

6 A This is 4.3 with the green top.

7 Q And we talked earlier, you said you only weighed two
8 of the bags, or you only tested two of the bags,
9 confirmatory testing?

10 A Yes.

11 Q And did you weigh those two bags?

12 A Yes.

13 Q And what was the weight of those two bags?

14 A The combined weight, 1,624 grams plus or minus one
15 gram.

16 Q And what is the plus or minus for?

17 A That is just the measurment of uncertainty.

18 Q So can you hold up the two bags that weighed 1,624
19 grams, plus or minus a gram.

20 A (The witness holds up the bags.)

21 Q So just those two were over 1,600 grams?

22 A Yes.

23 Q Did you weigh the other two bags?

24 A I did.

25 Q Do you remember the approximate weight of those?

1 A Yes. The clear top is 135 grams, and the green top,
2 136 grams.

3 Q And just to be sure, those weren't, the clear and the
4 green were not put through confirmatory testing, the GCMS.
5 But do they appear, the preliminary test, they were
6 positive for methamphetamine, correct?

7 A Yes. They were consistent with the two fully tested
8 items.

9 Q And consistent mean they look alike, the preliminary
10 test, it was all the same?

11 A The preliminary test was orange for all bags.

12 Q And why are you wearing gloves when you are holding
13 those substances?

14 A It is for safety.

15 Q Because they are a controlled substance?

16 A Yes.

17 MR. LONG: I beg the Court's indulgence.

18 Q That is all I have for you, Ms. McCormack, please
19 answer any questions the Defense may have.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 By Mr. Stitely:

23 Q Briefly, Agent?

24 A That is fine.

25 Q So just really quick, a couple of questions, not

1 many. You said the other two bags, one was 135 and one
2 was 136?

3 A Yes.

4 Q Total weight of all of it was about 1,885, plus or
5 minus, you call a gram in there?

6 A I have not added them all together.

7 Q Okay. Well assuming my math of 1,624, 135 and 136 is
8 1,885, that would be about correct?

9 A Yes.

10 Q Okay. In your world, if I told you I was bringing
11 you two kilos, could you tell the difference between 2,000
12 grams and 1,885 grams in your lab?

13 A By eyesight?

14 Q Weighing it, testing?

15 A Weighing, yes.

16 Q How specific can you get as to the weight of an item
17 in your lab?

18 A The balance needed to weigh over 200 grams in our lab
19 is a plus or minus one gram.

20 Q How specific can you get if somebody brought you just
21 a little, a couple of grains of salt. How good is your
22 equipment at weighing things out?

23 A Well, our most specific balance, can get to the
24 thousandths.

25 Q Thousandths of a?

1 A Of a gram.

2 Q So we are talking not a kilo gram but one-thousandth
3 of one gram you could test to, correct?

4 A Not with this quantity, no.

5 Q Sure. Would you just spitball and call 1,885 grams
6 two kilos or would you want a pretty specific number, if
7 you were going to put it in your report?

8 A It needs to be specific.

9 Q Okay. And you can't speak to whether those are my
10 drugs, can you?

11 A No.

12 Q All your job is to say is that is what they are?

13 A Correct.

14 Q You can't say where they came from?

15 A No.

16 Q Can't say who owned them?

17 A No.

18 Q One thing is, when they go to SLED, now you have to
19 protect the way you handle them at all times, correct?

20 A Yes.

21 Q Because they also could be requested to be
22 fingerprinted, correct?

23 A Yes.

24 Q Could be requested for DNA, correct?

25 A Yes.

1 Q And SLED has the ability to do both of those,
2 correct?

3 A They do.

4 Q And in your experience you have had situations before
5 where multiple kinds of tests were run on anything,
6 correct?

7 A Yes.

8 Q Thank you, Ma'am, no other questions. Appreciate
9 your time.

10 THE COURT: Any redirect?

11 MR. LONG: Briefly.

12 REDIRECT EXAMINATION

13 By Mr. Long:

14 Q So you said that you only weighed two bags and they
15 were 1,600 grams, they were over 1,600 grams?

16 A Yes.

17 Q And the reason you didn't test the other two bags is
18 because why?

19 A Because testing those other two would not exceed the
20 next weight threshold.

21 Q And what is the highest weight threshold for
22 methamphetamine?

23 A Well, it depends if it is South Carolina or Federal.
24 So just to be safe I test it over 1,000.

25 Q Okay. What is the maximum threshold for South

1 Carolina?

2 A I believe 400.

3 Q No further questions.

4 THE COURT: Any recross?

5 RECROSS-EXAMINATION

6 By Mr. Stitely:

7 Q You did weigh the other bags. You just didn't make a
8 finding on them because you had already hit your number.
9 Correct?

10 A Yes.

11 Q Nothing else.

12 THE COURT: The witness may step down. Thank you.

13 MR. STITELY: Judge, we have no objection to
14 resealing the evidence.

15 (Whereupon, the drugs were resealed.)

16 MR. PINCELLI: Your Honor, at this time the State
17 rest.

18 THE COURT: Y'all approach real quick.

19 (Whereupon, a bench conference was held in the
20 presence of the jury but out of the hearing of the
21 jury.)

22 THE COURT: Ladies and gentlemen, the State has
23 rested their case. I have got some matters to take up
24 with the attorneys at this time. It is also time for
25 lunch. Will go ahead and give you a little more than an

1 hour here but I would like for you to be back in your jury
2 room no later than 1:45 and we will finish, move on with
3 the trial at that time. Have a nice lunch, please don't
4 discuss the case with anyone or do any independent
5 research of the case. And we will see you back in your
6 jury room at 1:45.

7 (Whereupon, the jury was excused from open court for
8 a lunch break.)

9 THE COURT: Okay, Mr. Stitely.

10 MR. STITELY: Judge, at this time the Defense makes a
11 motion for a directed verdict. At this stage of the case
12 the evidence in light most favorable to the State is
13 insufficient matter of law to proceed forward in the
14 trial.

15 THE COURT: Any response from the State?

16 MR. PINCELLI: Your Honor, I think there is
17 sufficient evidence that has been presented through
18 testimony and other evidence to hand this over to the jury
19 and let them make a decision on the guilt or innocence.

20 THE COURT: Alright. Well, at this stage I determine
21 the existence of weight, the existence of evidence and not
22 weight. So I will deny the motion for a directed verdict
23 at this time. We have a little bit of confusion here
24 because we have done two pretrials on two different cases
25 this week. But, we did have a Denno hearing in this case,

1 right?

2 MR. PINCELLI: Yes sir, we did.

3 THE COURT: Okay.

4 MR. STITELY: You determined that he would be able to
5 offer that potential statement.

6 THE COURT: Just because it is voluntary they can
7 give whatever weight. Anything else for now? Mr.
8 Stitely, at this time, if your client were here I would
9 advise him about his rights, the Fifth Amendment and the
10 Constitution. He is not here. It is my understanding,
11 Mr. Stitely, you aren't intending to put up any witnesses?

12 MR. STITELY: That is correct, Your Honor.

13 THE COURT: So when we come back after the lunch hour
14 I will say, now is the opportunity to hear from the
15 Defense. And then you can state that you will rest.

16 MR. STITELY: I will rest and say I renew all
17 previous motions.

18 THE COURT: That will be fine, that will be fine and
19 then we will just flip it right into closing. Okay. I am
20 going to print out the jury charge. Are you going back to
21 your office?

22 MR. STITELY: Yes, she can email it to me.

23 THE COURT: Alright. We will just email it out.

24 MR. STITELY: Only request mere presence, I don't
25 have anything else.

1 MR. PINCELLI: And I am sure you have handled
2 multiple trafficking charges. There is no inference for
3 possession because of home ownership which make sure that
4 is not in there.

5 MR. STITELY: Yes, you can't infer he possessed.

6 THE COURT: I don't recall that being in a
7 trafficking case we had a couple of weeks ago, home
8 ownership.

9 MR. STITELY: I can request the lessor included of
10 simple possession.

11 MR. PINCELLI: I ask that that not be allowed. State
12 v. Stewart. I think you have already corrected it from
13 older charges based on updating case law.

14 MR. STITELY: Just email and I will grab some lunch.

15 (Whereupon, a lunch break was taken.)

16 THE COURT: Alright. Mr. Stitely reached out to us
17 about adding a little bit of language to the Defendant's
18 decision not to testify charge. Basically, will be able
19 to say, his decision not to testify or appear can't be
20 held against him.

21 MR. STITELY: Right. And I believe it is his
22 Constitutional right and I think just a reminder to the
23 jury that should not enter into their consideration or
24 deliberations at all is appropriate as to both. Because I
25 would make it akin to a Fifth Amendment privilege.

1 THE COURT: And mere presence is in here somewhere.

2 MR. STITELY: You don't specifically call it mere
3 presence, Judge. But at the end of your charge.

4 THE COURT: Yes. It is at the end of the trafficking
5 charge.

6 MR. STITELY: And it looks like you removed that
7 language that Mr. Pincelli was pointing out about the --

8 THE COURT: We did.

9 MR. STITELY: Looks good.

10 THE COURT: So we will bring them in, we will allow
11 the Defense to put up their case. You can rest and renew
12 all previous motions just quickly without any details and
13 we will move on into closings. The Defense did not put up
14 any exhibits so the State will open and close in full.
15 The Defendant will have the last word and then I will
16 charge them on the law. Okay.

17 MR. STITELY: Yes, sir.

18 THE COURT: Are y'all ready to proceed?

19 MR. PINCELLI: Yes, Your Honor.

20 THE COURT: Bring the jury in.

21 (Whereupon, the jury came into open court at
22 approximately 1:50 p.m.)

23 THE COURT: Mr. Foreman, ladies and gentlemen,
24 welcome back. Hope you had a nice lunch. When we left
25 the State just rested their case. At this time we will

1 have an opportunity to hear from the Defense.

2 MR. STITELY: Your Honor, the Defense rest and renews
3 all previous motions.

4 THE COURT: So noted. Ladies and gentlemen, the
5 parties have presented their evidence in this case. It is
6 now time for the attorneys to make their closing
7 arguments. The arguments of the attorneys are not
8 evidence in this case. Their statements and arguments are
9 meant to help you understand the evidence and apply the
10 law to the evidence. You should disregard any remarks,
11 statement or argument which is not supported by the
12 evidence presented during the trial or the law that I will
13 explain to you after the arguments. Please give your
14 complete and undivided attention to the attorneys as they
15 make their closing arguments.

16 MR. PINCELLI: Thank you, Your Honor. Ladies and
17 gentlemen, this has been a rather short trial. You heard
18 from Mr. Long this morning, you heard from some witnesses
19 on the witness stand. You saw the items into evidence.
20 This is a case about drugs, a lot of methamphetamine. The
21 Judge is going to go over the law, we have proof there is
22 over 400 grams. We had a qualified expert witness, the
23 chemist, she told you it was methamphetamine and it was at
24 least 1,600 grams. So it is meth, it is over 400 grams.
25 The next burden on the State is whose drugs those were.

1 Well the man on trial today is Clint Walker. They were
2 Clint Walker's drugs. They were in his house. When he
3 was brought inside to be asked about them he didn't say
4 they were his but he sure seemed to know where they were.
5 They were in a common area in his house, they were in the
6 kitchen. It is not like they were secret away in someone
7 else's personal bedroom. So it is hard to believe he
8 didn't know, especially after looking up and having
9 knowledge of where they were, then when he was arrested
10 after they found, again, several pounds of
11 methamphetamine. They searched his wallet, and what did
12 they find in his wallet. But the only key found on that
13 giant property with all of those cars and a shed and a
14 basement and multiple bedrooms, the only key that opened
15 that door is in Clint Walker's wallet. You saw the
16 photograph, has his ID right there. It was his wallet,
17 came out of his pocket and had that key card in it. There
18 is no question who it was or what it was. And what did he
19 say in frustration to the deputy when he gives back his
20 wallet. Of course you knew that blank key card would be
21 in there. Of course, of course, of course those are Clint
22 Walker's drugs. It is not complicated. It is obvious to
23 him, it should be obvious to you. Now the Judge is going
24 to give you a long charge of the law and the official jury
25 instructions. But generally this is a language to

1 trafficking methamphetamine for South Carolina. We
2 established the bottom part. It was methamphetamine, it
3 was 400 grams. We start on this bottom clause, go a
4 little bit out of order. Stick with me. Actual or
5 constructive possession. Now one of the primary examples
6 of something like constructive possession, something of
7 which you have dominion and control over. You might not
8 hold it or possess it on your person but you have access
9 to it. The primary example is having something under a
10 lock and key and having the key to it. Clint Walker was
11 under constructive possession of everything found in that
12 hidden compartment, all of those drugs. He was under
13 constructive possession because of that key that was in
14 his wallet on his person. But the other important thing
15 about this statute, about this code of law in South
16 Carolina, all of these or's. I assert to you that can
17 stop right now. He is guilty because he had constructive
18 possession of all of those drugs. But if you want to
19 believe any other theory, any of these could work, they
20 are all or's, not and, it is not exclusive. He could have
21 knowingly purchased it, he could have provided financial
22 assistance or otherwise aided, abetted or attempted, he
23 could have conspired to sell it. If all Clint Walker did
24 was provide a hiding place for anybody in the world to
25 keep those drugs in his house and he held that key, well,

1 heck he is conspiring, he is aiding and abetting. Now I
2 don't think that is the case, I don't think that is what
3 we have proven to you. He had constructive possession of
4 it because of the key. But if you want to believe any of
5 those other people in the house, if they were involved,
6 that it was their drugs, if they had knowledge of it. Now
7 frankly, I think if you have an opportunity to flush
8 something, maybe you would flush all those drugs down the
9 toilet and not be on the hook for 400 plus grams of
10 methamphetamine. But if anybody else is involved that
11 makes them also guilty. It does not make Mr. Walker
12 innocent. So don't get confused if anybody else is
13 involved in this conspiracy, they may have their day in
14 court later, today is for Clint Walker. And what we have
15 demonstrated that he is guilty of trafficking
16 methamphetamine whether it is through the obvious,
17 constructive possession or any of these other or's.
18 Because certainly if he is helping them in any way he is
19 still guilty and they are too. And that brings us to the
20 burden of proof. You heard Mr. Long talk about it, the
21 Judge will talk about it, Mr. Stitely likely will as well,
22 beyond a reasonable doubt, firmly convinced. Are you
23 firmly convinced given all of this evidence that Clint
24 Walker was in possession of these drugs. And we can prove
25 that to you in a number of different ways. We talked

1 about circumstantial evidence, that puddle on the ground
2 outside, was it sprinklers, or maybe it was a puddle.
3 Folks, you came outside of this trial, people have got
4 their windshield wipers going, you are hearing thunder
5 rumbling in the distance. You just got an alert on your
6 phone from severe weather warning. It is not sprinklers,
7 it was raining outside. All the circumstantial evidence
8 proves guilt. There is not a doubt in your mind, you are
9 firmly convinced that this man had the methamphetamine.
10 And as a matter of law this is a violent crime.
11 Trafficking methamphetamine in South Carolina is a violent
12 crime because the danger it causes to society. Violent
13 crimes have a special component. If you possess a
14 firearm, any kind of firearm, whether it looks scary or
15 not, this is a firearm. If you possess a firearm during
16 the commission of a violent crime, trafficking
17 methamphetamine, you are guilty of possession of a firearm
18 during the commission of a violent crime. Clint Walker
19 told law enforcement he did have a gun, they found a gun.
20 He is also guilty of that. Ladies and gentlemen, we kept
21 you here for about a half of a day, I think jury
22 qualification and selection, took longer yesterday than
23 this trial did. I thank you for your patience, you saw
24 everything and frankly it didn't take long to explain it,
25 because Clint Walker is guilty. You came in here with

1 your common sense and you can use that back in the jury
2 room. You can take everything together, you can remember
3 the key to this case, what ties everything together, what
4 gives us constructive possession. Clint Walker is guilty,
5 he is guilty of trafficking methamphetamine, 400 grams or
6 more; and he is guilty of possession of a weapon during
7 the commission of a violent crime. Thank you.

8 THE COURT: Mr. Stitely.

9 MR. STITELY: If it please the Court.

10 THE COURT: Certainly.

11 MR. STITELY: Again, my name is Ben Stitely. And I
12 think it is interesting, what the State just told you,
13 this is simple, it is so simple. The good thing about our
14 Country is that if it was so simple we would be trying,
15 you are accused of something you are guilty. That is not
16 our Country. I have tried everything from jury trials,
17 for speeding tickets for going one mile an hour over the
18 speed limit to death penalty trials on court TV; to drug
19 trials right here in Lexington County. Nothing changes
20 about what the State has to do. And nothing changes,
21 someone is not guilty and the Judge will even tell you
22 that, they are presumed innocent right this second. When
23 you go back in that jury room they are still innocent, not
24 because they were accused, not because they were indicted,
25 not because they were charged, because that is their

1 ultimate right. And until that is stripped from them by
2 proof beyond a reasonable doubt can you find someone
3 guilty. The Solicitor said a couple of things in that
4 closing argument and he showed you the picture here. But
5 what I want you to think about is, let's take this
6 situation and remember, what I am saying is not the
7 evidence, what Luke says is not the evidence, what Mr.
8 Long says is not the evidence, it comes from right there.
9 It came from the witnesses on the stand. If you recall it
10 personally, great. If you would like to rehear, you can
11 ask to rehear the testimony that came out. I think it is
12 important because let's talk about what Investigator
13 Kennedy had to say. He was the one doing the most
14 talking. This is meth, it is more than 400 grams, I don't
15 deny that. My client was in the home, I don't deny that,
16 we never denied that. What the State kept inferring to
17 you is not all the facts. The Judge will tell you being
18 merely present at the scene or at a location where drugs
19 is found is insufficient as a matter of law to find
20 someone guilty. You and I are sitting in a house, they
21 find drugs. Just because I am there I am not guilty. He
22 kept saying his house. There has been no testimony,
23 including the evidence, of whose house this was. There
24 was testimony that at least three people and a fourth
25 unknown person were residing in this house. So he ran a

1 house, do you go through your cabinets to make sure that
2 God forbid someone put a hidden compartment in there. Do
3 you go into your roommate's room to make sure he is not
4 hiding anything. When the police arrived Mr. Walker
5 walked out immediately. Said, hey, here I am. They asked
6 him, do you have any meth, no sir. Do you have a gun, I
7 do have a gun, it is in my bedroom. He told the truth.
8 Let's start there. Why would he lie. He could, I don't
9 have a gun; but he admitted, I have a gun, it is in my
10 bedroom, this little .22 thingy. This is important
11 because during the direct examination Investigator Kennedy
12 said all three came out right away and they were detained.
13 On cross-examination, I asked him, I said that is not
14 true. You said you detained two individuals right away
15 and then several minutes later after calling a known
16 person's name out repeatedly were they able to get him out
17 was inside for several minutes. I asked a couple of
18 questions to the Officer, why is it important that you get
19 in their relatively quickly to secure a scene. Now you
20 can use the motel example with the toilet hole flush. He
21 is like, you don't want people getting rid of evidence.
22 They kept saying the key card was found in my client's
23 wallet. The stuff was found in the bedroom. How do you
24 know Mike didn't slide that key card into his wallet while
25 he was hiding in that room, go hide the drugs. They told

1 you it was \$15,000.00; \$20,000.00 dollars worth of drugs.
2 Who had more than \$10,000.00 dollars on him. Not my
3 client. Who had drug paraphernalia, not my client. Who
4 had drugs in their purse, not my client. They searched my
5 client's truck, what did they find, nothing. They
6 searched his person, what did they find, nothing. They
7 searched the rest of the entire house where he is staying.
8 They found nothing. All they found was a key card and a
9 wallet that was sitting in a house with a man who was
10 hiding drugs.

11 MR. PINCELLI: Objection, Your Honor, misstates the
12 facts.

13 MR. STITELY: I will rephrase.

14 THE COURT: Go ahead.

15 MR. STITELY: They find it inside with someone who is
16 unaccounted for several minutes.

17 MR. PINCELLI: Objection, Your Honor, misstates the
18 facts.

19 THE COURT: Y'all approach real quick. I am sorry.

20 (Whereupon, a bench conference was held in the
21 presence of the jury but out of the hearing of the
22 jury.)

23 MR. STITELY: Again, the evidence came from the
24 witness stand, it came from Investigator Kennedy, y'all
25 will have an opportunity if you remember it, you can rely

1 on your recollection. If you would like to rehear it you
2 have the opportunity and the Judge will tell you, what I
3 say is not evidence. What the Prosecution says is not
4 evidence. It is what came from the witness stand. Also
5 important, an individual leaving that scene who has very
6 specific knowledge of where to look for drugs. The
7 Investigator says, well we searched and he didn't have any
8 contraband on him. Did you check his wallet to see if he
9 had a key card. No, because he did not. But he left
10 knowing exactly where to look and there was a person
11 inside the house for several minutes not being accounted
12 for while my client is outside answering questions
13 willingly. There was a little bit of testimony that
14 apparently they said you knew that key card was in my
15 wallet. I asked him, in the sentence straight before, you
16 are videotaping this. Yes. Where is the video of my
17 client saying that. I don't know. If you are videotaping
18 it, why not show the jury. If you have got him making
19 some alleged comment and you are videotaping, that is a
20 pretty crucial piece of evidence. We carry no burden.
21 The burden is completely on the State. Again, I don't
22 care if this was a question that he was going one mile an
23 hour, the speed limit, he killed 17 people or he possessed
24 traffic or whatever. As he said, there has been no
25 evidence whatsoever of any of these. They are relying on

1 constructive possession. That is, the Solicitor, this is
2 not what we are saying. You can believe these but we
3 presented that case. The Judge is going to tell you mere
4 presence is not constructive possession, perhaps means
5 something more. And it doesn't matter how serious the
6 case, how the case seems, that is an incredibly important
7 burden. It is on the State and if you think there is a
8 real possibility that he is not guilty the Judge says you
9 have to give him the benefit of that doubt. It is not are
10 you actually innocent, but has the State proven to you
11 beyond all reasonable doubt that someone is guilty as
12 charged. Listen at what you have heard from the stand.
13 Take a look at everything, consider what was not presented
14 to you. Evidence is what exist and what was not in
15 existence. The State has not carried their burden, Mr.
16 Walker is not guilty. Thank you.

17 THE COURT: Members of the jury, it is now my duty as
18 the trial Judge to instruct you on the law applicable to
19 this case. And in that regard it is your duty as jurors
20 to accept and apply the law as I now state it to you.
21 Furthermore it is your exclusive duty to decide all the
22 issues of fact in this case and determine the effect,
23 value, weight and truth of the evidence. All the parties
24 have the right to expect that you will carefully consider
25 and evaluate the evidence and apply the law of this case

1 to it so that in the end all parties receive a fair and
2 impartial trial.

3 Now during this trial you and I have separate duties
4 to perform. As the trial Judge it is my responsibility to
5 preside over this trial and rule upon the admissibility of
6 the evidence offered during the trial. You, as members of
7 the jury are to consider only the evidence before you. If
8 you have any preconceived ideas as to what the law is or
9 what you think the law ought to be and it does not agree
10 with what I now tell you the law is you are obligated
11 under your oath to abandon those preconceptions because
12 you are sworn to accept the law as I now state it to you.
13 In this trial you are the sole and exclusive judge of the
14 facts. Do not infer that I have an opinion about the
15 facts in this case from anything I have said or done
16 during the course of this trial. The law simply does not
17 permit me to have an opinion about the facts. As jurors
18 it is your duty and your duty alone to determine the
19 effect, value, weight and truth of the evidence presented
20 during this trial.

21 The evidence from which you are to decide the facts
22 of this case are one, sworn testimony of witnesses both on
23 direct and cross-examination; two, the exhibits which I
24 have admitted into evidence; and three any facts on which
25 all attorneys have agreed and stipulated. Now the

1 following things are not evidence and you must not
2 consider them as evidence in deciding the facts of this
3 case. One, statements and arguments of the attorneys;
4 two, questions and objections of the attorneys; three, any
5 testimony I instruct you to disregard; four, questions and
6 answers given during the qualification and selection of
7 the jury; and five, allegations set forth in the
8 indictments.

9 While the argument of counsel is a beneficial part of
10 every trial you should remember that the statements made
11 by counsel are not evidence. In presenting arguments
12 counsel often refers to evidence. However, you should
13 base your verdict on the evidence as you remember it.
14 Therefore if there are any conflicts between the
15 recollection of counsel about the evidence and your own
16 recollection you should rely upon your own understanding
17 of the evidence.

18 Now furthermore, evidence may be direct or
19 circumstantial. Direct evidence is testimony by a witness
20 about what the witness personally saw, heard or did.
21 Circumstantial evidence, on the other hand, is indirect
22 evidence. It is stated differently as proof of one more
23 facts from which one can find another fact. You may
24 consider both direct and circumstantial evidence equally.
25 And crimes may be proven by circumstantial evidence. The

1 law makes no distinction between the weight or value to be
2 given to either direct or circumstantial evidence.

3 However to the extent the State relies on circumstantial
4 evidence, all of the circumstances must be consistent with
5 each other and when taken together point conclusively to
6 the guilt of the accused beyond a reasonable doubt. If
7 the circumstances merely portray the Defendant's behavior
8 as suspicious, the proof has failed, the State has the
9 burden of proving the Defendant guilty beyond a reasonable
10 doubt. This burden rest with the State regardless of
11 whether the State relies on direct evidence,
12 circumstantial evidence or some combination thereof.

13 Furthermore it is your job as jurors to determine the
14 credibility or believability of the witnesses who have
15 testified in this case. You must evaluate the evidence
16 and determine which evidence convinces you of its truth.
17 In determining the believability of witnesses who have
18 testified in this case you may believe one witness over
19 many, or many over one. You may believe a part of the
20 testimony of a witness and reject the remaining part. You
21 may believe the testimony of a witness in its entirety or
22 reject it in full. You may consider whether the witness
23 has an interest in the result of the trial, whether the
24 witness is prejudice toward either party; the opportunity
25 for the witness to have seen the matters and things about

1 which the witness may testify and the way the witness acts
2 on the witness stand.

3 Now the rules of evidence ordinarily do not permit
4 witnesses to testify to opinions or conclusions. An
5 exception to this rule exist for witnesses we call expert
6 witnesses. A witness who by education and experience has
7 become an expert in some art, science, profession or
8 calling may state an opinion as to relevant and material
9 matter in which the witness claims to be an expert and may
10 also state the reasons for the opinion. You should
11 consider any expert opinion received into evidence in this
12 case like any other evidence, give it the weight you think
13 it deserves. If you decide that the opinion of an expert
14 witness is not based on sufficient education or experience
15 or if you conclude that the reasons given in support of
16 the opinion are not sound or that the opinion is
17 outweighed by other evidence you may disregard the opinion
18 entirely. An expert witness' testimony is to be given no
19 greater weight than that of other witnesses simply because
20 a witness is an expert. Further you are not required to
21 accept an expert's opinion even though it is not
22 contradicted.

23 Now that the fact that the Defendant elected not to
24 testify or appear is not a factor to be considered by you
25 in any way in your deliberations and in your consideration

1 on the question of whether the Defendant is guilty or not
2 guilty. It must not be considered in any manner
3 whatsoever against him. An accused has a constitutional
4 right to remain silent and that assertion of that right
5 cannot be considered by you in your deliberations. Under
6 your oath you are to reach no inference and draw no
7 conclusion whatsoever to the fact that the Defendant
8 elected not to testify or appear. His decision should not
9 even be discussed in the jury room and is not to enter
10 your minds in making your decisions. The State has the
11 entire burden of proof and the accused has no burden to
12 prove anything at all.

13 Now statements alleged to have been made by the
14 Defendant have been admitted into evidence in this case.
15 The Court has determined that the statements are voluntary
16 and admissible. You must decide what lay opinion should
17 be given to the alleged statements, you may give the
18 statements any further consideration you deem from it.

19 The Defendant has plead not guilty to these
20 indictments and that plea puts the burden on the State to
21 prove the Defendant guilty. A person charged with
22 committing a criminal offense in South Carolina is never
23 required to prove his or her innocence. I charge you that
24 that is an important rule of the law that the Defendant in
25 a criminal trial, no matter what the seriousness of the

1 charge may be, will always be presumed to be innocent of
2 the crime for which the indictment was issued unless guilt
3 has been proven by evidence satisfying you of that guilt
4 beyond a reasonable doubt. The presumption of innocence
5 does not end when you begin your deliberations but it
6 accompanies the Defendant throughout the trial unless you
7 reach a verdict of guilt based on evidence satisfying you
8 of that guilt beyond a reasonable doubt.

9 The presumption of innocence is like a robe of
10 righteousness placed about the shoulders of the Defendant
11 which remains with the Defendant unless it has been
12 stripped from the Defendant by evidence satisfying you of
13 that Defendant's guilt beyond a reasonable doubt. The
14 presumption of innocence is not mere legal theory, it is
15 not just a legal phrase, it is a substantial right to which
16 every Defendant is entitled unless you, the jury, are
17 satisfied from the evidence of the Defendant's guilt
18 beyond a reasonable doubt.

19 Now the State has the burden of proving the Defendant
20 guilty beyond a reasonable doubt. Some of you may have
21 served as jurors in civil cases where you were told that
22 it is only necessary to prove that a fact is more likely
23 true than not true such as by the greater weight or
24 preponderance of the evidence. In criminal cases the
25 State's proof must be more powerful than that, it must be

1 beyond, excuse me, it must be beyond a reasonable doubt as
2 to each element of each offense charged.

3 Now what is a reasonable doubt in the law. A
4 reasonable doubt is the kind of doubt that would cause a
5 reasonable person to hesitate to act. Proof beyond a
6 reasonable doubt is proof that leaves you firmly convinced
7 of the Defendant's guilt. There are very few things in
8 this world you know without absolute certainty. And in
9 criminal cases the law does not require proof that
10 overcomes every possible doubt. If based on your
11 consideration of the evidence, you are firmly convinced
12 that the Defendant is guilty of the crime charged you must
13 find the Defendant guilty. If on the other hand you think
14 there is a real possibility that the Defendant is not
15 guilty you must give the Defendant the benefit of the
16 doubt and find him not guilty. Mere suspicion, however
17 strong, is not enough to sustain a conviction. Suspicion
18 implies a relief or opinion as to guilt based upon facts
19 and circumstances which would not amount to proof.

20 In order to establish criminal liability, criminal
21 intent is required. The dictionary defines intent as the
22 state of a person's mind that directs his actions towards
23 a specific object. Criminal intent must be proven by the
24 State beyond a reasonable doubt. Criminal intent is
25 always a matter that must be determined by the jury from

1 the circumstances surrounding the situation. There is no
2 way to prove intent to a mathematical certainty, there is
3 no medical science that can dissect a person's brain and
4 determine what the person had in mind. So the law says
5 that criminal intent may be inferred from the
6 circumstances shown to have existed. This is how you will
7 make a determination of whether or not the element
8 requires the intent is present. Criminal intent is a
9 mental state, a conscious wrongdoing. It is up to you to
10 determine what the Defendant intended to do based upon the
11 circumstances shown to have existed.

12 Now I am going to explain to you the law that applies
13 to the charges against the Defendant. The Defendant is
14 charged with trafficking methamphetamine. The State must
15 prove beyond a reasonable doubt that the Defendant
16 knowingly sold, manufactured, cultivated, delivered,
17 purchased, brought into this State, by financial
18 assistance or otherwise aided, abetted, attempted or
19 conspired to sell, manufacture, cultivate, deliver,
20 purchase or bring into this State, was knowingly in actual
21 or constructive possession, knowingly attempted to become
22 in actual constructive possession of, or, excuse me, or
23 constructive possession knowingly and attempted to become
24 in actual possession or constructive possession of the
25 methamphetamine. The State must also prove beyond a

1 reasonable doubt that the amount of the methamphetamine
2 was 400 grams or more. To prove possession the State must
3 prove beyond a reasonable doubt the Defendant had both the
4 power and the intent to control the disposition or abuse
5 of the methamphetamine. Possession may be either actual
6 or constructive. Actual possession means the
7 methamphetamine was in the actual physical custody of the
8 Defendant. Constructive possession means the Defendant
9 had dominion and control or the right to exercise dominion
10 and control, excuse me, or the right to exercise dominion
11 or control, over the methamphetamine itself or the
12 property in which the methamphetamine was found. Mere
13 presence at the scene where the drugs were found is not
14 enough to prove possession. Two or more persons may have
15 joint possession of a drug.

16 Now the Defendant is charged with possession of a
17 weapon during the commission of or attempt to commit a
18 violent crime. The State must prove beyond a reasonable
19 doubt the Defendant was in possession of a firearm or
20 visibly displayed what appeared to be a firearm during the
21 commission of a violent crime. A firearm means any
22 machine gun, automatic rifle, revolver, pistol or any
23 weapon which will, is designed to you or make, be readily
24 converted to expel a projectile. In order to find the
25 Defendant guilty of possession of a weapon during the

1 commission of a violent crime you must first find the
2 Defendant guilty of either committing a violent crime or
3 attempting to commit a violent crime. Trafficking
4 methamphetamine is a violent crime. The State must prove
5 beyond a reasonable doubt that the weapon further advanced
6 or helped in the commission of the crime.

7 Now a verdict in this case cannot be based upon
8 sympathy, passion, prejudice or emotion or some other
9 consideration not found in the evidence. I charge you
10 that as you must decide the issues involved in this
11 proceeding based solely upon the evidence which you hear
12 during the course of the trial. The verdict must be
13 without biased and without prejudiced to any party and you
14 cannot allow yourselves to be governed by sympathy, by
15 prejudiced, by passion, by public opinion or some other
16 consideration not found in the evidence. Let me say
17 something about your deliberations. Deliberations defined
18 as careful consideration, weighing up with a huge
19 decision. The genius of our jury system is it allows 12
20 good men and women from 12 different backgrounds, life
21 experiences and perspectives to consider the evidence,
22 talk about it and ultimately reach a verdict. We call it
23 deliberations for a reason. You are to consider the
24 evidence in this case carefully and deliberately and
25 discuss it in a calm, thorough and courteous manner.

1 Listen to the views of all of your fellow jurors, consider
2 other peoples points of views and talk through and discuss
3 the evidence. And remember, if you are doing something
4 deliberately you are not in a big hurry and you should not
5 be in a hurry here. This case is very important to all of
6 the parties and this trial is their only day in court.
7 When you retire to the jury room you should discuss the
8 case with your fellow jurors to reach an agreement, if you
9 can do so. Your verdict must be unanimous. Each of you
10 must decide the case for yourself, but you should do so
11 only after you have impartially considered all the
12 evidence, discussed it fully with the other jurors, listen
13 to the views of your fellow jurors. Do not be afraid to
14 change your opinion if the discussion persuades you that
15 you should. Do not come to a decision simply because
16 other jurors think it is right. It is important that you
17 attempt to reach a unanimous verdict but of course only if
18 each of you can do so after having made your own decision.
19 Do not change an honest belief about the weight and the
20 effect of the evidence simply to reach a verdict. In
21 other words, do not change your opinions solely for the
22 sake of reaching a unanimous verdict. Now I will give you
23 a copy of these instructions in written form. During your
24 deliberations you may refer to the instructions to guide
25 in your decision making. You must consider the

1 instructions as a whole and not follow some and ignore
2 others. Please return the instructions to the Court at
3 the time your verdict is rendered. Now there are two
4 possible verdicts that you may find in this case, guilty
5 or not guilty. There is no significance whatsoever in the
6 order in which I state the possible verdicts, simply one
7 must be stated first. Now ladies and gentlemen, your
8 verdict must be a unanimous one. Mr. Foreman, when the
9 jury agrees on the verdict you will write the verdict on
10 this verdict form then knock on the jury room door, inform
11 the Bailiff that you have reached a verdict. At that time
12 we will receive you back in the courtroom. Now I ask you
13 now return to your jury room, but do not begin your
14 deliberations until you are told by the Clerk or Bailiff
15 to do so. There are some matters that must be discussed
16 with the attorneys before you can begin your
17 deliberations. But at this time head back to the jury
18 room, do not discuss the case. Thank you.

19 (Whereupon, the jury was excused from open court at
20 approximately 2:30 p.m.)

21 THE COURT: Alright, any issues with the charge?

22 MR. STITELY: No, sir.

23 THE COURT: Y'all take a look at the evidence and
24 make sure it is all in order.

25 MR. STITELY: I would recommend to tell them not to

1 open that box, it is not super secured.

2 MR. PINCELLI: And there is no ammo and the gun is
3 locked but unless you have an issue with that.

4 THE COURT: I don't have a problem.

5 MR. STITELY: Judge, you can send it back, there is
6 no way they can use it.

7 THE COURT: I agree.

8 MR. STITELY: But I would recommend, whoever takes
9 that back, ask them not to open that unless they want it
10 done, we can do it in the courtroom. I mean, I saw how
11 they are packaged, that meth could flop out of there. I
12 would not recommend that.

13 THE COURT: Alright. So why don't --

14 MR. STITELY: Mira can ask them if they intend to
15 open that, have one of the Bailiff's do it.

16 THE COURT: If they want to look at the drugs to do
17 it in the courtroom.

18 MR. STITELY: Just out of an abundance of care. They
19 can feel the box.

20 THE COURT: And public safety.

21 (Whereupon, the Court Reporter and Attorneys go over
22 the exhibits.)

23 (Whereupon, the jury starts deliberations at
24 approximately 2:32 p.m.)

25 (Whereupon, a jury note is sent to the Court at

1 approximately 2:35 p.m.)

2 THE COURT: There is a note. Provide copy of State
3 code. I would say, you have the law in front of you.

4 MR. PINCELLI: I would just say that your charge to
5 them and instruction --

6 MR. STITELY: I would just say that your charge,
7 contained in the jury charge.

8 (Whereupon, the Court writes back to the jury, The
9 applicable law is contained in the jury charge.)

10 (Whereupon, a break was taken.)

11 (Whereupon, a jury note. A Copy of testimony
12 starting where the wallet with the key was, was it
13 taken off of the Defendant after he came outside and
14 was searched. To hear audio of Investigator
15 Kennedy.)

16 MR. STITELY: And, Judge, when you tell them, I think
17 you have to say something on the lines of, the attorneys
18 found a reference of the wallet in the audio recording.

19 COURT REPORTER: And, Judge, if they want to hear the
20 whole thing I will just start it from the very beginning.

21 THE COURT: Well, I think, this pertains to the
22 question so I would think this would --

23 MR. STITELY: My only thing is the reason they send
24 the whole thing and remember they have to consider all the
25 testimony, part of the testimony, whatever pieces.

1 THE COURT: I can, the attorneys agree this is a
2 reasonable compromise.

3 MR. STITELY: Make sure when you tell them the
4 attorneys agree we have found reference to the wallet on
5 the audio recording.

6 THE COURT: Okay. The original note says copy of
7 testimony stating where the wallet with the key was. Was
8 it taken off the Defendant after he came outside and was
9 searched.

10 MR. STITELY: He came outside to begin so that --

11 THE COURT: How about testimony pertaining to the
12 wallet and the key.

13 MR. STITELY: And if they want to hear anything else
14 they can hear it all.

15 THE COURT: Alright. Are y'all ready to bring them
16 in?

17 MR. PINCELLI: The State is ready.

18 THE COURT: Bring them in, please. I will tell them
19 we are going to play it, send them back. If they need
20 more let us know.

21 (Whereupon, the jury came into the courtroom at
22 approximately 3:20 p.m. to listen to partial testimony of
23 Investigator Kennedy.)

24 THE COURT: Mr. Foreman and ladies and gentlemen, I
25 have gotten several of your questions. And consultation

1 with the attorneys here and with their agreement we have
2 located some of the testimony that pertains to the
3 questions that were asked. We are going to play some of
4 that testimony. After you hear it we will send you back
5 and if you need anything else you will have to let me know
6 via another note. Madam Court Reporter, at your
7 convenience.

8 (Whereupon, testimony was played for the jury.)

9 THE COURT: Is that it? Pause it. Counsel, is that
10 what we fully agreed to?

11 MR. STITELY: Yes, sir.

12 THE COURT: Alright. I will send you back to the
13 jury room and if you need anymore just let me know.

14 (Whereupon, the jury returned to the jury room at
15 approximately 3:25 p.m.)

16 THE COURT: For the record, Madam Court Reporter, if
17 you will just notate the time, timestamp the best you can.

18 COURT REPORTER: Started at 1:20, end --

19 MR. STITELY: It looks like it went from around 1:29
20 to 1:30:45.

21 THE COURT: Okay. So we will wait to see if the jury
22 wishes to hear anything else.

23 (Whereupon, Court's Exhibits 1, 2 and 3 were marked
24 for identification only.)

25 THE COURT: Anything before we bring the jury in?

1 MR. PINCELLI: Nothing from the State, Your Honor.

2 THE COURT: The Defense?

3 MR. STITELY: No, sir.

4 THE COURT: Let's bring them in.

5 (Whereupon, the jury came into open court at
6 approximately 3:37 with the verdict.)

7 THE COURT: Mr. Foreman, ladies and gentlemen,
8 welcome back. I understand you have a verdict, is that
9 correct?

10 MR. FOREMAN: Yes, we do.

11 THE COURT: Is your verdict unanimous?

12 MR. FOREMAN: Yes, it is.

13 THE COURT: Hand it to the Bailiff. Alright, Madam
14 Clerk, will you please publish.

15 CLERK OF COURT: Indictment 2023-GS-32-1924 and 1925,
16 the State versus Clint Walker. We, the jury, as to the
17 indictment of 2023-1924 for the charge of trafficking
18 methamphetamine unanimously find beyond a reasonable doubt
19 Clint Walker guilty.

20 We, the jury, as to indictment 2023-1925, for the
21 charge of possession of a weapon during a violent crime
22 unanimously find beyond a reasonable doubt Clint Walker
23 guilty.

24 It so signed by the Foreperson and dated today's
25 date, 2/21/24. Ladies and gentlemen of the jury, if these

1 were your verdicts and are still your verdicts please
2 indicate by raising your right hand.

3 (Whereupon, all hands were raised.)

4 THE COURT: Anything else for the jury?

5 MR. STITELY: No, sir.

6 THE COURT: Anything else for the jury from the
7 State?

8 MR. PINCELLI: No, Your Honor.

9 THE COURT: Ladies and gentlemen, today is Wednesday.
10 It is a short week, but you never know what you are going
11 to get here on a Monday or sometimes on Tuesday morning
12 for jury duty. We appreciate your willingness to serve.
13 It is a public service, make no mistake about it, the
14 justice system, we have both the criminal and civil
15 justice has been working this week because of people like
16 you who are offering themselves of doing the job of being
17 here for jury duty. So thank you for your attentiveness,
18 thank you for paying attention today, thank you for your
19 work you put forth in reaching your verdict. Your service
20 is concluded. Thank you on behalf of all of us and you
21 are free to go.

22 (Whereupon, the jury was excused from the courtroom.)

23 THE COURT: Mr. Stitely, you wish to renew all of
24 your prior motions?

25 MR. STITELY: I do, Your Honor as well as a JNOV

1 motion. Set aside the verdict that the jury was
2 insufficiently able to achieve a verdict of guilt.

3 THE COURT: Not a JNOV motion but a motion for a new
4 trial?

5 MR. STITELY: It is.

6 THE COURT: Very well.

7 MR. STITELY: Set aside the verdict of the jury.

8 THE COURT: Alright.

9 MR. STITELY: Your Honor, as far as mitigation, I can
10 do it in ten seconds real quick.

11 THE COURT: Let me get through your motion first, I
12 have got to rule on it. Any input from the State on that?

13 MR. PINCELLI: I think that the jury served their
14 duty.

15 THE COURT: I find that there is sufficient evidence
16 and I find that there was evidence sufficient for which
17 the jury to find guilt. Discussed it at length and they
18 listened to additional, or testimony from the trial as
19 part of their deliberations. I will deny the motion for a
20 new trial. Do you have a sentencing sheet ready?

21 MR. PINCELLI: We will momentarily, Judge. I guess,
22 a mandatory, minimum. I would like to hand the bench
23 warrants so I can get officers to find Mr. Walker.

24 THE COURT: Okay. Go get the sentencing sheets first
25 and we have to remember that this will be a sealed

1 sentence.

2 MR. STITELY: And I think at this time it is
3 appropriate to issue an actual arrest warrant rather than
4 the bond.

5 THE COURT: It is not a bond issue. Also I think,
6 can also explore the bondsman as well. He or she may be
7 interested in locating the Defendant. Mr. Pincelli, in
8 light of them going to get the sentencing sheet, do you
9 have anything else you want to add as far as sentencing
10 goes?

11 MR. PINCELLI: I don't, Your Honor. There is not a
12 lot for the State to argue in these sentencing ranges and
13 I believe the minimum doesn't leave much left for Mr.
14 Walker. So there is nothing further for me to add.

15 THE COURT: Mr. Stitely.

16 MR. STITELY: And, Judge, that is exactly, it is a
17 mandatory and minimum. And I don't think there is
18 actually a maximum, it is what it is. Your Honor, the
19 only, I would say for the record's sake is and I will make
20 a motion I guess verbally that I think it is a violation
21 of the Eighth Amendment right to have a mandatory, minimum
22 without any discretion. It is just a cruel and unusual
23 punishment. I understand it is the statute, the Court is
24 bound by that statute. But I would argue the statute in
25 general, not allowing the Court any opportunity to make

1 considerations is by and of itself cruel and unusual.
2 That being said, the only thing, a traffic level offense
3 from like 1990 something.

4 THE COURT: Yes, sir. I think we have to wait here
5 until Mr. Long gets back but also, Madam Court Reporter,
6 for the record this will be a sealed sentence. We all
7 know what the statute says, that it is nonetheless a
8 sealed sentence and this sentence will be able to be
9 opened by any Circuit Court Judge, jurisdiction in
10 Lexington County so it doesn't have to be me, it can be
11 anyone who is here to hold court in the future. Okay.

12 MR. STITELY: Yes, sir.

13 MR. PINCELLI: Thank you.

14 THE COURT: And just one last thing, just for the
15 record. I want to bring this up at the end as we brought
16 at the beginning, the record will reflect that the
17 Defendant was noticed for this trial, public rosters. He
18 was noticed for trial through his attorney. He was
19 noticed for trial on Friday when he was present at
20 pretrial hearings in this Court House, in fact in this
21 courtroom I believe. So there is no notice issue, at
22 least no notice issue. That is that, we will wait here
23 for a few minutes as soon as the Solicitor gets back.

24 (Whereupon, a short break was taken.)

25 THE COURT: I think trafficking serious, most

1 serious.

2 MR. STITELY: It is most serious, I believe this one
3 is. I think it is most serious, Judge.

4 THE COURT: It is eighty-five percent. Luke, I think
5 it is a mandatory fine of --

6 MR. PINCELLI: -- I think there is a mandatory fine
7 involved. I am not sure of the --

8 MR. STITELY: It is \$50 or \$250.

9 MR. LONG: It is \$200.

10 MR. PINCELLI: And it is a 25 to 30 year offense.

11 THE COURT: Okay.

12 MR. STITELY: He is 63 years old or something.

13 THE COURT: Alright, I have handed the sealed
14 sentence to the Clerk of Court.

15 CLERK OF COURT: I will seal it and put it in the
16 vault. It will be reflected on the evidence sheet. So
17 when they pull the evidence sheet, when they pull the
18 evidence sheet it will show.

19 THE COURT: Thank you. Alright.

20 (Whereupon, the trial ended at 3:50 p.m.)

21 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

22

23

24

25

THE STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON) THE COURT OF GENERAL SESSIONS
) ELEVENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA)
) NO. 2022A3210200276; -277
)
) VS.
CLINT ARTHUR WALKER) TRANSCRIPT OF RECORD
)
) Sentencing

B E F O R E:

THE HONORABLE WALTER J. McLEOD IV, JUDGE

DATE: August 19, 2024
Lexington, South Carolina

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

LUCAS A. PINCELLI, ESQUIRE, ASSISTANT SOLICITOR
Attorney for the State

BENJAMIN A. STITELY, ESQUIRE
Attorney for the Defendant

Reported by: Cathy J. Provost, RMR, Official Court Reporter

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INDEX TO WITNESSES

(No witnesses called.)

INDEX TO EXHIBITS

(No exhibits marked.)

COURT REPORTER LEGEND:

dash -- intentional/purposeful interruption; change in thought
 ellipses ... trailing off
 [ph] phonetically written
 [sic] written as said
 [indiscernible] unable to be understood

-- P R O C E E D I N G S --

(Case called.)

(Off-the-record discussion.)

THE COURT: We're back on the record in The State versus Clint Walker. This was a case that the sentence was sealed on February 21st, 2024, by me. This case proceeded to trial, I think it was, the term of February 19th, 2024. We had convened for pretrial motions with proceedings Friday. Mr. Walker was present.

I believe, I think, at that hearing I would have told him that we were going proceed in his absence if he did not show up for trial the following week, and he did not show up for trial. The case went to verdict.

And I think at this time I just open the sentencing sheet. Is that your understanding?

ATTORNEY STITELY: Yes, sir.

THE COURT: Anything you need to note for the record before I --

ATTORNEY STITELY: Judge, I think after you sentence I'm going to renew all trial motions and make my new trial motion again in case I didn't at that point.

SOLICITOR PINCELLI: And, Judge, I think the only thing from the State is that there was a bench warrant issued because he failed to appear. That bench warrant needs to be vacated and the sentence imposed.

1 THE COURT: So I'll add that to the sentencing sheet and
2 date it?

3 SOLICITOR PINCELLI: Yes. Please, Your Honor.

4 THE COURT: All right. The sentencing sheet provides as
5 follows: On the charge of trafficking methamphetamine or cocaine
6 base, 400 grams or more, the sentence of the Court is 25 years in
7 prison and a fine of \$200,000.

8 And on the charge of possession of a weapon during the
9 commission of a violent crime, that's a concurrent sentence of
10 five years in the Department of Corrections. I don't have a
11 number for jail credit prior to trial on this sheet. I would
12 note that the bench warrant is vacated, and I dated it
13 August 19th, 2024.

14 ATTORNEY STITELY: He did have one year on a monitor, but
15 other than that there's minimal jail credit.

16 SOLICITOR PINCELLI: And, Judge, it's my understanding that
17 that was a monitor but not house arrest, so it was not monitor
18 and house arrest.

19 THE COURT: Okay. Anything you want to renew at this time,
20 Mr. Stitely?

21 ATTORNEY STITELY: I renew all trial motions and, as well,
22 make a motion to set aside a verdict and sentencing, and new
23 trial.

24 THE COURT: The record will reflect that your motions are
25 renewed. Any trial objections you have are renewed, as well, but

1 I find that there was sufficient evidence, would have been
2 sufficient evidence, to submit this matter to a jury. I deny
3 your post-trial motions.

4 ATTORNEY STITELY: Thank you, Judge.

5 THE COURT: Anything else for the record?

6 SOLICITOR PINCELLI: Nothing from the State.

7 THE COURT: All right. That is all.

8 (End of Transcript of Record.)
9

10 CERTIFICATE OF REPORTER

11 I, Cathy J. Provost, Official Court Reporter for the
12 Fourteenth Judicial Circuit of the State of South Carolina, do
13 hereby certify that the foregoing is a true, accurate and
14 complete Transcript of Record of the proceedings had and evidence
15 introduced in the trial/proceedings of the captioned case in the
16 Court of General Sessions for Lexington County, South Carolina,
17 on the 18th day of August, 2024.

18 I do further certify that I am neither of kin, counsel, nor
19 interest to any party hereto.

20 Date: May 16, 2025
21

22 \s\ Cathy J. Provost
23 Cathy J. Provost, RMR
24 Official Circuit Reporter
25

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS
FOR THE ELEVENTH JUDICIAL CIRCUIT

FILED
2024 FEB 29 AM 8:35
LISA P. COMER
CLERK OF COURT
LEXINGTON SC

INDICTMENT NO: 2023-GS-32-01924
2023-GS-32-01925

THE STATE

vs.

Clint Arthur Walker,

Defendant.

STATE'S MOTION IN LIMINE TO
EXCLUDE ANY ALLEGED EVIDENCE
OF THIRD-PARTY GUILT

TO: THE DEFENDANT AND HIS ATTORNEY: Ben Stitely, Esquire.

PLEASE TAKE NOTICE that the State of South Carolina moves before this Court to prevent the Defendant from making reference to third-party guilt evidence during the trial of this case.

Our South Carolina Supreme Court "has imposed strict limits on the admissibility of third-party guilt." *State v. Cooper*, 334 S.C. 540, 549, 514 S.E.2d 584, 588-89 (1999). In *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941), the seminal third-party guilt case in South Carolina, the Court explained that:

Evidence offered by accused as to the commission of the crime by another person must be limited to such facts as are inconsistent with his own guilt, and to such facts as raise a reasonable inference or presumption as to his own innocence; evidence which can have (no) other effect than to cast a bare suspicion upon another, or to raise a conjectural inference as to the commission of the crime by another, is not admissible. ...[B]efore such testimony can be received, there must be such proof of connection with it, such a train of facts or circumstances, as tends clearly to point out such other person as the guilty party. Remote acts, disconnected and outside the crime itself, cannot be separately proved for such a purpose. An orderly and unbiased judicial inquiry as to the guilt or innocence of a defendant on trial does not contemplate that such defendant be permitted, by way of defense, to indulge in conjectural inferences that some other person might have committed the offense for which he is on trial

Gregory, 198 S.C. at 104-05, 16 S.E.2d at 534-35 (citation omitted) (emphasis added). Furthermore, it has been held that evidence of a third-party's motive and opportunity to commit the criminal act for which the defendant is on trial is properly excluded if the defendant fails to

show that the proffered evidence is inconsistent with his guilt. *State v. Williams*, 321 S.C. 327, 468 S.E.2d 626 (1996).

Therefore, the State moves for the exclusion of any reference to any items involving any third party guilt including, but not limited to: any inquiry by counsel and/or any reference by counsel during summation, argument, opening statement, closing argument, any objections, witness examination, and any actions in front of the jury which alleges any specific instance of third party guilt.

The State requests an *in-camera* review by the Court before any such evidence may be deemed relevant or admissible in this case under the grounds stated in this Motion.

Respectfully submitted,



Luke Pincelli, Assistant Solicitor
Eleventh Judicial Circuit

Lexington, South Carolina
February 8, 2024

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Aug 29 2024

SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
Walton J. McLeod, IV, Circuit Court Judge

Lower Case № 2023-GS-32-01924 and 2023-GS-32-01925

The State, ... Respondent,

vs.

Clint Arthur Walker Appellant.

NOTICE OF INTENT TO APPEAL

Clint Arthur Walker appeals the Sentencing of Honorable Walton J. McLeod, IV dated February 21, 2024. The Sentencing was entered in the record and sealed on February 21, 2024. The Sealed Sentencing was opened August 19, 2024.

August 25th, 2024



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Jul 08 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
Walton J. McLeod, IV, Circuit Court Judge

Appellate Case No. 2024-001430
Lower Case No 2023-GS-32-01924 and 2023-GS-32-01925

The State, ... Respondent,

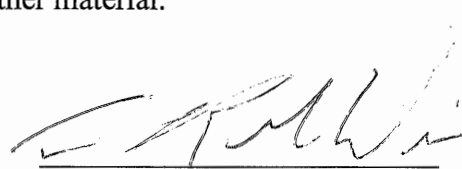
vs.

Clint Arthur Walker Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

June 9th, 2025



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