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SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**CERTIORARI-COA
APPEAL FROM GREENVILLE COUNTY
General Sessions Court
The Honorable Perry H. Gravely**

**Appellant Case No. 2025-001366
Lower Case No. (2021GS2306825)**

**The State Respondent,
vs.**

Joseph M. Swaringen Petitioner.

**APPENDIX
VOLUME I**

**Alan McCrory Wilson
Mark Reynolds Farthing
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549
mfarthing@scag.gov
(803) 734-4117
SC Bar No. 76901**

**C. Rauch Wise
Attorney at Law
305 Main Street
Greenwood, SC 29646
rauchwise@gmail.com
864-229-5010
S.C. Bar No. 6188**

Attorney for Petitioner

**William Walter Wilkins, III
Thirteenth Judicial Circuit
305 E. North Street
Greenville, SC 29601
864-467-8647**

Attorneys for Respondent

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Oct 06 2023

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**Appellant Case No 2022-000928
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**State of South Carolina, ... Respondent,
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Joseph M. Swaringen Appellant.

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Mark Reynolds Farthing
S.C. Attorney General's Office
PO Box 11549
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S.C. Bar No. 6188
864-229-5010

Attorney for Appellant**

**William Walter Wilkins, III
Thirteenth Judicial Circuit
305 E. North Street
Greenville, SC 29601
864-467-8647**

Attorneys for Respondent

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June 7, 2022

THE COURT: Good afternoon, have a seat. Solicitor, anything from the State?

MR. BLOUIN: Your Honor, just before we get started, I was just going to put on the record that the Defendant in this case was served, it looks like on August 11th, 2011 as well as his attorney with the notice of intent to seek life imprisonment without the possibility of parole. And that was obviously, ten days statutory deadline. I just wanted to make sure that was on the record, both his attorney, Mr. Yarborough and the Defendant were served with that paperwork.

THE COURT: Any question as to that?

MR. YARBOROUGH: There is no question we were served. I think we may have some issues, Your Honor.

MR. WISE: Can we release his right hand so he can make notes for us.

THE COURT: I will let the officers, they say no.

MR. WISE: No.

THE COURT: I don't do security, that is their job, Mr. Wise, not mine.

MR. WISE: Okay.

MR. BLOUIN: The only other thing, Your Honor, I know we had talked and I want to put on the record that I had talked with Mr. Yarborough and Mr. Wise about the

1 possibility, given some things that happened with the case
2 yesterday, of him pleading to 20 years on this. He has
3 some other cases pending, obviously that would wrap up
4 everything or come back with some sort of reasonable
5 counter, that did not happen. I just want to make sure
6 that he was aware that that was kind of thrown out there
7 to him so that in the future, if something comes back, he
8 knows before anything got started.

9 THE COURT: Okay, negotiations were not frugal.

10 MR. YARBOROUGH: No sir, Your Honor, and we discussed
11 all of that with our client on numerous occasions.

12 THE COURT: I am sure you did. Thank you. We are
13 covered on that.

14 MR. BLOUIN: Nothing else at this time from the
15 State.

16 THE COURT: Let's do this, Solicitor, put the case on
17 the record for us. I don't have anything, I don't have a
18 motion, I don't have a scrap of paper, other than the
19 gentleman's name I don't know anything about it.

20 MR. BLOUIN: Let me see. Your Honor, this is
21 indictment 2021-GS-23-6825. The State versus Joseph
22 Martin Swaringen. That offense is trafficking
23 methamphetamine 28 to 100 grams. This would be a third
24 offense. And there was a subsequent pill charge that was
25 also, he was arrested on. The State is not moving forward

1 on that pill charge.

2 THE COURT: Okay. Thank you.

3 MR. YARBOROUGH: Your Honor, I am sorry. I don't
4 think the State has been made aware. We filed a general
5 suppression motion back on April 26th and it was, a number
6 of cases, two of them are here and it is just a general
7 one. And I will hand that up to the Court.

8 THE COURT: Okay. Nothing further from the State?

9 MR. BLOUIN: And just kind of in response to
10 generalized suppression motion. I spoke with Mr.
11 Yarborough and Mr. Wise about what, the basis, because
12 like I said, that motion is extremely general and what
13 exactly they are asking to be suppressed. Just kind of as
14 a bit of a factual basis. Law enforcement did not become
15 involved in this case until after the alleged
16 methamphetamine was discovered. The search, an issue was
17 performed by a Prisma employee. And the, the taking to
18 the hospital was done by EMS. And so we would argue, you
19 know, that suppression is not necessarily appropriate
20 because, you know, the Fourth Amendment doesn't cover
21 private actors unless, obviously, instructed by
22 government, the government to do so. And so there is kind
23 of a question of what the alleged suppression involves or
24 seizure involves since law enforcement did not conduct the
25 search nor were the circumstances any that law enforcement

1 seized him until after the alleged methamphetamine was
2 discovered.

3 THE COURT: Mr. Yarborough, you have the floor.

4 MR. YARBOROUGH: Your Honor, I believe my questions
5 will be able to show, during this hearing, the State will
6 go forward on our suppression motion. There is a black
7 bag that is in the hospital at different times, it went
8 through a number of different hands including that of law
9 enforcement. And we think that any kind of search or
10 seizure of that bag was inappropriate. That is what the
11 basis of this motion is including the fact that he was,
12 Mr. Swaringen was subjected to being brought to the
13 hospital against his will.

14 THE COURT: Okay.

15 MR. YARBOROUGH: Your Honor, please allow Mr. Rauch
16 to just chime in whenever he wants to. But I think
17 clearly that, we believe at the point of all of this that
18 the workers at the hospital and EMS became basically law
19 enforcement after. And I think that would go towards our,
20 his Fourth Amendment violation. I think the Court is
21 aware of that. We just, I think they need to prove how
22 they got the drugs and then we will go from there.

23 THE COURT: We will. Alright.

24 MR. BLOUIN: Do we need a Clerk to swear in a
25 witness.

1 THE COURT: Do we have a Clerk. Let's see, Mr.
2 Bailiff, can you get in touch with somebody.

3 (Whereupon, a short break was taken while contacting
4 a Clerk.)

5 THE COURT: We don't have to wait on the Clerk, I can
6 swear the witness in.

7 MR. BLOUIN: The State would first call Medic Alex
8 Henry.

9 Alex Henry, being
10 first duly sworn, testified as follows:

11 THE COURT: Tell us who you are and spell your last
12 name.

13 MR. HENRY: My name is Alex Henry, H-E-N-R-Y, is the
14 last name. I am a paramedic with Greenville County
15 Emergency Medical Services.

16 THE COURT: Solicitor.

17 MR. BLOUIN: Thank you, Your Honor, may it please the
18 Court.

19 DIRECT EXAMINATION

20 By Mr. Blouin:

21 Q Mr. Henry, where are you employed?

22 A Greenville County EMS. I have been employed there
23 for about three years.

24 Q So you have been employed there. What is your job at
25 the Greenville County EMS?

1 A I am employed as a paramedic.

2 Q And what are the job descriptions of a paramedic?

3 A MY job description is to provide pre-hospital
4 emergency medical care and transport to the hospital.

5 Q All right. Where were you on November the 18th of
6 2020?

7 A I was located, at the time of this call?

8 Q Yes.

9 A I was located at a gas station in close vicinity of
10 the call.

11 Q And tell the Court what happened.

12 A So we were posted at the gas station. We were made
13 aware of a traffic accident down the street. It came in
14 as a motorcycle versus automobile. We made our dispatch
15 aware of response over the radio and we responded to the
16 scene. We arrived on the scene to find, to find, I am
17 sorry, to find the victim sitting on the side of the road.
18 We noted an, we noted an abrasion to his scalp. We were
19 made aware he was the occupant of the motorcycle. And we
20 were advised that he was not wearing a helmet at the time.

21 Q When you say the victim, you are talking about the
22 Defendant sitting right there?

23 A Yes, the Defendant.

24 Q Okay. And so what kind of procedure would you go
25 through at that point?

1 A So at that time we were just doing an initial
2 evaluation. We were concerned about the abrasion on his
3 scalp as well as the fact he was allegedly, well, what we
4 were told was he was ejected from the motorcycle he was
5 riding while he was not wearing a helmet.

6 Q Okay. And then what happened?

7 A Initially we, we tried to assess him and tried to
8 provide care. He initially said no. I believe I wrote in
9 my report, I will sign whatever you need me to, I am not
10 going to the hospital. And we attempted to convince him
11 to go to the hospital with us. He continued to refuse.
12 And upon the arrival of law enforcement he said he would
13 let, he would let us transport him to the hospital.

14 Q So you were the first on the scene?

15 A Yes, we were.

16 Q Before law enforcement arrived?

17 A Yes, sir.

18 Q Did you notice any sort of black saddle bag near the
19 Defendant?

20 A Yes, I noted a black saddle bag in his immediate
21 vicinity.

22 Q Okay. And at the point, so would you have, if he had
23 signed waivers --

24 A Yes.

25 Q -- to not be transported, what would you have done?

1 A If someone answers all of our orientation questions,
2 we make sure they are oriented; person, place, time, event
3 and make sure they are aware of their injuries. And we
4 make them aware of the risks, to personal health in
5 refusing transport to the hospital for evaluation by a
6 physician. After insuring they are of sound mind we would
7 have them sign a, we would have them sign a waiver showing
8 they have the capacity to refuse care and that they are
9 refusing care at this time.

10 Q Was Mr. Swaringen conscious at that time?

11 A Yes, he was.

12 Q He could answer your questions?

13 A Yes, he could.

14 Q And so if he had signed a waiver would you have
15 forced him to go to the hospital?

16 A No, we would not have.

17 Q Okay. So he voluntarily agreed to go --

18 MR. WISE: Objection, Your Honor, a leading question.

19 THE COURT: Okay. Rephrase it.

20 Q What happened next?

21 A Upon law enforcement arrival he began, he agreed to
22 let us transport him to the hospital.

23 Q Okay. What all preparation would you need to get him
24 ready to go to the hospital?

25 A So I believe we removed the jacket he was wearing.

1 We put a cervical collar which would hold his head in
2 line, in place. And then we got him loaded and packaged
3 onto the stretcher.

4 Q What happened with the black saddle bag?

5 A Since it was, since it was in his immediate vicinity
6 we assumed it was a patient belonging and we loaded it
7 into the ambulance along with him.

8 Q Is that usual procedure?

9 A Yes, we normally transport patient belongings with
10 patients to the hospital.

11 Q At any point did Mr. Swaringen deny ownership of the
12 bag?

13 A I don't believe it was ever mentioned during
14 transport.

15 Q And where were you during transport?

16 A I was sitting, he was on the stretcher, I was sitting
17 -- I was sitting in a chair which was facing him so I
18 could provide care and provide monitoring.

19 Q Did anyone besides the Defendant tell you to
20 transport him?

21 A No, sir.

22 Q Did you ever go into the black saddle bag?

23 A No sir, I did not.

24 Q Do you have any law enforcement experience?

25 A No sir, I don't.

1 Q During transport did the Defendant protest?

2 A No sir, he did not. The only thing I recall him
3 saying to me during transport was asking where his cell
4 phone was. And he, we were unable to locate a phone but I
5 did not look in the saddle bag for the phone.

6 Q And where did you take Mr. Swaringen?

7 A We took him to Greenville Memorial Hospital as our
8 protocol for trauma patients. Under hospital and our
9 protocol he was a level two trauma alert due to his
10 mechanism injury. So upon, we transported him emergent to
11 the hospital and upon arrival we took him into the trauma
12 bay at Greenville Memorial.

13 Q And where were you during the transport?

14 A During the transport to the hospital?

15 Q Uh-huh.

16 A I was sitting in the attendant's chair facing the
17 Defendant.

18 Q Okay. Please answer any questions the Defense may
19 have.

20 CROSS-EXAMINATION

21 By Mr. Wise:

22 Q Mr. Henry, when you first go there you said that, Mr.
23 Swaringen said, I don't want to go to the hospital?

24 A Yes, sir.

25 Q Correct. And during the process of his not wanting

1 to go to the hospital did you do just standard evaluation
2 to determine if he was oriented as to place and time?

3 A Yes sir, we always do.

4 Q And you determined he was?

5 A Yes.

6 Q Correct. He was speaking in coherent sentences?

7 A Yes.

8 Q Speech wasn't slurred?

9 A Yes, speech was not slurred.

10 Q Nothing to indicate he was under the influence of
11 alcohol or drugs?

12 A No, sir.

13 Q So when he told you that he didn't want to go to the
14 hospital did you then go get a form for him to sign?

15 A No sir, we did not. We have a computer that we
16 normally take around with us. If he had of refused and we
17 started doing the refusal paperwork we would have gotten
18 said computer out and brought it to him.

19 Q But he did refuse?

20 A Yes, initially.

21 Q Right. I mean he refused more than once?

22 A Yes.

23 Q Correct.

24 A Initially, yes.

25 Q I mean, the first two or three minutes he refused

1 more than once?

2 A Yes, he initially refused.

3 Q All right. We may not be communicating. And he
4 initially refused more than once to go, to get treatment,
5 correct?

6 A Yes, but he --

7 Q He told you several times, I don't want to go to the
8 hospital?

9 A He later, he later consented to transport, sir.

10 Q Before the transport he told you several times --

11 MR. BLOUIN: Your Honor, we would object. He has
12 asked that question five times. The witness said, yes, he
13 initially refused and then he changed his mind.

14 THE COURT: Okay. Give just a little lead-way but I
15 know, I know, I have got the gist of it.

16 Q Before he was transported he refused more than once
17 to go to the hospital, correct?

18 A Yes, on the initial encounter.

19 Q All right. And how long was it after you got there
20 that the law enforcement arrived?

21 A I do not recall the exact span of time. I believe it
22 was within probably two, three or four minutes though.

23 Q So two, three, four minutes he refused to go to the
24 hospital and you didn't acquiesce that, did you?

25 A I mean, if we, if someone refuses with us we aren't

1 going immediate -- we aren't going to say, okay, you
2 answered the questions right and then immediately leave.

3 Q How long does it take you to determine whether or not
4 someone can freely and rationally refuse treatment?

5 A Initially we have to determine mental status. So
6 that would involve him answering our orientation questions
7 which we did ask. And we would do, we probably just do a
8 brief visual assessment of what kind of injuries he had.

9 Q And you did the orientation questions with him?

10 A Yes sir, I did.

11 Q And determined that he qualified to refuse?

12 A Yes, sir.

13 Q And at that point he was still refusing to go?

14 A Yes, sir.

15 Q How long does it take you to do the orientation
16 questions?

17 A It takes me all of about, maybe 10 to 20 seconds.

18 Q Well, certainly 30 seconds.

19 A Yes.

20 Q So in a period of about 30 seconds after your arrival
21 you were able to determine that he was rationale enough,
22 oriented enough to refuse treatment. Is that correct?

23 A Yes.

24 Q And when you determined he was rationale enough and
25 oriented enough to refuse treatment, you stayed there for

1 some three to four minutes asking him if he wanted to get
2 treatment?

3 A Yes. We also have to gather other information like,
4 exactly how he was injured; the events, the events that
5 occurred, that lead to him being injured.

6 Q And you got that information from him?

7 A Yes. And we have to make a case advocating for
8 transport to the hospital. We are not allowed, we are not
9 allowed to, we are not allowed to tell someone they are
10 not allowed to go to the hospital. We always have to
11 recommend transport.

12 Q All right. And if they recommend transport and don't
13 want to go you are suppose to print out a form and have
14 them sign it waiving their right, waiving any
15 transportation to the hospital?

16 A Yes. We have a form on our computer. We would have
17 to start a narrative, obtain his information as well as
18 some basic medical history.

19 Q And you never printed one of these forms out?

20 A No, they are not printed. They are digital, sir.

21 Q How would he sign it?

22 A Our computers have a touch screen that allows people
23 to sign.

24 Q So he could get to the computer and sign that?

25 A Yes.

1 Q You never brought it up for him to read?

2 A I am sorry?

3 Q You never brought it up on the screen for him to
4 read?

5 A Yes, I would have and I would have explained the
6 contents.

7 Q Did you ever bring it up on the screen for Mr.
8 Swaringen to read?

9 A No sir, we did not get far enough in our assessment
10 of him.

11 Q Okay. And then when you got him there you tied him
12 to a backboard?

13 A No, we did not tie him to a backboard.

14 Q How did you transport him?

15 A We put a cervical collar around his neck and then
16 helped him off his feet and onto a stretcher.

17 Q And then did you secure him on the stretcher?

18 A Yes, we did.

19 Q And it took you, so in less than one minute you were
20 able to determine he was perfectly okay to refuse
21 treatment?

22 A Yes, under a minute, on our initial arrival on the
23 scene.

24 Q And you did not honor his request?

25 A No, sir. I honored his request when he later

1 retracted his initial statements and agreed to let us
2 transport him.

3 Q You didn't honor his initial request to refuse
4 treatment?

5 A I don't understand what you are asking.

6 Q Okay. When you determined he was oriented as to time
7 and place, when you determined that he was perfectly
8 capable of refusing treatment you did not, at that point,
9 honor his request to refuse treatment?

10 A We didn't make a motion to move him onto the
11 stretcher before he agreed to let us transport him to the
12 hospital.

13 Q All right. We miss-communicated again. You said
14 that within a minute you determined he was oriented as to
15 time and place. Is that correct?

16 A Yes.

17 Q And within a minute he knew he was rational enough to
18 sign a form to refuse treatment?

19 A Yes.

20 Q And within a minute he had at least once refused,
21 told you he didn't want to go to the hospital?

22 A Yes.

23 Q All right. And when he told he didn't want to go to
24 the hospital you did not go get the computer screen for
25 him to sign digitally and refuse treatment, did you?

1 A That is somewhat a time consuming process. It takes
2 a couple of seconds to go in and get the computer. In
3 that time we have got, we have got to explain the
4 mechanism of his injuries as well as his injuries to him
5 and our reasons for suspecting possibly internal injuries
6 and advocating for transport to the hospital.

7 Q And was there any basis to be suspicious of internal
8 injuries?

9 A The one thing I was most concerned about was he was
10 ejected, we were told he was ejected from a motorcycle.
11 He had an abrasion to his head and he was not wearing a
12 helmet. That makes us suspicious for a concussion.

13 Q Correct. But then you did your test which make,
14 orient to time and place which eliminates a lot of that
15 suspicion.

16 A Yes.

17 Q Okay. So he was perfectly capable of refusing
18 treatment?

19 A Yes.

20 Q According to your policy?

21 A On our initial arrival, yes.

22 Q You just never filled out the form for him to sign?

23 A No, we didn't get that far.

24 Q Did you pick up any of his belongings there at the
25 scene?

1 A Yes. There was a saddle bag right next to him at the
2 scene.

3 Q Did you pick up anything else?

4 A No sir, I don't believe so.

5 Q Okay. And what was done with that saddle bag?

6 A It was loaded into the ambulance with him and it
7 remained on the floor of the ambulance during transport.

8 Q So you did not put a, put a spinal board on him?

9 A No sir, we did not.

10 Q I want you to review these notes here and look at the
11 part that is underlined. Does that refresh your memory?

12 A Yes, it does.

13 Q And you did use a spinal board?

14 A Okay. Yes.

15 Q And you tied him to the spinal board?

16 A Yes, we secured him to it.

17 Q You have to?

18 A Yes.

19 Q And once he was on that spinal board he was not able
20 to move around at all?

21 A No sir, he was not.

22 Q He was pretty well restricted?

23 A Yes, sir.

24 Q And before you put him on the spinal board he was
25 telling you he didn't want to go to the hospital?

1 A Yes, sir. Then he later agreed to transport to the
2 hospital.

3 Q Was that after he got on the spinal board?

4 A It was beforehand, sir.

5 Q All right. So do you remember about how long you
6 were there before he got on the spinal board?

7 A No sir, I do not remember. There should be a
8 timestamp for the intervention on my report though.

9 Q It shows about a minute and a half. Correct me if I
10 am wrong, from the time y'all arrived.

11 A Yes sir, I can see that now.

12 Q So he got on, you put him on the spinal board within
13 a minute and a half, correct?

14 A According to my report, correct, sir.

15 Q And you testified earlier that for a good while when
16 you first got there he was telling you he didn't want
17 treatment?

18 A I do not recall the time between our initial arrival
19 and seeing the arrival of law enforcement. I do know
20 after law enforcement arrived on scene he agreed to allow
21 us to transport him to the hospital.

22 Q So if law enforcement didn't arrive on the scene for
23 a minute and a half, you had him on the spinal board while
24 he was still saying, I don't want to go to the hospital?

25 A Sir?

1 MR. BLOUIN: Your Honor, he has already answered that
2 question. He asked him if he put the spinal board on him
3 before he -- he has already answered, yes. He is asking
4 the same questions 18 different ways.

5 MR. WISE: That is not the same question, Your Honor.

6 A If you want me to reiterate what happened on the
7 scene. We arrived on the scene, we made our initial
8 contact with him. He made his initial refusal. We
9 attempted, we attempted to explain his injuries to him.
10 He continued to refuse. Law enforcement arrived on the
11 scene and he agreed to let us transport him to the
12 hospital. After that, after that statement we placed him
13 on the spinal board and placed a surgical on --

14 Q But you testified earlier it was about four minutes
15 before law enforcement arrived?

16 A Sir, you are asking me to provide a rough estimate at
17 the time of our arrival on the scene and law enforcement
18 arrival. I do not recall that exact timeframe.

19 Q Well, it was certainly more than a minute and a half?

20 A Sir?

21 Q It was certainly more than a minute and a half?

22 A Between our arrival and law enforcement's arrival?
23 Yes.

24 Q Were you able to view a law enforcement report on
25 when their arrival on the scene time was? I am asking you

1 if it was more than a minute and a half?

2 A Sir, that was over a year and a half ago, I do not --

3 Q You don't know.

4 A I do not recall the time between our arrival on the
5 scene and law enforcement's arrival on the scene.

6 Q In which case Mr. Swaringen could well have been
7 lying on that spinal board telling you he didn't want to
8 go to to the hospital too, couldn't he.

9 MR. BLOUIN: Your Honor, he has already asked and
10 answered those questions.

11 THE COURT: Let's move along.

12 Q I don't think I have got a good answer. All right.
13 Let me rephrase it a little bit here, try to clarify
14 something. It was several minutes before law enforcement
15 got there or do you know?

16 A I know law enforcement arrived on the scene shortly
17 after our arrival on the scene.

18 Q But you don't know --

19 THE COURT: He said he didn't know.

20 Q You don't know when they got there. So if law
21 enforcement -- would you agree that Mr. Swaringen was on a
22 spinal board about a minute and half from the time you got
23 there, according to the document you looked at?

24 A Yes, according to the document.

25 Q All right. Thank you.

1 THE COURT: Thank you. Anything further?

2 REDIRECT EXAMINATION

3 By Mr. Blouin:

4 Q Just to clarify, Mr. Swaringen, did he consent to be
5 transported?

6 A Yes sir, he did. In schooling and in training we are
7 made, we are made aware multiple times that we cannot
8 transport conscious, alert, oriented patients against
9 their will.

10 Q No further questions.

11 THE COURT: Anything to that one question?

12 MR. WISE: Nothing further.

13 THE COURT: You may step down, please be careful.

14 MR. BLOUIN: Your Honor, just so we are not
15 potentially, not arguing everything again. Since this
16 seems to be about the seizure, you know, the State would
17 move that the testimony shows that the paramedic got
18 permission from Mr. Swaringen to be transported therefore
19 it wouldn't be any sort of illegal seizure under the
20 Fourth Amendment. He also stated that no one told him to
21 transport Mr. Swaringen other than Mr. Swaringen. So I
22 don't see how they could say he is acting as some sort of
23 state actor on behalf of the state actor; considering the
24 fact that Mr. Swaringen just got hit from behind on a
25 motorcycle with no helmet, bleeding from the head. And

1 EMS was the first on scene. And while he initially
2 stated, which EMS said he did not want to go, he
3 eventually relented and would not have been transported
4 but for his permission.

5 THE COURT: Well, are there any other witnesses?

6 MR. WISE: First of all, as a County EMS person, he
7 is an agent of the government and he can no more seize a
8 person on the street than law enforcement. That was
9 established in Ferguson versus City of Charleston case by
10 U.S. Supreme Court years ago. So our contention would be
11 that once he determined that Mr. Swaringen was oriented at
12 the time and place and then all the criteria to refusing,
13 he had no reason to seize him and take him from that point
14 on. You know, the seizure of Mr. Swaringen is just one
15 issue in this suppression motion. Okay.

16 MR. BLOUIN: He didn't, to hear a whole bunch of
17 other stuff and then have to go back and get confused.

18 MR. WISE: That is our basic position, that he is an
19 agent of the government and he has no part to the
20 seizurement of Mr. Swaringen when Mr. Swaringen clearly
21 and unequivocally said, I don't want to go. And
22 apparently, it sounds like only went when law enforcement
23 had some impact on it. But still, I think it is an
24 improper seizure of Mr. Swaringen after he clearly had
25 invoked his right not to receive the treatment which he

1 has a constitutional right to do under our State
2 Constitution and Right of Privacy.

3 MR. BLOUIN: I guess we will move onto the search
4 aspect. The State would call Lisa Edmonds.

5 Lisa Edmonds, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Blouin:

9 Q Ms. Edmonds, where were you employed on November 18th
10 of 2020?

11 A I worked at Prisma Health, Greenville Memorial
12 Hospital.

13 Q And what was your job?

14 A I am, the Emergency Department, was the
15 family/patient liaison.

16 Q And what does the family/patient liaison do?

17 A We wear lots of hats. We communicate with the family
18 and the patient. Part of that job include my inventorying
19 the belongings of patients.

20 Q So let's talk about that. Why would you inventory
21 the belongings of patients?

22 A For, both the benefit of the patient and the
23 hospital. Often times people come in with valuables that
24 need to be locked up into the safe. And so we inventory
25 those and then lock them in the safe so the person can

1 retrieve them later.

2 Q And who tells you to inventory these items?

3 A It is just part of the hospital protocol.

4 Q And that is Prisma?

5 A Correct.

6 Q Did law enforcement, hospital police or any other
7 entity ever tell you to search bags?

8 A No.

9 Q Whose belongings were inventoried when they come into
10 the ER?

11 A Everyone.

12 Q No matter where they are from?

13 A I don't know where anybody is from.

14 Q You don't know the Defendant?

15 A No.

16 Q And, so did you inventory the Defendant's belongings
17 when he came into the emergency room?

18 A Yes.

19 Q And what did you find when you inventoried Mr.
20 Swaringen's belongings?

21 A There was a suspicion that there were drugs.

22 Q And were there any law enforcement in the trauma bay?

23 A No.

24 Q What were you trained to do if that is what you
25 found?

1 A I am sorry, say that again.

2 Q What would you do next once you found, or inventoried
3 what you believe to be suspicious things?

4 A If I see something suspicious I don't inventory it, I
5 just immediately put a call into the hospital police.

6 Q Was Mr. Swaringen in the trauma bay at the time you
7 did the inventory?

8 A No, he was not.

9 Q Have you ever spoken to Mr. Swaringen?

10 A I believe I spoke with him when he probably came
11 back.

12 Q But nothing prior to that?

13 A No.

14 Q Is Prisma the same entity that the hospital police
15 are with?

16 A No.

17 Q Two separate, and you work with Prisma?

18 A I work with Prisma.

19 Q And that was police?

20 A Correct.

21 Q To inventory?

22 A Absolutely.

23 Q All right. So you are no longer employed with
24 Prisma?

25 A Correct.

1 Q And why are you no longer employed?

2 A I was let go.

3 Q And why were you let go?

4 A I looked in my husband's chart and printed out some
5 information which was against the HIPPA.

6 Q All right. Prior to that had you ever been accused
7 of wrongdoing with Prisma?

8 A Absolutely not.

9 Q And do you have any sort of criminal record?

10 A No.

11 Q Have you ever been accused of stealing anything?

12 A No.

13 Q Have you ever been accused of putting things with
14 people that aren't their's, planting things?

15 A No.

16 Q Let's talk about the trauma bay.

17 A Yes.

18 Q Can you describe the shape of the trauma bay?

19 A It is one very large room with a curtain that
20 separates the two beds. And we enter in through the front
21 and go to either trauma bay one or trauma bay two.

22 Q How many ways in or out of the trauma bay are there?

23 A One.

24 Q Okay. So is there a way for any sort of law
25 enforcement entity to get into the trauma bay without

1 going through the front?

2 A No.

3 Q Did anyone in law enforcement tell you to inventory
4 Mr. Swaringen's things?

5 A No, that is just a given, something we do when each
6 patient arrives.

7 Q Please answer any questions the Defense may have.

8 CROSS-EXAMINATION

9 By Mr. Wise:

10 Q Ms. Edmonds, do you have a copy of the policy of the
11 hospital for inventorying patient's property?

12 A Not with me, no.

13 Q Do you know if one exist?

14 A I believe it does.

15 MR. WISE: Your Honor, we haven't gotten it in any
16 discovery. I think it is somewhat relevant. I don't know
17 if the State can get it or has a copy.

18 MR. BLOUIN: I can try to get a copy.

19 MR. WISE: We have subpoenaed numerous records from
20 them and we don't, we haven't been able to find it.

21 THE COURT: The Solicitor says he doesn't have it.

22 MR. WISE: Excuse me?

23 THE COURT: The Solicitor says he doesn't have it
24 either.

25 Q You think there is a written policy?

1 A I assume so but I can't answer that question.

2 Q And the part of this is to, I guess, prevent
3 suspicion of people stealing stuff?

4 A I am sorry?

5 Q Part of the reason for having an inventory is to
6 prevent an accusation that somebody in the hospital stole
7 something?

8 A It is for the protection of both parties.

9 Q Right. That is one of them. And one of them is the
10 hospital and the other one is the patient.

11 A Absolutely.

12 Q So it is protection of both of them?

13 A Correct.

14 Q So what does the policy say about doing the inventory
15 in the presence of the patient?

16 A I can't answer that question.

17 Q You can't. So you understand that if an inventory is
18 done out of the presence of the patient, it kind of
19 eliminates protection for the patients as to whether or
20 not anything is taken?

21 A Well, it is done for all patients, patients that come
22 in that are incapable of speaking so we just do it for all
23 patients.

24 Q Is there any policy that if a patient is comatose or
25 unconscious, that the inventory has to be done then by two

1 people?

2 A There is always two people in that area when that is
3 done.

4 Q Who was the other person with you?

5 A I can't tell you. There were several nurses in there
6 as well as the business office came in.

7 Q But you did this inventory when Mr. Swaringen was out
8 of the room?

9 A Correct.

10 Q And who sat there with you and watched this inventory
11 to make sure it was done properly?

12 A Again, there were several people but I can't give you
13 names.

14 Q Did you do a list of the inventory?

15 A Yes, we do a list.

16 Q Do you have it?

17 A I have nothing, that is all hospital property. And
18 it would be a HIPPA violation for me to remove it from the
19 hospital.

20 Q All right.

21 MR. WISE: Again, we don't have an inventory list of
22 anything that was taken. And I assume if the inventory
23 was done properly it would have her signature on it and
24 perhaps another nurse while, you know, if it was done out
25 of his presence.

1 Again, do you have that?

2 MR. BLOUIN: I am sorry.

3 MR. WISE: Do you have the inventory?

4 MR. BLOUIN: I do not have an inventory.

5 Q And obviously, Mr. Swaringen wasn't in the room, it
6 was done without his consent?

7 A Correct.

8 Q Okay. Did you go to any training on how to do these
9 inventories or anything like that?

10 A I don't believe any training is necessary.

11 Q Is there a security station in the hospital?

12 A There are several security stations.

13 Q And there is one not too far from the emergent, from
14 the ambulance entrance, emergency room entrance.

15 A Of course.

16 Q Do you know what the policy is about carrying any
17 personal belongings that may come in with an ambulance to
18 the security station first for inspection?

19 A I would think all of that information would be with
20 our legal department. So I wouldn't have that.

21 Q And you wouldn't, you have never been taught anything
22 about it while you were there?

23 A I don't, what?

24 Q You haven't been taught anything about the
25 responsibility of any security people to inspect bags that

1 come into the hospital?

2 A I have no idea what the security's responsibilities
3 are. That would be something they have to answer. I am
4 not part of that department.

5 Q And it hadn't been part of your training?

6 A No.

7 Q Even when you were taking training on doing inventory
8 searches?

9 A We weren't given training on inventory searches.

10 Q Okay.

11 A I mean it is not a search, so.

12 Q It is just a look through. And you just generally
13 look in there to see what is in there?

14 A Pardon?

15 Q You are just generally told to look through stuff and
16 see what is in there?

17 A No, not at all, sir.

18 Q So what were you taught as to how to do the inventory
19 searches?

20 A Inventory was strictly for the protection of the
21 person that was the patient. We would log clothes,
22 clothes that they had on; glasses; whatever they had; a
23 wallet with credit cards, those would be locked up.
24 Anything that we felt needed to be protected.

25 Q And do you remember whether any credit cards or money

1 of Mr. Swaringen's was --

2 A I do not --

3 Q I assume that would be on the inventory list?

4 A It should be, yes.

5 Q That we don't have here today.

6 A That should be in the records.

7 Q Do you even remember what you found in this black
8 bag?

9 A No, I look through, probably looked through hundreds
10 since he came in. So I cannot.

11 Q Okay. Do you recall what all was in the black bag?

12 A No.

13 Q Do you recall where you found the drugs?

14 A I can't answer specifically where they were found.
15 They would have been in his belongings that had been
16 brought in. So whether it was the jacket or the, I can't
17 answer that.

18 Q But you don't know if, what it was found in was
19 actually his belongings anyway, do you?

20 A It would have had to be his belongings.

21 Q Well, it was in the bag that was brought in with him?

22 A That is correct.

23 Q And you are assuming that whatever is in that bag is
24 his belongings?

25 A That is correct.

1 Q But you don't know what it was found in, what drugs
2 were found in?

3 A I am sorry.

4 Q You don't know what the drugs were found in, inside
5 the black bag?

6 A I guess I don't understand.

7 Q All right. Were the, let me rephrase my question
8 then. Were the drugs loose inside the black bag?

9 A When you say loose. I know, I am sorry.

10 Q Was it a bunch of little plastic bags inside the
11 black bag?

12 A Yes.

13 Q And they weren't in another container?

14 A No.

15 Q Okay. Thank you.

16 REDIRECT EXAMINATION

17 By Mr. Blouin:

18 Q You found something in his belongings, what did you
19 do?

20 A Pardon?

21 Q What did you do when you found what you believe to be
22 drugs?

23 A We are instructed to call law enforcement, stay with
24 that until law enforcement, within the hospital which is a
25 separate entity. So I contacted them, let them know if I

1 find anything that is suspicious, whether that it is a
2 knife, a gun, appearance of drugs; and then come and make
3 that determination.

4 Q Just to clarify, what kind of cases do y'all see in
5 the trauma bay?

6 A Everything.

7 Q It is the emergency department?

8 A That is correct.

9 Q So what all is going on in there, are things moving
10 fast?

11 A Yes, they can be.

12 Q How many people were in the trauma, are being treated
13 in that trauma bay during this instance?

14 A I am sorry, repeat.

15 Q How many people were in that trauma bay during this
16 instance?

17 A Employees?

18 Q No, no, no. Patients.

19 A Just the Defendant.

20 Q Just the Defendant?

21 A Correct.

22 Q That is all the questions.

23 THE COURT: Anything else?

24 MR. WISE: Nothing further.

25 THE COURT: Ma'am, you may step down. Please be

1 carful.

2 MR. BLOUIN: The State would call Chris Miller.

3 Chris Miller, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Blouin:

7 Q Officer Miller, where are you employed?

8 A Greenville Health Authority Police Department.

9 Q And how long have you been employed there?

10 A I have been employed there for about a year and eight
11 months.

12 Q And where were you previously employed before then?

13 A I retired from the Greenville County Sheriffs Office
14 after 25 years.

15 Q And where were you working on November 19th of 2020?

16 A I was working in our substation which is in the
17 emergency room.

18 Q And were you present when the Defendant came in?

19 A I was not, I was working in the office and then I was
20 dispatched.

21 Q Okay. So you did not search any bag?

22 A No.

23 Q When were you made aware that there were potential
24 narcotics there?

25 A When I got the call from dispatch.

1 Q Did you instruct anybody to search any bags?

2 A No.

3 Q Does the officers of the Greenville Health Authority,
4 do they tell people to search?

5 A No.

6 Q So when are you called?

7 A When some medical staff or another hospital employee
8 finds something that they think to be contraband.

9 Q Did, when you responded was the Defendant in the
10 trauma bay?

11 A Yes. He was on his way into the trauma bay.

12 Q Okay. Now, when you were called was the Defendant --

13 A Yes, he was --

14 Q Was he in the bay?

15 A Yes, he was, just had been brought to the bay.

16 Q Is the Greenville Health Authority part of Prisma?

17 A No.

18 Q Did you question the Defendant during any of this?

19 A No.

20 Q Please answer any questions that the Defense has.

21 CROSS-EXAMINATION

22 By Mr. Yarborough:

23 Q Did you prepare the investigative reports and stuff
24 in this case?

25 A Yes, I was the lead investigator. Yes, sir.

1 Q Did you work from notes or how did you do it?

2 A No, I did not work from notes.

3 Q You didn't work from any notes?

4 A No, sir.

5 Q Do you have any notes that show who found the drugs
6 that day at the hospital?

7 A No, I do not.

8 Q Did you put that in any of your reports?

9 A As far as who found, no.

10 Q Do you know the name of the person that found the
11 drugs?

12 A Yes, I do.

13 Q What is that person's name?

14 A That is Ms. Edmonds.

15 Q Do you, are you aware that during the process of the
16 search being made, have you reviewed the Prisma Health
17 reports?

18 A No, I have not.

19 Q Will you look at, what was reported from the Prisma
20 Health reports for 22:09:27, (phonetic), that's what time?

21 A 10:09.

22 Q 10:09. Who made that report?

23 A It says Kelsey Lynn Ridgeway.

24 Q So she is the one that reported the drugs, isn't that
25 right?

1 A Yes.

2 Q It wasn't the lady that testified in court today?

3 A Right.

4 Q Let me ask you this. You did an incident report, you
5 are Officer Miller, right?

6 A Yes.

7 Q Okay. And in your incident report, does it identify
8 who found the drugs?

9 A There is no name listed.

10 Q It just says, she, isn't that correct?

11 A Yes.

12 Q Is that correct?

13 A That's correct.

14 Q And on that night, Mr. Swaringen was brought in on
15 the ambulance, the EMS worker who testified here, he
16 removed the bag from the ambulance. Is that correct, are
17 you aware of that?

18 A I was aware that it was brought in by EMS.

19 Q We are going to go to that in a minute. But at some
20 point, does that EMS man hand the black bag to you?

21 A No, sir.

22 Q So if there is an EMS report that says that the bag
23 was given to security and trauma, who would that have
24 been?

25 MR. BLOUIN: Your Honor, he is asking him to

1 speculate on someone else's report that I can't even say
2 he has even read. I think he is saying, who could it have
3 been. Pure speculation.

4 THE COURT: Let's see if he knows. He might and he
5 might not.

6 A I wouldn't know. There is also security officers
7 that work there too.

8 Q There is a security officer that works there as well
9 that would have had that bag and would have gone through
10 that bag. Is that correct?

11 A I would not know that.

12 Q The policies of the hospital are, that once the
13 security is given the bag, the purse, whatever; they check
14 that for weapons at that point. Isn't that correct?

15 MR. BLOUIN: Your Honor, he is stating policy, that
16 no one has shown any policy.

17 THE COURT: Wait a minute. He might know the policy
18 and he might not. Let's see.

19 Q You work there, right?

20 A Right.

21 Q And look, people come in and you are given purses,
22 you are given all kinds of stuff. Security gets that from
23 the ambulance, right?

24 A They do get purses.

25 Q They get them from the ambulance when the ambulance

1 driver comes in. And it is securities job to check the
2 bag, right?

3 A Yes.

4 Q Okay. And so, at some point security had checked
5 that bag?

6 A I have no idea because I was not there.

7 Q So if I have an EMS report that says that security
8 checked, was given that bag. Is that correct or is that
9 not correct?

10 A I would have to go by what the report says because I
11 was not there.

12 Q So that would have been, that would have been
13 something else. And what, do you know what the policy is
14 for the, what are you checking for in the bags. Isn't it
15 for public safety?

16 A Public safety.

17 Q It would be public safety. And so if there is not a
18 gun or a bomb or a knife in there it is, that is, I mean
19 you have got women coming in all the time that are
20 pregnant, right?

21 A Yes.

22 Q Okay. And nobody is going through, checking their
23 purse to see any guns, knives or bombs in there. That is
24 just sent through, isn't that right?

25 A Yes.

1 Q They are not inherently searched piece by piece,
2 right?

3 A No, they are looking for weapons.

4 Q And at the point that there was not a weapon found,
5 that is the end of the search?

6 A I don't know what the hospital policy is.

7 Q But the hospital policy can't be to check every
8 little compartment that is in a bag, can it?

9 MR. BLOUIN: Once again, speculation. He just says
10 he doesn't know what the policy is.

11 Q You worked for the Greenville Sheriffs Office for 25
12 years. Wouldn't that be an invasion of privacy?

13 A If law enforcement did it.

14 Q But law enforcement had this bag, right?

15 A I never had this bag.

16 Q Okay. So EMS says that, is that just wrong. How
17 about this, do you know?

18 A I don't know because I never had the bag in my
19 possession.

20 Q Okay. Did you have a black bag in your possession?

21 A No.

22 Q You never had a black bag in your possession?

23 A No, sir.

24 Q Did you ever inventory that bag?

25 A No, sir.

1 Q No. Officer, look, and I am not trying to put you on
2 the spot, I am just asking this simply. You are the
3 police officer that is there. You are the cop on the
4 scene, right?

5 A Yes.

6 Q Okay. And there is, has to be something, had to have
7 been trained how to handle situations about stuff coming
8 in and out, right? Was there no training?

9 A That is not our job.

10 Q Okay. Thank you. I don't have any more questions.
11 Wait a second. Did you ever take any pictures of the bag?

12 A Of the bag?

13 Q Yes.

14 A I don't have my case.

15 Q You don't have your case file with you?

16 A No, sir.

17 Q If I, one second. Is this a picture of the bag?

18 A Yes, sir.

19 Q Did you take that picture?

20 A I did. I just couldn't remember.

21 Q Excuse me?

22 A I couldn't remember.

23 Q And did you search this bag?

24 A No, sir.

25 Q Did you search things that were in this bag? You

1 didn't search it at all?

2 A Didn't search it at all.

3 Q Okay.

4 A No further questions.

5 THE COURT: Anything?

6 MR. BLOUIN: Just to clarify.

7 REDIRECT EXAMINATION

8 By Mr. Blouin:

9 Q You had possession of the bag before the inventory
10 was conducted?

11 A No.

12 Q No further questions.

13 THE COURT: Anything to that one question.

14 MR. YARBOROUGH: I don't think I understood his
15 question, Your Honor, and I apologize. What did you?

16 MR. BLOUIN: I asked him whether he had possession of
17 the bag before the inventory and he said no.

18 RECROSS-EXAMINATION

19 By Mr. Yarborough:

20 Q Do you have an inventory of what was in the bag?

21 A No. Just items that were handed to me.

22 Q Nothing further.

23 THE COURT: Officer, you may step down.

24 MR. BLOUIN: The State calls Alvin Harrison to the
25 stand.

1 Alvin Harrison, being
2 first duly sworn, testified as follows:

3 THE COURT: If you will state your name and spell
4 your name for Madam Court Reporter, please.

5 MR. HARRISON: Al Harrison; last name,
6 H-A-R-R-I-S-O-N.

7 DIRECT EXAMINATION

8 By Mr. Blouin:

9 Q Mr. Harrison, where are you employed?

10 A I am a contracted Investigator with Prisma Health.

11 Q And what is your duties?

12 A How much time do you have. One of my primary duties
13 is to review security and police reports and save any
14 video footage that may be available in reference to those.

15 Q Did you save any video from this incident?

16 A I did.

17 Q I am going to approach, mark this as State's exhibit
18 1.

19 (Whereupon, State's Exhibit 1 was marked for
20 identification only.)

21 Q Do you recognize this DVD?

22 A Yes.

23 Q What is this a DVD of?

24 A It should contain footage of the incident in question
25 or in reference to the report that was written.

1 Q And how do you know that is what is on this DVD?

2 A It should have been put on there by case number.

3 Q Okay. And did you sign that?

4 A I did.

5 Q And date that?

6 A Yes.

7 Q And is this accurate representation of what you saved
8 from that night?

9 A Yes.

10 Q At this time I am going to play the video. We have
11 got to figure this screen, turn us on here.

12 (Whereupon, a DVD was played from 2:45 through 2:48
13 p.m.)

14 MR. BLOUIN: Your Honor, I have no more question for
15 Mr. Harrison. But what I was going to do, after their
16 cross I was going to recall Lisa, just from what we are
17 seeing.

18 Answer any questions the Defense may have.

19 CROSS-EXAMINATION

20 By Mr. Yarborough:

21 Q I am Bill Yarborough. We have talked before. You
22 told me, let me ask you this. A lot of this video is
23 missing, isn't that right?

24 A There is video that is directly in the trauma bay.
25 Unfortunately that night with electronics those cameras

1 were out, I think it was for a couple of days before they
2 were repaired.

3 Q So part of what went on in the trauma bay was not --

4 A Would not be available.

5 Q Would not be available.

6 A Just so I can let you know. The scope of the cameras
7 in the trauma bay are limited because they don't want
8 direct views of people's chest cavities being opened up,
9 things of that.

10 Q So we don't, we don't see on here the search of the
11 bag, is that correct?

12 A I don't believe you can see it. I think the curtain
13 may obscure it from the angle we have.

14 Q Perhaps you see somebody in the back doing something
15 but it --

16 A I don't know that you can see it directly.

17 Q Right. You told me that. But let me ask you this.
18 The bag coming in from the ambulance to the security
19 people, you don't have video of that?

20 A No, I don't believe we do.

21 Q Right. And what happened is that video got
22 destroyed, is that right?

23 A No, that is incorrect. It was not recorded.

24 Q Okay. When you say, don't they, when the ambulance
25 pulls up they record people coming --

1 A No, they recorded --

2 Q They recorded --

3 A I didn't save it.

4 Q What?

5 A It wasn't saved, that long duration of time. Once he
6 arrived, was taken off the ambulance and brought into the
7 hospital, maybe a few more minutes transpired and then
8 that video, I didn't save any more. I am extremely
9 limited, we have got thousands of cameras so I have to be
10 very careful on how much information I save just from a
11 storage aspect.

12 Q Well, you know, when this happened you were alerted
13 by Officer Miller that we needed to keep this stuff,
14 right?

15 A No.

16 Q He didn't alert you to it?

17 A No, sir. I pick the reports and try to find things
18 and save what I can to help.

19 Q But you erased the bag coming in from the ambulance
20 to the trauma?

21 A No sir, I don't erase video, I can't.

22 Q It got destroyed, didn't it. What's the right term?

23 A It wasn't saved. That particular part of the bag
24 coming off, the person coming off, yes. The bag coming
25 off was not saved and after 15 to 20 days it just drops

1 off the server and is no longer available.

2 Q Okay.

3 A And a year and a half later it is certainly not
4 available.

5 Q Right. So when we try to go back and get it it is
6 not available?

7 A No, it is not going to be there.

8 Q And that, do you know, do you remember looking at it?

9 A Looking at the video?

10 Q Yes.

11 A Yes, I remember looking.

12 Q And did the bag go from the ambulance to law
13 enforcement?

14 A No, it shouldn't have. If memory serves correctly,
15 you see it come in on this camera view directly into the
16 trauma bay.

17 Q If EMS says they gave it to security, you don't know
18 anything about that?

19 A No, sir.

20 Q Okay. What is your job over there?

21 A I am a contract Investigator. But through that I do
22 work with risk management, human resources, anything
23 involving video for every campus in the upstate.

24 Q Okay. And are you aware of the hospital's policy of
25 searching personal items?

1 A I don't know that it is a policy or protocol. I do
2 know that anyone who is brought in via EMS and is put in
3 the trauma bay or even in certain rooms that they
4 inventory their property.

5 Q They inventory their property. I mean, so there
6 would be an inventory of what, what was found in that bag.
7 There should be if it was policy?

8 A If it were policy but I don't, I am not sure what
9 their policy is.

10 Q Who would know if you didn't know?

11 A Whoever is over the ER probably would have that
12 information.

13 Q Nothing further.

14 THE COURT: Anything from the State?

15 MR. BLOUIN: Nothing from the State.

16 THE COURT: You may step down, please be careful.

17 MR. BLOUIN: The State would just recall Lisa
18 Edmonds.

19 THE COURT: You are still under oath, you don't have
20 to be re-sworn.

21 DIRECT EXAMINATION

22 By Mr. Blouin:

23 Q Ms. Edmonds, looking at the video, can you identify
24 yourself?

25 A Yes. I am the person, I guess you would say in the

1 back on the far right.

2 Q And we are going to play this video a little bit
3 forward. And while this is playing, can you kind of point
4 out where that trauma bay is?

5 A Yes, the trauma bay is directly behind where the
6 curtains are. We always draw the curtains for the
7 patients privacy because they are generally disrobed at
8 that point.

9 Q And that is the one way in and the one way out?

10 A That is the one in and out. And I do generally wait
11 there until they take the patient over to CAT scan before
12 I enter. Obviously there is a lot of activity.

13 Q So when they remove someone from the trauma bay,
14 where do they particularly go next?

15 A Almost always they are going to CAT scan. Directly
16 behind that wall is a podium, being the curtains. And
17 that is where the nurse is standing that is recording
18 everything. Often times they are standing there also
19 recording the belongings of the person. So they are
20 taking orders from the doctors and everyone to put into
21 that chart.

22 Q And I know it is not hard to see, but that is you in
23 the trauma bay?

24 A That is me.

25 Q And are you by yourself in the trauma bay?

1 A No. And there would have, more than likely and it is
2 hard for me to tell, there would have still been the nurse
3 in charge up on that podium making notes. You can see a
4 nurse bending down. She would have been assisting either
5 with getting clothes and bags or possibly things that came
6 off that were, that can be bloody or have bodily fluids on
7 them. That is why we wear gloves.

8 Q Would this also be around the time you were
9 performing an inventory?

10 A Correct. And often times I would be dictating to the
11 person on the podium what has been found. One of the
12 reasons --

13 MR. YARBOROUGH: Your Honor, I am going to object.
14 she is just, not being asked questions.

15 THE COURT: Okay. Let him ask you a question, Ma'am.

16 MS. EDMONDS: Sorry.

17 Q Could you tell us what is going on, I guess, right
18 now?

19 A Looks like the police officers are arriving which
20 would indicate that I have found something that is out of
21 the ordinary and that is questionable. And they have been
22 contacted.

23 Q Okay.

24 A To arrive and check it out.

25 Q Please answer any further questions that they have.

1 CROSS-EXAMINATION

2 By Mr. Wise:

3 Q Who was the nurse that was sitting down or bending
4 down on the floor?

5 A I cannot tell.

6 Q Who was the nurse on the podium?

7 A I don't know. It will be in the records.

8 Q You don't remember that?

9 A No.

10 Q Okay. Does the nurse stay on the podium even when
11 the patient is out of the room?

12 A They can. It depends on how much they still have to
13 type in regarding his doctors or giving them blood
14 pressure, all kinds of information.

15 Q So it would be fair to say that you don't know for
16 sure if the nurse was on the podium at that point?

17 A Not at that angle.

18 Q You don't have any independent recall of the nurse
19 being there at that point?

20 A No, sorry.

21 Q Thank you.

22 THE COURT: Anything at all as to those questions?

23 MR. BLOUIN: Nothing from the State, Your Honor.

24 THE COURT: Ma'am, you may step down again.

25 MR. BLOUIN: Those would be the State's witnesses.

1 THE COURT: Okay. We are running on time. We are
2 running about 90 minutes and we started roughly at 1:30.
3 So everybody, we are going to take about 15, 18 minutes
4 recess.

5 (Whereupon, a short break was taken.)

6 THE COURT: Counsel?

7 OFFICER: He wants to talk to his lawyers. Is that
8 okay, Judge?

9 THE COURT: Yes.

10 (Whereupon, a short break was taken while Mr.
11 Swaringen talks to his layers.)

12 MR. BLOUIN: Your Honor, as we start, just based on
13 the earlier arguments as far as the seizure regarding the
14 EMS or the paramedic who testified that Mr. Swaringen,
15 while he may have initially not wanting to be transported,
16 he did consent to be transported and that they would not
17 have transported him had they got to the point of signing
18 that waiver. We would, the State would say that that is a
19 voluntary, there was no evidence to show that he was
20 coerced or strongarmed or anything other than he changed
21 his mind. And then as to the search. Your Honor, I
22 believe the testimony of Ms. Edmonds who is not a law
23 enforcement officer, who worked as a nurse who testified
24 to the fact that it is a, that they conducted an inventory
25 per Prisma for their protection and the patients as well

1 so that they were not accused of stealing anything or
2 those sorts of issues. We showed the video where she said
3 this is where I performed the inventory search. It was
4 clear that law enforcement was not present. Law
5 enforcement testified that they did not ask for her to
6 search anything and the testimony shows that they are
7 actually separate entities, the Health Authority and then
8 Prisma. You know, the Supreme Court has basically ruled
9 consistently that only government action, it is a wholly
10 and applicable to search and seizure, even an unreasonable
11 one affected by a private individual not acting as an
12 agent of the government or the participation or knowledge
13 of a government official. We would say that this would
14 fit under that, this was not a Fourth Amendment seizure or
15 search. And therefore we would ask that you deny the
16 suppression motion.

17 THE COURT: Okay.

18 MR. WISE: Your Honor, I want to pass up to the Court
19 the 2021 report of the Greenville Health Authority, the
20 significant portion of which is, toward the back where
21 there is a lease agreement between the Greenville Health
22 Authority. And if you read the entire report it is kind
23 of like the head of, the parent group of Prisma. And what
24 that lease agreement shows is that the Greenville Health
25 Authority is a political subdivision, its employees are

1 therefore are government agents. And they have basically
2 set up a lease agreement with the Prisma group to run the
3 hospital and therefore the Prisma employees would, in
4 fact, be acting as government agents under the theory that
5 the government cannot contract away their constitutional
6 obligations. What we have here, I think first of all is
7 the improper seizure of Mr. Swaringen. Excuse me, if you
8 read Ferguson versus City of Charleston which is found at
9 532 U.S. 67, they very clearly say that nurses in a
10 hospital that is a government entity are, in fact,
11 government employees for that purpose.

12 THE COURT: MUSC, I know the case.

13 MR. WISE: That's correct, that's correct. The first
14 problem we have is, granted the testimony is not clear and
15 that actually should help us, not hurt us. We first heard
16 testimony that Mr. Swaringen, for over four minutes,
17 refused to go to the hospital until law enforcement got
18 there. Then we find out that within those four minutes
19 Mr. Swaringen is fastened to a backboard, apparently while
20 saying, I don't want to go to the hospital. Well, I am
21 going to tell you, once you are fastened to a backboard
22 your choice going to the hospital is very limited because
23 you are going to have to figure out a way to get out of
24 those restraints to not go because he is going. So, when
25 you restrain a person to a backboard and then you get his

1 consent to go that is kind of coercive consent, to say the
2 least. So the seizure of Mr. Swaringen was improper. He
3 has the absolute constitutional right to refuse medical
4 treatment, there are several cases on that. He doesn't
5 have to go for medical treatment as long as he is
6 reasonably coherent. And in this case the testimony was
7 he was very coherent, he passed all the psychological
8 tests or the trauma tests they wanted. He was oriented in
9 time and place and all of that. So he was perfectly
10 capable of refusing to go. On the other search. There is
11 some cases out there involving searches of property in the
12 hospital and they analogize them to an inventory search of
13 a car. To have a valid search you have to have a valid
14 policy. You just can't say to your employees in the
15 emergency room, check the personal property. You have to
16 have a policy as to what they are to do. And amazing to
17 me in this case is; one, they never mentioned to Mr.
18 Swaringen, you know, can we search your property. They
19 never did it in his presence and if there is an inventory
20 of it we haven't seen it. We have seen no written
21 procedures, no written rules as to how they are to do it,
22 under what circumstances they are to do it. So if you
23 watch the video, it sits there for several minutes before,
24 I assume several minutes, before anybody inspects it, it
25 is hard to say. The point is, it is a hit and miss thing.

1 If the hospital had a rigid procedure as to how you do an
2 inventory search then the State could argue, the search of
3 the bag in the room with Mr. Swaringen would be legal, but
4 they don't. They don't have an inventory, they don't have
5 a procedure, they don't know if they have one. As I say,
6 it is just basically hit and miss and under those
7 circumstances I think very clearly violates the Fourth
8 Amendment, as an unreasonable search.

9 MR. BLOUIN: Just a quick response, Your Honor. And
10 like I say, I am looking at this lease for the first time.
11 This lease looks like a lease for property that is from
12 Prisma, property that is owned by Greenville Health
13 Authority. It doesn't seem to make any reference to any
14 actions that the officers, who are employed by the
15 Greenville Health Authority, you know, are all of a sudden
16 working for Prisma. This, like I said, looks like a
17 simple lease for property. And then as to something that
18 Mr. Wise has stated. The testimony was not that they put
19 him on the backboard before he agreed to go. The
20 testimony was clear that he agreed to go and then they put
21 him on the backboard. To say that, you know, sure, he was
22 put on this backboard still saying he didn't want to go is
23 not the testimony that we heard, that they did not start
24 loading him or getting him prepped to go into that
25 ambulance until he agreed to go.

1 THE COURT: Anything else?

2 MR. WISE: Well, on that response I would say,
3 originally they were there for four minutes before he
4 agreed to go. And then the officer, the EMS man had to
5 admit that he was on a backboard like a minute and a half
6 after they got there. So it seems to be very confusing
7 and that, if it is not clear I think it helps our side.

8 THE COURT: Okay. Do we have other motions?

9 MR. BLOUIN: None from the State.

10 THE COURT: Anything else?

11 MR. YARBOROUGH: Nothing at this time, Your Honor.

12 THE COURT: Well, do we have any more pretrial
13 motions?

14 MR. YARBOROUGH: No pretrial motions.

15 THE COURT: No pretrial, I know we will have things
16 as we go along. But we don't have any other pretrial
17 motions?

18 MR. BLOUIN: There is no ID's or Jackson v. Denno's
19 or anything like that since there were no statements.

20 THE COURT: I want to do that all today while the
21 jury is not here. I am told we don't have anything to
22 that. You want to get Janeen up here, please, the person
23 from the Clerk's Office, I want to chat with them. Get
24 her, see if we can get her up here.

25 (Whereupon, a short break was taken while the Court

1 waits on the Clerk of Court.)

2 THE COURT: Thank you, be seated. We are going to go
3 ahead and recess at this time for the afternoon. We will
4 reconvene tomorrow morning at 9:00 a.m. sharp.

5 (Whereupon, the trial will resume the next morning at
6 9:00 a.m.)

7 June 8, 2022

8 THE COURT: All right. We are here on the matter of
9 State of South Carolina versus Joseph Martin Swaringen.
10 The indictment number is 2021-GS-23-006825. The Court
11 took under advisement a motion to suppress yesterday. As
12 to that motion to suppress, the Defendant himself,
13 refused, initially refused transportation to the hospital
14 and within two to four minutes, approximately, law
15 enforcement arrived on the scene. Again, he volunteered
16 to be transported. The EMS Officer did not get far enough
17 along in the assessment before the Defendant volunteered
18 to be transported. The EMS provider was providing medical
19 treatment and he was following his treatment, his
20 training, he was not confining him. He was stabilizing
21 the patient, he was not confining him for law enforcement
22 purposes. The paramedic did not grab a person off the
23 street and strap him or her to a backboard. Here the
24 Defendant was in a motorcycle versus car/motor vehicle
25 accident and the paramedic was rendering medical aid.

1 There was no seizure of this Defendant under the Fourth
2 Amendment.

3 As to the issue of the search/inventory. Critical
4 help is a private or profit hospital, not a government
5 actor. Unlike in Ferguson, Prisma Health objected by
6 searching of the bag would not generate evidence for law
7 enforcement purposes. It was not for the specific purpose
8 of incriminating a patient but for the protection of both
9 the hospital and the patient. And, again, there is no
10 search under the Fourth Amendment. It was an inventory by
11 a hospital employee, not a search by law enforcement. It
12 is routinely done for liability purposes and she was not a
13 government employee, not acting in concert with law
14 enforcement and not acting under instructions or
15 directions from law enforcement. She was not looking for
16 contraband but was inventorying items for the benefit of
17 both the patient and the hospital. Her hospital employer
18 directed her to report any suspicious items or item to law
19 enforcement and to safeguard that item or items until law
20 enforcement arrived, which she did. This is not a search
21 in violation of the Fourth Amendment. Therefore the
22 motion to suppress is denied. Anything from the State?

23 MR. BLOUIN: None from the State, Your Honor.

24 THE COURT: Anything from the Defense?

25 MR. WISE: I didn't do it yesterday and should have,

1 we need to mark that report from Greenville HIPPA
2 Authority and Prisma as a Court Exhibit 1 for purposes of
3 our motion.

4 (Whereupon, Court's Exhibit number 1 was marked for
5 identification only.)

6 THE COURT: We will do that. Anything from the
7 State?

8 MR. BLOUIN: Nothing from the State.

9 THE COURT: From the Defense?

10 MR. YARBOROUGH: Just briefly, Your Honor. Judge
11 Austin thought she was doing me a favor and moved me from
12 10:00 o'clock to 11:00 o'clock to do, pick the jury. And
13 so they are asking me to be in Federal Court at 11:00 as
14 opposed to 10:00. And I think she, the good news, we
15 worked out the detention part so we are now just going
16 over there to work on an evaluation issue, it shouldn't
17 take very long at all.

18 THE COURT: What time do you need to leave here?

19 MR. YARBOROUGH: 10:30 and I think I could be back by
20 11:30.

21 THE COURT: Okay. We will pick the jury and see what
22 time it is.

23 MR. YARBOROUGH: See what time it is and maybe we can
24 open.

25 MR. BLOUIN: I don't open very long, Judge.

1 THE COURT: Let's see where we are, we will work with
2 you.

3 MR. YARBOROUGH: Sir?

4 THE COURT: I will work with you, I will take care of
5 you.

6 MR. YARBOROUGH: Thank you. And it is only the Judge
7 across the street.

8 THE COURT: Okay.

9 (Whereupon, a short break was taken.)

10 THE COURT: Everybody ready for the jury?

11 MR. BLOUIN: The State is ready, Your Honor.

12 MR. WISE: We are ready.

13 THE COURT: If he needs to talk now is his last
14 chance. We will have the jury, Madam Clerk.

15 MR. SWARINGEN: Your Honor, I would like to address
16 the Court if possible on record.

17 THE COURT: Talk to your lawyer first because I don't
18 know what you are about to say. When I was a Defense
19 lawyer I didn't want my clients to talk to anybody.

20 (Whereupon, Mr. Swaringen and his attorneys talk off
21 the record.)

22 MR. YARBOROUGH: He wanted us to note for the purpose
23 of your ruling that he felt like, that it was three to
24 four minutes and closer to three minutes by the time, and
25 you said four. I think some of the evidence was closer to

1 three. He was in the ambulance leaving within three
2 minutes.

3 THE COURT: Okay, it doesn't affect the ruling.

4 MR. SWARINGEN: And it is on record, thank you.

5 THE COURT: It is on the record. We are ready for
6 the jury. Strikes are five and five.

7 (Whereupon, the jury panel came into open court at
8 approximately 9:40 a.m.)

9 THE COURT: Is everybody ready?

10 MR. BLOUIN: The State is ready, Your Honor.

11 MR. YARBOROUGH: We are ready.

12 THE COURT: Alright. Good morning, ladies and
13 gentlemen. I am Keith Kelly, one of your Circuit Court
14 Judge's here in the State of South Carolina. There are 49
15 of us that travel around the State. And I am a
16 Spartanburg County resident, so it is nice to be with you
17 over here in Greenville. I enjoy coming over to
18 Greenville. Good to be with you. First of all, you see
19 that I am standing. And I want to tell you right now,
20 that if I am standing, I stand a lot, it means that I am
21 tired of sitting. Okay. So if I am standing while a
22 witness is testifying it doesn't mean that I believe or
23 disbelieve something that person is saying. It simply
24 means that Keith is tired of sitting. If I am sitting I
25 am tired of standing. That is all it means, okay. I have

1 could cause a mistrial in the case. Don't bring those
2 back. They are allowed in the Court House but they are
3 not allowed in the courtroom and certainly not allowed
4 during your deliberations. Okay. Please don't have them.
5 Don't try to learn anything about this case while you are
6 on break. Enjoy your lunch, don't be working when you are
7 on break and don't try to learn anything about it because
8 I know very little about it, this piece of paper is about
9 what I know about this case. And we have to learn
10 together in this courtroom. That is our system of
11 justice, we can't go doing anything in investigation. So
12 please don't try to learn anything about this case. You
13 must learn in this courtroom from the sworn testimony
14 about this case. Anything from the State, anything from
15 the Defense?

16 MR. YARBOROUGH: No sir, Your Honor.

17 MR. BLOUIN: None, Your Honor.

18 THE COURT: We are going to go into recess now until
19 1:30. Please be back so we can get started at 1:30.

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

21 THE COURT: Anything from the State?

22 MR. BLOUIN: None from the State, Your Honor.

23 THE COURT: From the Defense?

24 MR. YARBOROUGH: No, sir.

25 THE COURT: We will be in recess.

1 (Whereupon, a break was taken in the trial.)

2 THE COURT: Y'all approach.

3 (Whereupon, a bench conference was held.)

4 (Whereupon, the Court and the attorneys go to
5 in-chambers.)

6 THE COURT: Any matters from the Defense?

7 MR. WISE: We do, Your Honor. Over the lunch hour
8 and the Assistant Solicitor received a chain-of-custody
9 form that he previously did not have. The Rule, Rule 6
10 requires that that form, chain-of-custody and who
11 possessed the drugs. And there were three or four people
12 involved in it, needed to be given to us at least 11 days
13 before trial. Not any fault of the Solicitors, they
14 didn't know it existed until literally court today. And
15 it is probably better to find out that it existed now than
16 to find out it existed later. So in view of that we move
17 for a mistrial. We have conferred with Mr. Swaringen. He
18 understands that this would be without prejudice, he could
19 not assert double jeopardy argument with it even though
20 the jury has been sworn. And the reason for that is, if
21 we don't agree to that then we would have been waived the
22 remedy that we sought which was a mistrial and therefore
23 we would not have a good validation on it. So we have, we
24 request a mistrial in view of that and it is unfortunate
25 this has happened and probably won't be the last time

1 something like that happens.

2 THE COURT: Solicitor.

3 MR. BLOUIN: Your Honor, you know, just basically
4 what Mr. Wise said. I received that document today and
5 turned it over immediately. Obviously, it is a Rule that,
6 it reads that way under the Rule, you know, I hope it
7 wouldn't be prejudiced to them but obviously I can't read
8 their minds. They have kind of implicated that it would
9 cause them some prejudice. I will put on the record, we
10 have agreed to stipulate to one thing in the hope of
11 retrying this case on the term of the 26th so there is no
12 adverse delay which is go ahead. We have discussed that
13 and plan on putting it on that trial docket today.

14 THE COURT: Mr. Swaringen. I want you to stand, sir,
15 I am going to ask the Clerk to swear you.

16 Joseph Swaringen, being
17 first duly sworn, testified as follows:

18 THE COURT: Mr. Swaringen, you now have been sworn so
19 have you heard what your lawyer, your lawyers, plural,
20 have told me?

21 MR. SWARINGEN: Yes, sir.

22 THE COURT: And are you seeking a mistrial?

23 MR. SWARINGEN: Yes, sir.

24 THE COURT: And are you also waiving of any double
25 jeopardy claim in any future appeal or PCR?

1 MR. SWARINGEN: Yes, sir.

2 THE COURT: And you understand what you are doing?

3 MR. SWARINGEN: Yes, sir.

4 THE COURT: You agree with what they have said?

5 MR. SWARINGEN: Yes, sir.

6 THE COURT: You agree for it to be tried on June
7 26th?

8 MR. SWARINGEN: Yes, sir.

9 THE COURT: Is there any reason why it cannot be
10 tried on June 26th from any of the lawyers?

11 MR. BLOUIN: Nothing from what we just heard from our
12 witnesses from the State, Your Honor.

13 THE COURT: Well, we have a Judge-run docket. We
14 don't have a Solicitor-run docket anymore. I don't know
15 what they are doing in the Thirteenth Circuit but we have
16 a Judge-run docket, so says the Chief Justice of the
17 Supreme Court. So it is on my docket here and I am
18 setting it special order on the, trial number one, it is
19 the first trial up on a term of court the last week of
20 June. Any problems with that, anybody tell me now.
21 Nobody is going on vacation, nobody is going to France.

22 MR. WISE: I have got to get with the Attorney
23 General's office on a PCR hearing but I can handle that.

24 THE COURT: Oh, yes sir. If you need any help with
25 that let me know. Madam Clerk, it is set by special order

1 for the first trial up, is number one for trial that week
2 of, what is it, June 26th.

3 CLERK OF COURT: June 27th.

4 THE COURT: 27th, the week of 27th. Thank you.

5 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 JOSEPH SWARINGEN,)
)
 DEFENDANT.)
 _____)

2021-GS-23-06825

TRANSCRIPT OF RECORD

(VOLUME ONE OF TWO)

JUNE 27 - 29, 2022
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE PERRY H. GRAVELY

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

ATTORNEY FOR PLAINTIFF:

HUNTER C. BLOUIN, ASST. SOL.

ATTORNEY FOR DEFENDANT:

WILLIAM G. YARBOROUGH, ESQ.
C. RAUCH WISE, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-1	DVD -----	68	68
S-2	PHOTO -----	96	139
S-3	PHOTO -----	96	139
S-4	PHOTO -----	96	139
S-5	PHOTO -----	96	139
S-6	PHOTO -----	96	139
S-7	PHOTO -----	96	139
S-8	PHOTO -----	96	139
S-9	PHOTO -----	96	139
S-10	PHOTO -----	96	139
S-11	PHOTO -----	96	139
S-12	GREENVILLE HOSP. POLICE REPORT --	96	202
S-13	DRUGS -----	96	247
S-14	MAGNETIC BOX -----	96	190
S-15	CHAIN OF CUSTODY -----	227	228
S-16	DRUG ANALYSIS REPORT -----	239	246
S-17	AFFIDAVIT - CAPT. MORAN -----	239	251

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
C-1	LETTER FROM MR. SWARINGEN -----	8	
C-2	STIPULATION -----	68	358
C-3	FOREPERSON SELECTION -----	96	
C-4	DEF. REQUEST TO CHARGE #3 -----	289	
C-5	JURY NOTE -----	360	
C-6	JURY QUESTION -----	360	
C-7	NOTICE TO SEEK LIFE WITHOUT ----- PAROLE, AFFIDAVITS, CERTIFIED CONVICTIONS	365	

1 to all -- any communication with the Court, I present it to
2 all parties. Do we need -- and this was a request regarding
3 serving as co-counsel with your attorneys. Do we need to
4 address that?

5 **MR. SWARINGEN:** No, sir.

6 **THE COURT:** Okay. So you're withdrawing -- you're
7 withdrawing that request?

8 **MR. SWARINGEN:** That's fine.

9 **THE COURT:** All right. Okay. So I'll mark -- that has
10 been withdrawn. That'll be the letter of June 20, 2023 [sic].
11 And I'll mark that as a Court's exhibit.

12 (Whereupon Court's exhibit 1 was marked)

13 **THE COURT:** All right. Anything then before we bring --
14 they're not quite ready, but anything before we address the
15 jury?

16 **MR. BLOUIN:** Just that we would put on the record that
17 any sort of motions that have already been heard by Judge
18 Kelly, his rulings would be -- take effect, I guess, during
19 ---

20 **THE COURT:** Okay.

21 **MR. BLOUIN:** --- would be in effect during this trial.

22 **THE COURT:** And y'all are in agreement with that as well,
23 correct?

24 **MR. WISE:** Yes, that's correct. And Mr. Yarborough also
25 last time -- they've served life without parole notice. We

JURY QUALIFICATION

9

1 have some problems with it, but it doesn't need to be
2 addressed until the end of the trial.

3 **THE COURT:** All right.

4 (Pause)

5 **THE COURT:** All right. Is the State ready for the jury?

6 **MR. BLOUIN:** The State's ready, Your Honor.

7 **THE COURT:** And is the defense ready?

8 **MR. YARBOROUGH:** Defense is ready, Your Honor.

9 **THE COURT:** All right. Bring the jury panel in.

10 (Whereupon the jury panel entered the courtroom at 11:18
11 am)

12 **THE COURT:** All right, ladies and gentlemen, thank you
13 for your patience this morning. As I said, Monday morning,
14 we've got a lot of moving parts, and we're trying to get
15 rolling here. Okay.

16 This is a case involving -- as I told you, there are two
17 types of cases going on this week. This is a criminal case.
18 And I'm going to read you the -- it is the State versus Joseph
19 Martin Swaringen.

20 I'm going to read you the indictment, but before I read
21 the indictment, I would like to say that these are merely the
22 allegations that the State has made to which the defendant has
23 pled not guilty. And this what's -- this is the matter that
24 the State would have to prove beyond a reasonable doubt. I'll
25 give you more information if you're selected to the jury.

JURY QUALIFICATION

10

1 I will tell you from talking with the attorneys -- and
2 these are always predictions. You usually can do a pretty
3 good guess about how long a case would last. We anticipate
4 that this case will go into sometime Wednesday.

5 But -- and I realize looking out there, I see a couple of
6 people that had little small windows that they needed
7 protection for. I think one of you had to go do a
8 fingerprinting for a job, and somebody had braces to put on.
9 But, you know, and I said I'd protect you.

10 So if you're selected for the jury, make sure you tell
11 the bailiffs so that once we get started today that I make --
12 that, you know, we'll cover that into tomorrow. All right.

13 And, again, these are merely the allegations presented by
14 the State that Joseph Martin Swaringen did in Greenville
15 County on or about the 18th day of November 2020 knowingly
16 sell, manufacture, deliver or bring into the State of South
17 Carolina or did knowingly provide financial assistance or
18 otherwise aid, abet, attempt or conspire to sell, manufacture,
19 deliver or bring into this State or was knowingly in actual or
20 constructive possession of more than twenty-eight (28) grams
21 but less than one hundred (100) grams of methamphetamine, also
22 known as trafficking methamphetamine. So those are the
23 allegations.

24 First of all, at this time, Mr. Swaringen, if you could
25 stand, please.

1 But we did get the guy on there that has his fingerprints
2 in the morning that he has to -- I told him I would protect
3 him for -- because he said he had a job that he had to have
4 these fingerprints by Thursday, and he had to break at -- I'll
5 double check with him, but I think he had to have -- has an
6 appointment at 10:45. And it's on Haywood Road.

7 **MR. BLOUIN:** And, Your Honor, I had that done recently
8 for a TSA precheck thing. It really only lasts like ten
9 minutes.

10 **THE COURT:** Yeah, that's what he said. So we'll
11 probably, you know, just for -- we may start a little early,
12 maybe at nine in the morning. And then we can break about
13 10:15 so that he can get out there and back and start back,
14 just for y'all's planning purposes. I'll verify with him
15 before we ...

16 All right. Anything else?

17 **MR. BLOUIN:** Nothing from the State, Your Honor.

18 **THE COURT:** So we -- there's no additional motions from
19 the State or the defense? Is that correct?

20 **MR. YARBOROUGH:** No, sir, Your Honor.

21 **THE COURT:** All right. And did y'all -- and, again, when
22 we come back in, you know, make sure you put on the record the
23 stipulations -- well, I guess we've already discussed that.
24 Do y'all have, I mean, ---

25 **MR. BLOUIN:** We have a signed stipulation that we put in

1 before we got started.

2 **THE COURT:** All right. And I guess -- oh, how about the
3 rulings? Is there something that I need to be aware of?

4 **MR. BLOUIN:** I have talked with the court reporter. She
5 is getting me the transcript of that ruling. She said that it
6 would be in my inbox at some point today.

7 **THE COURT:** Okay.

8 **MR. BLOUIN:** So at that point, then we can make it a
9 Court's exhibit. And once everybody looks at it and makes
10 sure ---

11 **THE COURT:** Okay.

12 **MR. BLOUIN:** --- the way it's supposed ---

13 **MR. WISE:** I mean, we can stipulate to the transcript
14 even if it comes in later.

15 **THE COURT:** All right. I just want to make sure that I
16 -- that I'm aware of what I need to be aware of. So -- all
17 right.

18 So I guess we'll be ready to roll at 3:00.

19 (Whereupon court was in recess at 12:06 pm)

20 (Whereupon court reconvened at 3:01 pm)

21 **THE COURT:** Oh, counsel approach. Well, I guess we can
22 -- on the record. I did get a comment from -- yeah, come on
23 up here.

24 (Whereupon a bench conference was held off the record)

25 (Whereupon the bench conference was ended)

1 **MR. WISE:** And it's not going to come as a surprise to
2 the State that we're going to -- we've asked to sequester the
3 witnesses.

4 **THE COURT:** Okay. Any objection to that?

5 **MR. BLOUIN:** No objection.

6 (Pause)

7 **THE COURT:** All right. Make sure, Mr. Blouin, that all
8 your witnesses know what sequestered means, not only that it's
9 -- that they're not supposed to be in here, but they can't
10 discuss it.

11 (Pause)

12 **THE COURT:** All right. So is the State ready?

13 **MR. BLOUIN:** Yes, Your Honor. And I've let the other --
14 the second witness we would have, I let him know about the
15 sequestration. And I will call the other witnesses. I didn't
16 expect to reach them until tomorrow, anyway. And I will let
17 them know tonight not to discuss anything.

18 **THE COURT:** All right. Ready to proceed from the ...

19 **MR. YARBOROUGH:** Yes, sir.

20 **THE COURT:** All right. If the jury's ready, bring them
21 in.

22 (Whereupon the jury entered the courtroom at 3:10 pm)

23 **THE COURT:** All right. Hope everybody had a good long
24 lunch. I appreciate your patience.

25 And before we get started, I also wanted to note that I

THE COURT'S OPENING REMARKS

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1 know -- we're aware one of you has issues in the morning to
2 have to go somewhere at 10:45, is that correct?

3 **JUROR:** Yes.

4 **THE COURT:** So if we break at 10:15, that'll give you
5 plenty of time to get there?

6 **JUROR:** (Affirmative nod).

7 **THE COURT:** All right. And I know somebody else had
8 transportation issues. And we've resolved those. You just
9 talk to the bailiffs, and they'll make sure that's taken care
10 of. All right.

11 With that being said, I will now turn it over to our
12 clerk to administer the oath.

13 **MADAM CLERK:** All right. If you'd please stand, raise
14 your right hand for the oath. And the proper response is I
15 will.

16 You shall well and truly try the case, 2021-GS-23-86 --
17 excuse me, 6825, the State versus Joseph Martin Swaringen,
18 indicted for trafficking methamphetamine and a true verdict
19 rendered according to the law and the evidence so help you
20 God. I will?

21 **THE JURY:** I will.

22 **MADAM CLERK:** Thank you. Please be seated.

23 **THE COURT:** All right. I'm going to give you some
24 preliminary information about just kind of the procedure that
25 we've got, kind of what I call my roadmap for you. Then I'm

THE COURT'S OPENING REMARKS

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1 going to turn it over to the attorneys.

2 First of all, I like to make sure you know who all's in
3 the courtroom just so you don't have to wonder like who's that
4 person? You've already met the attorneys and the parties and
5 stuff like that. But seated right in front of me is the court
6 reporter. She takes down the entire record in the case and
7 the testimony so if it's ever needed at some later point.

8 We also have the clerk of court. They're the one in
9 charge of the courtroom, and exhibits and everything.

10 Seated to my right here is my law clerk. She's actually
11 a graduate of law school and assists me in any type of
12 research or anything that I need there.

13 But for your purposes the most important people are these
14 wonderful folks in the red jackets. And they are excellent.
15 They are the bailiffs. And they do an excellent job here.

16 If you have any questions or comments, please direct it
17 to them. If it's something I need to get involved in, then
18 they'll come let me know. So any questions like that, please
19 discuss it with them.

20 What is your role in this matter? Your role is to
21 determine what the facts of this case are. And that is
22 totally different than my role. My role is to rule -- first
23 of all, to preside over the trial. And at various times I
24 will -- there may be objections, and I'll need to rule on the
25 admissibility of things pursuant to our rules of evidence.

THE COURT'S OPENING REMARKS

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1 We have very specific court rules and rules of evidence
2 that all parties must follow. So that's why sometimes you may
3 hear objections and so forth. It's merely to make sure that
4 the rules of evidence have been properly -- that they have
5 been followed.

6 And the final thing that I will -- my role is to charge
7 you on the law. And that is at the end of the case I will
8 tell you the law which you need to apply to the evidence which
9 you will hear. And if anything I do or say throughout this
10 trial makes you think I have an opinion about the facts, then
11 you are to disregard that because that's not my job, that is
12 your job there.

13 And how do you make your decision? Well, one, you will
14 look at -- you will look at all the evidence. And evidence
15 may be in the form of live testimony. It may be in the form
16 of statements or video statements. It may be in the form of
17 written evidence. It may be in the form of stipulations by
18 the counsel.

19 All of those are the things that you will need -- that
20 you will use to make a decision on the -- what the facts are,
21 okay? And that's why -- and then what's very important that
22 you not get any information that will affect your decision
23 except what's in this courtroom under our rules. And that's
24 important. And that's why I told you do not do any type of
25 research at all because that is getting stuff outside the

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1 courtroom and outside of our rules and may not be -- have not
2 been properly vetted. So that's important.

3 It's also important not to pay any attention to the news
4 if there's any. There was a news camera in here for the
5 hearing before, but it had nothing to do with this. So don't
6 pay any attention to any social media.

7 Also it's important not to discuss the case, not only
8 among yourselves, but other people, because then you're
9 starting to make up your mind. And you're supposed to keep
10 that open mind until you've heard all of the evidence and the
11 law. Then you can -- then you have -- you can make an
12 informed decision.

13 Now this is a criminal matter. And a criminal matter --
14 I don't know if anybody's been involved in a civil trial or
15 seen one on TV or maybe you were on a jury for a civil trial.
16 And the reason I bring that up is because that is a totally
17 different procedure, totally different burden of proof.

18 In a civil trial the person needing to prove something is
19 by a preponderance of the evidence or a greater weight, more
20 likely than not, just over the -- just over the kind of 50
21 percent kind of level.

22 Criminal matter, since you're dealing with criminal
23 cases, the standard is much higher. It's beyond a reasonable
24 doubt. And you will hear -- at the end of the case I will
25 charge the law. I'll give you some definitions and some tools

THE COURT'S OPENING REMARKS

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1 about how you determine what reasonable doubt is. But it's a
2 much higher burden.

3 And the burden in this case is strictly -- is squarely on
4 the shoulders of the State. The defendant comes in here, pled
5 not guilty, has a presumption of innocence and has no burden
6 whatsoever in this case. The defendant does not have to prove
7 anything.

8 Under our system of justice the State has the burden of
9 proof. And they must prove every element of the charge as I
10 indicated, which is trafficking methamphetamine. They must
11 prove the element of every charge beyond a reasonable doubt.

12 Now you may -- you heard me reference an indictment
13 earlier. An indictment is merely the formal piece of paper
14 that brings this matter to the court. It's the allegations
15 that the State has brought. But that's not something for you
16 to consider at all. That's something that -- you are to make
17 your decision based on the evidence that you hear in this
18 courtroom.

19 Now one of the things, too, is I think it's important
20 that you not take notes. This is not going to be a very long
21 trial. But I think it's important for you to pay attention to
22 everything that is being presented. You will have certain
23 pieces of evidence in the jury room that you'll be able to
24 take back with you. So -- but I think that you will be able
25 to do that without taking notes.

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1 As far as procedure of trial, we will -- as you can see,
2 we try to be flexible and take different breaks. And we may
3 -- and we also like to be -- try to be flexible with your time
4 and things that you need to do as well.

5 And that's kind -- we'll have a little break tomorrow.
6 But that's important. It's important for you to have a jury
7 of your peers, but it's also important that we try to make it
8 as convenient as possible.

9 We try to break as close to 5:00 as we can every day.
10 Since we're going to take a short break, does anybody have a
11 problem if we start at 9:00 in the morning?

12 **THE JURY:** (Negative nods).

13 **THE COURT:** Does that work for everybody? If you do,
14 then just please -- please let us know.

15 And we try to break about every hour. If y'all need to
16 take a break prior to that, just kind of indicate because I
17 know sometimes it's like you may need to take a break. And we
18 may just have to wait until we get to a certain point with a
19 witness.

20 Now I say we try to break as short -- as close to 5:00 as
21 possible. Sometimes we may have a witness that we need to get
22 to a certain point, and we may go a little past five, okay?
23 If it looks like we're going to do anything like that, I will
24 consult you.

25 And if anybody needs to make any plans or maybe make any

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1 calls, I'll make sure that you're involved in that. I won't
2 just kind of arbitrarily say, okay, we're going past five and
3 you're like, oh, no, I got to make a call right quick. So
4 we'll -- I'll try to get y'all involved in any of those kind
5 of decisions.

6 We'll try to, you know, like tomorrow, come in, we'll try
7 to break for lunch somewhere -- we'll break somewhere between
8 twelve and one. And a lot of that depends on where we are
9 with a witness. So it may be a little bit later than twelve,
10 12:30. Sometimes it may be just before then. It kind of
11 depends on where we are.

12 So those are -- oh, the procedure for the trial. First,
13 we'll have opening statements by the attorneys. And this is
14 not evidence. This is their summary of what the case is going
15 to be about.

16 Then we have what we call the evidentiary phase. And
17 that's where the evidence is presented. And then at the
18 conclusion of the trial we have closing arguments by the
19 attorneys, I will charge you the law. And then at that point
20 you will go back to your jury room to deliberate.

21 And basically your deliberation will be as to the charge,
22 is the defendant guilty, if you find the State has met its
23 burden beyond a reasonable doubt, or not guilty if you find
24 the State did not meet its burden. So that's kind of the
25 question. And maybe more detailed than that.

OPENING STATEMENTS - MR. BLOUIN

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1 As we get to the end of the trial, that's when we develop
2 the verdict form. But that's the basic question that you'll
3 be answering here.

4 So with all that being said, I will now turn it over to
5 the attorneys for their opening statement.

6 **MR. YARBOROUGH:** Briefly, Your Honor. We've got a
7 witness in here if he could be sequestered.

8 **THE COURT:** Oh, okay.

9 (Pause)

10 **THE COURT:** All right. And that is just for the purposes
11 of -- only one witness can be here at a time and can be
12 involved. That's what that was a reference to.

13 So -- all right. With that being said, now I'll turn it
14 over to the State for their opening.

15 **MR. BLOUIN:** May it please the Court, Your Honor?

16 **THE COURT:** Yes.

17 **MR. BLOUIN:** Hello once again. My name is Hunter Blouin
18 as I introduced to you earlier. I represent the State or the
19 Thirteenth Judicial Circuit.

20 Now we are here in the State versus Joseph Swaringen.
21 And he is charged with trafficking in methamphetamine between
22 twenty-eight (28) and a hundred (100) grams.

23 Now in order for the State to meet its burden, there are
24 three major elements that I need to prove to you. The first
25 element, that it was Mr. Joseph Swaringen. The second element

OPENING STATEMENTS - MR. BLOUIN

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1 is that he was in actual or constructive or dominion and
2 control, and the third of twenty-eight (28) to a hundred (100)
3 grams of methamphetamine.

4 Now as the Judge said, this is not a super long case.
5 This is not a super complex case. The facts of this case are
6 fairly straightforward.

7 You know, you're going to hear from some State's
8 witnesses that this involves -- starts off as a wreck on White
9 Horse Road. The defendant was riding a motorcycle. He was
10 hit from behind from -- by another motor vehicle.

11 He was taken to Prisma Health as well as a saddlebag that
12 you will hear witnesses discuss about, and that while the
13 defendant was undergoing tests that an inventory of that
14 saddlebag was taken and that between twenty-eight (28) and a
15 hundred (100) grams of methamphetamine was found in it.

16 As you listen to the witnesses, as you are the judges of
17 the facts, it is your job to determine who is telling the
18 truth, who is not being truthful, what reasons people would
19 have for being more truthful than others. And I want you to
20 really kind of use your life experiences, use your common
21 sense.

22 And once you hear all the facts in this case, and once
23 you hear all the evidence, I would ask you to come back with a
24 verdict of guilty for trafficking in methamphetamine between
25 twenty-eight (28) and one hundred (100) grams against Joseph

OPENING STATEMENTS - MR. YARBOROUGH

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1 Swaringen. Thank you.

2 **THE COURT:** Mr. Yarborough.

3 **MR. YARBOROUGH:** Thanks, Your Honor.

4 **THE COURT:** Ladies and gentlemen of the jury, on November
5 18th, 2021 there was confusion, there was chalice, there was
6 calamities, and then there was some more confusion. And I
7 thought about it, but probably the two most confusing places
8 that you will ever visit is the side of a road during a bad
9 wreck on the highway and then the emergency room later on that
10 evening.

11 What happened that day was there was a wreck. My client,
12 Mr. Swaringen, was hit from behind. It wasn't his fault. He
13 was taken to the hospital. When they got there, there was
14 confusion. He was running around. He was -- he was -- went
15 and got a CT scan. Later on he was -- he was arrested for
16 these drugs.

17 Now Mr. Blouin wants to sit here and tell you that this
18 is real simple and it's a case that he's going to be able to
19 look at what -- why people would tell stories and why people
20 would do whatever. This isn't that kind of case.

21 This is -- this is can they put any drugs in my client's
22 hands? I think that it's going to be pretty -- pretty simple.
23 And when you get -- the answer to that is no.

24 And then Mr. Blouin is going to try to argue about what
25 constructive possession is. You're going to say can he put

OPENING STATEMENTS - MR. YARBOROUGH

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1 that bag in my client's hands? And the answer to that is
2 probably going to be no, too.

3 Well, let me -- let me tell you this. I've got a
4 pleasure today, I've got Mr. Rauch Wise, who's a friend of
5 mine and who's a very fine lawyer. He's going to help me try
6 this case.

7 It's kind of fun. I get excited about trying a case with
8 another lawyer. But that also puts a lot of pressure on me to
9 do a good job right now to tell y'all what's going to happen.
10 So I'm going to -- I'm going to try to talk a little bit about
11 what Judge Gravely was talking about a minute ago.

12 This is -- this is y'all's case. This is your case to
13 listen to. It's for you to judge the evidence, for you to
14 listen to what Judge Gravely gives you as the law.

15 And you're going to have a couple of interesting
16 questions. One of them that I just mentioned to you is
17 constructive possession. The other one is something called
18 beyond a reasonable doubt.

19 Now nobody's clearly talked about that yet, but that's
20 something we don't really define in South Carolina anymore.
21 But it's something I think with your particular abilities as a
22 juror, y'all will be able to think about what beyond a
23 reasonable doubt is. And I think you will be able to come up
24 with what y'all think that -- that term means. What do you
25 think beyond a reasonable doubt is?

OPENING STATEMENTS - MR. YARBOROUGH

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1 You know, this -- a trial is really not anything more
2 than trying to seek the truth. And that's what we're doing
3 here. And, you know, how do you do that? That's for
4 witnesses that are called from the stand.

5 You know, I think one of the problems here is I keep
6 going back to this confusion issue, is why was it so
7 confusing? And I think what you're going to hear over and
8 over again is because a lot of people were doing other jobs.
9 They were doing the job of running the hospital. They were
10 doing the job of taking care of something that happened at a
11 wreck instead of collecting evidence like we would normally
12 have in a criminal case. So that's a whole different idea.

13 And -- but there's still rules, and there's still
14 regulations and there's still ideas and thoughts about how
15 people are supposed to do their jobs. And that's what --
16 that's what -- that's what your determination is. That's for
17 y'all to listen and see if that -- if that happened here.

18 The bottom line is, you know, there's a -- there's a bag.
19 And I think we'll see a picture of that bag at some point, I
20 think. And, you know, was that bag checked for drugs? And
21 were there drugs found in it?

22 I think the answer is going to be -- clearly the answer's
23 going to be no. That's going to -- that's going to be the
24 first thing, the answer's going to be no.

25 And then were there some drugs found in there later on?

1 I think -- I think the answer to that question is going to be
2 yes. But at that point you're going to learn that nowhere was
3 Mr. Swaringen, nowhere was -- and I'm going to -- I'm going to
4 mess up a bunch of times during this trial. I'm going to call
5 him Joey because that's how I know him. So I'm not going to
6 try to call him Mr. Swaringen. I know him as Joey. That's
7 how I know him.

8 He's -- I've had the pleasure of representing him since
9 this started. He's, you know, we've developed a really good
10 relationship. And so I do call him by -- by his first name.

11 And, you know, this is his day in court. This is an
12 important day. This is an important day for our system. And
13 y'all are an important part of that system. And I just urge
14 you to not leave your common sense at the door and to come in
15 here and listen to the evidence as presented and listen to how
16 Judge Gravely charges you on the law.

17 Those two main issues that I just told you -- if there's
18 some other ones that he comes up with, I'm sure that they'll
19 be important to you and he'll tell you that they're important.
20 But I think you're only going to have one verdict when you
21 come back, and that's a verdict of not guilty. Thank you.

22 **THE COURT:** All right. State, call your first witness.

23 **MR. BLOUIN:** The State calls Michael McKnight.

24 **MADAM CLERK:** Mr. McKnight, please come forward. If
25 you'd please pause at the end of the bench, place your left

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 hand on the Bible and raise your right hand.

2 **Michael McKnight**, being

3 duly sworn testified as follows;

4 **MADAM CLERK:** Thank you. Please be seated. Please state
5 your name for the record.

6 **MR. McKNIGHT:** Michael McKnight.

7 **MADAM CLERK:** Thank you.

8 **Direct Examination by Mr. Blouin:**

9 Q. Mr. McKnight, where are you employed?

10 A. Currently for MedTrust.

11 Q. And what do you do for MedTrust?

12 A. Emergency medical technician.

13 Q. All right. And how long have you been employed there?

14 A. About two and a half months.

15 Q. All right. Where were you employed before then?

16 A. Greenville County EMS.

17 Q. All right. And what was your position at Greenville
18 County EMS?

19 A. Emergency medical technician.

20 Q. All right. And what do emergency medical technicians do?

21 A. Treat and transport patients, evaluate patients based
22 upon injuries or illness, assist paramedics, field staff, fire
23 department.

24 Q. All right. And were you working for Greenville County
25 EMS on November 18th of 2020?

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Yes, sir.

2 Q. All right. And what happened on November 18th, 2020?

3 A. That night my partner, paramedic, were posted at White
4 Horse and Blue Ridge at the QT gas station. While sitting
5 there, bystanders had came up to our ambulance and stated that
6 there was a motorcycle accident in the intersection. We had
7 proceeded to head on over there to see if there were any
8 injuries.

9 Noted a male patient sitting on the ground did have an
10 obvious head injury. He was acting very irrate, sitting on
11 the corner. There were other bystanders around. So we
12 explained to him that due to his -- based upon his visual
13 injuries that -- and the fact that he was riding a motorcycle
14 without a helmet that it was in the best interest to be
15 transported to the hospital for further evaluation.

16 Q. Okay. Now when you said White Horse Road, what County is
17 that?

18 A. Greenville County.

19 Q. All right. And tell us about -- did the defendant want
20 to be transported?

21 A. At that time he did not. He was making a statement that
22 he wanted to get out of there. But at that point he was not
23 wanting to go. We strongly encouraged him to go. At some
24 point between both my partner and I and, I believe, a couple
25 of other bystanders that were there, strongly encouraged him

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 that -- to change his mind to be transported.

2 Q. All right. Was anything located around the defendant at
3 this time?

4 A. There was a saddlebag sitting on the ground.

5 Q. Okay. Can you describe what saddlebag -- what is a
6 saddlebag?

7 A. It belongs on the side of a motorcycle, carry supplies or
8 whatnot that belongs on a motorcycle, anything that --
9 belongings ---

10 Q. Okay.

11 A. --- as far as I know.

12 Q. Did the -- did the defendant eventually agree to be
13 transported?

14 A. Yes.

15 Q. All right. Talk to me about that.

16 A. Like I said, shortly thereafter within a few minutes of
17 encouraging him to go, he said he would go to the hospital.
18 By then, once we got permission from him to treat him and
19 transport him, we applied a C-collar on for precautions,
20 placed him on the stretcher and loaded him in the back of the
21 ambulance and started obtaining his vital signs and
22 information and -- and then finding any other injuries
23 and transported him to Greenville Memorial.

24 Q. All right. Was anything else transported with him?

25 A. Just the saddlebag?

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Okay. Did ---

2 MR. BLOUIN: Beg the Court's indulgence. May I approach,
3 Your Honor?

4 THE COURT: You may.

5 (Whereupon State's exhibit 1 was marked for
6 identification)

7 MR. BLOUIN: Your Honor, at this time we would like to
8 enter into evidence State's exhibit 1 by stipulation.

9 THE COURT: All right. Any objection?

10 MR. YARBOROUGH: No, sir, Your Honor.

11 THE COURT: All right. In without objection.

12 (Whereupon State's exhibit 1 was admitted into evidence)

13 (Whereupon Court's exhibit 2 was marked)

14 Q. Where were you located when the defendant was
15 transported?

16 A. At the point when he was transported, I was -- I drove
17 the ambulance to the hospital.

18 Q. Okay. So you were the driver?

19 A. Yes, sir.

20 Q. Is it, you know, is it common to transport belongings and
21 such?

22 A. Upon either request or if we -- or if there's necessary
23 information and we need to continue onto the hospital, we'll
24 transport belongings, yes.

25 Q. All right. And -- all right.

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 **MR. BLOUIN:** Your Honor, permission to publish State's 1
2 to the jury.

3 **THE COURT:** We're turning it on. Are y'all seeing stuff
4 up there?

5 **THE JURY:** (Affirmative nods).

6 **THE COURT:** Are you going to do your computer or you
7 going to do ---

8 **MR. BLOUIN:** The computer.

9 **THE COURT:** Okay.

10 **MR. BLOUIN:** Perfect.

11 **THE COURT:** There you go.

12 **Direct Examination by Mr. Blouin Continued:**

13 Q. Mr. McKnight, do you recognize that?

14 A. The ambulance bay at Greenville Memorial.

15 Q. All right. Well, let me play this forward.

16 (Whereupon State's exhibit 1, DVD, was played for the
17 jury)

18 Q. And if you can describe what's going on right here.

19 A. Right now my partner and I are on our way to bring the
20 patient into the trauma bay, which the trauma team is waiting
21 in here.

22 Q. Okay. Now what did you do -- what did you do once you
23 brought him to the trauma bay?

24 A. My partner and I transferred care to the trauma team,
25 gave my partner -- my partner gave a verbal report of our

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 assessments, vital signs and turned him over onto their
2 hospital bed.

3 Q. Okay. Then what did you do?

4 A. I returned the stretcher to the ambulance and then went
5 to retrieve any belongings. And I believe I may have or may
6 have not grabbed the tablet for our computer for -- to get our
7 signature from the hospital.

8 Q. Okay. Did you grab the personal belongings?

9 A. Yes, I did.

10 Q. All right. Were the personal belongings in the same
11 condition as they were when you left?

12 A. Yes.

13 Q. Did they look rifled with at all?

14 A. No.

15 Q. They were where they were placed?

16 A. Yes.

17 Q. Okay. And what did you do with those belongings then?

18 A. Then I brought them into the trauma bay and turned them
19 over to hospital staff.

20 (Pause)

21 **MR. BLOUIN:** Sorry about that, Your Honor.

22 Q. Once you returned the bag and all, where did you take his
23 personal belongings?

24 A. Brought them into the trauma bay ---

25 Q. Okay.

MICHAEL McKNIGHT - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. --- to the left side pedestal where the trauma nurse
2 would reside.

3 Q. Okay. And then what did you do after that?

4 A. After I placed them in there -- anytime I'm bringing
5 belongings, I advise whoever's in the room, whether trauma
6 nurse or other staff, I advise them whose belongings they
7 belong to, and then I walk back out to the truck and continue
8 what I need to do, clean up the ambulance, get back -- get
9 back in service.

10 Q. Okay. Let's go back a little bit to the scene. Were you
11 -- how many first responders were on-scene when you arrived?

12 A. We were the first responders there being that we were
13 right in the vicinity of the accident. Shortly thereafter law
14 enforcement and, I believe, fire department arrived as well.

15 Q. Okay. And you were able to identify the defendant as
16 being injured pretty quickly?

17 A. Yes.

18 Q. And what was -- sort of injuries did he have?

19 A. From what I noticed upon my arrival of getting up to him
20 was a laceration of the head was the obvious injury.

21 Q. And if I may, I'm sorry my time thing messed up a little
22 bit, I'm going to play through this for a second and then I
23 will pause it.

24 **THE COURT:** And for the record, you are playing it in a
25 little faster speed just to get to ---

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 **MR. BLOUIN:** Yes, Your Honor, ---

2 **THE COURT:** --- a point.

3 **MR. BLOUIN:** --- just to try to get to the spot. I
4 apologize. The timing's a little off.

5 Q. And that was you -- it was a little fast.

6 A. Yes, sir.

7 Q. But that was you bringing in his personal belongings?

8 A. Yes.

9 Q. All right. Please answer any questions the defense may
10 have.

11 **Cross-examination by Mr. Yarborough:**

12 Q. Mr. McKnight, you're a EMT? Is that what you are?

13 A. Yes, sir.

14 Q. How long have you been an EMT?

15 A. For about -- just over ten years.

16 Q. Okay. And do you remember that night? Do you remember
17 the night? What was the date?

18 A. Yes. I do recall most of that night, yes.

19 Q. Do you remember the date?

20 A. I don't remember the date. I know it was in November.

21 Q. And do you remember what the scene was like when you got
22 to the -- to the wreck?

23 A. A lot of cars in the -- around the area, a couple of
24 bystanders standing next to the patient advising us that he
25 had been involved in an accident.

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 Q. So there was a lot of chaos out there?

2 A. Some.

3 Q. Yeah. And there were -- other people that were in the
4 accident, there was a big family with them, right?

5 A. I don't recall.

6 Q. You don't recall?

7 A. I don't recall exactly who was involved in the accident.
8 What -- I basically got out of the truck and went directly to
9 the patient ---

10 Q. You put him in a clamp to clamp him down to the board, is
11 that right?

12 A. No.

13 Q. You put him on the stretcher?

14 A. We placed a -- after we got permission from him to
15 transport him, we placed a C-collar on him for precautions ---

16 Q. Okay. A C-collar ---

17 A. --- and assisted him onto the stretcher is what I recall.

18 Q. Okay. Well, let's talk about before you put the C-collar
19 on. There's -- there's a lot going on at the scene, right?

20 A. Yes.

21 Q. Okay. I mean, there's flashing lights, there's people
22 everywhere, right?

23 A. Yes.

24 Q. Okay. And did you happen to notice that there was
25 somebody that had a bag out there that was picking up stuff

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 off the ground that was putting it into a bag?

2 A. No.

3 Q. Were you looking?

4 A. No.

5 Q. Okay. So you weren't observing that because you were
6 concentrating on what was going on with Mr. Swaringen?

7 A. Correct.

8 Q. Okay. And y'all had him on the side of the road for,
9 what, a good two, three, four minutes or longer?

10 A. I would say probably about four -- four minutes max.

11 Q. Okay. But your report would speak for itself, correct?

12 A. Yes.

13 Q. Okay. And did -- you got him in the back of the -- did
14 you get in the back of the ambulance or does the other guy get
15 in the back?

16 A. Both my partner and I, once we loaded him into the back
17 of the ambulance, we both got in the ambulance to start
18 obtaining vital signs and other information, find any other
19 obvious injuries. And from then on, my partner said, okay,
20 let's go to the hospital and -- being that he was going to be
21 a trauma alert.

22 Q. And y'all take him to the hospital. And that's what your
23 job is.

24 A. Yes, sir.

25 Q. Okay. When you got to the hospital you got him in, you

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 took him back. Did you take him into the trauma -- trauma --
2 Prisma one or Prisma two? Do you know the difference between
3 the trauma bays?

4 A. There's two beds, right -- left and right.

5 Q. Left and right ---

6 A. I believe left is resus one.

7 Q. Okay. But -- so he was on?

8 A. The left side.

9 Q. He was on the left side? Are you sure he wasn't on the
10 right side?

11 A. I'm positive that he was on the left side.

12 Q. Okay. So he's on the left side. But the bays are back
13 there together, right?

14 A. Two of them. And one -- there's one whole bay. And
15 there's two beds in that bay.

16 Q. Okay. There's a lot going on inside the emergency room
17 at that point, too, right?

18 A. Yes. So the trauma team, multiple doctors ---

19 Q. Trauma team people moving around. And so at some point
20 you go back outside and you go get this bag out of the back of
21 the ambulance, is that right?

22 A. Yes, sir.

23 Q. Okay. Now you got that bag and you took that bag and you
24 gave it to security?

25 A. Yes. I gave ---

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 Q. You gave it to security right there for them to inventory

2 it?

3 A. Inventory, yes.

4 Q. Right? And when you gave them that bag and they

5 inventoried, nobody said anything about any drugs being in

6 there?

7 A. No, sir.

8 Q. You sat there and you watched them open it, and there was

9 no drugs in the bag?

10 A. I didn't see any drugs. I just let them do their --

11 their job, which is outdoor security. They do a quick search

12 of that bag, and then I turned it over to the staff inside.

13 Q. Okay. So when you put in your report, it's correct that

14 you gave that bag to security?

15 A. Correct.

16 Q. Okay.

17 A. It's not -- I didn't type the report. I assisted on the

18 call. But ---

19 Q. But do you want to look at the report? Do you ---

20 A. I do recall ---

21 Q. --- dispute what's in the report?

22 A. I recall what my partner had put in the report.

23 Q. Okay. And in that report he says that y'all gave the --

24 that you gave the bag to security?

25 A. Yes, sir.

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 Q. Okay. Nothing about anybody finding any drugs or
2 anything like that? And that's the report that y'all did on
3 the scene that night?

4 A. Yes, sir.

5 Q. Okay. When you go -- is that the end of it? Once you
6 give -- once you give that bag to security and they check it,
7 you're through, right?

8 A. After that, clean up our ambulance, get the truck back
9 into service.

10 Q. That's all you know about it?

11 A. Yes, sir.

12 Q. Are you sure -- do you remember Mr. Swaringen asking for
13 his telephone?

14 A. I do not.

15 Q. You don't remember him asking for his phone on the side
16 of the road?

17 A. No.

18 Q. Okay. If he would have asked for his phone would you
19 have looked in the bag to see if the phone was there or picked
20 up something off the ground and put it in the bag?

21 A. If he had asked me to, I would have done it based upon
22 his permission to.

23 Q. Okay. So if -- and I know this was a while ago. So if
24 someone else said that he asked you to, you would have looked
25 down and picked up something and put it in the bag, is that

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 right?

2 A. If he asked me to put it in the bag, it had to be by
3 permission.

4 Q. It had to be what?

5 A. If he asked me to pick up the bag or any of his
6 belongings, it'd be by permission.

7 Q. Right. You would have -- yeah. But he didn't -- he
8 didn't ask you to do anything?

9 A. That, I don't recall.

10 Q. Okay. I'm going to go back to the scene, because you
11 were there, law enforcement arrived at the scene?

12 A. Yes, sir.

13 Q. Okay. And the -- their red lights were running?

14 A. Yes.

15 Q. Okay. And the -- can you tell me approximately how many
16 people were involved in the accident? Because I think y'all
17 got there before law enforcement, right?

18 A. We were there before law enforcement being that we were
19 right there at the intersection.

20 Q. And there was ---

21 A. Well, at the QT gas station.

22 Q. On what?

23 A. At the QT gas station parking lot. We were in the
24 parking lot.

25 Q. You were in the parking lot. That's how you got there so

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 quick?

2 A. Yes.

3 Q. Okay. And so you would agree with me there were at least
4 six or seven people standing around on the side of the road at
5 that point?

6 A. I don't recall how many people were there. I just know
7 there -- I recall that there were bystanders there on the
8 corner with the patient.

9 Q. Okay. And at some point were you there when the -- when
10 the motorcycle was on top of Mr. Swaringen?

11 A. That, I don't -- he was not -- the motorcycle was not on
12 top of him. He was on the corner on the ground.

13 Q. Okay.

14 A. Away from the motorcycle.

15 Q. So if he was -- he just -- if the motorcycle was on top
16 of him, that would have been earlier?

17 A. Correct.

18 Q. Okay. Now do you remember testifying in here earlier ---

19 A. This is my ---

20 Q. --- a couple ---

21 A. --- first time testifying.

22 Q. This is your first time?

23 A. (Affirmative nod).

24 Q. Okay.

25 **MR. YARBOROUGH:** Give me just one second, Your Honor.

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 (Pause)

2 Q. You testified a minute ago that he wasn't put on --
3 wasn't clamped to a stretcher, is that right?

4 A. He wasn't clamped down, no.

5 Q. Okay.

6 A. Forcibly, no.

7 Q. Can I approach and let me show this to you? Would you
8 look at what's underlined in red? Do you recognize that ---

9 MR. BLOUIN: Your Honor, if I could just see what he's
10 showing him real quick?

11 MR. YARBOROUGH: Yeah, that's fine.

12 (Pause)

13 Q. Are you familiar with this report?

14 A. No, I am not.

15 Q. You're not familiar with this report?

16 A. No, sir.

17 Q. Okay. So if the report says that he was placed on a
18 backboard, a long spiral [sic] board and placed in a cervical
19 ---

20 MR. BLOUIN: Your Honor, we would object just because he
21 says he's not familiar with the report. So he can't really
22 testify to what's in the report.

23 THE COURT: Sustained.

24 Q. Are you familiar with how the emergency room department
25 reports are prepared?

MICHAEL McKNIGHT - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 A. No, sir.

2 Q. Okay. Do you know who gives the information for what
3 happens on the side of the road?

4 A. The information that they receive are from us.

5 Q. Okay.

6 A. As first responders.

7 Q. Did you tell anybody that he was placed on a backboard
8 with a long spiral [sic] board and placed in a cervical
9 collar?

10 A. I did not, no.

11 Q. You didn't? Okay.

12 A. That report would have been from my partner being that he
13 was the higher level care on the truck that night.

14 Q. Okay. But there's no question you're the one that gave
15 the bag to the security guards to check, right?

16 A. Yes, sir.

17 Q. Okay. You did that?

18 A. Yes, sir.

19 Q. Okay. Do you remember who the security officer was that
20 you gave it to?

21 A. I do not.

22 Q. Do you remember what he looked like?

23 A. No.

24 Q. Okay. Let me just ask you this. And -- when you pull in
25 -- we saw this film of you backing in the ambulance to the --

MICHAEL McKNIGHT - REDIRECT EXAMINATION BY MR. BLOUIN

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1 to the trauma bay, you know, earlier.

2 A. We drive it in, yes, sir.

3 Q. Driving it in. Is the security desk right there?

4 A. There is a security post there for one guard, but not
5 really a desk. I mean, they do stand there all night long.

6 Q. Okay. And that's where you gave it to the security
7 guard?

8 A. Yes.

9 Q. Okay. Nothing further. Thank you very much.

10 **THE COURT:** Okay. Redirect?

11 **MR. BLOUIN:** Your Honor, just a couple of things just to
12 clear up.

13 **Redirect Examination by Mr. Blouin:**

14 Q. When you arrived on the scene there that night, describe
15 -- was the defendant unconscious?

16 A. No, sir.

17 Q. So describe ---

18 A. He was alert prior to talking.

19 Q. And he was transported to Prisma -- how was he
20 transported to Prisma? In other words, -- how was he
21 transported to Prisma?

22 A. Placed in the back of the ambulance. We drove lights and
23 siren to the hospital emergent.

24 Q. Okay. Was that involuntary, voluntary?

25 A. Voluntary.

MICHAEL McKNIGHT - REDIRECT EXAMINATION BY MR. BLOUIN

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1 Q. So he agreed to go?

2 A. Yes, sir.

3 Q. All right. And when they say the bag, where did you
4 ultimately take the bag?

5 A. Prior to transport or ...

6 Q. No, no. Once you -- once you took the bag out of the
7 ambulance, where did you ultimately drop the bag off?

8 **MR. YARBOROUGH:** Objection. Asked and answered. He's
9 already answered this question.

10 **THE COURT:** Overruled.

11 Q. Go ahead and answer it.

12 A. I brought the ambulance -- after bringing the patient
13 into the trauma bay, went back to the ambulance, brought back
14 the bag to the security guard that was standing out at his
15 post. He quickly searched the bag. And then I in turn turned
16 it into the trauma bay.

17 Q. So you brought it into the trauma bay?

18 A. Yes, sir.

19 Q. All right. Thank you.

20 **THE COURT:** All right. Thank you. You may step down.

21 **MR. BLOUIN:** Your Honor, may he be released from his
22 subpoena?

23 **THE COURT:** Any objection?

24 **MR. YARBOROUGH:** No, sir.

25 **MR. BLOUIN:** Your Honor, at this point the State would

ALEX HENRY - DIRECT EXAMINATION BY MR. BLOUIN

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1 call Alex Henry.

2 **THE COURT:** Okay.

3 **MADAM CLERK:** Sir, if you'd please come forward. Please
4 pause at the end of the bench, place your left hand on the
5 Bible and raise your right hand.

6 **Alex Henry,** being duly
7 sworn testified as follows;

8 **MADAM CLERK:** Wonderful. Thank you so much. Please be
9 seated. And would you please state your name for the record.

10 **MR. HENRY:** Alex Henry.

11 **Direct Examination by Mr. Blouin:**

12 Q. Thank you, Mr. Henry. Could you please state where you
13 are employed.

14 A. I'm employed with Greenville County Emergency Medical
15 Services.

16 Q. And how long have you been employed there?

17 A. Approximately three years.

18 Q. All right. And where were you or what is -- what is your
19 job?

20 A. I'm a paramedic. And that entails providing emergency
21 medical care as well as transportation of the sick and injured
22 to the hospital.

23 Q. Okay. And what sort of training do you need to be a
24 paramedic?

25 A. It's approximately six months for an EMT course and then

ALEX HENRY - DIRECT EXAMINATION BY MR. BLOUIN

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1 about a year and a half for a paramedic course.

2 Q. All right. And where were you on November 18th, 2020?

3 A. I was on shift at that time.

4 Q. All right. Describe what was going on that evening.

5 A. Okay. We were posted at one of our gas station posts.

6 And we were made aware of a -- by a bystander of an accident
7 just down the road from us.

8 Q. All right. And what did y'all do?

9 A. So we notified -- we notified our dispatch over the
10 radio, respond to emergency, the given location.

11 Q. Okay. And what did you find at that location?

12 A. We arrived on-scene to a traffic accident. It was an
13 automobile versus motorcycle accident.

14 Q. All right. And was the defendant present at that
15 accident?

16 A. Yes, he was.

17 Q. All right. Where was the defendant?

18 A. When we approached him he was sitting on the curb. We
19 talked to him and we were made aware that he -- he was the
20 rider of the motorcycle. He was ejected from the motorcycle,
21 was not wearing a helmet and had several superficial injuries
22 to his head that we could clearly see.

23 Q. Okay. Then what did you see?

24 A. Initially we spoke to him, became aware of the accident.
25 He initially refused transport to the hospital and refused --

1 refused to let us assess him. After we informed him of his
2 injuries and after me -- myself, Mr. McKnight and several
3 bystanders spoke to him, he agreed to go to the hospital.

4 Q. Okay. And was there anything by the defendant?

5 A. Yes. There was a saddlebag in his immediate vicinity on-
6 scene.

7 Q. All right. And did the -- did the defendant eventually
8 agree to be transported?

9 A. Yes, he did.

10 Q. Okay. When did the defendant agree to be transported?

11 A. After approximately -- it was a short amount of time. It
12 was -- it was after myself, my partner and several bystanders
13 recommended he be assessed at the hospital.

14 Q. Okay. So then what did you do?

15 A. We assisted him to his -- we assisted him to his feet,
16 put a cervical collar on his neck for spinal -- spinal motion
17 or spinal motion restriction precautions and seated him on the
18 stretcher.

19 Q. All right. And then what did you do?

20 A. We then loaded him into the ambulance along with the
21 saddlebag, which was in his immediate vicinity, and
22 transported him to the hospital.

23 Q. Did he ask for anything else that was in the vicinity?

24 A. I believe he asked for a cell phone in the ambulance, but
25 we couldn't -- we didn't see a cell phone laying anywhere in

ALEX HENRY - DIRECT EXAMINATION BY MR. BLOUIN

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1 the debris field.

2 Q. All right. At any point did you go into or look into the
3 saddlebag?

4 A. I did not.

5 Q. All right. And where were you located during the ride to
6 the hospital?

7 A. I was located in an attendant's seat. It would have been
8 to his immediate left facing him.

9 Q. All right. Was the defendant conscious?

10 A. Yes, he was.

11 Q. Okay. At any point was the defendant unconscious?

12 A. No, sir.

13 Q. All right. Then what happened?

14 A. We provided -- we provided basic care, obtained vital
15 signs during transport. We notified the hospital -- the
16 hospital of his injuries and the events that occurred. And
17 upon arrival we brought him into the trauma bay at the ER and
18 transferred care over to staff.

19 Q. Okay. What then did you guys do?

20 A. We gave report to the trauma team and transferred care
21 over to them.

22 Q. All right. Describe the scene when you arrived on White
23 Horse Road.

24 A. To the best of my recollection I remember seeing a
25 motorcycle lying in the roadway. The defendant was sitting on

ALEX HENRY - CROSS-EXAMINATION BY MR. WISE

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1 the curb, and there was a saddlebag in his immediate vicinity.

2 Q. Were there other people in his vicinity?

3 A. Yes. There were several bystanders on the scene.

4 Q. Okay. And how many first responders were there?

5 A. Initially it was just me and my partner on the scene.

6 Q. Did anybody else end up showing up?

7 A. Law enforcement ended up showing up before we -- before
8 we initiated transport. I was able to inform the law
9 enforcement officer of our transport destination.

10 Q. Okay. And that's when you transported him. And is it --
11 tell me about whether -- is it common to transport personal
12 items with individuals?

13 A. Yes, it normally is.

14 Q. Okay. Please answer any questions the defense may have.

15 **Cross-examination by Mr. Wise:**

16 Q. Mr. Henry, so you were at a gas station when a bystander
17 came up and said there's been a wreck?

18 A. Yes, sir.

19 Q. All right. So the wreck obviously happened sometime
20 before you got there?

21 A. Sorry?

22 Q. The wreck obviously happened two, three minutes before
23 you arrived at the scene?

24 A. I would assume so.

25 Q. Okay. That's a fair assumption, correct?

ALEX HENRY - CROSS-EXAMINATION BY MR. WISE

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1 A. Yes, sir.

2 Q. All right. So -- and you said when you got to the scene
3 there were four or five people gathering around?

4 A. I don't recall the exact amount of people. I know there
5 were several bystanders present, though.

6 Q. Certainly more than one or two?

7 A. Yes.

8 Q. Okay. So before you got there you don't know what
9 anybody did with any bag that was on the ground, obviously?

10 A. No, sir.

11 Q. Okay.

12 A. We didn't witness the wreck.

13 Q. And if somebody picked something up and put it in it, you
14 wouldn't know it?

15 A. No.

16 Q. Okay. Because you weren't there?

17 A. Yeah.

18 Q. All right. And then you put -- and we had one discussion
19 -- and Mr. Swaringen was on a spinal board?

20 A. I believe he mentioned that to me when you were reviewing
21 your narrative -- my narrative the other day. However, taking
22 a second look at the narrative, we placed it -- we placed a
23 cervical collar on his neck.

24 Q. All right. So the report is that he arrived at the
25 hospital with a spinal board. Is that a different -- that's a

ALEX HENRY - CROSS-EXAMINATION BY MR. WISE

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1 different thing, isn't it?

2 A. Yes. So we have -- we have a little category, it's
3 spinal motion restriction. That can be anything from a simple
4 cervical collar all the way up to a spinal -- a long spine
5 board.

6 Q. Okay. So -- but if the report said spinal board, you
7 would agree that's probably what it was?

8 A. May I review the report?

9 Q. Sure.

10 (Pause)

11 A. This is placed under the hospital's report. I don't ---

12 Q. Right.

13 A. --- believe a spinal board is documented on my report,
14 though.

15 Q. Okay. But the hospital says he did arrive with a spinal
16 board?

17 A. Was there a long spine board visible in the video
18 footage?

19 Q. I don't know. I couldn't tell.

20 A. Okay.

21 Q. All right. That's not that important. Now you got to
22 the scene, Mr. Swaringen was there, you got him into the
23 ambulance?

24 A. Yes, sir.

25 Q. And who was -- who first went into the ambulance with

ALEX HENRY - CROSS-EXAMINATION BY MR. WISE

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1 him?

2 A. I believe I climbed in with him.

3 Q. All right. What about your partner?

4 A. My partner would have been -- would have been driving the
5 ambulance. I can't recall if we put in basic information
6 before initiating transport or if we initiated transport
7 immediately.

8 Q. Um-hum (affirmative).

9 A. But with any trauma scene, we aim to be off the scene
10 within ten minutes.

11 Q. Okay. So you got to the ambulance and you were inside
12 the ambulance with Mr. Swaringen?

13 A. Yes.

14 Q. And your back, then, was to the scene?

15 A. My back -- yes, I believe my back would have been ---

16 Q. Okay.

17 A. --- of the scene.

18 Q. So you weren't observing what anybody at the scene was
19 doing at that point?

20 A. No, sir.

21 Q. All right. And, again, if some Good Samaritan picked
22 something up and put it in the bag, you wouldn't know it?

23 A. No, I don't believe so.

24 Q. Okay. Because you weren't looking at it?

25 A. No. I wasn't directly observing ---

ALEX HENRY - CROSS-EXAMINATION BY MR. WISE

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1 Q. And after you got ---

2 A. --- the scene.

3 Q. --- Mr. Swaringen into the ambulance and gave him some
4 initial treatment in there, is it then you went back and got
5 the bag?

6 A. I don't recall if we retrieved the bag immediately before
7 loading him in or if we retrieved it shortly after loading
8 him.

9 Q. You don't recall ---

10 A. No, sir.

11 Q. --- exactly when you got it?

12 A. No.

13 Q. So it could have been there for a while while you loaded
14 him in the ambulance and went back and got it later?

15 A. It wouldn't have been for long, though.

16 Q. Right. I mean, 30 seconds even? It's not long.

17 A. No.

18 Q. But during that period of time you were not witnessing
19 what was being done to the bag, if anything?

20 A. No.

21 Q. Okay. All right. Now when you bring the patient into
22 the hospital, if they have a bag with them, is it generally
23 hospital policy to give that bag to a security guard before
24 you go -- before you bring the bag into the hospital?

25 A. Yes. If security's present outside, they'll usually

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1 check the patient with a -- with a metal detector and then
2 check through any bags we bring in along with them.

3 Q. Okay. And if the bag -- I think your partner -- let me
4 back up. So if you bring the patient in and go back and get
5 some of his personal belongings, you're required to let
6 security look at that before you bring it in the hospital?

7 A. If security's present, yes.

8 Q. Right. So if there's a security guard there at the
9 entrance, if you're bringing in a patient's bag by itself,
10 you'll give it to security first?

11 A. Yes, if security's present to check through it.

12 Q. See what's in it to make sure nothing illegal, any guns,
13 anything like that?

14 A. Yes.

15 Q. Is that right? Okay.

16 (Pause)

17 Q. Thank you.

18 **THE COURT:** All right. Any redirect?

19 **MR. BLOUIN:** No redirect, Your Honor.

20 **THE COURT:** All right. You may step down.

21 **MR. BLOUIN:** We'd ask that he be excused from his
22 subpoena.

23 **THE COURT:** All right. Any objection?

24 **MR. WISE:** No objection.

25 **THE COURT:** All right.

1 **MR. BLOUIN:** Your Honor, the State's next witness is
2 probably going to be its longest. That would be that -- the
3 nurse. And I'm -- she had something going on at four. So I
4 -- she was not going to be here. I thought we'd make it a
5 little longer than we did.

6 **THE COURT:** There's nothing -- nobody else you can call?

7 **MR. BLOUIN:** No, Your Honor. They're not here.

8 **THE COURT:** All right. You can step down.

9 **MR. HENRY:** Thank you.

10 **THE COURT:** We can let him step down. You're excused.

11 Do you need -- all right. Well, ladies and gentlemen,
12 like I said, we need to be flexible. So we're going to --
13 apparently the next -- and like I said, the next witness would
14 probably put us well past five.

15 And so -- I hear thunder rumbling out there. So maybe we
16 can get out of here before traffic gets -- so I'm going to go
17 ahead and let y'all go for the day. And, like I said, be back
18 here -- be in your jury room at 9:00. That's good with
19 anybody -- all right. Okay.

20 And I'm going to give you -- every time we take a break,
21 you're going to get so tired of hearing me, but these rules --
22 but they're important. Do not discuss the case. Do not pay
23 any attention to any media coverage if there's any out there.
24 Do not do any type of research. And if you should -- anybody
25 contacts you other than somebody from the clerk's office, then

1 please let the bailiffs know. All right.

2 But I'm going to have one of you -- you have one thing --
3 one task to do before you leave, and that is from the original
4 12 of you, you need to select your foreperson, okay? And as I
5 always say, they don't get paid anymore than the rest of you.
6 But the duties are basically to lead in discussions and do any
7 communications with the Court.

8 So when y'all have selected your foreperson -- oh, they
9 do get a special seat. So they get the first seat. So when
10 you do select your foreperson, if you'd write that on a piece
11 of paper and hand it to the bailiff, and at that time y'all
12 are free to go.

13 So -- all right. If you'll step back in your jury room,
14 select your foreperson, then y'all have a good evening. And
15 we'll see you at 9:00 in the morning.

16 (Whereupon the jury exited the courtroom at 4:10 pm)

17 **THE COURT:** All right. Well, we got a couple of
18 witnesses through today.

19 **MR. BLOUIN:** Well, I was going to say, I apologize, Your
20 Honor. I kind of based the timing off of the suppression
21 hearing timing. That last witness was well over an hour last
22 time. So I was kind of thinking it would be about the same.

23 **THE COURT:** Okay. Like I said, we got it -- we got it
24 rolling pretty good.

25 **MR. WISE:** I apologize for falling down on my job.

1 **THE COURT:** Well, you're apologizing for being not as
2 long-winded as you normally are, Mr. Wise?

3 **MR. WISE:** Obviously that's true.

4 **THE COURT:** Well, we'll take judicial notice.

5 **MR. WISE:** All right.

6 **THE COURT:** All right. Well, y'all be ready to go at
7 9:00, okay, so we can get started. Because, like I said,
8 we'll have to break. How long will that -- your next witness
9 last?

10 **MR. BLOUIN:** Maybe an hour.

11 **MR. WISE:** Yeah.

12 **THE COURT:** So we -- that may be a good chance to break
13 so that guy can ---

14 **MR. BLOUIN:** For that guy. Yeah, and then a bunch of
15 chain stuff.

16 **MR. WISE:** That's probably going to work out ---

17 **THE COURT:** Okay. Well, good. All right. Well, we'll
18 see everybody 9:00 in the morning.

19 (Whereupon court was in recess at 4:11 pm)

20 **Tuesday, June 28, 2022:**

21 (Whereupon State's exhibits 2 - 14 were marked for
22 identification)

23 (Whereupon Court's exhibit 3 was marked)

24 (Whereupon court reconvened at 9:14 am)

25 **THE COURT:** All right. The State ready for the jury?

LISA EDMONDS - DIRECT EXAMINATION BY MR. BLOUIN

1 **MR. BLOUIN:** The State's ready for the jury, Your Honor.

2 **THE COURT:** The defense ready for the jury?

3 MR. YARBOROUGH: Yes, sir.

4 **THE COURT:** All right. Is the jury [sic] ready for the
5 jury?

6 (Whereupon the jury entered the courtroom at 9:16 am)

7 **THE COURT:** Good morning, ladies and gentlemen. Sorry we
8 got a little bit of a late start, but as y'all probably saw
9 when y'all came in, there was quite of a log jam downstairs.
10 And that creates a problem. So I do apologize.

11 And, Ms. Mayes.

12 MS. MAYES: Yes, sir.

13 **THE COURT:** I understand you have been selected as the
14 foreperson. So thank you for doing that.

15 And with that all being said -- I hope everybody had a
16 good evening. And with that being said, we will -- the State
17 -- as you will recall, the State is in their case in chief,
18 and, State, you may call your next witness.

19 **MR. BLOUIN:** May it please the Court, Your Honor? The
20 State would call Lisa Edmonds.

21 **THE COURT:** And we will be stopping at 10:15. Have a
22 short break there, so ...

23 Lisa Edmonds, being duly
24 sworn testified as follows;

25 **MADAM CLERK:** Please have a seat. Please state your name

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1 for the record.

2 **MS. EDMONDS:** Lisa Edmonds.

3 **Direct Examination by Mr. Blouin:**

4 Q. Ms. Edmonds, where were you employed on November 18th of
5 2020?

6 A. Greenville Memorial Hospital in the emergency department.

7 Q. And what County was that in?

8 A. Green County.

9 Q. Greenville?

10 A. Oh, I'm sorry. I'm from Green County. Greenville
11 County.

12 Q. Okay. Just making sure.

13 What was your job title there?

14 A. I was the Family, Patient Liaison and Chaplin.

15 Q. Okay. And what did that job entail?

16 A. I wore a lot of hats. I worked with the physicians in
17 speaking with patients as well as families. I also went
18 through belongings to secure those if need be.

19 Q. Okay. And why would you go through and inventory
20 patient's belongings?

21 A. A lot of times people would have things that needed to go
22 to the police, whether that was a switchblade, a gun, even
23 pocket knives would go to them.

24 Also, we have a lot of people that would have large
25 amounts of money that needed to go into the safe or jewelry

1 that needed to go to the safe, maybe an Apple watch. So for
2 their protection and ours as well.

3 Q. All right. Now are you currently employed with Prisma?

4 A. No, I am not.

5 Q. All right. Why are you not employed with Prisma?

6 A. I lost my job in September.

7 Q. Okay. Can you go into the reasons why you lost your job?

8 A. Yes. I'm sorry. I had found out my husband had an
9 affair. And I went into his chart to look at some of his
10 medical records.

11 Q. Okay. Before that incident -- and there's some tissue
12 beside you.

13 A. Thanks.

14 Q. Before that incident had you ever been accused of any
15 wrongdoing?

16 A. Oh, no.

17 Q. How long were you employed with Prisma or Greenville
18 Memorial?

19 A. In that specific position, six years, but with them
20 longer than that in other positions.

21 Q. Okay. And were you working the night of November 18th?

22 A. Yes.

23 Q. All right. I'm going to pull up this video.

24 **THE COURT:** All right. Make sure -- hold on.

25 Q. All right. Before we start the video, can you kind of

1 give us an idea of what it is we're looking at?

2 A. The people that you are looking at sitting down are in
3 the A-pod. A-pod is where the most serious patients usually
4 come in. I'm not sure who's being wheeled in. They could be
5 going out of the unit. But behind where the curtains are are
6 what we call trauma bay A and trauma bay B.

7 (Whereupon the video, State's Exhibit 1, was played for
8 the jury while the witness testified)

9 Q. Okay. So describe -- how many ways are there into and
10 out of trauma bay A and B?

11 A. Only one, the one you're seeing.

12 Q. So anything coming in and out -- you would see anyone
13 coming in and out of that trauma bay?

14 A. Absolutely.

15 Q. All right. Do you remember how many patients during this
16 incident were in the trauma bay at that time?

17 A. I'm not sure if there was somebody on B side or not.

18 Q. All right. Well, let's go ahead and play the video. And
19 while, you know, this is playing, kind of what all goes on in
20 trauma bays? Like what all are all of these people doing?

21 A. They're -- the people you see going in, that green, are
22 physicians. Many will be residents because it is a training
23 hospital. So they would be going into assess the patient.
24 There'll be nurses there. Everyone has a certain position,
25 exactly where they stand. It's very organized.

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1 And there is a scribe that stands up on a podium that's
2 kind of against that wall where you see the curtain. And so
3 they will be typing out everything that's going on during that
4 time.

5 The person that is standing to the right in the green is
6 waiting currently for EMS to come out and give any information
7 that they may have on the patient. We always hope that
8 there'll be a license there so that we have a name of the
9 person as well as an address. At this point nobody's stopped
10 to give her that information. It can take a long time.

11 That is portable x-ray coming in. As soon as the
12 assessment is done, they will order some portable x-rays.

13 Curtains are always drawn because pretty much everybody
14 gets naked in the bay. And so for their dignity, we try to
15 keep that closed. People have curiosity to look in.

16 Q. And what would be happening right here?

17 A. Right there you see one of the EMS giving her, which she
18 would be from registration, so they're giving her information.
19 It looks like, based on the length of time, that they are
20 telling her a name. Oftentimes they come out and say we don't
21 have anything.

22 That's me walking up. So I will be getting any
23 information from registration.

24 Q. All right. So just -- can you kind of point to who you
25 are?

1 A. I am on the far right in the back.

2 Q. I'm sorry, ---

3 A. The short one.

4 That is respiratory that just walked up. They sit at
5 that computer.

6 Q. Now all that's been happening now, what side of the
7 trauma bay is this all occurring?

8 A. It is occurring on the left side. That's referred to as
9 trauma bay 1 or A.

10 Q. How long would someone typically stay in an individual
11 trauma bay?

12 A. Oh, it really depends. They could be there a very short
13 time. They could be there a very long time. We have to make
14 sure that that patient is stable before we take them over to
15 CAT Scan.

16 They're leaving right -- I'm sorry. That's the x-ray.
17 So x-ray is finished. Typically after that, a patient is
18 wheeled over to CAT Scan. And once again, they have to be
19 stable.

20 So at this point, I've gone in, it appears. I usually
21 wait until x-ray has left, some of the residents have left
22 before I go in.

23 The person looking in right now is the evening Chaplin
24 that will stay overnight.

25 And that was one of the residents. He was handing orders

1 to what we call the Hock (ph.) or the unit secretary, to put
2 in so that they know that they will be taking that patient
3 over to CAT Scan.

4 All the activity in and out are doctors.

5 The red vest that you have seen some people come and then
6 hang up, those were just for x-ray. So that is the room where
7 we keep those.

8 It appears at this point they're getting ready to wheel
9 the patient over to CAT Scan, which is standard procedure.
10 And you can kind of see where he would have been. That blank
11 spot would be where the bed was.

12 Q. Now if someone was still in trauma room B, ---

13 A. Yes.

14 Q. --- what would they have done at this point? Would they
15 have closed curtains?

16 A. More than likely, yes. It would depend at this point.
17 Based on doctors that were kind of standing over that way, I
18 can safely assume there was no one there.

19 You see registration coming in. If they are available
20 and it's not crazy, then they will help go through belongings
21 to see if there is anything that needs to be locked up in the
22 safe.

23 The reason we're usually standing back there is when a
24 person is disrobed, they are throwing those clothing, and
25 shoes and things so it's out of the way for staff that is

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1 examining the patient as well as this is where the scribe
2 stands. So if they have all of their notes, they will also
3 help in writing the notes of belongings being identified.

4 Q. So what would you be doing at this point in time?

5 A. At this point I've put on gloves, and I am going through
6 whatever belongings the person has. When their pants are
7 taken off, I'm going through pockets to make sure that
8 everything is secured. If there's a wallet, to make sure that
9 there's not hundreds of dollars that we need to secure or tons
10 of credit cards that need to be secured.

11 I'm putting things in bags, patient belonging bags. And
12 those are being labeled with that person's trauma name, not
13 their personal name. You can kind of see me there probably
14 with some of the belongings.

15 Lots of activity goes on although it doesn't look it.
16 There would be blood being labeled with -- to be sent up to
17 the blood lab.

18 Q. I'm going to pause it right here. During the inventory
19 that you conducted, did you find anything?

20 A. Yes. At that time I found something that I questioned as
21 possibly being drugs. Anytime that happens, then I contact
22 our campus police and ask them to come and review it.

23 Q. All right.

24 A. That would be them arriving.

25 In the bag would be belongings that need to be locked up.

LISA EDMONDS - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Okay.

2 A. So they are taken to the front for business office.

3 Q. So what did you do with this suspected contraband?

4 A. I'm sorry?

5 Q. What did you do with the suspected contraband?

6 A. The police were called. And as you saw, they had come in
7 and they had taken it.

8 Q. Okay. And you personally handed it to those officers?

9 A. Correct.

10 Q. All right. Was anything out of the ordinary while the
11 defendant and his personal effects -- while this whole
12 situation was going on?

13 A. I'm sorry?

14 Q. Anything about this seem out of the ordinary to you?

15 A. No, not at all.

16 Q. All right. Do you personally know the defendant?

17 A. No.

18 Q. All right. And after someone comes and leaves is the --
19 is the trauma bay sanitized at all?

20 A. Yes.

21 Q. Okay.

22 A. Absolutely. So after he leaves that area and possibly
23 goes to another room, then it will be sanitized.

24 Q. Okay. Please answer any questions the defense may have
25 for you.

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 **THE COURT:** Cross-examination.

2 **Cross-examination by Mr. Wise:**

3 Q. Ms. Edmonds, the door the two police officers -- the door
4 the two police officers were standing in front of, ---

5 A. Yes.

6 Q. --- that's trauma bay, I mean, is there a name for it
7 called resus?

8 A. Well, they -- they can be referred to as resuscitation
9 rooms if that's called for. Typically 3, 4 is our
10 resuscitation, which ---

11 Q. All right.

12 A. --- is in another area.

13 Q. So if somebody used abbreviation R-E-S-U-S, that refers
14 to resuscitation room?

15 A. Correct.

16 Q. All right. And when that -- what resuscitation room
17 would that be?

18 A. We ---

19 Q. If we were looking at -- in the video?

20 A. Well, those are referred to as trauma bay 1 and trauma
21 bay 2.

22 Q. Okay.

23 A. And then we have resus 3, 4.

24 Q. Okay. And where does resus 3, 4 ---

25 A. It is out in the back area. It's in another room.

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 Q. All right. And the one we were looking at in the picture
2 with the two officers standing in the doorway was what's
3 commonly called -- what you would call trauma bay 1?

4 A. Yes. He would have gone to 1.

5 Q. Where is trauma bay 2?

6 A. Right next to it. There's a curtain that separates the
7 two.

8 Q. Okay. So when you look through the door, it's just a big
9 room?

10 A. It's a huge room, yes.

11 Q. With a curtain dividing it?

12 A. Correct.

13 Q. All right. And you referred to each one of those as a
14 trauma bay?

15 A. Correct.

16 Q. All right. And the one that Mr. Swaringen is in would
17 then been trauma bay?

18 A. 1.

19 Q. 1. All right. And trauma bay 2 would be off to the
20 right?

21 A. Correct.

22 Q. All right. Next to it?

23 A. Correct.

24 Q. All right. And that's the way y'all label them ---

25 A. Correct.

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 Q. --- in the hospital? All right. Now you obviously
2 didn't have a chance to talk to Mr. Swaringen about searching
3 his property because he wasn't in there?

4 A. That's correct.

5 Q. All right. And you said you wait til he leaves?

6 A. Well, due to the number of people in the room.

7 Q. I mean, it's a lot of people in and out?

8 A. That is correct.

9 Q. I mean, I didn't count them, but seven, eight, nine or
10 ten?

11 A. Yes.

12 Q. In that range?

13 A. That is correct.

14 Q. Now -- so you say you do this for the protection of the
15 hospital and the protection of the patient?

16 A. Correct.

17 Q. And protection of the patient means basically he knows
18 what the hospital got, I guess, out of his personal
19 belongings?

20 A. If anything is locked up, yes.

21 Q. All right.

22 A. They receive a sheet telling everything that has been
23 locked up.

24 Q. Do you get permission from the patient to search their
25 personal belongings?

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 A. No.

2 Q. You never do?

3 A. No.

4 Q. Okay. Do you always search the belongings out of the
5 presence of the patients?

6 A. Not always.

7 Q. Okay. And do you give the patient an inventory of what
8 you got?

9 A. Yes.

10 Q. Okay. And -- but when you search personal property with
11 the patient not being there it can be, I don't know, I hate to
12 suggest this, but it can be an opportunity for somebody to
13 take something that doesn't belong to them?

14 A. Well, in actuality that's why we go through the
15 belongings so that -- because they can be over in CAT Scan or
16 taken immediately somewhere else. So we inventory that
17 immediately so that does not happen.

18 Q. The point is if he had -- if a patient had two hundred
19 dollars (\$200.00) in their pocket and the inventory was done
20 out of their presence, a nefarious person could take a hundred
21 dollars (\$100.00) of that and just only turn in a hundred?

22 A. If they want to lose their job, I guess.

23 Q. Right. I mean, if they got caught. But any of the
24 searching you did wasn't on camera?

25 A. Typically it is always on camera. I mean, it's my

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 understanding the cameras were not working ---

2 Q. Right.

3 A. --- that particular day, but we would not know that.

4 Q. So what did you -- what did you search of his?

5 A. It would have been anything that he had, pockets to -- if
6 he had jeans on, a shirt, a sweatshirt, a jacket, a purse.

7 Anything anyone brings in, then we go through that.

8 Q. Okay. And do you know -- in this particular case what
9 did you search to find the suspicious product in?

10 A. Wherever that was. I can't specifically say what he had
11 with him.

12 Q. All right. You found what you believed to be drugs?

13 A. Correct.

14 Q. And you don't recall today what you found it in?

15 A. I see hundreds of people.

16 Q. It could have been ---

17 A. So ...

18 Q. --- in pants pockets?

19 A. Could be pants pockets. Could ---

20 Q. Could have been ---

21 A. --- be a jacket.

22 Q. --- a shirt pocket?

23 A. Could be whatever the person has with them.

24 Q. All right. And you don't remember today what you found
25 it in? Is that correct?

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 A. I have been told where it was, but ---

2 Q. Okay. Don't ---

3 A. --- that's a year and a half ago, so ...

4 Q. But you have no independent recall of where it was found?

5 A. No.

6 Q. Then I assume it's also correct to say that Mr. Swaringen
7 never said to you, those are my belongings, either?

8 A. He might have. There could have been -- oftentimes in
9 situations, not necessarily him specifically, if there's a
10 great deal of money or whatever, then when they return I will
11 tell them that we have locked up, we saw that you had blah,
12 blah, blah, that has been locked up for your protection.

13 Q. Do you know a nurse there named Ms. Ridgeway?

14 A. First name?

15 Q. First name would be Kelsey Lynn ---

16 A. Yes.

17 Q. All right. She was there that night, correct?

18 A. I assume so, yes.

19 Q. You don't know that?

20 A. Year and a half ago.

21 Q. Did you see her in the video?

22 A. I assume so, yes.

23 Q. You assume so?

24 A. Yes.

25 Q. Okay. And you've said that there's a woman there taking

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 notes?

2 A. Yes. That's the scribe on the podium.

3 Q. And that you -- I believe you testified earlier you were
4 -- that she was -- you were dictating to her?

5 A. The doctors dictate to her, nurses dictate to her. If
6 she has time to put in information, then I would give her
7 information. If not, then that's done later.

8 Q. All right. But I believe you actually testified in this
9 matter and you said that you dictate to the person on the
10 podium? You, yourself, dictate to the person on the podium?

11 A. Oftentimes, yes.

12 Q. All right. Do you recall saying that?

13 A. Probably, because it does happen.

14 Q. Okay. And what you would dictate to the -- to the person
15 on the podium is what you were doing?

16 A. No. It would be -- if, again, if they have time and
17 aren't still doing doctor notes, then I would say one pair of
18 pants, two shoes, whatever it is that we are finding.

19 Q. And they would -- they would write that down?

20 A. (Affirmative nod).

21 Q. So as somebody does something, the person writing down
22 takes notes of it?

23 A. If they are given those notes, yes.

24 Q. All right. I want to hand you -- ask you if you
25 recognize that as a hospital record in this case?

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1 **MR. BLOUIN:** Your Honor, if I could see that record
2 before ...

3 **MR. WISE:** You can in a second.

4 Q. Do you recognize the hospital record in this case?

5 A. Well, it's a quick update.

6 Q. Just -- you don't have to explain it. Just do you
7 recognize it or not?

8 A. Well, I wouldn't recognize it, necessarily.

9 Q. Do you recognize that as a hospital record for Prisma
10 Hospital?

11 A. Yes. I see here it's got a list of personal belongings

12 ---

13 Q. All right.

14 A. --- at the top, so, obviously, she did record those.

15 (Pause)

16 Q. All right. In this hospital record on Mr. Swaringen, if
17 you'll look down toward the bottom where it's highlighted, ---

18 A. Yes.

19 Q. --- that indicates that a Ms. Ridgeway found something on
20 Mr. Swaringen.

21 A. Well, it doesn't indicate she did. It indicates that she
22 was the person that was putting in the notes.

23 Q. All right.

24 A. Because at the top it also shows that she has put in
25 clothing, face mask, gloves, cough drops.

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1 Q. Do you know if Ms. Ridgeway reported the clothing?

2 A. It is recorded on the top.

3 Q. Correct. So Ms. Ridgeway reported that? The clothing at
4 the top?

5 A. Well, she was the scribe. So she would have been writing
6 that into the record.

7 Q. All right. So Ms. Ridgeway was the woman standing on the
8 podium?

9 A. Would have been, yes.

10 Q. I mean, are you -- are you sure it was Ms. Ridgeway on
11 the podium?

12 A. Pretty sure if she was the one that put in those notes.
13 Let me see and I can tell you by the other notes made if she
14 was the one ---

15 Q. Hold on ---

16 A. --- on the podium.

17 Q. --- one second. I may make it easier for you.

18 A. I like easy.

19 Q. What if I handed you a lot of them, would that help you
20 clarify it a little bit?

21 A. Ah, well, we'll see.

22 Q. Okay.

23 (Pause)

24 A. I see the orders put in by the unit secretary. Yes, she
25 would have been the person.

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1 Q. All right. There's more than one person's name mentioned
2 in there in that right hand column.

3 A. Yes.

4 Q. So would there be more than one scribe?

5 A. No.

6 Q. So would there be just -- one person would be doing that?

7 A. Is doing the scribing. There are -- x-ray have put in
8 their notes. Doctors have put in their notes. It looks like,
9 who would be his nurse, ---

10 Q. Um-hum (affirmative).

11 A. --- I'd have to go back further, put in notes.

12 Q. What in there identifies Ms. Ridgeway as the note-taker,
13 so to speak?

14 A. It doesn't, but we know who that is.

15 Q. Okay. Thank you. So you're not here to say that you
16 found drugs in a pocket of Mr. Swaringen?

17 A. I'm not saying anything regarding where it was found.

18 Q. All you're saying is he had -- there was a bunch of
19 personal property in there that allegedly belonged to him and
20 some drugs were found in it?

21 A. Correct.

22 Q. But you don't know what personal property it was?

23 A. I'm sorry?

24 Q. You don't know what personal property it was that you
25 found it in?

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1 A. Not just off the top of my head.

2 Q. And I assume in the past there have been occasions where
3 people's clothing gets mixed up with somebody else's?

4 A. Very rarely.

5 Q. But it does happen?

6 A. Sure.

7 Q. Okay. All right. And you never had any conversation
8 with Mr. Swaringen as to whether or not -- wherever you found
9 the drugs, that was -- he never confirmed that was his
10 personal property?

11 A. When he came back in after CAT Scan, I spoke with him. I
12 always speak with our patients if they're able to communicate
13 once they come back from CAT Scan and things have calmed down.

14 Q. All right. But you never told him you found drugs in a
15 certain piece of personal property?

16 A. I would have to say that is probably not my position to
17 say anything like that to someone.

18 Q. And you turned these over to, I believe, Officer Miller?

19 A. I assume.

20 Q. Okay. So when you found -- what did you -- how do you
21 describe them? How did you describe the drugs, what you --
22 what you thought were drugs?

23 A. Meaning?

24 Q. I mean, was it all one lump-sum? One -- what was it?

25 A. I can't begin to tell you that.

LISA EDMONDS - CROSS-EXAMINATION BY MR. WISE

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1 Q. You can't get -- all right. So you don't know if it was
2 one bag, two bags, six bags ---

3 A. I have no idea. Year and a half ago.

4 Q. Is that correct?

5 A. I have no idea.

6 Q. Now do you have any training as to what to do with any
7 alleged contraband that may have been found on a person?

8 A. We are told to contact the campus police.

9 Q. Okay. Did Officer Miller ask you to make some
10 contemporaneous notes as to where you found and what you
11 found?

12 A. I don't remember.

13 Q. Okay. But you know of no contemporaneous notes that you
14 personally did as to where it was found and what was found?

15 A. I will take personal notes to put in my file ---

16 Q. Um-hum (affirmative).

17 A. --- in the office should something come up.

18 Q. Do you know if you did any notes in this case?

19 A. I would assume so.

20 Q. All right. Did you turn them over to the solicitor's
21 office?

22 A. No. Those are kept in my office for a year. And then
23 once the new year comes around, they're all disposed of.

24 Q. Would Officer Miller be familiar with that practice?

25 A. Probably not.

LISA EDMONDS - REDIRECT EXAMINATION BY MR. BLOUIN

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1 Q. All right. So do you recall when you were first
2 contacted again about this case?

3 A. (No response).

4 Q. When was -- after that night when were you first
5 contacted again about this case?

6 A. A month ago, two months ago.

7 Q. All right. Sometime in late May or early June?

8 A. Yes.

9 Q. So it'd be fair to say that you hadn't discussed this
10 incident with anybody until roughly four weeks ago?

11 A. Probably.

12 Q. Give me one minute.

13 (Pause)

14 Q. Thank you. That's all I have.

15 **THE COURT:** Redirect.

16 **MR. BLOUIN:** Just briefly, Your Honor.

17 **Redirect Examination by Mr. Blouin:**

18 Q. Based off the video that we all watched, we saw the
19 defendant brought into trauma bay 1?

20 A. Correct.

21 Q. And did it appear that there was anybody else ---

22 **MR. WISE:** Objection, Your Honor. He's leading the
23 witness.

24 **THE COURT:** Rephrase your question.

25 Q. Were there any other patients in the trauma bay?

LISA EDMONDS - REDIRECT EXAMINATION BY MR. BLOUIN

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1 A. Not to my knowledge.

2 Q. Okay.

3 **MR. BLOUIN:** No further questions of this witness.

4 **THE COURT:** All right. You may step down.

5 **MR. BLOUIN:** We'd ask the witness be excused from her
6 subpoena.

7 **THE COURT:** Any objection?

8 **MR. WISE:** No objection.

9 **THE COURT:** All right. Ladies and gentlemen, this is our
10 -- I guess there's no reason to start a witness for just a few
11 minutes. So at this time we're going to take a break.

12 Do not discuss the case. Do not do any type of research.
13 Do not pay any attention to any media coverage. Anybody
14 contacts you other than the clerk's office, then let the
15 bailiff know.

16 And, like I said, I don't want -- I mean, I'll let you --
17 since it's 45 minutes, I'm not going to make you sit back in
18 your room, and you can mill around, but as long as you're back
19 in the jury assembly room at 11:00.

20 And that way when you come back, everybody can come up at
21 that time, and we'll start just as soon after that. So, all
22 right. So y'all have a good little break, and see y'all back
23 in a little bit.

24 (Whereupon the jury exited the courtroom at 10:05 am)

25 **THE COURT:** I mean, has any of this been introduced?

1 **MR. BLOUIN:** Yeah, it's in evidence, Your Honor.

2 **THE COURT:** I mean, I never -- I never knew that ---

3 **MR. BLOUIN:** That was part of the stipulation. That was
4 like one of the first things we did yesterday.

5 **THE COURT:** Oh, okay. You mentioned a stipulation, but
6 there was never any presentation because I was like ---

7 **MR. YARBOROUGH:** Yeah, I don't -- Your Honor, ---

8 **THE COURT:** The videos are not in the evidence.

9 **MR. BLOUIN:** Yes, they were, Your Honor.

10 **THE COURT:** I guess y'all did them yesterday ---

11 **MR. BLOUIN:** By stipulation. You asked Mr. Yarborough if
12 there was any objection. He said, no.

13 **THE COURT:** Was that the stipulated written document?

14 **MR. BLOUIN:** That was the video.

15 **MR. YARBOROUGH:** I asked ---

16 **THE COURT:** Oh, okay. No, I was ---

17 **MR. BLOUIN:** And we can read the written document.

18 **THE COURT:** Is that what it says? Okay. I mean, I just
19 never was presented with this. So I didn't know. I was like
20 -- I didn't realize that's what -- you said stipulation, but
21 you didn't say it was a stipulation of the video. So that's
22 why I was confused about that.

23 **MR. BLOUIN:** I apologize.

24 **MR. YARBOROUGH:** That has not been presented to the jury,

1 Your Honor. I'd asked her ---

2 THE COURT: Right. This has not been presented, but this
3 ---

4 MR. YARBOROUGH: That hasn't been presented. I asked her
5 that this morning because I just -- I was confused because
6 they were talking about it and I didn't ...

7 THE COURT: So this -- are those labeled as exhibits?
8 The DVDs?

9 MR. BLOUIN: The DV -- it's just one DVD.

10 THE COURT: Well, I mean, what's the exhibit number?

11 MR. BLOUIN: It's just exhibit 1.

12 THE COURT: All right. Okay. That's why I just -- y'all
13 just didn't let me know.

14 MR. BLOUIN: I'm sorry.

15 MR. YARBOROUGH: So just -- so the record's clear, is DVD
16 1, which is the only DV, is it in evidence?

17 MR. BLOUIN: Yes.

18 THE COURT: Right. My understanding is there was no
19 objection, I guess, now.

20 MR. YARBOROUGH: That's correct. And are the
21 stipulations -- the stipulations are in evidence, but they
22 have not been presented to the jury?

23 THE COURT: Correct. And it's marked as Court's exhibit?

24 MR. BLOUIN: They're -- I believe so.

25 THE COURT: Okay.

KATLIN GLENN - DIRECT EXAMINATION BY MR. BLOUIN

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1 **MR. BLOUIN:** It's one. Court's exhibit 1.

2 **THE COURT:** Court's 2. Court number 1 was ---

3 **MR. BLOUIN:** Court's 2.

4 **THE COURT:** --- the letter. Okay. Are you planning on
5 publishing it?

6 **MR. BLOUIN:** Oh, yeah, absolutely. I don't know if they
7 want to. So, yeah, that's fine.

8 **THE COURT:** Okay. I was just making sure everything was
9 okay with the video, so... All right. And be -- like I said,
10 as soon as that juror gets back, be ready to go with your next
11 witness.

12 **MR. BLOUIN:** Yes, sir.

13 (Whereupon court was in recess at 10:08 am)

14 (Whereupon court reconvened at 10:55 am)

15 **THE COURT:** Okay. Is the State ready?

16 **MR. BLOUIN:** State's ready.

17 **THE COURT:** Defense ready?

18 **MR. YARBOROUGH:** Ready.

19 **THE COURT:** Go ahead.

20 (Whereupon the jury entered the courtroom at 10:56 am)

21 **THE COURT:** All right. Welcome back. The timing worked
22 out real well. So I hope you got everything done you needed.

23 **JUROR:** (Affirmative nod).

24 **THE COURT:** Okay. All right, folks. As you will recall,
25 the State is still in their case. So, Mr. Blouin, if you'd

KATLIN GLENN - DIRECT EXAMINATION BY MR. BLOUIN

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1 call your next witness.

2 **MR. BLOUIN:** The State would call Katlin Glenn.

3 **MADAM CLERK:** Place your left hand on the Bible and raise
4 your right hand.

5 **Katlin Glenn,** being duly
6 sworn testified as follows;

7 **MADAM CLERK:** Please have a seat. Please state your name
8 for the record.

9 **MS. GLENN:** Katlin Glenn.

10 **Direct Examination by Mr. Blouin:**

11 Q. Ms. Glenn, can you please describe the events of the
12 night of November 18th, 2020?

13 A. I was coming down White Horse Road leaving my sister's
14 house. And I don't know if he thought he could beat my car,
15 or what the case may have been, I hit him.

16 Q. Okay. Let's kind of go back. So where were you coming
17 from?

18 A. From my sister's house.

19 Q. All right. And where were you going to?

20 A. Home.

21 Q. All right. And who all was with you?

22 A. I had five kids with me.

23 Q. All right. Were they all your kids?

24 A. No, sir.

25 Q. Whose kids were they in the vehicle?

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1 A. Two of them were mine. The other two were my little
2 cousins and my nephew.

3 Q. All right. And what kind of vehicle were you driving?

4 A. GMC Jeep.

5 Q. All right. And describe where you were -- what is the
6 best way to get from where you were going to your home?

7 A. I was leaving from 123. So I was coming from like
8 Easley. So I hit White Horse Road to go to Berea.

9 Q. All right. And what happened when you were on White
10 Horse Road?

11 A. I was coming down White Horse Road and he came from
12 nowhere.

13 Q. All right. And that person, what was that person
14 driving?

15 A. A motorcycle.

16 Q. All right. And what happened after you hit this person
17 on the motorcycle?

18 A. Once I hit him, I got out of the car to make sure that he
19 was okay. And he kept trying to leave. He kept trying to
20 run.

21 Q. All right. Did you see -- did you notice any injuries on
22 the defendant?

23 A. Yes, sir. His head was bleeding.

24 Q. Okay. And what do you mean by he tried to run?

25 A. He kept trying to -- I had to hold him down. And another

1 lady helped me hold him down as well.

2 Q. Okay. Did you describe the other lady?

3 A. No, sir. I don't recall what she looks like.

4 Q. All right. And why did you feel like you needed to hold
5 him down?

6 A. Because he was bleeding from his head. I'd just hit him
7 on a motorcycle.

8 Q. Okay. Makes sense. How long did you hold him down for?

9 A. Until someone got there.

10 Q. All right. And can you estimate how long that took?

11 A. No.

12 Q. Was it a long time?

13 A. I don't think so.

14 Q. Okay. What happened after first responders arrived?

15 A. We -- I got back in my jeep. And they asked me to move
16 my car out of the road. And they put us in KFC parking lot,
17 asked us what happened and sent us home.

18 Q. All right. So you cooperated with law enforcement?

19 A. Yes, sir.

20 Q. And after this incident where did -- where did you go?

21 A. Home.

22 Q. All right. Were there a large number of people at the
23 incident location?

24 A. There were people at the scene.

25 Q. Okay. Who were some people at the scene that you know

KATLIN GLENN - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 of?

2 A. The children that was with me, their parents -- their
3 mothers were there.

4 Q. All right. And so how many people were there?

5 A. Three.

6 Q. Okay. And so those were -- were they related to you?

7 A. Yes, sir.

8 Q. How were they related to you?

9 A. One was my sister and two was my aunts.

10 Q. Okay. And do you remember seeing any sort of bag during
11 this whole altercation?

12 A. No, sir.

13 Q. All right. Do you have any sort of experience with
14 methamphetamine?

15 A. No, sir.

16 Q. Could you describe to the jury what methamphetamine looks
17 like?

18 A. No, sir.

19 Q. All right. Did you know anything about this case after
20 law enforcement?

21 A. No, sir.

22 Q. Please answer any questions the defense may have for you.

23 **THE COURT:** Cross-examination.

24 **MR. YARBOROUGH:** Just a second, Your Honor.

25 (Pause)

1 **Cross-examination by Mr. Yarborough:**

2 Q. My name is Bill Yarborough. I represent Mr. Swaringen.

3 And I know y'all have -- y'all have been previously tied up in
4 litigation, isn't that correct?

5 A. Excuse me?

6 Q. About the wreck and all that? There was criminal, I
7 mean, there was litigation about the wreck. You were
8 determined to be at fault, isn't that right?

9 A. Yes, sir.

10 Q. Okay. So you're kind of a little bit soured about that,
11 right?

12 A. No.

13 Q. Well, how about this. You did cause the wreck, right?

14 A. Yes, sir.

15 Q. Okay. That's -- we all have issues driving sometimes.
16 Now Mr. Swaringen, the bike was laying on top of him after the
17 wreck happened, right?

18 A. I don't recall.

19 Q. Well, you just recalled you were -- you were laying on
20 top of him. But the bike -- when EMS got there the bike was
21 laying on top of Mr. Swaringen, right? He was down on the
22 side?

23 A. I don't recall that. No, sir.

24 Q. Okay. Well, who helped get the bike off of him?

25 A. The man was trying -- I don't recall the bike being on

KATLIN GLENN - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 top of him. The man was trying to run.

2 Q. Look, if he was trying to run, he would have run, right?

3 A. No, sir.

4 Q. Well, you -- if he was -- could you stand up?

5 (Whereupon the defendant stood up)

6 Q. If that man right there was trying to get away, he could
7 have gotten away, right?

8 A. No, sir. Not -- we was holding him down. He was trying
9 to run, and we was ---

10 Q. Okay.

11 A. --- holding him.

12 Q. So you're telling this jury that you jumped out of your
13 car after you run into a guy on a motorcycle and then you get
14 on top of him and you hold him down?

15 A. Yes, sir, I was.

16 Q. Okay. And you did that because of what?

17 A. Because he was bleeding from his head, and I'd just hit
18 him on a motorcycle.

19 Q. Okay. So if he's bleeding from his head and you were
20 sitting there trying to hold him down, you don't know if he's
21 trying to run or if he's trying to stand up, do you?

22 A. Yes. He was trying to run.

23 Q. Okay. Again, you're telling me that -- you could keep
24 this man from running if he wanted to run?

25 A. It wasn't just me. It was another lady that helped me as

KATLIN GLENN - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 well.

2 Q. Okay. All right. And you didn't see any kind of black
3 bag on the side of the road, right?

4 A. No, sir.

5 Q. Okay. But there was total chaos out there, right?

6 A. Yes, with him trying to run.

7 Q. Well, I mean, his motorcycle was right there, right?

8 A. Yes, sir.

9 Q. His motorcycle would run, right?

10 A. No, sir.

11 Q. What was wrong with his motorcycle?

12 A. He had just been hit on his motorcycle. He couldn't do
13 nothing with the motorcycle.

14 Q. And you're -- can you -- can you tell me how big the
15 motorcycle is?

16 A. No, sir. It wasn't too big.

17 Q. It wasn't big?

18 A. No.

19 Q. Okay. Do you remember this -- this very well?

20 A. I mean -- I mean, for bits and pieces. I remember ---

21 Q. Okay. Now if -- the EMS people came to the side of the
22 road, right? They came?

23 A. Um-hum (affirmative).

24 Q. About five to ten minutes later?

25 A. I mean, I can't recall exactly how long it was because it

KATLIN GLENN - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 was so much going on trying to keep him there.

2 Q. Okay. But when they get there, he's sitting on the side
3 of the curb, right?

4 A. No, sir. We're in the middle of the road.

5 Q. You're -- you're ---

6 A. In the middle of White Horse Road at that.

7 Q. Okay. Where are you on White Horse Road?

8 A. In the median.

9 Q. In where?

10 A. In the median.

11 Q. And the median's -- and you're out there holding down
12 this man after you've run in the back of him?

13 A. Um-hum (affirmative).

14 Q. Okay. And why are you holding him down?

15 A. Because he was trying to run.

16 Q. But I don't understand that. Explain to me -- what do
17 you mean he's trying to run?

18 A. He kept trying to get up off of the ground and run.

19 Q. And have you ever told anybody this before?

20 A. What happened? The wreck?

21 Q. About trying to hold somebody down?

22 A. Yeah, my family and what happened.

23 Q. Okay. Where -- who in your family have you told that to?

24 A. Everybody that asked what happened during the wreck.

25 Q. Okay. And your whole family's out there at the scene of

KATLIN GLENN - CROSS-EXAMINATION BY MR. YARBOROUGH

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1 the wreck you just testified, right?

2 A. The children's mother was out there, yes.

3 Q. Okay. And so there's -- you said there's like three
4 other family members there?

5 A. Yes, sir.

6 Q. There are a bunch of young people there?

7 A. Yes, sir.

8 Q. There are four or five cars that stopped that are there?
9 Is that right?

10 A. Yes, sir.

11 Q. Okay. Did they -- were the police there? Were they
12 stopping traffic?

13 A. They moved us out of the road. They put us in the
14 parking lot.

15 Q. Okay. And when they put him in the parking lot, he's
16 sitting on the side ---

17 A. No. No, no, no. I said us, not him. I don't know what
18 they did with him. They moved me, and my vehicle, and the
19 kids that was with me, they moved -- asked us to move to the
20 KFC parking lot.

21 Q. Okay. But at that point Mr. Swaringen's cooperating with
22 the police, isn't that correct?

23 A. After that, I don't know. I got in my vehicle and moved.

24 Q. Okay.

25 A. I don't know what happened with him.

1 Q. So what happened with him -- did you not see them put him
2 on the stretcher?

3 A. No, sir. When they got there, they moved us from the
4 middle of the road to the parking lot.

5 Q. Moved ---

6 A. They asked us what happened, and they sent us home.

7 Q. Okay. You're not saying they moved Mr. Swaringen over to
8 the parking lot ---

9 A. Once I got back in my car, I don't know what they did
10 with that man. I have no idea. They was -- they put us in
11 the parking lot, asked us what happened and that was it.

12 Q. Okay. And ---

13 **MR. YARBOROUGH:** One second, Your Honor.

14 (Pause)

15 Q. Okay. So -- make sure I get this straight. You -- you
16 run into the back of the motorcycle, right? That's correct?

17 A. Actually, I'm not sure exactly which way -- how he was
18 hit, no.

19 Q. Okay.

20 A. I can't say. Like I said, he came from nowhere. I don't
21 know if I hit him from the side, the back, which way, I don't
22 know.

23 Q. Okay. But you hit him. And then your testimony is you
24 hit him, and you jumped out of the car and ran and jumped on
25 top of him and held him down because you were scared he was

1 going to run away?

2 A. Not jumped out of my vehicle and jumped on top of him,
3 no. I'm trying to figure out if the man's okay, and he tries
4 to get up and run.

5 Q. He tries to get up and you're ---

6 A. Three times.

7 Q. Okay. Okay. That's not unusual for somebody to try to
8 get up from a motorcycle wreck, right?

9 A. I don't know. I've never been in this situation. And
10 I've never hit nobody on a motorcycle.

11 Q. Okay. But you did then?

12 A. Yes.

13 Q. Right?

14 A. (No response).

15 Q. Okay. Let me ask you this. Did you see any drugs?

16 A. No, sir.

17 Q. Okay. Did you see a black bag?

18 A. No, sir.

19 Q. Did you see -- did you see somebody out there picking up
20 stuff and putting it in a bag?

21 A. No, sir.

22 Q. Okay. So if -- did you write down what you saw?

23 A. No, sir.

24 Q. Did you talk to the police and tell them what you saw?

25 A. About the wreck? Yes, sir. I told them exactly what

1 happened. He asked -- I mean, like I said, I had kids in the
2 car as well. They asked what happened, we told them what
3 happened, and they sent us home.

4 Q. Okay. And you got charged with running into the back of
5 the motorcycle?

6 A. I mean, I got reckless driving ---

7 Q. Reckless driving?

8 A. Yes.

9 Q. Okay. One second.

10 (Pause)

11 **THE COURT:** All right. Through?

12 **MR. YARBOROUGH:** Nothing further, Your Honor.

13 **THE COURT:** Any redirect?

14 **MR. BLOUIN:** No redirect, Your Honor. We'd just ask that
15 she be released from her subpoena.

16 **MR. YARBOROUGH:** Your Honor, I'd like to maybe be able to
17 call her again. If she could be around for this afternoon.

18 **THE COURT:** You got her under a subpoena?

19 **MR. YARBOROUGH:** I knew he had her under subpoena.

20 **THE COURT:** All right. Well, just be available. You
21 could step down, though.

22 All right. Next witness.

23 **MR. BLOUIN:** Your Honor, the State would call Chris
24 Miller.

25 **MADAM CLERK:** Put your left hand on the Bible, raise your

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. BLOUIN

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1 right hand.

2 Christopher Miller, being
3 duly sworn testified as follows;

4 MADAM CLERK: Please have a seat. Please state your name
5 for the record.

6 MR. MILLER: Christopher Todd Miller.

7 **Direct Examination by Mr. Blouin:**

8 Q. Mr. Miller, where are you employed?

9 A. With the Greenville Health Authority Police Department.

10 Q. And how long have you been employed there?

11 A. About a year and six months.

12 Q. And where were you previously employed?

13 A. With Greenville County Sheriff's Office.

14 Q. And how long were you employed there?

15 A. I was -- over 20 years, almost 21 years.

16 Q. All right. And what are your duties and responsibilities
17 at the Greenville Health Authority?

18 A. To provide security, to answer calls for service and to
19 enforce any laws that have been broken either local, state or
20 federal.

21 Q. So were you working on the date of the incident?

22 A. I was working in the emergency room.

23 Q. Okay. And were you present or where were you when the
24 defendant arrived at the hospital?

25 A. I was in the ambulance bay.

1 Q. All right. And what did you do at that point?

2 A. At that point I left and went back to our -- we have like
3 a substation office. And I went back to that office.

4 Q. All right. Did you follow -- so did you follow the
5 defendant all the way into the trauma bay?

6 A. No, I did not.

7 Q. Okay. And how did you end up being involved in this
8 case?

9 A. I got a call by dispatch. They said that there possibly
10 was contraband ---

11 **MR. YARBOROUGH:** Objection to hearsay.

12 **THE COURT:** Yeah, sustained. Tell them what he did. I
13 mean, he can ...

14 Q. Were you called to the trauma bay?

15 A. Yes.

16 Q. All right. And when you got to the trauma bay, what did
17 you find?

18 A. I was handed a black plastic Pelican case.

19 Q. Describe what a Pelican case is for ---

20 A. A Pelican case is a little black plastic case with
21 magnets on the bottom. And it's generally used for
22 automobiles. Like people will stick them up under the frame
23 of a car to put a set of spare keys or something like that.

24 Q. Okay. What else was handed to you?

25 A. There was -- also inside the Pelican case there was a

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. BLOUIN

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1 white-like crystal-like substance and also there was a baggy.

2 Q. All right. So who did you -- what did you do when you --
3 who did you receive this from?

4 A. Lisa Edmonds.

5 Q. All right. And what did you do once you received the
6 crystal-like substance?

7 A. Once I received it, I took it back to our office.

8 Q. And what did you do back at your office?

9 A. Once I got back to the office, I got a field test kit to
10 see what it possibly was.

11 Q. And what were the results of the field test kit?

12 **MR. YARBOROUGH:** Objection, Your Honor. He can't testify
13 to what the -- what the test says. He's not a trained
14 chemist.

15 **MR. BLOUIN:** It's a field test, Your Honor.

16 **THE COURT:** Lay a foundation.

17 Q. What are the procedures that you take when potential
18 contraband is found?

19 A. (No response).

20 Q. So what would -- what would you do if someone finds
21 potential contraband?

22 A. I would -- I would take it back to the office and field
23 test it.

24 Q. All right. Explain what a field test is.

25 A. It's a presumptive test for different types of drugs. We

1 have different tests for different drugs.

2 Q. And explain how -- how would one conduct a general field
3 test?

4 A. You would -- it's an ampule that you break open. And it
5 has chemical in it. And you take just a small amount of
6 whatever you're testing. And if it turns -- in this case, if
7 it turns blue, it will field test positive for
8 methamphetamine.

9 Q. Okay. And during your training and experience in law
10 enforcement how many field tests have you conducted?
11 Approximately?

12 A. Approximately hundreds.

13 Q. And are field tests part of officer training?

14 A. Yes.

15 Q. So did you field test the materials that -- the
16 presumptive contraband that you were handed?

17 A. I did.

18 Q. And based on your experience and training, what did the
19 field test come back as?

20 A. As methamphetamine.

21 Q. All right. And so what did you do then?

22 A. Once I field tested it, then I packaged it and placed it
23 into evidence.

24 Q. Okay. Before you did that, did you take any pictures of
25 it?

1 A. Yes, I did take pictures of it.

2 Q. Okay.

3 A. And I also weighed it.

4 Q. At this point ---

5 **MR. BLOUIN:** May I approach the witness, Your Honor?

6 **THE COURT:** You may.

7 Q. I'm handing you what's been premarked as State's exhibits
8 2 through 11. Please look through those.

9 (Pause)

10 **THE COURT:** Any objection to these?

11 **MR. YARBOROUGH:** No, sir, Your Honor.

12 **THE COURT:** All right. So exhibits 2 through 11, State's
13 exhibits are in without objection.

14 (Whereupon State's exhibits 2 - 11 were admitted into
15 evidence)

16 Q. All right. And you recognize those photographs?

17 A. I do.

18 Q. And are they a fair and accurate description of what you
19 found?

20 A. Yes.

21 Q. And did you take these pictures?

22 A. I did.

23 Q. All right.

24 **MR. BLOUIN:** At this point we'd move to place these into
25 evidence.

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1 **THE COURT:** They've already ---

2 **MR. BLOUIN:** Okay.

3 **MR. YARBOROUGH:** I don't have any objections to the
4 pictures. I may have an objection later.

5 **THE COURT:** All right. So they're -- 2 through 11 are in
6 without objection, though ---

7 **MR. YARBOROUGH:** Correct.

8 **THE COURT:** All right. You've got to turn that device on
9 there.

10 **MR. YARBOROUGH:** Your Honor, could we approach ---

11 **THE COURT:** Yeah.

12 (Whereupon a bench conference was held off the record in
13 the presence of the jury, but out of their hearing)

14 (Whereupon the bench conference was ended)

15 Q. Officer Miller, so you took this picture here?

16 A. Yes.

17 Q. As well as that picture?

18 A. Yes.

19 Q. That picture there?

20 A. Yes.

21 Q. That picture there?

22 A. Yes.

23 Q. That picture there?

24 A. Yes.

25 Q. That picture?

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1 A. Yes.

2 Q. That picture?

3 A. Yes.

4 Q. That picture?

5 A. Yes.

6 Q. That picture?

7 A. Yes.

8 Q. And lastly that picture right there?

9 A. Yes.

10 Q. All right. Now did you fill out any paperwork when you
11 -- when you took possession of these items?

12 A. Yes, property and evidence sheet.

13 **MR. BLOUIN:** May I approach the witness, Your Honor?

14 **THE COURT:** You may.

15 Q. I'm going to show you what's been premarked as State's
16 exhibit 12. Do you recognize that form?

17 A. I do. That's my handwriting.

18 Q. All right. And if you could, I'm going to -- is this a
19 fair and accurate description of your ---

20 A. Yes.

21 Q. --- what you filled out?

22 A. Yes.

23 Q. All right.

24 **MR. BLOUIN:** At this point, Your Honor, we'd ask that
25 State's exhibit 12 be placed into evidence.

1 **THE COURT:** Any objection?

2 **MR. YARBOROUGH:** Your Honor, I do have an objection. And
3 I think I need to take it up -- a point of law outside the
4 presence of the jury.

5 **THE COURT:** All right. Ladies and gentlemen, we're going
6 to take a short break so we can discuss this matter. Do not
7 discuss the case. And we'll bring you out in just a few
8 minutes.

9 (Whereupon the jury exited the courtroom at 11:22 am)

10 **THE COURT:** All right. Yes.

11 **MR. YARBOROUGH:** Your Honor, the document -- may I
12 approach, Your Honor?

13 **THE COURT:** Yes.

14 **MR. YARBOROUGH:** The document that he's attempting at
15 this time to -- to move into evidence, first of all, has a
16 number of signatures that look like down at the bottom where
17 -- allegedly where the drugs had been or where they had not
18 been that this officer cannot testify to.

19 Second, Your Honor, he did not follow -- he's the seizing
20 officer according to regulations that have been defined on
21 what the duties of the seizing officer are. And if you look
22 at the sheet itself, there's several things missing.

23 He doesn't state whether it's been seized subject to a
24 warrant, a lawful arrest or otherwise. He doesn't describe in
25 great detail the substance -- description of the substance or

1 containers alleged to contain a controlled substance used in
2 sufficient particularity to distinguish it.

3 We can't tell from this document exactly what this --
4 where these drugs were found. But it says it was found by
5 him. And then -- then he allegedly says that he took -- he
6 took these. And now he's testified that he placed them
7 somewhere.

8 Nowhere on here does it say that these drugs were placed
9 anywhere. If you look at the timeline, where they were seized
10 by, they weren't received by anybody until 12/3/20. So
11 there's 15 days in which these drugs are missing. You know,
12 SLED's promulgated a number of -- and we've codified them --
13 can I hand this up?

14 **THE COURT:** Yes.

15 **MR. BLOUIN:** And I don't know what they're handing up. I
16 don't know if they have an extra copy.

17 **MR. YARBOROUGH:** I did.

18 They've codified a number of regulations on how these are
19 -- how this is supposed to be done. And by no way, shape or
20 form has this document purported to report the proper
21 mechanism for the taking, the seizing and controlling of
22 evidence by the seizing officer.

23 First of all, this is a Greenville Hospital System Police
24 Department form. Your Honor, the -- the drugs are missing on
25 this form for 15 days. They're taken in and out of evidence

1 at different times.

2 We don't know who -- first of all, we don't know who the
3 people are that are signing this -- he's not the one --
4 Miller's not the one that signs all this stuff at the bottom.
5 So that's all hearsay, right? That's -- he can't -- he --
6 they haven't begun to put a witness up that would testify that
7 that is what that purports to be.

8 And, Your Honor, what really is disturbing about this --
9 and I know that Mr. Blouin didn't do this on purpose, but
10 three weeks ago -- two and a half weeks ago we stood here
11 ready for trial. This officer testified that he at no time
12 had written down anything in regards to these drugs. And the
13 day the trial starts we get -- we get this document handed to
14 us.

15 And I'll tell you this, Judge, this document here, this
16 isn't even his original. His original should be a pink copy.
17 If you look at the bottom down there, it says it should be
18 pink. The one Mr. Blouin is trying to put into evidence is
19 white. I don't know where that one came from.

20 Judge, SLED and the legislature promulgated different
21 ways in order for drugs to be maintained. And it's not --
22 it's for the integrity of the system. It's for us to be able
23 to handle these things in court like they are. And I'm not
24 saying he can't put it together. But he can't put it together
25 through that witness because he doesn't have them all on here.

1 Now if he wants to move this document in, the document is
2 hearsay. He can't -- Officer Miller can't testify to all that
3 stuff down at the bottom. I don't know what he can testify to
4 up here because I can't really tell what all he's written in.

5 I've got a document over here that says Ms. Ridgeway's
6 the one that found those drugs and all of a sudden he's
7 written in here a Ms. Edmonds found them. And I know she came
8 in and testified, but we -- we've got all kinds of stuff
9 saying this.

10 And nobody -- nobody could identify who the person was
11 that found these drugs until two weeks ago when we walked in
12 this courtroom and I asked Officer Miller, I said, who found
13 these drugs? He said, I don't know. He said, I got them out
14 of the trauma bay. And nobody could say it was him.

15 Then all of a sudden the next day I get this document and
16 it's misleading at -- and I'm not accusing anybody. I just --
17 it's not -- you cannot figure out where the drugs were for 15
18 days.

19 **MR. BLOUIN:** First of all, ---

20 **MR. YARBOROUGH:** If he's going to say they were at the
21 hospital for 15 ---

22 **MR. BLOUIN:** May I respond, Your Honor?

23 **THE COURT:** Well, we have -- he's still going.

24 **MR. BLOUIN:** Okay.

25 **MR. YARBOROUGH:** If they were at the -- if they were --

1 if they were held up there somewhere for 15 days, okay, say
2 that. But you can't, you know, don't walk in here and hand me
3 a document -- and then he's going to try to testify -- well,
4 he did testify, and maybe I was a little slow on my objection,
5 that he ran a test kit on it.

6 But the chemist is going to have to testify that these
7 were methamphetamines. And the chemist -- they're going to
8 have to prove a chain of custody on this thing at some point.
9 And they can't prove a chain through this document.

10 **THE COURT:** All right. Let me see what he says before
11 you get too wound up -- more wound up.

12 **MR. BLOUIN:** First of all, obviously, Officer Miller
13 doesn't work for SLED and is not bound by SLED's regulations
14 on its own.

15 Second of all, the sheet in question, since, Your Honor,
16 you have a copy, Officer Miller testified that he got --
17 recovered the drugs, number 6, from Lisa Edmonds. He is
18 presumably, because he's testified before, going to say that
19 he put those in a locked box that is in his report.

20 **MR. YARBOROUGH:** Where is ---

21 **MR. BLOUIN:** He's got the report.

22 **THE COURT:** Mr. Yarborough, now ---

23 **MR. YARBOROUGH:** I'm sorry.

24 **THE COURT:** --- he ---

25 **MR. YARBOROUGH:** I'm sorry.

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1 **THE COURT:** --- didn't interrupt you.

2 **MR. YARBOROUGH:** I'll be quiet. I'm sorry.

3 **MR. BLOUIN:** He's going to testify that he put it in
4 locker box number 6 as he testified last time we had this.
5 He's going to testify that that's his name, Chris Miller, that
6 he filled out the top form of the sheet.

7 Then Officer Keiper, who is back there, is going to
8 testify that he received the stuff from locker number 6 and
9 put it into the hospital's P&E.

10 Then he will testify that on 12/3/20 he took the goods --
11 I missed a spot. Officer Miller's going to testify he then
12 put this sheet along with the drugs into locker number 6.

13 At that point Officer Keiper is going to say that he took
14 the drugs out of P&E, that he is one of two people that has
15 access to this room, on 12/3 and transported it to the lab,
16 and that that is ultimately his initials.

17 And then on 12, looks like 12, he returned it from the
18 lab. And then every time he's removed it since, 6/7, 6/8,
19 then up until today, it has been removed for court purposes.

20 I don't understand exactly what it is that they are
21 arguing is so misleading about the document that, A, they
22 haven't heard, well, they have heard, but they haven't heard
23 the officer testify to previously, and that, two, they
24 couldn't cross him on it.

25 I mean, the chain -- the purpose of the chain has

1 identified each person in the chain of custody per Hatcher and
2 State v. Taylor. He has testified that he received the drugs
3 from Ms. Edmonds. He said that's his handwriting, Lisa
4 Edmonds.

5 He then -- going to testify that he put it in locker
6 number 6. That is reflected in his report. They are more
7 than happy to cross-examine him on that. We're going to
8 explain the locker system, how it works. Then after his
9 testimony is over, Officer Keiper is going to say I picked up
10 the drugs.

11 Now they are more than happy to say, well, it doesn't
12 reflect that on this report. And that is open cross-
13 examination. And that is -- that goes to the weight of the
14 evidence that they are presenting.

15 And then Eric Keiper's going to say, I took it from 6,
16 put it in the hospital P&E. We're going to describe hospital
17 P&E kind of like we did the last time. And then he's going to
18 say then on 12/3 I transported it to the lab.

19 Now, Mr. Yarborough is happy to say, why didn't you write
20 down right here that you put it in locker number 3? I mean,
21 in order to form a chain of custody, we have everyone
22 testifying to where the drugs go that satisfies both State v.
23 Taylor and Hatcher. And I don't understand why Mr. Yarborough
24 can't cross Officer Taylor [sic] or Officer Keiper or whoever
25 he wants to cross, Kara Bennick later to exactly what

1 happened.

2 And then at the end of the day if there is a feeling that
3 we did not meet -- we did not substantially per Hatcher/Taylor
4 meet the chain of custody, then obviously that's their motion
5 to make. But I think we're a little premature in saying, you
6 know, without the totality of the testimony.

7 **MR. YARBOROUGH:** Your Honor, first of all, I think that
8 they -- this document, itself, what he's trying to move in is
9 hearsay, okay? So he can't testify to what somebody else
10 wrote on this document ---

11 **THE COURT:** All right. It's marked for identification
12 ---

13 **MR. YARBOROUGH:** Okay. Okay.

14 Now, so we can go ahead and deal with this now. I mean,
15 if those drugs were placed somewhere and it's not on this
16 report, then they -- the chain's broken. And, I mean, the
17 requirements are a must. I mean, it's -- it's -- handling and
18 seizing controlled substance from -- let me hand this up.

19 This is -- may I approach, Your Honor?

20 (Pause)

21 **THE COURT:** All right. Go ahead.

22 **MR. YARBOROUGH:** Your Honor, my point is this, is that
23 those drugs were required by 44 53 485, second (a), they must
24 have been inventoried, reported, audited, handled, tested,
25 stored to preserve -- preserved pursuant to this section and

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1 they weren't. He put them somewhere and he didn't write it
2 down. It's not on the form. It's not -- I'm looking at the
3 form, Judge.

4 First of all, I was -- and I apologize for getting wound
5 up. I was just shocked when I got this thing two and a half
6 weeks ago because we'd been looking for it. And then I'm
7 looking at the form now, and he wants to testify that -- to
8 stuff that's not on the form, one.

9 And then, two, he wants to testify to a bunch of hearsay
10 that's ---

11 **THE COURT:** No, we've already addressed that. The
12 hearsay's out.

13 **MR. YARBOROUGH:** Okay.

14 **MR. BLOUIN:** Your Honor, he puts it in his report. So
15 it's not as if it disappeared. Not only is he going to
16 testify to it, but he states in his report, I put it into
17 locker 6. As well as the other officer, I took it from locker
18 6 and put it into property and evidence. So there is an
19 inventory of what's going on that they can testify to because
20 it's in their report.

21 **MR. YARBOROUGH:** But ---

22 **THE COURT:** All right.

23 **MR. YARBOROUGH:** May the Court, please, one thing?

24 **THE COURT:** One final ---

25 **MR. YARBOROUGH:** If you can show me on here where it says

1 that they put it in locker 6, ...

2 **MR. BLOUIN:** I mean, I can show you in the report.

3 **MR. YARBOROUGH:** Well, I ---

4 **MR. BLOUIN:** I mean, you're saying ---

5 **MR. YARBOROUGH:** It's ---

6 **MR. BLOUIN:** --- it has to be on one sheet, but -- you're
7 saying it has to be documented ---

8 **THE COURT:** All right. You've made your objection.
9 You're on the record.

10 **MR. YARBOROUGH:** Okay. Thank you.

11 **THE COURT:** So let's proceed.

12 **MR. YARBOROUGH:** Can you rule on the admissibility of
13 that document ---

14 **THE COURT:** Well, I've already said this is marked as an
15 exhibit, and until he ---

16 **MR. YARBOROUGH:** Okay.

17 **THE COURT:** --- lays a foundation.

18 **MR. YARBOROUGH:** Okay. Thanks.

19 **THE COURT:** All right. Ready to proceed?

20 **MR. BLOUIN:** Sure.

21 **THE COURT:** All right. Bring the jury back.

22 (Whereupon the jury entered the courtroom at 11:38 am)

23 **THE COURT:** All right. Mr. Blouin, you may proceed.

24 **Direct Examination by Mr. Blouin Continued:**

25 Q. So referring back to State's exhibit 12, who did you

1 receive the alleged contraband from?

2 A. From Lisa Edmonds.

3 Q. All right. And I'm going to approach again. What did
4 you do with the alleged contraband at that point?

5 A. At that point I took it back to our substation office.

6 Q. Okay. And where did you ultimately place the alleged
7 contraband?

8 A. In evidence locker number 6. We have ten different
9 lockers.

10 Q. Okay. Before you placed it into a locker, what did --
11 what do you do with alleged contraband?

12 A. First we'll -- if it's suspected drugs, we'd field test
13 it. Then once we do that, we will place it in an evidence
14 bag.

15 Q. Okay.

16 **MR. BLOUIN:** May I approach the witness, Your Honor?

17 **THE COURT:** You may.

18 **MR. YARBOROUGH:** Subject to my previous objection, Your
19 Honor.

20 **THE COURT:** Okay.

21 **MR. BLOUIN:** May I approach the witness, Your Honor?

22 **THE COURT:** You may.

23 Q. I'm showing you what's been premarked as State's exhibit
24 number 13. Do you recognize that?

25 A. I do.

1 Q. And how do you recognize that?

2 A. That's my signature.

3 Q. All right. And did you write that?

4 A. I did.

5 Q. Okay. And is this the same as it looked like when you
6 did this, basically?

7 A. Yes.

8 Q. Okay. So once things are sealed, where did you place the
9 alleged contraband?

10 A. Into evidence locker number 6.

11 Q. And what else did you place into evidence locker number 6
12 with that?

13 A. The property and evidence sheet.

14 Q. Okay. And describe how the locker system works.

15 A. As I was saying before, there's ten different lockers.
16 And each one has a locking mechanism that's like a knob. And
17 once we place the evidence in there, we turn the knob and it's
18 locked. And then no one else can get inside there except for
19 the officers that have the keys to it.

20 Q. Do you have a key?

21 A. No.

22 Q. Could you have gotten into that evidence locker?

23 A. No, I could not get back into it.

24 Q. All right.

25 **MR. BLOUIN:** May I approach the witness?

1 **THE COURT:** You may.

2 Q. Officer, did you mark down where you placed that alleged
3 contraband on -- in the evidence locker on this sheet?

4 A. No.

5 Q. Okay. Did you document it anywhere?

6 A. I documented it in my incident report, which is what I've
7 always done.

8 Q. Okay. Now a couple of other questions. Did you take
9 fingerprints of the bags?

10 A. No.

11 Q. Why did you not take fingerprints of the bags?

12 A. First of all, it's not a -- a baggy's not a good -- you
13 can't really get latent prints very well off of a plastic
14 baggy. And it had went through so many hands.

15 Q. I mean, I'm just going to show you State's exhibit 5
16 that's already in evidence. I mean, would you say that is a
17 smooth or rough surface?

18 A. No. That is -- that is a rough surface.

19 Q. Based -- let's see. I'm going to show you State's
20 exhibit 7, same kind of deal, is that a smooth or rough
21 surface?

22 A. It's a rough surface.

23 Q. Based on your training and experience as a law
24 enforcement officer, is that something where fingerprints are
25 likely to be found?

- 1 A. No.
- 2 Q. All right. Did you request DNA on the bags?
- 3 A. I did not.
- 4 Q. Why did you not?
- 5 A. There again, the lab probably wouldn't accept it. And
- 6 just so many people having access to it, I just didn't do it.
- 7 Q. Was there a bunch of people going in and out of the
- 8 hospital ---
- 9 A. Yeah, ---
- 10 Q. --- at that point?
- 11 A. --- there's doctors and nurses coming in and out.
- 12 Q. Okay. All right. Do you remember what happened to the
- 13 saddlebag in question?
- 14 A. It got turned -- it was given back to the defendant, I
- 15 thought.
- 16 Q. Okay. So that was not put in the locker with ---
- 17 A. No.
- 18 Q. --- everything else?
- 19 A. I did not take possession of it.
- 20 Q. Did you search anything during this procedure?
- 21 A. No, I did not.
- 22 Q. Did you -- so you -- were you involved in any way of the
- 23 finding of any narcotics or alleged narcotics?
- 24 A. No, I was not.
- 25 Q. Okay. Please answer any questions defense may have.

1 Cross-examination by Mr. Yarborough:

2 Q. Officer Miller, I think you testified you've done
3 thousands of these? Drug cases?

4 A. Hundreds of them.

5 Q. Hundreds?

6 A. Um-hum (affirmative).

7 Q. And so you're familiar with SLED requirements on handling
8 and seizing drugs?

9 A. I'm familiar with our departmental procedures.

10 Q. And what -- you're talking about your experience with
11 Greenville -- were you with Greenville County or Greenville
12 Sheriff's Office?

13 A. Greenville County.

14 Q. Okay. So with Greenville County, y'all were trained by
15 SLED, right?

16 A. We have to follow SLED guidelines, yes.

17 Q. And your job is to handle allegedly -- drugs that have
18 been seized, right?

19 A. Yes.

20 Q. In a case like this?

21 A. Yes.

22 Q. Okay. So you've -- they showed you a form that has not
23 been admitted into evidence, but you looked at it. And I
24 think Mr. Blouin asked you did you write down on there
25 anywhere where you placed those drugs into an evidence locker?

1 A. No, sir.

2 Q. Okay. So you did not -- and that is -- that's -- the
3 requirements of the form are to place it into the evidence
4 locker, isn't that -- I mean, place it on the form where the
5 drugs go, right?

6 A. No. There's no -- there's no place on there that says
7 ...

8 Q. The form is done so that we can track alleged narcotics
9 when they're found, right?

10 A. Yes.

11 Q. Okay. And on that form that Mr. Blouin showed you, there
12 is nowhere on that form where we can track that you put those
13 drugs in what you said was locker evidence 6, right?

14 A. Right.

15 Q. Okay. So where those drugs went on that night is not on
16 the form?

17 A. Correct.

18 Q. Right. And, in fact, that form showed up at this
19 courthouse two and a half weeks ago, right?

20 A. Yes, sir.

21 Q. Okay. And that -- it hadn't been turned over for a year
22 and a half, is that right?

23 A. That's correct.

24 Q. Okay. Now the drugs that you -- he showed you some
25 narcotics a minute ago. I think he moved them -- he showed

1 you some narcotics in here, right?

2 A. Yes, sir.

3 Q. Okay. And those narcotics that he showed you in here are
4 in one bag, right?

5 A. Yes.

6 Q. Okay. The form that you filled out says that the
7 narcotics were in four bags, right?

8 A. Yes.

9 Q. Do you have those four bags with you?

10 A. No.

11 Q. So you -- you did not keep those bags?

12 A. I placed those bags into evidence and ---

13 Q. You placed them into evidence?

14 A. And then that's the last time I touched them.

15 Q. Okay. So do you have those bags with you?

16 A. No, I do not.

17 Q. Okay. So if we would have wanted to test them, you
18 wouldn't have them, right?

19 A. No, I don't have them.

20 Q. Right. And you -- you said you didn't test them for DNA,
21 right?

22 A. Correct.

23 Q. So if we would have wanted to test them, we wouldn't have
24 them, right?

25 A. Yes, I ---

- 1 Q. Okay. Doesn't -- when you were trained, weren't you
2 trained to keep all evidence that you find at the scene of an
3 alleged crime?
- 4 A. I'm -- yes. I mean, I placed everything I collected into
5 evidence.
- 6 Q. Right. And you brought it to the courthouse today?
- 7 A. No, sir.
- 8 Q. Okay. Where are the four bags?
- 9 A. You would have to ask Officer Keiper that. I don't know.
- 10 Q. Okay. I'll ask Officer Keiper that. But you don't have
11 them?
- 12 A. No, sir.
- 13 Q. Okay. Do you have the alleged bag that the -- that this
14 stuff was found in?
- 15 A. No.
- 16 Q. You had it in your possession at one point, right?
- 17 A. No. I never took possession of it.
- 18 Q. You never had it in your possession?
- 19 A. (No response).
- 20 Q. Did you not -- let me just make -- let me make sure I
21 understand what happened. Let me show -- so I think that's
22 marked 11. This bag here, are you familiar with this bag?
- 23 A. Yes. I remember taking a picture of it.
- 24 Q. You took this picture of this bag. And did you not --
25 did you save it?

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1 A. No. I did not save that ---

2 Q. You did not save it. Did you check it? Did you check
3 this bag for any kind of DNA, or fingerprints or anything?

4 A. No.

5 Q. Okay. Let me show you what's been previously entered as
6 defense [sic] exhibit 2. Do you recognize that?

7 A. Yes.

8 Q. Okay. Did you save that bag?

9 A. Yes.

10 Q. Okay. Where is it?

11 A. I have no idea.

12 Q. Okay. Don't have it with you?

13 A. No, sir.

14 Q. Okay. It's not in -- it's not with these drugs, right?

15 A. Not that I'm aware of.

16 Q. Okay. And -- I won't take the jury's time. Three -- you
17 don't have the bag 3, 4, 5?

18 A. No.

19 Q. Now let me ask you this. Who took picture 7?

20 A. That's me.

21 Q. Okay. And which bag is picture 7, do you know? Those
22 have been moved in. You're welcome to look at them.

23 A. It's been marked baggy 4.

24 Q. Marked baggy 4. You got baggy 4?

25 A. No.

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1 Q. Okay. Because that one -- which one's baggy 4?

2 A. (Witness pointed).

3 Q. Oh, you -- okay. You mark them up there. Now I -- now I
4 see how you're doing it. But none of these -- none of these
5 pictures -- there's any -- there's no bags or anything like
6 that that you have with you, right?

7 A. No, sir.

8 Q. Okay. But you had them at one point, right?

9 A. Yes.

10 Q. Okay. Do you have your chain of custody log from where
11 these bags went?

12 A. I do not.

13 Q. Okay. So you don't know where these bags went?

14 A. They went into the evidence locker. That's the only
15 thing ---

16 Q. Is that evidence locker 6 or is that evidence locker ---

17 A. It's evidence locker 6.

18 Q. Okay. So what came out of evidence locker 6?

19 **MR. BLOUIN:** Your Honor, objection. He can't testify to
20 what came out of it. He can just testify to what he put in
21 it.

22 **THE COURT:** Okay.

23 **MR. YARBOROUGH:** Okay.

24 **THE COURT:** Sustained.

25 Q. Did you -- okay. Let me ask you this. Did that bag go

1 in evidence locker 6?

2 A. No.

3 Q. Okay. Where did that bag go?

4 A. That went back with the defendant's property.

5 Q. That's the bag that was searched with defendant's
6 property at the -- at the front of the -- as he was coming in
7 in the ambulance?

8 A. In the trauma bay.

9 Q. In the trauma bay. That's the bag that was searched?

10 A. Yes.

11 Q. Okay. And this bag had no drugs in it, right?

12 A. That's where the drugs were originally found.

13 Q. But -- but this bag was searched coming in trauma bay --
14 coming into the hospital, right?

15 A. Yes.

16 Q. Okay. And -- and we've heard -- or you know that there
17 weren't drugs found in here, right?

18 A. (No response).

19 Q. When they -- when it was checked coming into the trauma
20 bay, there were no drugs in this bag.

21 A. That's where the Pelican case was located.

22 Q. The Pelican case was located in here? Do you have notes
23 to that effect?

24 A. No, sir, I don't have them.

25 Q. You don't have them with you or you don't have them?

1 A. I don't have them.

2 Q. You don't have them?

3 A. (No response).

4 Q. So there's nothing to say that, right? There's nothing
5 that says that there were any drugs in here, right?

6 A. No.

7 Q. Okay. Now if -- if, like you said, the drugs were found
8 in a Pelican case, right?

9 A. Yes, sir.

10 Q. Okay. And so if you said the drugs were found in a
11 Pelican case and that Pelican case, you said, was found in
12 this bag, right?

13 A. Yes.

14 Q. Okay. If there was another bag that contained narcotics
15 and it -- they had loose narcotics, those -- those narcotics
16 would not have come out of -- out of ---

17 **MR. BLOUIN:** Your Honor, objection to speculation. If
18 there was another bag?

19 **THE COURT:** Right. Sustained unless you can lay a better
20 foundation, Mr. Yarborough.

21 **MR. YARBOROUGH:** Okay.

22 Q. If Ms. Edmonds testified that she found the drugs loose
23 in a bag, if she testified to that, those drugs would not have
24 come out of the Pelican case, isn't that correct?

25 **MR. BLOUIN:** Your Honor, objection. This states facts

1 not in evidence.

2 **THE COURT:** Sustained. You cannot -- you're asking a
3 hypothetical based on testimony. I'm going to sustain the
4 objection.

5 (Pause)

6 Q. Change pace. The hospital has a taping system that tapes
7 everything that goes on in the hospital, right?

8 A. Yes.

9 Q. Especially in that trauma bay, right?

10 A. Yes.

11 Q. Okay. And it would take, just like we saw here, it would
12 take a patient coming in, and we'd be able to see that patient
13 come into the trauma bay and then over to the emergency room,
14 and we would see all that, right?

15 A. Yes.

16 Q. Okay. And you went back later and tried to get the film
17 from that day, right?

18 A. I did not personally.

19 Q. Okay. You requested it?

20 A. Yes.

21 Q. Okay. And I believe we've had a stipulation that that
22 was not -- those films were not available or they had been
23 taped over, isn't that correct?

24 **MR. BLOUIN:** Your Honor, the stipulation hasn't been read
25 yet into the evidence. So we would ask that it be read before

1 he asks any questions of it.

2 THE COURT: I mean, it's in evidence, so however you want
3 to do it.

4 MR. YARBOROUGH: Could you read the ---

5 THE COURT: I mean, I'm not presenting the evidence.

6 MR. YARBOROUGH: Okay.

7 Q. Do you know who Alvin Harrison is?

8 A. I do.

9 Q. Okay. Can you read us what Alvin Harrison's testimony
10 would have been if he was here today?

11 A. Alvin Harrison, a independent contractor of Prisma as
12 part of his duties pulled video relating to the defendant
13 coming into Prisma for treatment. His job is to pull relevant
14 video based only on police incident reports. This video is
15 true and accurate depiction of events and shall be admitted
16 into evidence.

17 Q. Okay. Keep going.

18 A. There is no video from inside the trauma bay as those
19 cameras were not operational at the time. Alvin Harrison did
20 ask for those cameras to be fixed due to their inoperability.
21 Alvin Harrison did not save all of the potentially relevant
22 video.

23 The video of the loading docks stops before EMTs retrieve
24 the saddlebag from the ambulance as well as before Lisa
25 Edmonds physically transfers the alleged contraband to Officer

1 Miller. After 15 to 20 days any video that was recorded by
2 Prisma drops off their server so that any additional video is
3 unable to be recovered.

4 Q. So we would have had video of all of this, but it wasn't
5 recovered, right?

6 A. Yes, sir. According to Mr. Harrison, yes, sir.

7 Q. All right. So that's what -- you work with him. That's
8 what the evidence would show is that we would have it, but we
9 don't have it, right?

10 A. Right.

11 Q. Okay. And that would have shown whether or not the drugs
12 were found in a Pelican case or whether they were found loose
13 in a black bag, right?

14 A. (No response).

15 Q. Isn't that right?

16 MR. BLOUIN: Your Honor, again I'm going to object. He's
17 speculating. He wasn't even there.

18 MR. YARBOROUGH: Okay.

19 THE COURT: Sustained.

20 Q. Do you know -- how many officers work in the ER?

21 A. It would be a supervisor and three police officers.

22 Q. Okay. Do you know which officer checked the saddle --
23 the black bag when it came in from the emergency room or came
24 in from the ---

25 A. That would not be us. We don't do that.

1 Q. Okay. But it was -- you agree it was checked?

2 A. Yes. That would be American Security. That would not be
3 us.

4 Q. Okay. And American Security is like retired police
5 officers, right?

6 A. No. They're -- some of them have never been a police
7 officer.

8 Q. Okay. But they work there?

9 A. Yes.

10 Q. Okay. Do you know the difference in -- let me ask you
11 this. Did you -- did you follow Joey into the emergency room?

12 A. I followed him from the ambulance bay, and then I went
13 the opposite direction. I did not follow him into the trauma
14 bay.

15 Q. Okay. So you followed him in there. And then you were
16 there -- then that would have put you right where the bags
17 were checked, right?

18 A. That is the ambulance bay where he came in at.

19 Q. Okay. And that's where that -- that's where they do the
20 inventory check right there?

21 A. Yes.

22 Q. Okay. And, look, I know that you -- you probably didn't
23 hear Ms. Edmonds' testify, but y'all don't let people go
24 through people's personal belongings in the -- in the
25 emergency room, do you? Do you?

1 **MR. BLOUIN:** Your Honor, I would again object. I would
2 like him to really clarify what exactly he's asking.

3 Q. Well, y'all -- you don't allow nurses by themselves to go
4 through stuff in the emergency room?

5 A. I have nothing to do with that.

6 Q. You're -- you're the man on the scene, though, right?

7 A. I'm the man on the scene once I'm called there. Now what
8 they do before I get there, I have no idea.

9 Q. Fair enough. But you're the chief investigating officer
10 of this case?

11 A. Yes.

12 Q. Okay. And -- okay. And just to make sure, you tried to
13 get the tapes and could not get the tapes, right?

14 A. I requested them, but that's ---

15 Q. Okay. Didn't get them?

16 A. No.

17 Q. Didn't check for any DNA?

18 A. No.

19 Q. Okay. Didn't ask Greenville City or anybody that you
20 were working with to do it?

21 A. No.

22 Q. Okay. Did not check for fingerprints? Did you check for
23 fingerprints?

24 A. No, I did not.

25 Q. Okay. You know how to check for fingerprints?

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1 A. Yes. Yes, I do.

2 Q. Yeah, your 20 years experience. Y'all do that.

3 A. (Affirmative nod).

4 Q. You didn't do that?

5 A. I mean, we would use Greenville County Forensics to do
6 that, but ---

7 Q. All right. But you didn't send anything for ---

8 A. No.

9 Q. Didn't request it? Didn't look at anything?

10 A. No.

11 Q. Okay. And you would agree you're the -- you're the
12 seizing officer of the alleged narcotics at the hospital that
13 night, correct?

14 A. Yes, sir.

15 Q. Okay. And you've been trained by law enforcement to do
16 it a certain way, right?

17 A. Yes.

18 Q. Okay. And you try to fill out the forms as correctly as
19 you can, right?

20 A. Yes.

21 Q. Okay. And nowhere did you ever put that the drugs were
22 put into any kind of locker or anything that night on the --
23 on the -- the intake form, you didn't do that?

24 A. On the P&E form, no.

25 Q. Right. And you were trained to make sure that that --

1 you make the form so that the form could be used in court?

2 A. Yes.

3 Q. Okay. Because it'd give you a true and accurate
4 reflection of what happened?

5 A. Of course.

6 Q. Right. Chain of custody?

7 A. Yes, sir.

8 Q. And in this case your chain on that form is flawed?

9 **MR. BLOUIN:** Your Honor, calls for a legal conclusion.

10 **THE COURT:** Yes.

11 Q. Do you have a correct chain?

12 A. The way I was trained, yes, I do.

13 Q. Okay. Where -- where on that form, that is not in
14 evidence, did you say you put those drugs into a locker?

15 A. There is no place on that form to put that. I filled out
16 the form exactly how the form reads.

17 Q. Okay.

18 A. That's why I documented it in my ---

19 Q. Okay.

20 A. --- narrative of my incident report.

21 Q. Okay. And you -- you realize that another officer wrote
22 on this form later on that he got stuff, and he put where he
23 put his -- his stuff ---

24 **MR. BLOUIN:** Your Honor, he can't ---

25 **THE COURT:** Yeah. You objected to this, so I'm not going

1 to let you get it in on cross-examination.

2 Q. Do you know if those bays are cleaned before the next
3 patient comes in? Do you have any idea?

4 A. It depends on the nature of the emergency. I would have
5 no way of knowing that.

6 Q. Did you leave the hospital with that black bag?

7 A. No, sir.

8 Q. You didn't take it and put it in evidence or anything?

9 A. No.

10 **MR. YARBOROUGH:** One second, Your Honor.

11 (Pause)

12 Q. Do you know -- do you know when that picture was taken of
13 the black bag?

14 A. That's after the drugs were located in it.

15 Q. Okay. So where did you take the picture?

16 A. That picture?

17 Q. Yeah.

18 A. That picture was taken in our office. In our office.

19 Q. In your office at the hospital?

20 A. Yes, sir.

21 Q. And did you -- did you take that bag to your office in
22 the hospital?

23 A. It would have -- it had to be me or Officer Greer, one or
24 the other.

25 Q. How would -- would you have taken it in your hands?

1 Would you carry it?

2 A. Yes, sir.

3 **MR. YARBOROUGH:** Can you queue up that video? Or I can
4 queue it up. One second, Your Honor.

5 (Pause)

6 **MR. BLOUIN:** Do you want me to play it through here?

7 **THE COURT:** Do you have -- if you don't have a computer
8 set up on yours -- sometimes ---

9 **MR. YARBOROUGH:** Well, I've got -- I got one right there,
10 Your Honor.

11 **THE COURT:** But it's got to be hooked up to our system.

12 **MR. WISE:** It'd be easier on theirs.

13 **THE COURT:** And this one doesn't always work.

14 **MR. YARBOROUGH:** If you'd just run -- yeah.

15 (Whereupon the attorneys were conferring off the record)

16 (Whereupon a portion of State's exhibit 1, DVD, was
17 played for the jury)

18 Q. While we're looking, do you see Joey Swaringen anywhere
19 around there?

20 A. No.

21 Q. You don't know him?

22 A. No, sir.

23 Q. I see you're back there talking to an officer back there?

24 A. Yes.

25 **MR. YARBOROUGH:** Can you stop it there?

1 Q. Okay. You just came out of that trauma bay and nowhere
2 in your hands is a black bag, is there?

3 A. No.

4 Q. And nowhere in your partner's hands is a black bag,
5 right?

6 A. No.

7 Q. Okay. And there's not a -- I don't know what y'all keep
8 calling that thing, a box, there's no box, right? No box in
9 your hands?

10 A. No.

11 Q. Neither one. And did you have -- when you went in there
12 did you have an evidence bag?

13 A. No, did not.

14 Q. So you walked in there and you took -- you took narcotics
15 and put them in your hands?

16 A. Yes, ---

17 Q. And you've been trained by SLED, I mean, Greenville
18 Police for how long?

19 A. I worked for them for over 20 years.

20 Q. Yeah. And that's not how you collect evidence, is it?

21 A. I had no evidence in my hand at that time.

22 Q. Okay. So you don't get anything out of there? You leave
23 whatever it is in there in there, right?

24 A. I had not received any evidence at that time.

25 **MR. YARBOROUGH:** One second, Your Honor.

1 (Pause)

2 Q. Okay. So did you go to the detention center from where
3 you were then?

4 A. Eventually I did, yes.

5 Q. Right. And so when you -- I guess when you came back you
6 took the picture of the bag?

7 A. That's been a year and a half ago. I don't recall.

8 Q. Wouldn't that seem important?

9 A. Well, I took a picture of it, yes.

10 Q. Okay. But wouldn't it be important when you took the
11 picture?

12 A. I'm not following you.

13 Q. You're the arresting officer, right?

14 A. Yes, sir.

15 Q. And it's your job to collect the evidence?

16 A. Yes, sir.

17 Q. And would you agree you didn't do a very good job of
18 collecting the evidence that night?

19 A. I did a fair job. Yes, I did a ---

20 Q. Okay.

21 A. --- good job.

22 Q. Now let's say you did a fair job. Would you have left
23 the evidence in that trauma bay when you went in there if you
24 were collecting it?

25 A. No.

1 Q. But that's allegedly where the drugs were found, right?

2 A. Yes.

3 Q. And the drugs -- you said the drugs in your report were
4 found and -- in the top over there it says resus 2, trauma
5 bay, right?

6 A. Yes.

7 Q. Okay. And allegedly that's that trauma bay, right?

8 A. Yes.

9 **MR. YARBOROUGH:** Can I -- may I approach, Your Honor?

10 **THE COURT:** You may.

11 **MR. BLOUIN:** Your Honor, I don't know what he's showing
12 him.

13 (Whereupon the attorneys were conferring off the record)

14 Q. You recognize the two guys in that picture right there?

15 A. Yes.

16 Q. Okay. And what trauma bay is that one?

17 A. I'm sorry, I can't see it that well.

18 Q. Okay. Take your time.

19 A. That is outside the trauma bay.

20 Q. What trauma bay?

21 A. It's resus 1 and 2, both in the same ---

22 Q. It's -- what does it say?

23 A. It says resus 1.

24 Q. Okay. So it looks as if it's outside resus 1, right?

25 A. Yes.

1 Q. Okay. And your reports or that inventory log that you
2 had says it was 2, right?

3 A. Right.

4 Q. And -- okay. We previously had Greenville Hospital
5 System Police Department form marked for identification,
6 right? And you've looked at it several times.

7 A. Which form?

8 Q. This form.

9 A. Oh, yes.

10 Q. Okay. You're familiar with that form?

11 A. Yes.

12 Q. It's not in evidence, but let me ask you ---

13 **THE COURT:** It's been marked as ---

14 **MR. YARBOROUGH:** It's been marked ---

15 **THE COURT:** --- for identification as what?

16 **MR. YARBOROUGH:** Identification 1.

17 **THE COURT:** No.

18 **MR. BLOUIN:** State's exhibit 12, Your Honor.

19 **THE COURT:** 12.

20 **MR. YARBOROUGH:** 12. But for identification purposes
21 because it has not been moved into ---

22 **THE COURT:** But it's still 12. It's still 12. It's
23 still the same number.

24 **MR. YARBOROUGH:** Still 12. Okay, 12. Thank you.

25 Q. There's supposed to be a white copy, which is the

1 original, right?

2 A. Yes.

3 Q. And there's supposed to be a canary copy, which is the
4 one that goes with the drugs, right?

5 A. Yes.

6 Q. Okay. Do you have the canary copy, the one that went
7 with the drugs?

8 A. Talking about the -- no, I don't -- that's just a carbon
9 copy.

10 Q. No, it's a carbon copy, ---

11 A. Yeah.

12 Q. --- but do you have it? It's supposed to go with the
13 drugs, right?

14 A. I placed the whole form into the evidence locker.

15 Q. So you placed the whole form in the evidence locker and
16 you retrieved that form two and a half weeks ago?

17 A. No, I did not. Officer Keiper.

18 Q. Retrieved it two and a half ---

19 A. He handles all that. Once I turn the form over, I do not
20 see it again.

21 Q. Okay. But you're the officer on this case, right?

22 A. Yes.

23 Q. Okay. So where is your pink form?

24 A. That's what I said, I placed the whole -- all three
25 copies because it's just ---

1 Q. So you ---

2 A. --- a carbon copy.

3 Q. You didn't -- you didn't keep a copy?

4 A. It's just a carbon copy.

5 Q. Okay. Do you remember testifying in this courtroom two
6 and a half weeks ago and saying that you did not write any of
7 this down?

8 A. Yes.

9 Q. Okay. And that wasn't right, right?

10 A. You -- I was referring to any notes. I didn't write any
11 notes down.

12 Q. But you were -- I specifically asked you at that time if
13 you had a evidence form. And you said, no, right?

14 A. I told you I didn't have any notes.

15 **MR. YARBOROUGH:** Just one second.

16 (Pause)

17 Q. Okay. You testified in here under oath two and a half
18 weeks ago, correct?

19 A. Yes.

20 Q. Okay. At that time you testified as the lead
21 investigator in this case?

22 A. Yes.

23 Q. Okay. And I asked you at that time specifically do you
24 -- do you work from notes and how did you do it? You said --
25 do you remember what you said?

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- 1 A. I remember saying that I didn't write any field notes.
- 2 Q. Okay. If I show you this, would you -- does this reflect
- 3 your -- remind you of what you said?
- 4 A. Yes.
- 5 Q. Okay. What did you say at that time?
- 6 A. No, I do not work from notes.
- 7 Q. Okay. And then I asked you again, you didn't work from
- 8 any notes, right?
- 9 A. Right.
- 10 Q. And you said, no, sir.
- 11 A. Right.
- 12 Q. And then I asked you do you have any notes to show who
- 13 found the drugs that day at the hospital? And you said?
- 14 A. No, I do not.
- 15 Q. Right. And now you have a form that says that Ms.
- 16 Edmonds found them, right?
- 17 A. Yes.
- 18 Q. So previously that testimony was incorrect?
- 19 A. No, because you asked me if I had notes. And I did not
- 20 have any notes.
- 21 Q. I also asked -- I also asked did you put that in a
- 22 report?
- 23 A. That's ---
- 24 Q. Did you put it in a report?
- 25 A. I was referring to my incident report. No.

1 Q. Okay. And you said, no, right?

2 A. Yes.

3 Q. Okay. So do you have your incident reports with you?

4 A. No, I do not.

5 Q. Okay. But at that time you said -- as far as who found
6 the drugs you said, no, right?

7 A. Right. That's correct.

8 Q. You don't consider the Greenville Hospital System custody
9 form that you filled out a report?

10 A. (No response).

11 Q. You don't consider it a report?

12 A. It is a form. I don't ---

13 Q. It's a form?

14 A. When I think of report, I'm thinking ---

15 Q. You ---

16 A. --- of an incident report.

17 **THE COURT:** Let him finish answering the question, too.

18 Q. Go ahead.

19 A. When you say report, I think of an incident report. That
20 is a form.

21 Q. Will you look and see what the -- what it's called?

22 A. Property report.

23 Q. Okay. So you didn't have a property report and then you
24 got one. So when you testified before did you -- had you
25 filled out a report or not?

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1 A. I filled out that form, which ...

2 Q. Which is -- you're saying had sat in a locker for 18, 19
3 months?

4 MR. BLOUIN: Your Honor, he's already testified to this
5 that he put it in ---

6 THE COURT: Yeah, ---

7 MR. BLOUIN: --- the locker ---

8 THE COURT: --- let's move on. You've asked -- yeah,
9 let's move on.

10 MR. YARBOROUGH: Okay.

11 THE COURT: Asked and answered.

12 MR. YARBOROUGH: And I don't mean to beat a dead horse.
13 I'll get through.

14 Q. This picture of this bag, you took it when?

15 A. Some point during the -- my shift. I don't remember if
16 it was right away or if it was afterwards, after the drugs
17 were seized. I don't remember.

18 Q. Wouldn't that be important?

19 A. But it was taken during my shift.

20 Q. Did you put it in your incident report?

21 A. I don't have my incident report in front of me.

22 Q. Where did you get the bag at? Where did you find that
23 bag?

24 A. The bag was in the trauma bay.

25 Q. Okay. And did you find the bag in the trash can?

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1 A. Did I find it in the trash can? No.

2 Q. Do you know if somebody found that bag in the trash can?

3 A. I'm not sure.

4 Q. Thank you.

5 **THE COURT:** Redirect?

6 **MR. BLOUIN:** Thank you, Your Honor. May I approach the
7 witness, Your Honor?

8 **THE COURT:** Yeah. Counsel, approach -- well, approach a
9 second.

10 (Whereupon a bench conference was held off the record in
11 the presence of the jury, but out of their hearing)

12 (Whereupon the bench conference was ended)

13 **THE COURT:** All right. You may proceed.

14 **Redirect Examination by Mr. Blouin:**

15 Q. Officer Miller, could you please re-read Court's exhibit
16 4 or Court's exhibit number 2, number 4?

17 A. Alvin Harrison did not save all the potentially relevant
18 video. The video of the loading dock stops before EMTs
19 retrieved the saddlebag from the ambulance as well as before
20 Lisa Edmonds physically transfers the alleged contraband to
21 Officer Miller.

22 Q. So based on the stipulation was there any video of you
23 receiving the contraband or evidence from Ms. Edmonds?

24 A. No.

25 Q. All right.

1 **MR. BLOUIN:** May I approach, Your Honor?

2 **THE COURT:** You may.

3 Q. Showing you again State's exhibit number 12 for
4 identification purposes only, could you please say what color
5 this sheet is?

6 A. It's yellow.

7 Q. And could you read the color that they call it?

8 A. Canary.

9 Q. All right.

10 **MR. BLOUIN:** May I approach the witness one more time?

11 **THE COURT:** Yes.

12 Q. I'm going to show you what's been previously identified
13 and that you have identified as State's exhibit 13. If you
14 could please look at this, holding that just kind of in your
15 lap a little bit, do you see -- what do you see within the
16 heat-sealed bag?

17 A. I see crystal-like substance, white crystal-like
18 substance.

19 Q. All right. Do you see any plastic substances inside the
20 heat-sealed bag?

21 A. Yes.

22 Q. All right. So, Officer Miller, while you testified
23 earlier that you were unsure on whether the baggies found and
24 pictured in like State's exhibit number 2, are you positive
25 they are not in what you just looked at?

1 A. (No response).

2 Q. Are you positive that the baggies that are ---

3 **MR. YARBOROUGH:** Objection to leading.

4 **THE COURT:** Let him finish the question.

5 Q. Are you -- is there more than just alleged contraband in
6 the heat-sealed bag?

7 A. Yes.

8 Q. Okay. What else did you see in the heat-sealed bag?

9 A. A plastic baggy.

10 Q. Do you know how many plastic bags?

11 A. No, I do not.

12 Q. Is that ---

13 **MR. BLOUIN:** May I approach the witness, Your Honor?

14 **THE COURT:** Yes.

15 Q. I'm going to show you just because we forgot to do this
16 earlier what's been premarked as State's exhibit 14. Do you
17 recognize what State's exhibit 14 is?

18 A. Yes.

19 Q. Could you please -- what is State's exhibit 14?

20 A. That is the plastic Pelican case.

21 Q. And how do you recognize what that is?

22 A. That is my -- my writing and my signature on this bag.

23 Q. You wrote that?

24 A. Yes.

25 Q. All right. And that's -- does it look like it's been

1 tampered with at all?

2 A. No.

3 Q. All right.

4 **MR. BLOUIN:** At this point in time, Your Honor, the State
5 would move State's exhibit 14 into evidence.

6 **MR. YARBOROUGH:** We'd object, Your Honor. There's been
7 no testimony that he found it or that he ever had it.

8 **MR. BLOUIN:** Your Honor, he just testified that that was
9 his name on it. Can we approach?

10 **THE COURT:** I'm going to have to send y'all out, ladies
11 and gentlemen. So please do not discuss the case. And we'll
12 bring you back out in -- I expect we'll be going to lunch
13 shortly. So do not discuss the case and step out for now.

14 (Whereupon the jury exited the courtroom at 12:29 pm)

15 **THE COURT:** All right.

16 **MR. YARBOROUGH:** Ms. Edmonds never testified she found
17 anything in that Pelican bag. That testimony did not come
18 into this courtroom. And Officer Miller is on tape not
19 leaving that trauma bay with anything. I just -- I don't
20 understand how -- where the chain is for the admission of that
21 Pelican box.

22 **MR. BLOUIN:** It's a non-fungible item. So it's not like
23 drugs or blood. He recognized the Pelican box. He said that
24 it is what he sees. We've already gone through the fact that
25 when he collected the evidence per the stipulation that was

1 not on videotape. So the idea that it's not on videotape --
2 of course it's not on videotape. We've already stipulated to
3 that fact.

4 He recognized it. He identified it. He stated that he's
5 the one that sealed it in this bag. There has been comments
6 from the defense attorney on cross about the Pelican case. So
7 it's not as if the Pelican case has come out of nowhere.

8 And so we believe that we have, you know, he's identified
9 it, he says it's a fair description of said Pelican case and
10 that he's the one who sealed it in the bag. I don't exactly
11 know what it is we're missing.

12 **MR. YARBOROUGH:** Your Honor, there's no testimony that
13 Ms. Edmonds found that Pelican bag. There's no evidence that
14 that Pelican case went into that hospital. There's no -- I
15 mean, you see the video of him coming out. He doesn't have a
16 Pelican box in his hand. There's no -- there's no chain or
17 any proof that that Pelican box came out of anywhere.

18 **MR. BLOUIN:** And if I may point out, Your Honor, the --
19 Ms. Edmonds testified to finding contraband and calling
20 police. And then he testified during cross that he found the
21 contraband in the Pelican case. So I don't know -- or that
22 drugs were found in the Pelican case. I mean, that came out
23 during his cross.

24 **THE COURT:** And that's what I recall as well.

25 **MR. YARBOROUGH:** Your Honor, that's not the way I recall

1 the evidence. Can Mr. Wise -- can I get him to plug in?

2 **MR. BLOUIN:** And, Your Honor, if we can bring something,
3 quite honestly, after this? I would like to finish this
4 first, but there was something that kind of came up while I
5 was doing my thing up here that, you know, -- and I understand
6 people are talking and trying to confer. But, you know, when
7 my investigator hears Mr. Wise say verbatim, their chain of
8 custody is shot as a matter of law, and we can hear it right
9 here, then the jury can hear it, Your Honor, and that's a
10 problem.

11 **MR. WISE:** I'll try to keep it quiet.

12 **THE COURT:** Well, I mean, that's a pretty important
13 comment, too, Mr. Wise to be saying that. And y'all've had a
14 lot of conversation over there. And it's disturbing and you
15 can hear it.

16 And, Mr. Swaringen, I know this is an important case, but
17 you cannot be making faces in response to what the witness
18 says and those type things. So ---

19 **MR. WISE:** We will ---

20 **MR. SWARINGEN:** Your Honor, I apologize. It's just hard
21 ---

22 **THE COURT:** I know it is.

23 **MR. SWARINGEN:** --- when they say one thing one time and
24 one thing another.

25 **THE COURT:** Well, but that's fine.

1 **MR. SWARINGEN:** I mean, ---

2 **MR. WISE:** We'll resort to passing notes. That's the
3 best approach. They won't hear a note, that's for sure.

4 **MR. BLOUIN:** I'm not worried about me hearing it, Your
5 Honor.

6 **MR. WISE:** Yeah, I know. I know. I apologize.

7 But the point is, Judge, about the Pelican case is that
8 there is no testimony that Pelican case came into the hospital
9 with any of Joey Swaringen's belongings. There's no testimony
10 from Ms. Edmonds that she even saw a Pelican case.

11 She is the one that found the drugs. So how a Pelican
12 case gets involved in this, frankly, as far as a container for
13 drugs, I don't know. And, therefore, I think it's not
14 admissible.

15 **MR. BLOUIN:** She referred to everything as his personal
16 items. She didn't say exactly what he had on him. She just
17 said personal items, I found contraband, I called the police.
18 Then during cross they elicited that the drugs were apparently
19 found in the Pelican case. I didn't elicit that testimony,
20 they did.

21 **THE COURT:** I mean, it was referenced in response to your
22 question, but -- I mean, -- and he didn't say where it came
23 from, but he did say the drugs came from a Pelican case during
24 your cross-examination.

25 **MR. YARBOROUGH:** Okay.

1 **THE COURT:** I mean, that's what I recall as well. So
2 based on that I'm going to allow it -- allow it in. All
3 right. Anything ---

4 **MR. BLOUIN:** Nothing else from the State.

5 **THE COURT:** All right. Bring the jury back. How much
6 more do you have of the ---

7 **MR. BLOUIN:** I'm going to try to be as quick as possible,
8 Your Honor.

9 **THE COURT:** Okay.

10 **MR. BLOUIN:** I know it's late. Just a couple more.

11 **THE COURT:** No, that's fine. We took a snack during the
12 break, but we'll break for lunch as soon as this one's ...

13 (Whereupon the jury entered the courtroom at 12:36 pm)

14 **THE COURT:** All right. You may proceed, Mr. Blouin.

15 **MR. BLOUIN:** Yes, Your Honor.

16 **Redirect Examination by Mr. Blouin Continued:**

17 Q. All right. Officer Miller, you said that -- what did you
18 describe this as?

19 A. It's a plastic magnetic Pelican case.

20 Q. And how did you know that this is the Pelican case that
21 you put into evidence?

22 A. That's my signature and the bag I put it in.

23 Q. And does it look like it's been tampered or changed with
24 in any way?

25 A. No.

CHRISTOPHER MILLER - REDIRECT EXAMINATION BY MR. BLOUIN

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1 Q. All right.

2 MR. BLOUIN: At this point we'd move State's exhibit
3 number 14 into evidence.

4 THE COURT: All right. And subject to defense's
5 objection.

6 MR. YARBOROUGH: Subject ---

7 (Whereupon State's exhibit 14 was admitted into evidence)

8 Q. So, Officer Miller, just to clear some things up. First
9 off, who do you work for?

10 A. The Greenville Health Authority Police Department.

11 Q. All right. Who do the doctors and all work for?

12 A. Prisma.

13 Q. All right. What is the difference?

14 A. They are a private business. We're a law enforcement
15 agency.

16 Q. All right. And do people -- who does the security scans
17 when they come in with the ambulance?

18 A. That is American Security.

19 Q. Okay. What sort of training do they have?

20 A. They have their own training. I'm not sure, but they --
21 exactly what it is, but they are trained in looking through
22 people's belongings and checking for contraband, and weapons
23 and that type thing.

24 Q. What are the main things that they're looking for?

25 A. They're looking for guns, drugs, anything that might

1 become a liability -- liability to someone in the hospital.

2 Q. Okay. And when you -- who did you recover those -- the
3 contraband from?

4 A. Lisa Edmonds.

5 Q. And where did the contraband ultimately go?

6 A. Into evidence.

7 Q. Okay. And by evidence, what do you mean by ---

8 A. Into our evidence locker.

9 Q. All right. And where did you document where you put that
10 evidence?

11 A. In my incident report.

12 Q. All right.

13 **MR. BLOUIN:** No further questions, Your Honor.

14 **THE COURT:** Just ---

15 **Recross-examination by Mr. Yarborough:**

16 Q. That incident report, you don't have with you today,
17 right?

18 A. No, sir.

19 Q. Okay. And this Pelican, I guess, I don't know why this
20 is called a Pelican box. You want to tell me?

21 A. That's the manufacturer.

22 Q. Okay. Do you -- okay. So this is the manufacturer of
23 this box. And so -- with the Pelican box. But you had a bag
24 for this one, didn't you?

25 A. (No response).

1 Q. That's an evidence bag, right?

2 A. That's an evidence bag, yes.

3 Q. Okay. And you could have -- you put this in an evidence
4 bag, right?

5 A. Yes.

6 Q. And the drugs, did you put them in an evidence bag?

7 A. Yes.

8 Q. And the same kind of evidence bag that's in?

9 A. Similar.

10 Q. And where did you get that plastic case?

11 A. That plastic case, I got it from the trauma bay.

12 Q. Okay. But you're not carrying on that film when you come
13 out?

14 A. Not on that film. Not on that video, no.

15 Q. Okay. And we don't have a film like that?

16 A. (No response).

17 Q. So you left it sitting in there after you found it?

18 A. No.

19 Q. You went in there and -- you testified that you found it
20 on the film and -- when Mr. Blouin called you as a witness,
21 but -- but when we showed you coming out, you don't have
22 anything in your hands?

23 MR. BLOUIN: Your Honor, I'd object. We've already gone
24 through what is on video and what is off video.

25 THE COURT: All right. I'm going to -- I'm going to let

1 him go a little further on this.

2 Q. I'm just -- he asked about the Pelican case. And I don't
3 even want to call it the Pelican case. I'm going to call it a
4 black case. He asked about this black case. But it's not in
5 your hand when you come out of there, right?

6 A. Not on that video. I ---

7 Q. Okay.

8 A. I have no idea what happened to all the video.

9 Q. Okay. Yeah, that'd be nice. And there's no black
10 motorcycle bag, right?

11 A. In my hands, no.

12 Q. You wouldn't have just left it sitting in there, would
13 you?

14 A. I didn't.

15 Q. Okay. And that case hadn't been tested, right, for DNA
16 or for fingerprints?

17 A. No.

18 Q. But you would know how to do that?

19 A. I would know where to send it.

20 Q. Okay. And Mr. Blouin asked you about -- you said there's
21 some bags in here?

22 A. (No response).

23 Q. You said there's some bags in here?

24 A. There is some ---

25 Q. They weren't tested?

1 A. No.

2 Q. Okay. You'd know how to do that?

3 A. Yes.

4 Q. Okay. And they weren't in your hand when you left the
5 hospital, that trauma bay at that time either, right?

6 A. Not in that video.

7 Q. Okay. And that video, that's in trauma bay 1, right?

8 A. It's in -- they're right there together. It's trauma bay
9 1 and 2.

10 Q. Okay. So when you're coming around it looks like trauma
11 bay 1, would you agree with me ---

12 A. Yes.

13 Q. --- about that?

14 A. Yes.

15 Q. Okay.

16 **MR. YARBOROUGH:** Nothing further. Thank you.

17 **MR. BLOUIN:** No more redirect, Your Honor.

18 **THE COURT:** All right. You may step down.

19 **MR. BLOUIN:** We'd ask that Officer Miller be released
20 from his subpoena.

21 **THE COURT:** Any objection?

22 **MR. YARBOROUGH:** No, sir.

23 **THE COURT:** All right.

24 All right, ladies and gentlemen, it's lunchtime. So
25 we're going to take -- we're going to take a break. If y'all

1 could be -- if I give you til 2:00, that should give y'all
2 sufficient time to get back in here and get lunch and all
3 that. So be back in at 2:00 in your jury room.

4 Do not discuss the case. Do not do any type of research
5 about the case, lawyers or anything about this matter. Don't
6 pay any attention to media coverage.

7 And, finally, don't -- if somebody contacts you other
8 than somebody from the clerk's office, then please let the
9 bailiffs know. Other than that, y'all have a good lunch, and
10 we'll see you back at 2:00.

11 (Whereupon the jury exited the courtroom at 12:43 pm)

12 **THE COURT:** All right. Anything from the State before we
13 break?

14 **MR. BLOUIN:** Nothing from the State, Your Honor.

15 **THE COURT:** Anything from the defense?

16 **MR. YARBOROUGH:** No, sir.

17 **THE COURT:** All right. We'll see y'all back after lunch.
18 Make sure you're here ready to go at two.

19 **MR. YARBOROUGH:** We'll be ready.

20 (Whereupon court was in recess at 12:44 pm)

21 (End of Volume one of two)

1 Tuesday, June 28, 2022 (Volume Two of Two):

2 (Whereupon court reconvened at 2:04 pm)

3 **THE COURT:** All right. Is the State ready to proceed?

4 **MR. BLOUIN:** The State is ready to proceed. Your Honor,
5 the only witness issue we may have going forward is the
6 chemist is also involved in Mr. Fowler and Mr. Bondura's trial
7 in courtroom 4. And so they say he's going to be very short,
8 and he should be reached before us. So if there's any delay,
9 it's just waiting for him to go -- come upstairs.

10 **THE COURT:** Wow, what are the odds of that?

11 **MR. BLOUIN:** Well, he was the firearm expert, which he
12 testified to downstairs, before he becomes the drug expert up
13 here, alleged expert.

14 **THE COURT:** But he's not -- he's not your next one?

15 **MR. BLOUIN:** No, Your Honor.

16 **THE COURT:** All right. So is the defense ready?

17 **MR. YARBOROUGH:** Yes, sir.

18 **MR. WISE:** Yes, sir.

19 **THE COURT:** All right. Is the jury -- are they all up?

20 **THE BAILIFF:** Yes, sir.

21 **THE COURT:** All right. Bring them on.

22 **MR. SWARINGEN:** Your Honor, if I have something to
23 address the Court, I mean, with the jury in here, how do I go
24 about it?

25 **THE COURT:** You don't address the Court.

ERIC KEIPER - DIRECT EXAMINATION BY MR. BLOUIN

1 MR. SWARINGEN: Period?

2 **THE COURT:** Period. That's what your lawyers are for,
3 okay?

4 (Whereupon the jury entered the courtroom at 2:07 pm)

5 **THE COURT:** All right. Hope everybody had a good lunch.
6 We are now -- again, we're still in the State's case. So, Mr.
7 Blouin, if you could call your next witness.

8 **MR. BLOUIN:** Your Honor, the State would call Officer
9 Eric Keiper.

10 THE COURT: All right.

11 Eric Keiper, being duly
12 sworn testified as follows;

13 **MADAM CLERK:** Have a seat. Please state your name for
14 the record.

15 **MR. KEIPER:** Eric Keiper, K-e-i-p-e-r.

16 Direct Examination by Mr. Blouin:

17 Q. All right. Officer Keiper, where are you employed?

18 A. I'm employed at Greenville Memorial Hospital. I work
19 with the Greenville Health Authority Police Department.

20 Q. And how long have you been employed there?

21 A. I've been employed there since 2014.

22 Q. Okay. And what are your duties there?

23 A. I'm a full-time law enforcement officer who also serves
24 as the evidence custodian.

25 Q. All right. And what kind of role does the evidence

1 custodian play?

2 A. I am responsible for maintaining our property in evidence
3 room. I'm also responsible for transporting any evidence to
4 the Greenville County property in evidence so that it can be
5 tested at laboratory.

6 Q. Okay. So you guys operate your own evidence room?

7 A. That is correct.

8 Q. All right. Can you describe this room?

9 A. Okay. So this room is about the size of a larger closet.
10 The first entry point to this property in evidence room, it
11 actually has a biometric reader, so a fingerprint reader,
12 which currently there's only two people who can gain access,
13 which would be myself and my major, Eric Hendrix. Once you
14 gain entry into that door, you have a file cabinet that has
15 all our records for the evidence that then is inside a locked,
16 caged area.

17 Q. Okay. And who has the key to the cage area?

18 A. There's only two keys that I'm aware of. Those two keys
19 are held by myself, and once again, Major Eric Hendrix.

20 Q. Can you also talk about the evidence lockers?

21 A. We have -- we have a substation in our emergency room at
22 Greenville Memorial Hospital. There are ten temporary
23 evidence lockers. There's two that are about -- a larger
24 size. There's two more that are for like -- even like long
25 items such as like long guns, that type of thing. And then

ERIC KEIPER - DIRECT EXAMINATION BY MR. BLOUIN

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1 there's six that are about -- kind of like larger than like
2 mailbox size.

3 And so if -- since I work day shift, if we have a night
4 shift officer who takes something into evidence, he will put
5 it in that evidence box, turn it counterclockwise, and it is
6 locked until I come in the next morning. Or in an emergency
7 backup situation, Major Eric Hendrix would be able to unlock
8 it.

9 Q. Okay. So how did you become involved in this case?

10 A. In this case, from my understanding, this incident
11 occurred at night or on night shift. I came in the next
12 morning.

13 Typically what I will do is I will check all the evidence
14 lockers to see if any are locked. If there's any that are
15 locked, I will unlock them. I will remove the evidence. I
16 will sit in front of a computer and look at the case.

17 Q. All right.

18 A. If the case involves something that is just going to be
19 stored in property in evidence, I will transport it over
20 there. If it's -- if it's a case that involves something that
21 needs to go to the crime laboratory, the Greenville County
22 Crime Laboratory, I'll send an actual laboratory analysis
23 request to Greenville County Property in Evidence. And then
24 at that point I then will transport it to our property in
25 evidence.

ERIC KEIPER - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. All right.

2 MR. BLOUIN: May I approach the witness, Your Honor?

3 THE COURT: You may.

4 Q. This has been previously marked as State's exhibit, for
5 identification, number 12. Do you recognize what this is?

6 A. This is our in-house property in evidence sheet.

7 Q. All right. And whose initials are those right there?

8 A. Those are all my initials.

9 Q. Okay. And who wrote on this lower half right there?

10 A. The lower portion beneath this grayed in area here is all
11 my handwriting, all my signatures, dates, times.

12 Q. Okay. And does it look altered in any way?

13 A. It is now.

14 Q. Okay. Is it a true and accurate description of what
15 you've done with this?

16 A. That is correct.

17 Q. All right.

18 MR. BLOUIN: At this time, Your Honor, we would ask that
19 State's exhibit 12 be placed into evidence.

20 MR. WISE: We still would object, Your Honor. I think
21 it's still a hearsay document because it makes references to
22 things that occurred outside the courtroom. I have no
23 objection to it being used for identification purposes for
24 purposes of examining this witness.

25 THE COURT: I don't -- I don't see anything that has not

1 been referenced here, I mean, that's not been testified to or
2 ...

3 **MR. WISE:** Granted, it's been referenced, but it's a
4 document that was prepared outside the courtroom. So it was
5 not prepared -- it was not -- it violates the rules of hearsay
6 because it's a statement from outside the courtroom.

7 **THE COURT:** But both the people that have wrote it have
8 testified and subject to cross-examination. So ---

9 **MR. WISE:** I don't ---

10 **THE COURT:** --- how's it hearsay?

11 **MR. WISE:** --- think that makes any difference on the
12 hearsay rule.

13 **THE COURT:** Okay. Well, I'm going to -- not sure I quite
14 understand your objection, but I'm going to overrule it and
15 allow it into evidence.

16 (Whereupon State's exhibit 12 was admitted into evidence)

17 **Direct Examination by Mr. Blouin Continued:**

18 Q. Now, Officer Keiper, where on this sheet do you put that
19 you picked it up from evidence -- from the evidence locker?

20 A. On this sheet it is not present.

21 Q. All right. Did you write down taking -- where did you --
22 did you put in writing what you did with the evidence in that
23 locker?

24 A. I did. I put it in our report writing system, which is
25 called LawTrak.

1 Q. All right. And do you remember what you put in LawTrak?

2 A. Probably something simple that I removed the evidence
3 from locker number -- temporary evidence locker number 6 and
4 transported it to Greenville Health Authority Police
5 Department Property in Evidence.

6 Q. All right.

7 **MR. BLOUIN:** May I approach the witness, Your Honor?

8 **THE COURT:** You may.

9 Q. This has been previously identified or previously marked,
10 I'm sorry, as State's exhibit 13. Do you recognize that?

11 A. I do.

12 Q. All right. Can you explain what this is?

13 A. That evidence there is -- it's four bags of a crystal-
14 like substance.

15 Q. All right. And where did you receive this from?

16 A. From temporary evidence locker number 6 that's in our
17 substation.

18 Q. Okay. And was it tampered with in any way, shape or
19 form?

20 A. No, sir.

21 Q. Okay. Now when we had a talk earlier today outside,
22 explain to the jury, was this the original bag that the --
23 that this was located in?

24 A. No, it was not.

25 Q. All right.

ERIC KEIPER - DIRECT EXAMINATION BY MR. BLOUIN

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1 **MR. BLOUIN:** Approach the witness?

2 **THE COURT:** Okay.

3 Q. This has already been put into evidence as State's
4 exhibit 14. Do you recognize what that is?

5 A. I do.

6 Q. What is that?

7 A. That is a plastic Pelican case that had contained these
8 items that were -- have been introduced into evidence.

9 Q. Okay. And how did the four bags get into a separate bag?

10 A. So anytime I have to send evidence to the Greenville
11 County Lab, they have certain requirements of what they will
12 receive and how they receive it. So in other words, it would
13 not allow -- they will not allow me to have it with like
14 multiple items. Those items have to be clearly separated.

15 Q. Okay.

16 A. And so in this situation I placed those items in that bag
17 and sealed it and initialed it.

18 Q. Okay. And it's probably hard, but can you see -- say
19 where your initial would be?

20 A. It would be on that folded side on the rear there.

21 Q. Okay. Did you tamper with any of the evidence in any
22 way?

23 A. No, sir.

24 Q. Was the evidence that you collected in the same condition
25 ---

ERIC KEIPER - DIRECT EXAMINATION BY MR. BLOUIN

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1 **MR. BLOUIN:** And, actually, if I can approach the
2 witness.

3 Q. When did you take the evidence to the -- what did you do
4 with the contraband after it was entered into your property in
5 evidence?

6 A. Once it was in my property in evidence, I wait to receive
7 what is called a -- I receive an email back from Greenville
8 County essentially saying that they've completed their prelog,
9 which then ---

10 **MR. YARBOROUGH:** Objection.

11 A. --- allows me ---

12 **MR. YARBOROUGH:** Hearsay.

13 **THE COURT:** Rephrase your question.

14 Q. Where do you take the evidence once you've requested drug
15 analysis?

16 A. I will take it to Greenville County property in evidence.

17 Q. Did you do that?

18 A. I did.

19 Q. Okay. Did you take it in the bag that you sealed the
20 crystal-like substance in?

21 A. Yes.

22 Q. All right. And they accepted that?

23 A. That's correct.

24 Q. Did you then later come back into possession of that bag?

25 A. Yes. When they were finished with it, yes.

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

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1 Q. And you personally picked that bag up?

2 A. That is correct.

3 Q. And then what did you do with the bag?

4 A. I then placed it back into our property in evidence.

5 Q. And since that point in time has the bag -- where has the
6 bag been?

7 A. It's been in behind the cage in a filing system.

8 Q. All right.

9 A. So in our property in evidence.

10 Q. Please answer any questions the defense may have for you.

11 **THE COURT:** Cross-examination.

12 **Cross-examination by Mr. Wise:**

13 Q. Officer Keiper, when you opened the locked box what did
14 you physically see that was in there?

15 A. What I would -- what I physically saw was I saw the
16 property in evidence sheet, and I saw the bag that's entered
17 into evidence over there and the contents of that.

18 Q. All right. So I'm a little confused. You saw this bag,
19 this box?

20 A. The bag with the contents that are listed on that bag.

21 Q. I'm sorry. I'm still -- I'm having trouble for some
22 reason. When you opened it up, how many items did you find in
23 that container?

24 A. From my recollection the items had been removed from that
25 container ---

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

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1 Q. All right.

2 A. --- and still inside that ---

3 Q. That's not my question. That was a bad question, all
4 right?

5 A. Okay.

6 Q. How many items did you find in that locked box?

7 A. Without me looking at that sheet, I would -- I know at
8 least five, if not more than that.

9 Q. All right. So what do you need to look at to ---

10 A. The property -- yes.

11 Q. This?

12 A. The property bag that has the Pelican case inside.

13 Q. All right.

14 A. Yes, sir.

15 Q. So that -- and when is this prepared?

16 A. Am I allowed to answer everything?

17 Q. Yes.

18 A. Okay. So everything that's listed here, the black
19 Pelican box with the four baggies that has been entered into
20 evidence, the -- there was a pink baggy with three ---

21 Q. Okay. All right, all right.

22 A. Yeah.

23 Q. So you've got four baggies that were inside that bag?

24 A. That is correct.

25 Q. All right. So what you've got here was you had four

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

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1 baggies and the Pelican box and some other stuff in here?

2 A. That is correct.

3 Q. All right. And the four baggies were not in a separate
4 bag?

5 A. They were not at the time, no.

6 Q. Not at that time, they were not?

7 A. That's correct.

8 Q. Everything was just put in here?

9 A. That is correct.

10 Q. Okay. Now the four baggies that you got, what did you do
11 with them?

12 A. From there -- I made sure that everything matched in
13 terms of what was listed ---

14 Q. Right. Before?

15 A. Yes.

16 Q. Yes.

17 A. I placed them in a -- that small property in evidence bag
18 for the proper delivery to Greenville County so that they
19 would actually accept it in that condition.

20 Q. So you put it in a separate -- you broke open this bag
21 ---

22 A. It wasn't sealed, from my understanding. Let me -- if
23 you allow me to see, I ---

24 Q. Sure.

25 A. Because on the one side here, up top here, ---

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

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1 Q. Uh-huh (affirmative).

2 A. --- where it has -- you can see the case number, but when
3 it comes to a signature for it, it says it was sealed, but I
4 don't remember it actually being sealed. Because those
5 typically to break them open, you would have to cut -- cut
6 with scissors.

7 Q. Or tear the bag open some way?

8 A. Yeah. You would physically see, ---

9 Q. Right.

10 A. --- you know, some sort of tampering or that type ---

11 Q. Is this called a Best Pack?

12 A. I'm not sure, sir.

13 Q. Do you know what a Best Pack is?

14 A. I'm not sure.

15 Q. Okay. All right. But your experience has been if this
16 had been tampered with or had been sealed, you would have had
17 to completely destroy the bag in some way, not completely ---

18 A. I would either -- yeah. And a lot of times if I have a
19 situation to where I have to do that, ---

20 Q. Right.

21 A. --- I will document that I had to physically cut it open.

22 Q. All right. So the four individual baggies that you
23 found, ---

24 A. Yes.

25 Q. --- what did you do with those?

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

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1 A. The four individual baggies were placed in a small, you
2 know, that bag that's sealed.

3 Q. So you -- and that would be something similar to this?

4 A. That's -- yes.

5 Q. Okay.

6 A. That's what they were placed in.

7 Q. And you put the four baggies in there?

8 A. Correct.

9 Q. All right. Now you've been a police officer how long?

10 A. Since the end of 2014.

11 Q. All right. And you go to the police academy?

12 A. I graduated in 2014, yes, sir.

13 Q. All right. And they teach you things at the police
14 academy, do they not, about chain of custody and so forth?

15 A. It's -- it's mentioned, yes, sir.

16 Q. All right. And you're aware that -- are you familiar
17 with South Carolina Code -- well, you may not be aware of the
18 number. But are you familiar with the South Carolina Code
19 dealing with the handling of controlled substances? Is that
20 something that's taught at the academy?

21 A. I don't recall.

22 Q. Let me show you this and see if that refreshes your
23 memory any.

24 A. Okay.

25 Q. Does that refresh it at all?

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

211

1 A. A little bit, yes, sir.

2 MR. BLOUIN: Your Honor, I would ask that Mr. Wise go
3 into a little bit more foundation other than does the statute
4 refresh his memory ---

5 MR. WISE: Well, ---

6 THE COURT: Yeah, ---

7 MR. BLOUIN: --- potentially. I mean, whether he was
8 taught certain things.

9 MR. WISE: I was going to get to that.

10 Q. First of all, does that refresh your memory in any way?

11 A. It does.

12 Q. Excuse me? It does not? Or it does? Or what?

13 A. I mean, it does a little bit.

14 Q. Yeah.

15 A. Yes, sir.

16 Q. Okay. And as part of your training there you learned
17 that there are -- there are duties of the evidence custodians
18 under regulations established by SLED?

19 A. I don't remember being taught that ---

20 Q. All right.

21 A. --- at the South Carolina Criminal Justice Academy.

22 Q. All right. I'd ask you if any of that -- well, what were
23 you taught about the duties of the evidence custodian because
24 you used the phrase evidence custodian? What were you taught
25 about duties of the evidence custodian with SLED?

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

212

1 A. With SLED?

2 Q. Yes, at your police training.

3 A. Yeah, it is. And understand that my training that I have
4 received was simply hands-on training from the previous
5 evidence custodian.

6 Q. All right. When you went to the police academy in
7 Columbia did you take any courses in being an evidence
8 custodian?

9 A. I have not had any.

10 Q. You've not had any?

11 A. No.

12 Q. All right. And the previous person that did your job,
13 did you ever tell them about or did you ever -- did they ever
14 teach you about SLED regulations for evidence custodian?

15 A. I don't recall.

16 Q. So are you aware that by statute in the statute I showed
17 you that certain evidence custodian records must be maintained
18 by evidence custodians?

19 A. Such as?

20 Q. Well, are you aware that there is a requirement that
21 certain regulations be maintained? Have you had any training
22 in that at all?

23 A. I've had a little bit of training.

24 Q. All right. And did you know that in -- that you're
25 required to fill out what they call chain of custody forms?

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

213

1 A. That I'm aware of. And that's what we -- we use our in-
2 house.

3 Q. All right.

4 **MR. WISE:** Where is our exhibit for identification?

5 **MR. YARBOROUGH:** It's over here.

6 Q. And you use an in-house one?

7 A. That's correct.

8 Q. All right. Now -- and we're referring again to State's
9 exhibit 12. First of all, what you have in front of you, is
10 that what you received when you opened the locked box to get
11 the items out of it?

12 A. Yes. That was what was in that locked box.

13 Q. Was there a pink sheet with that?

14 A. I don't recall.

15 Q. Did you tear any sheets off?

16 A. No.

17 Q. So what you have, a yellow and a white, is all that you
18 received?

19 A. To my understanding, yes, sir.

20 Q. Excuse me?

21 A. To my understanding, that's correct.

22 Q. All right. And you understand the pink sheet of that
23 should stay with the officer?

24 A. It is labeled for the officer based upon what is listed
25 here at the bottom.

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

214

1 Q. Right. The white goes with the evidence and, I guess,
2 technically you're supposed to maintain the yellow one, but
3 both of them end up going with the evidence, correct?

4 A. They typically do, yes, sir.

5 Q. Okay. All right. Are you aware, according to SLED
6 regulations, that the evidence custodian, when he makes a
7 record, ---

8 A. Um-hum (affirmative).

9 Q. --- and you're supposed to make a record, aren't you?
10 Correct?

11 A. When you say a record, in terms of?

12 Q. A chain of custody record.

13 A. Yes.

14 Q. And the purpose of obtaining a custody of record is to
15 keep people from making mistakes?

16 A. That is correct.

17 Q. Because if you make a mistake, it can screw things up?

18 A. And in life, yes.

19 Q. Right. And it's kind of like a checklist for an airplane
20 pilot. You have lists of things that you're supposed to do to
21 make sure it's done right, correct?

22 A. That's with just about anything, yes, sir.

23 Q. And if it's not done right, mistakes can be made?

24 A. If something's not done right, ---

25 Q. Okay.

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

215

1 A. --- yeah.

2 Q. All right. Are you aware the duties of evidence
3 custodian for SLED requires that the name of the evidence
4 custodian appear on the document?

5 A. Can you say that again? Sorry.

6 Q. The name of the evidence custodian must appear in the
7 document?

8 A. Yes.

9 Q. All right. Is that your name or your initials?

10 A. It is my signature.

11 Q. Okay. That's where you've signed it, but you didn't type
12 your name out or print your ---

13 A. It's not ---

14 Q. --- name out?

15 A. --- printed, that's correct.

16 Q. And no reflection because we all have this problem, but
17 it's not that legible?

18 A. I have been -- I've had bad handwriting my whole life,
19 yes, sir.

20 Q. I have, too. All right. And does that form you have in
21 front of you reflect the name of the law enforcement agency
22 that employs you?

23 A. That, it does not.

24 Q. Okay. Does it contain the capacity of your employment
25 with them?

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

216

1 A. Does this particular sheet have my ---

2 Q. Yes.

3 A. No, it does not.

4 Q. It doesn't -- it doesn't contain -- reference to you as a
5 -- as a custodian?

6 A. That is -- that's correct.

7 Q. Okay. All right. Does that show the date that you
8 received the ---

9 A. That ---

10 Q. --- the drugs in this case?

11 A. That is -- that is not on here. I -- the documentation
12 was in our report system, LawTrak.

13 Q. All right. Does it show on that document how the
14 controlled substance was received? By mail, or in person or
15 whatever? Or in this case, through a locked box?

16 A. It does not.

17 Q. Okay. Does it reflect on there from whom you received
18 the drugs?

19 A. It does not.

20 Q. Does it reflect on there the name of the agency employing
21 the law enforcement officer or law enforcement employee from
22 whom the drugs -- controlled substances were received?

23 A. That's essentially the same question. It does not list
24 ---

25 Q. Okay.

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

217

1 A. --- the Greenville ---

2 Q. Does it have the name of the seizing officer?

3 A. On this it does.

4 Q. It does? All right.

5 A. Yes.

6 Q. Now, is there a description on there with using
7 sufficient particularity to distinguish it from other
8 evidence?

9 A. Explain.

10 Q. Well, if the requirement is that the description of the
11 controlled substance or containers alleged to contain a
12 controlled substance using different -- using sufficient
13 particularity to describe it? That's just described as four
14 baggies ---

15 A. Containing crystal-like substance.

16 Q. Doesn't have any weight, correct?

17 A. Not on this form, it does not.

18 Q. All right. And yet if you knew the weight and you put
19 down the weight, that would be a way to distinguish one bag
20 from another one?

21 A. In this particular ---

22 Q. Correct.

23 A. That is correct.

24 Q. But you have here just a general allegation about four
25 bags, correct?

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

218

1 A. On this particular form, yes. In LawTrak, no.

2 Q. On what ---

3 A. In our report writing system it had the listed weight.

4 On this particular form, ---

5 Q. Did not?

6 A. --- it does not. That is correct.

7 Q. Okay. All right. And is there a statement on there that

8 the -- that the form, particularly when you've parted company

9 with it, was in substantially the same condition as when it

10 was received?

11 A. This particular ---

12 Q. Yeah.

13 A. Yes.

14 Q. It doesn't have it -- it doesn't say on there that it's

15 in substantially the same condition as it was when you

16 received it?

17 A. Repeat that.

18 Q. All right. Let me rephrase it.

19 A. Yes.

20 Q. In order to prove evidence isn't tampered with, ---

21 A. Right.

22 Q. --- right, a party would have to put down I've parted

23 with it, I gave it up, and it was in substantially the same

24 condition it was when I received it?

25 MR. BLOUIN: Your Honor, he's asking him to make a legal

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

219

1 conclusion here at this point based on ---

2 **THE COURT:** Sustained.

3 **MR. WISE:** Your Honor, I'm asking him about ---

4 **THE COURT:** Well, no, you're -- you're using that, but --
5 sustained.

6 **MR. WISE:** All right.

7 Q. So then you've had no training in proper use of SLED
8 regulations in maintaining a chain of custody?

9 A. No training by whom? I mean, ---

10 Q. Anybody.

11 A. I've received some training, but I have not received
12 training from like going to the South Carolina Criminal
13 Justice Academy and receiving that type of training.

14 Q. I don't care who you get it from.

15 A. Right.

16 Q. Have you had any training as to the proper requirements
17 of SLED to -- to maintain a proper chain of custody?

18 **MR. BLOUIN:** Your Honor, he doesn't work for SLED. He
19 has answered the question of who he's -- I don't know he could
20 answer it any better.

21 **THE COURT:** All right. I'll let him ---

22 **MR. WISE:** Your Honor, ---

23 **THE COURT:** --- answer that specific question.

24 **MR. WISE:** Excuse me?

25 **THE COURT:** I'll let you -- I'll let him answer the

1 specific question.

2 Q. Have you had any training from anybody or any agency ---

3 A. Right.

4 Q. --- as to the requirements pursuant to title 44 53 45,
5 and under that SLED regulation 73 90 as to the duties of
6 evidence custodians?

7 A. I wouldn't say -- I would not want to sit here and say
8 that I have.

9 Q. Um-hum (affirmative).

10 A. In terms of saying that if we're going over every single
11 element there, I wouldn't say that I have received training on
12 every single element.

13 Q. Okay. So you ---

14 A. That's fair to say.

15 Q. Fair -- and particularly I assume you're not familiar
16 with the duties of evidence custodian and South Carolina Code
17 of Regulations 73 90?

18 A. More than likely not.

19 Q. Okay. You want to look at a copy?

20 A. (No response).

21 Q. I mean, if you wanted to, fine. If not -- I don't think
22 it'll help any, but ...

23 A. I mean, it -- this is for future reference ---

24 Q. I don't want you to answer the question and then realize
25 later, wait a second, if I'd seen it, I'd have remembered it.

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

221

1 A. It's not going to -- it's not going to matter, sir.

2 Q. All right. So -- and there's no statement on there that
3 you received the items back in any altered shape compared to
4 when you gave it up, is there?

5 A. If you're asking me if I received the evidence the same
6 way that I ---

7 Q. Not quite.

8 A. Okay.

9 Q. I'm one step beyond that. Excuse me.

10 A. All right.

11 Q. Full question. When you got the items back from the lab,
12 ---

13 A. Right.

14 Q. --- all right, there's nothing on that document that
15 shows that you got it back in relatively the same condition
16 that you gave it up?

17 A. That is correct. There is on the actual evidence itself,
18 on the property bag, who it was opened by, their signatures
19 and it being heat-sealed.

20 Q. Um-hum (affirmative). This would be this item here?

21 A. That is correct.

22 Q. All right. I see the chain of custody on here, but am I
23 mistaken there's no writing on it?

24 A. This is -- right here where it says opened by, those are
25 the initials of the -- the lab technician with Greenville

ERIC KEIPER - CROSS-EXAMINATION BY MR. WISE

222

1 County Criminal Laboratory.

2 Q. And that would be the person that opened it?

3 A. That is correct.

4 Q. All right. Do you maintain any records as to the chain
5 of custody in your office?

6 A. In my office?

7 Q. Right.

8 A. No. These are all maintained in our property in evidence
9 room.

10 Q. Property in evidence room?

11 A. Yes, sir.

12 Q. All right. And you don't recall a pink copy being with
13 that?

14 A. No. I take these as is. So whatever I receive is what
15 goes into our property in evidence.

16 Q. Let me -- let me -- you're familiar with that form?

17 A. I'm very familiar with this form.

18 Q. All right. And you're familiar that it comes in a white,
19 canary and pink?

20 A. Yes.

21 Q. And the pink is supposed to be maintained by the seizing
22 officer?

23 A. Based upon what's written at the bottom here, yes, sir.

24 Q. Right. Is that correct?

25 A. Yes.

ERIC KEIPER - REDIRECT EXAMINATION BY MR. BLOUIN

223

1 Q. And where would that form be kept? Do you know?

2 A. Typically what will happen is the officer will pull that
3 form and most times will put it in a -- in a case jacket or,
4 you know, a folder with the other pieces.

5 Q. With the what?

6 A. Other pieces of evidence, the report itself, if there's
7 statements, that type of thing.

8 Q. Okay. You didn't -- the first time you saw any of this
9 evidence was the next morning?

10 A. It would -- yes.

11 Q. You work during the days?

12 A. I work seven am to seven pm, yes, sir.

13 Q. All right.

14 **MR. WISE:** Give me one minute.

15 (Pause)

16 Q. And you sent all this to the Greenville Lab?

17 A. To Greenville County, yeah.

18 Q. Okay.

19 **MR. WISE:** Give me one second.

20 (Pause)

21 Q. Thank you.

22 **THE COURT:** All right. Redirect?

23 **MR. BLOUIN:** Just briefly, Your Honor, just to clarify
24 some things.

25 **Redirect Examination by Mr. Blouin:**

ERIC KEIPER - RECROSS-EXAMINATION BY MR. WISE

224

1 Q. Where did you pick up the evidence from?

2 A. I picked up the evidence from our temporary storage
3 locker, number 6, at our substation that's at ER, Greenville
4 Memorial Hospital.

5 Q. Where did you take it to?

6 A. I took it to our property in evidence that is in a locked
7 area behind a biometric reader and a locked gate.

8 Q. Did you document this?

9 A. I documented that in our LawTrak reporting system.

10 Q. Okay. And what kind of security measures are in your P&E
11 room?

12 A. We have the -- well, we have the biometric reader that's
13 fingerprint reader. We have cameras in there that are motion
14 activated. And then we have all the evidence behind a locked
15 gate.

16 Q. Based on your experience was anything tampered with?

17 A. No.

18 Q. Okay.

19 **MR. BLOUIN:** No further questions.

20 **THE COURT:** All right. You may step down.

21 **MR. WISE:** Just one question real ...

22 **Recross-Examination by Mr. Wise:**

23 Q. The LawTrak reporting system, is that the system -- this
24 reports who goes in and out of the evidence room?

25 A. No. That is just -- that is our report writing system

KARA BENNICK - DIRECT EXAMINATION BY MR. BLOUIN

225

1 that we use for all of our case reports.

2 Q. Did you print one out for this case?

3 A. It would have been sent to the solicitor's office.

4 Q. Did you print one out and send it to the solicitor's
5 office?

6 A. I'm not the one that handles that.

7 Q. Who handles that?

8 A. That would have been either our -- more than likely our
9 major would have sent that in.

10 Q. Okay.

11 **THE COURT:** All right. You may step down.

12 A. Thank you.

13 **MR. BLOUIN:** The State -- can he be released from his
14 subpoena?

15 **THE COURT:** Any objection?

16 **MR. WISE:** I have no objection.

17 **THE COURT:** All right. He can be released.

18 **MR. BLOUIN:** The State would call Kara Bennick.

19 **Kara Bennick,** being duly
20 sworn testified as follows;

21 **MADAM CLERK:** Please have a seat. Please state your name
22 for the record.

23 **MS. BENNICK:** Kara Bennick.

24 **THE COURT:** Counsel, can y'all approach just a second
25 about a ---

KARA BENNICK - DIRECT EXAMINATION BY MR. BLOUIN

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1 **MR. YARBOROUGH:** Sure.

2 **THE COURT:** --- housekeeping matters?

3 (Whereupon a bench conference was held off the record in
4 the presence of the jury, but out of their hearing)

5 (Whereupon the bench conference was ended)

6 **Direct Examination by Mr. Blouin:**

7 Q. Could you please give us your name?

8 A. Kara Bennick.

9 Q. And where do you work?

10 A. The property and evidence section.

11 Q. For whom?

12 A. Greenville County.

13 Q. Okay. And how long have you worked there?

14 A. I've been employed with Greenville County for 24 years.

15 Q. And can you describe your duties?

16 A. I'm the manager over the unit, the Property and Evidence
17 Unit.

18 Q. And how is evidence logged into property and evidence?

19 A. There's two ways that evidence can come into us. It's
20 through the counter services or during after hours it'll come
21 in through drop-boxes and lockers.

22 Q. And generally how is evidence stored in property and
23 evidence?

24 A. Depending on the reason that it's coming into us will
25 depend on where it goes. This particular case, drugs came

KARA BENNICK - DIRECT EXAMINATION BY MR. BLOUIN

227

1 into us, and they were taken to the secure holding staging
2 area to go out to lab services.

3 Q. Okay.

4 **MR. BLOUIN:** And if I may approach?

5 (Whereupon State's exhibit 15 was marked for
6 identification)

7 Q. I'm going to show you what's been marked as State's
8 exhibit 15. Could you please identify that?

9 A. I can. This is a chain of custody.

10 Q. And is that chain of custody an accurate description of
11 what went on with this case?

12 A. I believe so.

13 Q. Okay. Has it been tampered with in any way, shape or
14 form?

15 A. No.

16 Q. And does it reflect evidence from the point that it
17 entered into the Greenville County Property and Evidence?

18 A. Yes. Actually it begins prior to that with the prelog
19 process where the paperwork was sent to us via email. It was
20 prelogged and then it was accepted in.

21 Q. Okay.

22 **MR. BLOUIN:** At this point, Your Honor, we'd ask that
23 State's 15 be entered into evidence.

24 **MR. WISE:** Same objection as previous document.

25 **THE COURT:** Let me see what ...

1 (Pause)

2 **THE COURT:** And subject to the ---

3 **MR. YARBOROUGH:** Can we approach?

4 **THE COURT:** Yeah.

5 (Whereupon a bench conference was held off the record in
6 the presence of the jury, but out of their hearing)

7 (Whereupon the bench conference was ended)

8 **THE COURT:** All right. In -- and that's -- what was the
9 number again?

10 **MR. BLOUIN:** 15.

11 **THE COURT:** All right. In subject to the defense's
12 objection.

13 (Whereupon State's exhibit 15 was admitted into evidence)

14 Q. Okay. I'm going to give this to you. So can you please
15 kind of give us the history of what happened with this item?

16 A. Yes. So initially I received the paperwork via email. I
17 put it in the prelog system, which is just that we're holding
18 paperwork for this case. It will arrive when the officer
19 transports the items over.

20 At that point, on 12/3/20 Rachel Richenburg (ph.)
21 received the items into evidence. And then she put them in
22 the staging location for other agency drug stuff.

23 Q. Okay.

24 A. They stay there until the lab picks them up.

25 Q. All right. May I approach?

KARA BENNICK - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Um-hum (affirmative).

2 Q. This has been marked as State's exhibit 13. Could you
3 please identify that?

4 A. Okay.

5 Q. Oh, I'm sorry.

6 (Pause)

7 **MR. BLOUIN:** Your Honor, may we approach real quick?

8 (Whereupon a bench conference was held off the record in
9 the presence of the jury, but out of their hearing)

10 (Whereupon the bench conference was ended)

11 **THE COURT:** All right. Exhibit 15 -- what's previously
12 been marked as exhibit 15 is withdrawn and replaced with a new
13 exhibit 15.

14 (Whereupon State's exhibit 15 was withdrawn and replaced
15 with a new State's exhibit 15)

16 Q. All right. I'm showing you what is State's exhibit 15.

17 A. Yes.

18 Q. Would you identify that with ---

19 A. Okay.

20 Q. --- 15?

21 A. Okay.

22 Q. Was State's exhibit 13 what was delivered to property and
23 evidence per State's exhibit 15?

24 A. Yes.

25 Q. All right. Now when you take things into property and

KARA BENNICK - DIRECT EXAMINATION BY MR. BLOUIN

230

1 evidence, what sort of condition must they be in?

2 A. They have to be sealed. And they have to contain dates
3 and initials.

4 Q. Okay. And what happens if they don't have those sorts of
5 things?

6 A. We won't accept them. We make the officer fix it at the
7 time of entry so that it is sealed or they have to take it
8 back ---

9 Q. Okay. And who ---

10 A. --- to the agency.

11 Q. Okay. And who all has access to these materials once
12 they've been logged in?

13 A. The seven people who work in property and evidence, and
14 that is it.

15 Q. And what sort of safety measures, sort of security
16 measures are at P&E to make sure that that is what happens?

17 A. So all doors have swipe cards as well as regular safety
18 locks that are on daytimers during the day. So you still have
19 to have a card to get through anywhere. We have camera
20 systems. We have -- we have a lot of security. And nobody
21 can get through the evidence -- like nobody can get into the
22 office at all ---

23 Q. Okay.

24 A. --- but us.

25 Q. And if I may approach real quick with 15 again. Can you

KARA BENNICK - CROSS-EXAMINATION BY MR. WISE

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1 please say at what point did the evidence return from the lab?

2 A. So the evidence was returned back into our custody on
3 January 12th.

4 Q. Okay. Then what did you do with the evidence at that
5 point?

6 A. It was then returned to the bin for the hospital system.

7 Q. Okay. And then at that point it would be returned to
8 them?

9 A. When their officer comes over, he would pick it up and it
10 would return to them.

11 Q. Okay. And all the names on this sheet, are they all --
12 are or were employees of property and evidence?

13 A. They all are employees of property and evidence.

14 Q. All right. Please answer any questions defense may have
15 for you.

16 **Cross-examination by Mr. Wise:**

17 Q. Ms. Bennick, have you been through the training on chain
18 of custody forms?

19 A. I have.

20 Q. Have you been to the SLED training?

21 A. I have. And I'm also a certified evidence technician.

22 Q. Excuse me?

23 A. I'm also a certified evidence technician.

24 Q. And part of that you learned that there's certain SLED
25 regulations you have to comply with to have a good chain of

KARA BENNICK - CROSS-EXAMINATION BY MR. WISE

232

1 custody?

2 A. We do not have to comply with SLED regulations. We are a
3 separate agency from SLED regulations.

4 Q. All right. Excuse me one second.

5 (Pause)

6 Q. I'm talking about SLED regulations as opposed to a SLED
7 lab requirement.

8 A. We are not a part of SLED.

9 Q. I understand that.

10 A. Yeah.

11 Q. All right.

12 A. So we don't have to comply with any rules that they have.
13 We have our own policies and procedures that we comply with.

14 Q. SLED has supervisory authority over all law enforcement,
15 correct?

16 A. Um-hum (affirmative).

17 Q. And -- and SLED can set up procedures for you to comply
18 with, ---

19 A. Okay.

20 Q. --- Correct?

21 A. I'm sure they can. We have our own policies and
22 procedures that are ---

23 Q. I ---

24 A. --- established.

25 Q. --- understand you have your own policies and procedures.

KARA BENNICK - CROSS-EXAMINATION BY MR. WISE

233

1 A. I honestly can't testify as to what SLED can and can't
2 do.

3 Q. All right. So you're not familiar at all with SLED
4 regulations, South Carolina Code of Regulations 73-90?

5 A. Is that the -- if that's the evidence ---

6 Q. That's the duties of evidence custodian.

7 A. Okay. Yeah. I am familiar with my policies and
8 procedures for the regulation of evidence.

9 Q. And you're not familiar with any SLED requirements?

10 A. I am familiar with the -- in order for us as an agency to
11 submit to SLED, I am familiar with those.

12 Q. I didn't ---

13 A. We do not submit drug evidence to SLED.

14 Q. Are you familiar with that SLED regulation?

15 A. I have seen this SLED regulation.

16 Q. And that SLED regulation applies to any law enforcement
17 officer, doesn't it?

18 A. I'm not a law enforcement officer. I'm a civilian.

19 Q. All right. You're what?

20 A. I'm a civilian.

21 Q. You're a civilian even though ---

22 A. I'm a civilian evidence ---

23 Q. --- you've got on ---

24 A. --- custodian.

25 Q. --- a police uniform? Okay. Are you an employee of law

KARA BENNICK - CROSS-EXAMINATION BY MR. WISE

234

1 enforcement?

2 A. I am.

3 Q. All right. And this SLED regulation applies to an
4 employee of law enforcement, correct?

5 A. It may. Again, it's not one of my regulations.

6 Q. I didn't -- I'm not claiming it's one of your
7 regulations. I'm not even arguing that.

8 A. But I can't testify to it, sir, because I'm not familiar
9 with it in the operational standpoint.

10 Q. All right. But you're familiar with it in the sense
11 you've had some familiarity with that SLED regulation?

12 A. The only familiarity I have with SLED and their
13 regulations is when I submit evidence to them. I have a
14 standard I have to ---

15 Q. All right.

16 A. --- follow in order to submit it ---

17 Q. All right.

18 A. --- to them.

19 Q. I may be wrong, but I thought you testified a minute ago
20 that you were familiar with the regulation ---

21 A. I have ---

22 Q. --- 73-90.

23 A. I have seen it, yes.

24 Q. You've seen it?

25 A. But I would not consider myself operationally familiar

KARA BENNICK - CROSS-EXAMINATION BY MR. WISE

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1 with it.

2 Q. Well, would you agree from reading this document that you
3 have previously seen before today that it applies to any
4 employee of law enforcement in the opening sentence?

5 A. I mean, if I sat here and read the document, I might ---

6 Q. Just read the opening sentence. You don't have to read
7 much.

8 (Pause)

9 A. Yes.

10 Q. So ---

11 A. Maintain the record of chain of custody. We do that,
12 sir.

13 Q. So you are an employee of law enforcement, so this
14 document would apply to you?

15 A. Okay.

16 Q. All right. But you've had no formal training in it?

17 A. I've had formal training in evidence, yes. The standard
18 for evidence.

19 Q. You've had no formal training in the operation of South
20 Carolina Code of Regulations 73-90?

21 A. We don't call it that according to our policies and
22 procedures.

23 Q. All right. Now, you've got exhibit 15 in front of you?

24 A. No. I don't, sir.

25 Q. All right. Look at exhibit 15. All right. Does it have

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1 on there from whom this evidence was received?

2 A. No, it is not printed on here the person that it was
3 received from.

4 Q. All right. Does it have the name of the agency employing
5 the law enforcement officer from whom it was received?

6 A. No.

7 Q. Does it have the name of the original seizing officer?

8 A. No. All that's on their paperwork.

9 Q. All right.

10 A. We don't need that in testing purposes.

11 Q. You don't keep it in the chain of custody form, that
12 information?

13 A. No, because our chain of custody begins at the counter
14 when we take possession of it.

15 Q. I understand that. All right. So you've never been
16 taught that that is a requirement that you include those three
17 things on your chain of custody form?

18 A. Those three things are in our computer system. It's just
19 not printed on this document. But they are, in fact, in our
20 computer system.

21 Q. And they don't print out on this automatically?

22 A. Uh-uh (negative).

23 Q. Did you print out any of that to show it's in your
24 computer system in preparation for today?

25 A. I was not asked to.

KARA BENNICK - CROSS-EXAMINATION BY MR. WISE

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1 Q. All right. On 1/12/2021 at approximately 1:13 in the
2 afternoon it says item moved to this location, Greenville
3 Hospital PD bin.

4 A. Um-hum (affirmative).

5 Q. Who would have taken that to the Greenville Hospital PD
6 bin?

7 A. Rachel.

8 Q. Excuse me?

9 A. Rachel Richenburg.

10 Q. She would have hand delivered it?

11 A. Yes. She would have moved it from her possession to that
12 bin.

13 Q. Okay. So she would have left your -- her place of
14 employment and gone to Greenville General Hospital?

15 A. No. That bin is assigned to our -- in our staging
16 location for return to the agency.

17 Q. Gotcha. Okay. All right. And so it sat there for a
18 while. And Rachel Richenburg would have put it in that bin?

19 A. Yes.

20 Q. And then she would have eventually returned it on -- some
21 14 days later, correct?

22 A. On 2/2/21 ---

23 Q. Right.

24 A. --- she returned it to ---

25 Q. Okay. And it's not on here who it was returned to?

KARA BENNICK - REDIRECT EXAMINATION BY MR. BLOUIN

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1 A. Yes, it is.

2 Q. The ---

3 A. Right there.

4 Q. --- agency, yeah. Excuse me? Yeah, I see that at the
5 bottom. Yeah. And that's who got it back on the 12th?

6 A. Yes, sir.

7 **MR. WISE:** Excuse me a second. Okay. Thank you.

8 **THE COURT:** Redirect?

9 **Redirect Examination by Mr. Blouin:**

10 Q. The only question I just have is -- and I think you said
11 this earlier, what is your position in P&E?

12 A. I'm the manager.

13 Q. Okay.

14 **MR. BLOUIN:** No further questions.

15 **THE COURT:** All right. Thank you. You may step down.

16 **MR. BLOUIN:** And, Your Honor, at this point we're looking
17 for the chemist. We're trying to figure out where he is.

18 **THE COURT:** All right.

19 **MR. BLOUIN:** First, Your Honor, we'd just release Ms.
20 Bennick from her subpoena if ---

21 **THE COURT:** Any objection?

22 **MR. BLOUIN:** And then, Your Honor, if we could just take
23 a five minute break just to make sure we know where ---

24 **THE COURT:** Okay. All right. We're going to take --
25 we're going to take a five minute break. Don't discuss the

1 case, and we'll bring you back out in just a few minutes.

2 (Whereupon the jury exited the courtroom at 3:00 pm)

3 (Whereupon court was in recess at 3:00 pm)

4 (Whereupon State's exhibits 16 and 17 were marked for
5 identification)

6 (Whereupon court reconvened at 3:21 pm)

7 **THE COURT:** I understand y'all have who you need. Y'all
8 be seated.

9 **MR. YARBOROUGH:** Can we approach?

10 **THE COURT:** Yes.

11 (Whereupon a bench conference was held off the record)

12 (Whereupon the bench conference was ended)

13 **THE COURT:** All right. You want to put what y'all ...

14 **MR. WISE:** Yes, Your Honor. As you're aware, our -- we
15 do have a serious chain of custody argument. And in order to
16 utilize the Court's time most efficiently, what we've agreed
17 to do with consent of the State is when the SLED chemist
18 testifies we will object to the introduction of the drugs
19 subject to our prior discussion, which will be this
20 discussion.

21 And what we intend to do is then go through all of the
22 witnesses for the State and the defense. And then after the
23 jury's excused at the end of the day, then we will have the
24 serious argument on whether or not the chain of custody's been
25 proven.

1 **THE COURT:** All right. Any objection from the State?

2 **MR. BLOUIN:** I mean, the only thing is that I'm going to
3 rest after this witness and then entering in the stipulated
4 evidence.

5 **THE COURT:** All right.

6 **MR. BLOUIN:** And so I don't want to be stuck with
7 evidence hanging out there after the State rests that's not in
8 evidence.

9 **MR. WISE:** Well, I mean, if the chain of custody -- we've
10 been, you know, the chain of custody is ---

11 **MR. BLOUIN:** I'm fine with doing it that way.

12 **MR. WISE:** Right.

13 **MR. BLOUIN:** I just don't want there to be an issue
14 whereas I have rested my case, I don't have my drugs in and
15 that could potentially become ---

16 **MR. WISE:** Oh, no.

17 **MR. BLOUIN:** --- an issue later.

18 **MR. WISE:** You will have your drugs in when the -- we
19 will say objection, Your Honor, subject to our prior
20 discussion.

21 **MR. BLOUIN:** Okay.

22 **THE COURT:** Well, now am I going to admit them and then
23 they will not be ...

24 **MR. WISE:** Subject to our prior discussion, which is to
25 discuss admissibility after the -- after everybody's rested.

1 **THE COURT:** All right.

2 **MR. WISE:** It seemed like that ---

3 **THE COURT:** Well, as long as -- and if I ---

4 **MR. WISE:** If you exclude them, you know, the case is
5 over.

6 **THE COURT:** The case is over. And if I admit them, then
7 nobody, I mean, it goes forward and they're admitted into his
8 case.

9 **MR. WISE:** Right.

10 **THE COURT:** All right. As long as everybody's on the
11 same page there.

12 **MR. WISE:** Um-hum (affirmative).

13 **THE COURT:** Y'all ready because Judge Miller evidently
14 wants his witness back.

15 **MR. BLOUIN:** Oh, yes. We will work with him very fast.

16 **THE COURT:** You're a very popular individual today.

17 **MR. ARMSTRONG:** Yes, sir.

18 **THE COURT:** All right. The State's ready for the jury?

19 **MR. BLOUIN:** Yes, Your Honor.

20 **THE COURT:** Defense?

21 **MR. WISE:** Yes, sir.

22 **THE COURT:** All right. Bring the jury in.

23 (Whereupon the jury entered the courtroom at 3:27 pm)

24 **THE COURT:** All right. The State can call your next
25 witness.

1 **MR. BLOUIN:** Your Honor, at this point the State would
2 call James Armstrong.

3 **James Armstrong,** being duly
4 sworn testified as follows;

5 **MADAM CLERK:** Please have a seat. Please state your name
6 for the record.

7 **MR. ARMSTRONG:** James William Armstrong.

8 **Direct Examination by Mr. Blouin:**

9 Q. Mr. Armstrong, where are you currently employed?

10 A. I'm employed -- currently employed with the U.S. --
11 United States Marshall Service as a court security officer at
12 the Federal Courthouse.

13 Q. All right. Where were you employed in 2020?

14 A. In 2020 I was employed with the Greenville County
15 Department of Public Safety Forensics Division and Crime Lab.

16 Q. Okay. And what is your or what was your job at the Crime
17 Lab?

18 A. At that point in time I was the supervisor of the drug
19 laboratory and the firearm analysis laboratory as well.

20 Q. Okay. And what is your educational background?

21 A. I have a Bachelor of Science in Chemistry from Erskine
22 College. I've trained in the area of drug identification
23 approximately one year under the direction of the lab
24 supervisor. I've attended numerous instrumental analysis
25 schools concerning the instruments I used in my analysis.

1 I've attended multiple courses sponsored by the Drug
2 Enforcement Administration in the detection and the
3 identification of controlled substances. And I've testified
4 in federal, state and local courts at least 170 times as an
5 expert in the field of drug identification.

6 Q. All right.

7 **MR. BLOUIN:** Your Honor, at this point we'd move for Mr.
8 Armstrong to be qualified as an expert in drug identification.

9 **MR. WISE:** No objection.

10 **THE COURT:** Okay. And without objection.

11 Ladies and gentlemen, normally a person cannot testify
12 about conclusions or opinions about things. Normally a
13 witness can just testify about what they observed, heard and
14 so forth.

15 The exception to that is when somebody's been qualified
16 as an expert. And, again, your -- qualified as an expert ...

17 **MR. BLOUIN:** Drug identification, Your Honor.

18 **THE COURT:** Drug identification. And then this
19 individual has been qualified as an expert in drug
20 identification. So, therefore, he can testify about his
21 opinion based in that field based on his education, his
22 experience and training. But just like all evidence, you're
23 to give it the weight and the value that you feel is
24 appropriate. So go ahead.

25 **Direct Examination by Mr. Blouin Continued:**

1 Q. All right. Generally speaking, how does the substance
2 that needs to be tested come into your possession?

3 A. The property and evidence is a storage location, which is
4 in the basement of the law enforcement center. The officers
5 usually take the evidence down there, have it secured and
6 stored. They fill out the property and evidence sheet that
7 will establish the chain of custody.

8 And then they have to fill out a request form. That
9 request form then lets those people know that they need to put
10 those drugs or items in a specific area for the chemist to
11 come in and pick up those items to get them worked.

12 And then I would go to the property and evidence room and
13 ask them for a batch of cases to sign out. Then I would sign
14 them out from there, go to the office, inventory, then conduct
15 the examination.

16 Q. When you conduct an examination, please go through the
17 process of what you would do to do that.

18 A. When I first receive an item, I open up the envelope to
19 make sure everything that I have on the property chain is
20 actually in my custody. And then I make sure all the items
21 are sealed. If they are not sealed properly, I then have them
22 go back to property and evidence room for them to take care of
23 that situation.

24 Q. All right. And once you remove the substances from the
25 heat-sealed bags, what do you do then?

1 A. Once I remove the items from the heat-sealed bag I do a
2 -- I weigh the items of a actual substance, not any packaging,
3 just the actual substance they have. And then do a chemical
4 spot test and then perform an instrumental analysis test to
5 confirm the presence or absence of a drug.

6 Q. Okay. And what sort of scientific resources do you use
7 in order to test substances or drugs?

8 A. Well, in this case it'd been -- like our chemical spot
9 test, we use those that gives a color change to give us an
10 idea what we may have or may not have. Then from there, take
11 a small bit of the sample, dissolve it in a solvent, which we
12 then run on the gas chromatograph-mass spectrometer, which is
13 two big words to me. It's like a big oven for the first part
14 and then an identifier for the second part. It separates it
15 out in the gas chromatograph and then we detect it with the
16 mass detector.

17 **MR. BLOUIN:** May I approach the witness, Your Honor?

18 **THE COURT:** Yes, you may.

19 Q. I'm showing you what's been marked as State's exhibit 16.
20 Do you -- can you identify that document?

21 A. Yes, sir, I can.

22 Q. And what is that document?

23 A. This is a drug analysis report for the drug lab case
24 number G210045, which is the DPS case number 11 2020 349.

25 Q. Is that an accurate -- has that been altered in any way?

1 A. Not that I can tell, no, sir.

2 Q. And is that your signature at the bottom?

3 A. Yes, sir, it is.

4 Q. All right.

5 MR. BLOUIN: At this time, Your Honor, we'd move State's
6 exhibit 16 into evidence.

7 MR. YARBOROUGH: No objection.

8 MR. WISE: No objection.

9 THE COURT: Okay. No objection.

10 (Whereupon State's exhibit 16 was admitted into evidence)

11 Q. And if I may approach with ---

12 MR. WISE: Well, actually not no objection. Objection
13 subject to our prior ---

14 THE COURT: Prior? Okay. Yes.

15 MR. WISE: --- position. As we discussed earlier.

16 THE COURT: Yes.

17 Q. I'm showing you what's been marked and identified as
18 State's exhibit 13. Do you recognize that?

19 A. Yes, sir, I do.

20 Q. Okay. How do you recognize that?

21 A. This outer heat-sealed bag has my initials and the date
22 where I sealed it back after I completed my analysis. The
23 inside bag has my initials, the date and the case number that
24 corresponds with this report and a check mark that it was
25 sealed. And also has my initials, the item number and the

1 weight of the items in this bag.

2 Q. Okay. And does that correspond with this report here?

3 A. Yes, sir, it does.

4 Q. All right..

5 **MR. BLOUIN:** Your Honor, at this point we would move
6 State's exhibit 13 into evidence.

7 **MR. WISE:** Again, subject to our position earlier.

8 **THE COURT:** All right.

9 (Whereupon State's exhibit 13 was admitted into evidence)

10 Q. And can you read for the jury what State's exhibit 13 is
11 from item 1 there?

12 A. My item 1 is four bags with rock substance found that it
13 contained methamphetamine with a weight of twenty-nine point
14 six five (29.65) grams.

15 Q. All right. And are you the only one who sees this report
16 or goes over your work?

17 A. No, sir. All the reports in the drug laboratory are peer
18 reviewed by another chemist to try to eliminate any errors
19 that we may -- may have made.

20 Q. All right. And what did you do after you finished
21 testing and resealing that bag?

22 A. Once the analysis was complete, everything was sealed,
23 took the evidence back to property and evidence for storage or
24 transportation back to the agency.

25 Q. Please answer any questions the defense may have.

JAMES ARMSTRONG - CROSS-EXAMINATION BY MR. WISE

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1 **THE COURT:** Cross-examination.

2 **Cross-examination by Mr. Wise:**

3 Q. Mr. Armstrong, you've got four bags on the report?

4 A. Yes, sir.

5 Q. All right. How much did the first bag -- baggy weigh?

6 A. Well, I couldn't weigh them individually because when I
7 opened up the main container, all the bags had loose material
8 around them and it was kind of mixing, so it was a total
9 weight.

10 Q. All right. So that's not a good thing to happen, is it?

11 A. Well, when I received it, I had to -- yes, sir.

12 Q. I understand. But it's generally not a good thing to
13 happen?

14 A. Correct.

15 Q. Okay. But what you like to do is weigh bag one, ---

16 A. If they're properly ---

17 Q. --- and ---

18 A. --- closed and nothing ---

19 Q. Right.

20 A. --- escaping, yes, sir, it's ---

21 Q. What you like to do is take bag one and analyze it?

22 A. Yes, sir.

23 Q. Take bag two, weigh it and analyze it?

24 A. That's correct.

25 Q. Take bag three, weigh it and analyze it ---

JAMES ARMSTRONG - CROSS-EXAMINATION BY MR. WISE

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1 A. That's correct.

2 Q. --- the same with four, ---

3 A. That's correct.

4 Q. --- correct?

5 A. That's correct.

6 Q. And the reason is because a lot of drug dealers aren't
7 honest?

8 A. You can get different things, yes, sir.

9 Q. And they'll sell you some fake stuff, right?

10 A. (Affirmative nod).

11 Q. All right. But once you get all of it co-mingled and if
12 some true methamphetamine touches fake methamphetamine, even
13 the fake's going to test positive, isn't it?

14 A. There is a likelihood it could, yes, sir.

15 Q. Yeah. So there's no way for you to separate it once ---

16 A. No.

17 Q. --- it's all mixed together, ---

18 A. That's correct.

19 Q. --- correct? So you can't tell us that any one
20 particular bag did or did not contain methamphetamine?

21 A. Well, my -- in the case, when I received it, all four
22 would have contained because it's all mixing together.

23 Q. All right. Let me rephrase my question. If individual
24 bags had been sealed individually, ---

25 A. Correct.

1 Q. --- right, you would not -- you could have told us

2 whether or not each individual bag ---

3 A. That's ---

4 Q. --- contains meth or not meth?

5 A. That's correct.

6 Q. And if some were analyzed and didn't contain meth, then,
7 of course, the weight's off?

8 A. That's correct.

9 Q. All right. About how much do you think you used to test
10 -- did you use in your testing?

11 A. Less than a hundredth of a gram.

12 Q. There's what?

13 A. Less than a hundredth of a gram.

14 Q. Less than a hundredth?

15 A. Yes, sir.

16 Q. So basically then the only thing you can positively say
17 is less than a hundredth of a gram is guaranteed to be meth?

18 A. The items that I tested, yes, sir.

19 Q. That is correct?

20 A. That's correct.

21 Q. Okay. Thank you.

22 **THE COURT:** Redirect?

23 **Redirect Examination by Mr. Blouin:**

24 Q. When you said the bags, the original bags were leaking,
25 that would have been -- what do you mean the original four

1 bags were ---

2 A. The bags that were sealed up inside the evidence bag from
3 the agency, those bags, when they were placed in those, there
4 were some residue mixing among those ---

5 Q. Not the agency bag, but ---

6 A. Not the agency bag.

7 Q. --- with the original packaging?

8 A. The original packaging, yes, sir.

9 Q. So it wasn't packaged tightly?

10 A. Correct.

11 Q. All right.

12 **MR. BLOUIN:** No further questions.

13 **THE COURT:** All right. Thank you. You may step down.

14 **MR. BLOUIN:** Your Honor, we would release, obviously, ---

15 **THE COURT:** Right.

16 **MR. BLOUIN:** --- Mr. Armstrong from his subpoena.

17 And then, Your Honor, the last thing, per stipulation of
18 both sides, the State is going to admit State's 17 into
19 evidence, which is a affidavit of records from Captain Jinny
20 Moran as well as inmate property records for the defendant in
21 this case.

22 **THE COURT:** All right. Is that correct?

23 **MR. WISE:** Yes, that's correct, Your Honor.

24 **THE COURT:** And I guess -- all right.

25 (Whereupon State's exhibit 17 was admitted into evidence)

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1 **THE COURT:** All right. And before you close, the last, I
2 guess, three exhibits were conditionally introduced into
3 evidence and accepted conditioned upon any former -- any
4 rulings ---

5 **MR. YARBOROUGH:** Any former objection, Your Honor.

6 **THE COURT:** Yes. All right. Yes. Okay.

7 **MR. BLOUIN:** All right.

8 (Whereupon Mr. Blouin approached the court reporter)

9 **MR. BLOUIN:** Your Honor, at this point the State will
10 rest.

11 **THE COURT:** All right. Ladies and gentlemen, the State
12 has rested their case in chief. So at this time we must --
13 we're required to take a break. So if you will just go back
14 to your jury room. Do not discuss the case, and bring you
15 back out in just a few minutes.

16 (Whereupon the jury exited the courtroom at 3:39 pm)

17 **MR. WISE:** On behalf of Mr. Swaringen I would move at
18 this time for a directed verdict on several -- several grounds
19 and kind of take them in reverse order.

20 Based upon the testimony of Mr. Armstrong, I would move
21 for a directed verdict on the ground -- on the charge of
22 trafficking on the grounds that Mr. Armstrong testified the
23 only thing he can conclusively say is that that one one-
24 hundredth of a gram was methamphetamine because the others
25 were so mixed together. Whether any of them were negative, he

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1 has no clue. So I think that eliminates a trafficking charge.

2 Second, I'd move for a directed verdict on the ground
3 that I am at a loss to determine how these drugs are now
4 associated with Mr. Swaringen. Theory of a possibility coming
5 in through a black bag. Theory of possibility of being in his
6 clothes. Theory of a possibility that the items that were
7 left in the emergency room, later were obtained from somebody
8 at some time and then analyzed and come up with a report of
9 methamphetamine.

10 There's simply been no showing, particularly a
11 circumstantial evidence showing that Mr. Swaringen had control
12 of anything that might have had the drugs in it. They have no
13 DNA on the Pelican bag. They have no fingerprints on the
14 Pelican box. They have nothing to really show that Mr.
15 Swaringen had these items in his possession.

16 If the drugs were in the saddlebag, they were not in the
17 saddlebag when they entered the hospital. And Mr. Swaringen
18 was never in touch with that saddlebag until after he was
19 arrested. So it's a mystery as to how they got there. And I
20 think with all that there's just not a substantial
21 circumstantial evidence case that Mr. Swaringen's guilty of
22 anything.

23 **THE COURT:** Mr. Blouin.

24 **MR. BLOUIN:** Your Honor, as to the first. As you're
25 aware the State of South Carolina's rule on drug mixtures is

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1 that one gram of cocaine and a hundred grams of flour is a
2 hundred milligrams of cocaine. The chemist testified that he
3 weighed it, that he tested it, he tested it all at one time,
4 and it came as twenty-nine (29) grams of meth.

5 Under the law, even though his -- the sample size he
6 tested was very small, under the weight of the whole mixture
7 that he tested, that would equal twenty-nine (29) grams of
8 meth, which would reach the trafficking threshold of between
9 twenty-eight (28) and a hundred (100) grams.

10 As to the secondary argument, I believe the testimony
11 shows that Mr. Swaringen was, in fact, in a motorcycle
12 accident, that he was taken to the hospital with a black bag
13 and that his clothes and all were inventoried, including the
14 bag, at the hospital by non -- you know, by lay people, that
15 what ended up being twenty-nine (29) and change grams of
16 methamphetamine was found in clothing, which was on, you know,
17 that was found on his -- as part of his property.

18 In the light most favorable to the State, I believe that
19 there is ample evidence to show that Mr. Swaringen was in
20 either actual or constructive possession of those drugs given
21 the circumstances and the testimony of the witnesses.

22 **THE COURT:** All right. Anything further?

23 (No response)

24 **THE COURT:** I mean, I believe it's very circumstantial
25 and it's lots of good arguments that y'all are going to have

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1 in your closing, but I believe that there's enough there for
2 it to be a jury question. So I'm going to deny your motion.

3 **MR. YARBOROUGH:** You want to ask him if he wants to
4 testify?

5 **THE COURT:** Oh, okay. Yes. All right.

6 Mr. Swaringen, would you stand at this time and raise
7 your right hand. Do you solemnly swear to tell the truth, the
8 whole truth and nothing but the truth so help you God?

9 **MR. SWARINGEN:** Yes, sir.

10 **THE COURT:** All right. First of all, your name?

11 **MR. SWARINGEN:** Joseph Swaringen.

12 **THE COURT:** And how old are you?

13 **MR. SWARINGEN:** Fifty-nine.

14 **THE COURT:** And how far did you go in school?

15 **MR. SWARINGEN:** I have a GED.

16 **THE COURT:** All right. Are you under the influence of
17 any alcohol, drugs or medication today?

18 **MR. SWARINGEN:** No, sir.

19 **THE COURT:** Do you have any health or mental issues which
20 would keep you from understanding what's going on?

21 **MR. SWARINGEN:** No, sir.

22 **THE COURT:** All right. Now this is the point in time
23 where I want to discuss with you your right to testify. Do
24 you know under the Constitution you have the absolute right to
25 testify on your own behalf, but you also have the right not to

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1 testify.

2 And if you decide not to testify, then I will instruct
3 the jury that they're not to consider that at all, that that
4 is not -- that you are -- you have the right under the
5 Constitution to exercise that right not to testify, and that
6 that's not even considered as evidence because you have no
7 burden in this matter.

8 Now, if you do testify, then you would be subject to the
9 same rules of cross-examination as any witness including any
10 criminal convictions that you would have.

11 What would -- what is his record, just for the record
12 here, that he would -- could be subject to cross-examination
13 on?

14 **MR. BLOUIN:** Let's see. He has forgeries from, it looks
15 like, 2011. He's got prior drug convictions, but, obviously,
16 I think there would be an argument to keep those out. I don't
17 think there would be much as far as -- let's see, there's a
18 shoplifting from 2017.

19 And then, like I said, there's a whole bunch of drug
20 stuff, and strong arm robbery in '13, and drugs from '17, but
21 I don't think it would be relevant. Obviously, I think it
22 would be probably too prejudicial ---

23 **THE COURT:** Okay.

24 **MR. BLOUIN:** --- unless he opened the door.

25 **THE COURT:** All right. So that's kind of the information

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1 regarding -- you going to stand up and say something?

2 **MR. YARBOROUGH:** Yes. I just think he needs to
3 understand what Mr. Blouin just said. And I think -- is that
4 you could testify and there would not be -- there's not a
5 whole lot they could cross-examine you about from your past
6 because it's too old.

7 **THE COURT:** Either too old or too prejudicial.

8 **MR. YARBOROUGH:** Right. So you could testify.

9 **THE COURT:** Right. And I'm going to give you the
10 opportunity to -- all right.

11 But ultimately, you know, -- and also this may be, you
12 know, you also have a right -- it sounds like your attorneys
13 have indicated they may have additional witnesses. But any --
14 if your side puts up any evidence, you know, there's strategic
15 reasons for that, for not putting up any evidence, as your
16 attorneys will tell you, because then you get the final
17 argument. And those -- that's one of the strategic reasons.

18 But ultimately your decision to testify or not to testify
19 has to be your decision. Now you can make that decision
20 through talking with your attorneys or whoever you need to
21 talk to, but ultimately that decision is yours.

22 So usually what I like to do is before I ask you if you
23 want to testify, I'm going to give you an opportunity to
24 discuss this further with your attorneys. Would you like to
25 have a few minutes with your attorneys to discuss this?

COURT'S QUESTIONING OF THE DEFENDANT

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1 **MR. SWARINGEN:** Yes, sir, I would.

2 **THE COURT:** All right. So I'm going to give you -- we're
3 going to take a short break. And then we'll -- we'll come
4 back out and I'll ask you if you understand your rights and
5 what you want to do.

6 **MR. SWARINGEN:** Yes, sir. Thank you.

7 (Whereupon court was in recess at 3:47 pm)

8 (Whereupon court reconvened at 4:00 pm)

9 **THE COURT:** All right. Mr. Swaringen, -- okay. Now as I
10 talked to you before we went on break, you -- I explained to
11 you what your rights were about testifying and that you have
12 the right not to testify and gave you an opportunity to
13 discuss that -- your options with your attorneys. Have you
14 had sufficient time to discuss with your attorneys whether you
15 want to testify or not?

16 **MR. SWARINGEN:** Yes, sir, we discussed it.

17 **THE COURT:** All right. And do you want to testify?

18 **MR. SWARINGEN:** I'm not sure, Your Honor.

19 **THE COURT:** All right.

20 **MR. WISE:** What we've discussed is we're going to be
21 running close to 4:15, 5:30. If he testifies it'll be about
22 30 minutes, 40 minutes. But can he just wait and think about
23 it overnight?

24 **THE COURT:** All right.

25 **MR. WISE:** Because it won't interfere that much with ---

LISA EDMONDS - DIRECT EXAMINATION BY MR. WISE

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1 **THE COURT:** Okay.

2 **MR. WISE:** --- what time we get out of here.

3 **THE COURT:** All right.

4 **MR. WISE:** Thank you.

5 **THE COURT:** All right. Are we ready for the jury?

6 **MR. YARBOROUGH:** Yes, sir.

7 **THE COURT:** The State ready?

8 **MR. BLOUIN:** Yes, Your Honor.

9 **THE COURT:** All right. Bring the jury in.

10 (Whereupon the jury entered the courtroom at 4:03 pm)

11 **THE COURT:** All right. As you will recall, ladies and
12 gentlemen, the State has rested their case. And now the
13 defense may call your first witness.

14 **MR. WISE:** We call Ms. Lisa Edmonds.

15 **THE COURT:** Ms. Edmonds, come around. And I'll remind
16 you that you've previously been sworn. So that still is in
17 effect.

18 **MS. EDMONDS:** Absolutely.

19 **Lisa Edmonds,** having been
20 previously sworn testified as follows;

21 **Direct Examination by Mr. Wise:**

22 Q. I apologize for having to make you come back, ---

23 A. That's okay.

24 Q. --- one little thing we missed. Do you remember
25 testifying in this matter before back on June 7th of this

LISA EDMONDS - DIRECT EXAMINATION BY MR. WISE

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1 year?

2 A. I'm sorry?

3 Q. June 7th of this year, testifying earlier?

4 A. Whenever -- if it was June 7th, ---

5 Q. Right.

6 A. --- you bet.

7 Q. Okay. I'm going to ask you to look at page 31. And just
8 read it to yourself right now, and I'll ask you a question
9 about it. When you get through reading the entire page, let
10 me know.

11 (Pause)

12 A. Okay.

13 Q. Okay? Does that refresh your memory as to where you
14 found the drugs?

15 A. In the black bag, I assume. Yes.

16 Q. And you testified earlier they were in little plastic
17 bags inside the black bag?

18 A. I don't believe so.

19 Q. Well, look at line ---

20 A. I see that, but I ---

21 Q. And your answer was yes?

22 A. I'm not sure if they were black bags. It was inside a
23 black bag, ---

24 Q. No, ---

25 A. --- but I'm not sure I ---

1 Q. Bad question again. All right. Your previous testimony
2 was that the little plastic bags were inside ---

3 MR. BLOUIN: Your Honor, I ask that he not lead the
4 witness. He's ---

5 MR. WISE: Okay.

6 Q. According to your testimony from June of this year,
7 looking at line 15 through 17, what do you know about where --
8 what was found inside the black bag?

9 A. What I see here is that I didn't understand the question.
10 And you said, were they loose? And I say, I -- I didn't
11 understand the question.

12 Q. Um-hum (affirmative).

13 A. Then you asked, little black -- little plastic bags? And
14 I said, yes.

15 Q. Correct. And where were the little plastic bags,
16 according to your testimony?

17 A. Inside the black bag.

18 Q. Okay. And -- all right. Do you recall whether or not
19 they were readily visible?

20 A. Meaning?

21 Q. Seeing real easily.

22 A. Difficult for me to say. You know, a year and a half
23 ago. So when you go through belongings, sometimes there's
24 lots of things, sometimes there's few things.

25 Q. All right. Do you know who carried the black saddlebag

1 out of the emergency room? Do you remember that?

2 A. Not at all.

3 Q. Okay. Thank you very much.

4 **THE COURT:** Cross-exam?

5 **MR. BLOUIN:** Nothing from us, Your Honor.

6 **THE COURT:** All right. You may step down.

7 A. Thank you.

8 **MR. WISE:** Yes, she can be excused.

9 **MR. BLOUIN:** Okay.

10 **THE COURT:** All right.

11 **MR. WISE:** We're definitely now ---

12 **THE COURT:** All right. You may be excused.

13 **MR. WISE:** We've got one witness took a smoke break a
14 while ago.

15 **THE COURT:** Okay.

16 **MR. YARBOROUGH:** We call Kelly Burnette.

17 **MADAM CLERK:** Place your left hand on the Bible and raise
18 your right hand.

19 **Kelly Burnette**, being duly
20 sworn testified as follows;

21 **MADAM CLERK:** Please have a seat. Please state your name
22 for the record.

23 **MS. BURNETTE:** Kelly Burnette.

24 **Direct Examination by Mr. Yarborough:**

25 Q. Ms. Burnette, were you -- did you see a wreck back in

1 November of 2020?

2 A. Yes, sir.

3 Q. Okay. And where were you when that wreck took place?

4 A. I was beside the Walgreens right there on White Horse
5 Road.

6 Q. Okay. And did -- what was that -- what was that wreck?
7 Was there a motorcycle in the ---

8 A. A car and a motorcycle.

9 Q. Okay. And did you -- did you sit over there and watch?

10 A. I did for a little bit. Just to see what was going on.
11 Because I didn't know with it being a motorcycle accident,
12 that can be pretty bad sometimes.

13 Q. Right. Did you -- did you happen to see the ambulance
14 guys working on the guy from the motorcycle?

15 A. Yes. There were several people out there.

16 Q. Okay. And as you watched did you see a ---

17 **MR. BLOUIN:** Your Honor, we'd object to leading.

18 Q. Did you see what some of the ambulance people were doing
19 on the side of the road?

20 A. There were -- like I said, there were several people out
21 there, but they were just mainly going around just picking up
22 stuff, putting it back in the bag or whatever ---

23 Q. Okay.

24 A. --- and working on, you know, some of them were working
25 on him. And that's about it.

1 Q. Okay. But you -- you saw somebody picking up stuff and
2 putting it ---

3 A. They were picking up several things off the road, yes.

4 Q. Okay. And that looked like a saddlebag, is that right?

5 A. It was a black bag.

6 Q. Okay. You don't know what a saddlebag is, do you?

7 A. I do know what a saddlebag is.

8 Q. Right. But could you tell if it was a saddlebag?

9 A. I couldn't tell that.

10 Q. Were you too far apart -- too far away?

11 A. Well, yeah, I was across the road.

12 Q. All right. But you did see the ambulance out there?

13 A. Yes, I did.

14 Q. Okay. And did you see the ambulance take the motorcycle
15 guy away?

16 A. No. I left before then.

17 Q. Okay. But you just saw the ambulance out there ---

18 A. I -- yes.

19 Q. Seen him out there picking up stuff?

20 A. Yes.

21 Q. Okay. Thank you.

22 A. You're welcome.

23 **MR. YARBOROUGH:** No further questions.

24 **THE COURT:** Cross-examination.

25 **Cross-examination by Mr. Blouin:**

KELLY BURNETTE - CROSS-EXAMINATION BY MR. BLOUIN

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1 Q. Ms. Burnette, my name is Hunter Blouin.

2 A. How are you?

3 Q. Do you know the defendant?

4 A. I've came to know -- of him, yes.

5 Q. Okay. How do ---

6 A. I'm sorry. I mean, he's -- like he -- I work down the
7 street from there. And he had been in my work a couple of
8 times, but, I mean, I didn't know that was him or anything
9 like that. But ...

10 Q. Okay. Do you know the defendant's wife?

11 A. I do now.

12 Q. Okay. Did -- so where were you standing when this all
13 occurred?

14 A. When it occurred -- I was pulling into the Walgreens.

15 Q. All right. And you must not have been there for very
16 long?

17 A. No. I had just -- like I seen it, and then I pulled -- I
18 was pulling in, then the wreck happened. And I sat there for
19 just a few minutes, and then I left.

20 Q. Okay. And during that period of time the only thing that
21 you remember seeing is EMS guys messing with a black bag?

22 A. No. There were several people out there running around
23 and people were picking stuff up off of the ground. So it
24 wasn't the only thing that I remember, no.

25 Q. Okay. And how far would you say the Walgreens is from

KELLY BURNETTE - CROSS-EXAMINATION BY MR. BLOUIN

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1 where the wreck occurred? I mean, we talking like this close?

2 We talking maybe ---

3 A. Probably back just a little bit more.

4 Q. Like to the windows back there?

5 A. Not to the windows.

6 Q. Okay. And was White Horse Road busy?

7 A. I really don't remember to be honest.

8 Q. White Horse Road ---

9 A. White Horse Road stays busy.

10 Q. Yeah, White Horse Road ---

11 A. Most of the time.

12 Q. --- is typically busy, ---

13 A. Yes.

14 Q. --- a lot of people coming and going?

15 A. Yes.

16 Q. All right.

17 **MR. BLOUIN:** No further questions.

18 **THE COURT:** Any redirect?

19 **MR. YARBOROUGH:** No further questions.

20 **THE COURT:** All right. You may step down.

21 **MR. YARBOROUGH:** She can be excused.

22 A. Can I go all the way out? I can ---

23 **THE COURT:** Yes, you can leave.

24 A. Okay. Thank you.

25 **MR. YARBOROUGH:** Yeah, can she be released, Your Honor?

CHRIS KLACZKO - DIRECT EXAMINATION BY MR. YARBOROUGH

1 **THE COURT:** Yes, she's fine.

2 A. Thank you.

3 THE COURT: Without objection. All right.

4 MR. YARBOROUGH: One second.

5 THE COURT: Okay.

6 MR. YARBOROUGH: We call Chris -- let me just grab --

7 Chris Klaczko. We'd call Chris Klaczko.

8 **MADAM CLERK:** Place your left hand on the Bible and raise
9 your right hand.

10 Chris Klaczko, being duly
11 sworn testified as follows:

12 **MADAM CLERK:** Please have a seat. Please state your name
13 for the record.

14 MR. KLACZKO: Chris Klaczko.

15 Direct Examination by Mr. Yarborough:

16 Q. Chris, where -- where are you employed?

17 A. I'm at Harley Davidson of Greenville.

18 Q. Okay. And have you worked there for a while?

19 A. I've been here at this location for three years.

20 Q. And what about before that?

21 A. In and out of the Harley World since about '94.

22 Q. Okay. And you -- you and I have talked a lot about these
23 bags that are on the side of motorcycles, right?

24 A. Yes, sir.

25 Q. Okay. And if -- these bags are like -- describe the bag

1 for me, will you?

2 A. It's probably not going to be -- it's what we call throw-
3 over bags. They're not ---

4 **MR. BLOUIN:** Your Honor, I object. They have no
5 foundation of what he's talking about.

6 **THE COURT:** Yeah. You've got to lay a foundation.

7 **MR. YARBOROUGH:** Okay.

8 Q. What kind of bags do y'all sell?

9 A. There's several different types of bags, okay? You have
10 what's called a throw-over bag.

11 Q. Right.

12 A. It's a bag that actually goes under the seat of the
13 motorcycle.

14 Q. Right.

15 A. They can detach on the outside of being strapped to the
16 seat. These particular bags do not.

17 Q. Okay.

18 A. They also have a hard mounted bag. So it could be any
19 hard shell, sometimes UV coated leather look and stuff like
20 that. And also maybe like an ABS plastic, you know, color
21 matched and stuff like that to the -- to the color of the
22 bike.

23 Q. Okay. Can I show you a picture of a bag?

24 A. Yeah.

25 **MR. BLOUIN:** Your Honor, can I see that picture real

1 quick?

2 **THE COURT:** Hasn't one been introduced?

3 **MR. YARBOROUGH:** Sure. I think there's one in evidence

4 ---

5 **THE COURT:** Well, let's use the one in evidence unless
6 you want to ---

7 **MR. YARBOROUGH:** That's fine if you know the number. I
8 was just trying to move things along.

9 **THE COURT:** Well, but we still have to identify by the
10 exhibit number.

11 **MR. BLOUIN:** They're all over there. Looks like it's
12 number 11.

13 Q. Let me show you that picture that's been previously
14 marked as exhibit 11. Do you recognize a bag like that?

15 A. Yeah, it's a River Road bag. It's a -- it's one of our
16 lower end -- well, it's not something that we even carry.
17 It's not a Harley bag.

18 Q. Okay. But if you open that bag is it -- does it have
19 compartments or is it just have -- is it just open?

20 A. No, as this flap opens up, the studded flap, it --
21 obviously you see buckles here. It's unbuckled. You would
22 open it up, it'd be one whole compartment.

23 Q. It'd just be one whole compartment ---

24 A. One whole compartment, yes, sir.

25 Q. There wouldn't be parts in there or anything, it'd just

1 be one compartment ---

2 A. No, unless something was added after the fact. I highly
3 doubt it.

4 Q. Okay. And ---

5 A. I mean, and I can't ---

6 Q. And that bag is -- it buckles? Is that what it does? It
7 buckles?

8 A. Yes, sir. It's kind of like the theory of a belt. So
9 you basically have the straps that come down, obviously the
10 holes in the straps, and it buckles like a belt.

11 Q. Okay.

12 **MR. YARBOROUGH:** No further questions. Thank you.

13 **THE COURT:** Cross-examination.

14 **Cross-examination by Mr. Blouin:**

15 Q. Mr. Klaczko, you were not present at the scene of this
16 accident?

17 A. No, sir.

18 Q. And, if I may, you have never examined this bag itself,
19 have you?

20 A. No, sir.

21 Q. You've never seen this bag?

22 A. I've seen the bag, not that bag.

23 Q. Okay. You've seen a bag like this. So you can't tell if
24 anything was done to the bag like you testified earlier?

25 A. No.

CHRIS KLACZKO - CROSS-EXAMINATION BY MR. BLOUIN

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1 **MR. BLOUIN:** No further questions.

2 **THE COURT:** All right. Any redirect?

3 **MR. YARBOROUGH:** One second.

4 (Pause)

5 **MR. YARBOROUGH:** No further questions. Thank you, Your
6 Honor.

7 **THE COURT:** All right. You may step down. Any objection
8 to him being released?

9 **MR. YARBOROUGH:** No -- no objection, Your Honor.

10 **THE COURT:** Counsel, can y'all approach so we can discuss
11 timing here?

12 (Pause)

13 **THE COURT:** Come on, Mr. Yarborough.

14 **MR. YARBOROUGH:** Sorry.

15 (Whereupon a bench conference was held off the record in
16 the presence of the jury, but out of their hearing)

17 (Whereupon the bench conference was ended)

18 **THE COURT:** All right. We're trying to figure out the
19 schedule here.

20 So we will -- we've got some few things that we've got to
21 go over. So what I'm going to have y'all do is come back at
22 10:00 in the morning. And then we will be -- we'll finish the
23 case tomorrow.

24 At some point we'll present it to you. We'll have
25 closing arguments, and we'll have any additional evidence that

1 may be presented in the morning, and then we'll have closing
2 arguments and I'll charge you the law. And then at that point
3 you can begin your deliberation.

4 In the meantime, my four rules, I know you're getting
5 tired of them, do not discuss the case among yourselves or
6 with anyone else. Don't do any type of research about the
7 case. Do not pay any attention to any media coverage or
8 social media. And if anybody discusses -- contacts you other
9 than somebody from the clerk's office, please let the bailiffs
10 know. Otherwise, I'll see you in the morning at 10:00. All
11 right. Y'all have a good evening.

12 (Whereupon the jury exited the courtroom at 4:20 pm)

13 **THE COURT:** So do we want to -- do we want to do any --
14 present arguments?

15 **MR. WISE:** You know, I'm -- on my chain of custody?

16 **THE COURT:** Yeah.

17 **MR. WISE:** I think we do, yes, sir.

18 **THE COURT:** All right. Let's go ahead. I mean, it's
19 twenty after. Let's go ahead -- that way we can get that --
20 this stuff ---

21 **MR. WISE:** Right. And if you want to think about it
22 overnight, ---

23 **THE COURT:** Yeah.

24 **MR. WISE:** --- overnight.

25 First of all, Your Honor, the testimony in this case was

1 very, very clear when Mr. Yarborough asked the question twice
2 of Mr. Miller, did you take the drugs out of the emergency
3 room when he left? He twice said, no.

4 We don't know from that -- after that when he went and
5 got them, whose possession they were in during that period of
6 time be it 30 minutes or three hours. The only thing we know
7 is he had the drugs when he put them in the bin or locked box
8 at the hospital. We don't know when that was, what time that
9 was. Clearly he had it then.

10 That situation, Your Honor, is the same description as to
11 what happened in State versus Pulley where the drugs were on
12 the hood of a car, everybody leaves the scene, the drugs are
13 still on the hood of the car and nobody knew how the drugs got
14 to the Laurens Sheriff's -- or Sheriff's -- or Police
15 Department.

16 And the South Carolina Supreme Court threw that case out
17 because they didn't prove the chain of custody. And that's
18 the same thing here. We've got a gap here of anywhere from
19 who knows how long from the time ---

20 **THE COURT:** Well, hold on just a minute. In Pulley,
21 though, they said there was a gap, but they said there was no
22 evidence of who actually delivered the drugs from the scene to
23 the locked box.

24 **MR. WISE:** Right.

25 **THE COURT:** Which is -- we have evidence here that says

1 who took the drugs and delivered it to the drop box.

2 **MR. WISE:** No, we don't. We have -- we have evidence
3 that Mr. Miller left the drugs in the emergency room because
4 that's what he said twice. So we've got drugs sitting in the
5 emergency room. Bay 1 or bay 2, there's some confusion on
6 that.

7 The next thing we have is at some time he's putting the
8 drugs in a locked box at the hospital. There is a gap of who
9 knows how long where they're unaccounted for. He didn't
10 testify, yes, I left them there, I left them in a secure
11 location and then I came back with a proper bag an hour and a
12 half later and got them.

13 Nobody from the emergency room testified, yes, he left
14 them with me. I had them in my secure possession until he
15 came back. There is a gap there of who knows how long where
16 nothing happened.

17 I mean, we don't know who's in charge of the drugs. Mr.
18 Miller walked away from them. We know that because that's
19 what he testified to. No one testified they were responsible
20 for watching it until he came back. No one testified he came
21 back. No one testified to anything about it except he says he
22 then put them in a locked box at the hospital. So, you know,
23 that's -- there's several chain of custody problems here.

24 Secondly, under the code section, that Your Honor has a
25 copy of, that says law enforcement must comply with these

1 regulations. It doesn't say they're advisory. They don't
2 say, you know, hope they do. They're regulations on their
3 face, which I think I gave the Court a copy of evidence
4 custodian, but I'll pass one up.

5 **THE COURT:** I got the seizing officer ---

6 **MR. WISE:** The seizing -- this is the evidence custodian.

7 **THE COURT:** 73-90.

8 **MR. WISE:** Both of them say this applies to any law
9 enforcement officer. That's not just to SLED. It applies to
10 any law enforcement officer.

11 And quite clearly the forms that have been submitted in
12 this case to show a chain of custody do not, even in the 50
13 percent range, comply with the regulations that SLED has
14 imposed. And these regulations are imposed for one purpose
15 and one purpose only, to guarantee that the right stuff gets
16 to the right people in the right way, so that no mistakes are
17 made.

18 And if you don't comply with them, and the statute says
19 must, I don't think this Court has an alternative but to say
20 the chain of custody is insufficient very similar to the SLED
21 regulations involving the Datamaster. SLED has regulations on
22 that. If you don't comply with them, Datamaster doesn't come
23 in.

24 **THE COURT:** Yeah, but isn't -- there's case law that says
25 -- do you have a case law that says that failure to apply by

1 -- abide by these SLED regulations, then that means that
2 destroys the ---

3 **MR. WISE:** Well, I ---

4 **THE COURT:** --- chain of custody?

5 **MR. WISE:** I would contend I have something a little
6 better than case law, I have a statement from the legislature
7 where the statute says you must comply with it. Because
8 that's the opening line -- opening sentence of that statute
9 saying you must comply. And must doesn't need much case law
10 to say must means ---

11 **THE COURT:** No, but it doesn't say whether that voids the
12 chain of custody. That's just -- I think that you're making
13 an assumption there myself.

14 **MR. WISE:** I understand what you're saying now. But I
15 think when you look at the word must, it doesn't mean it's
16 advisory.

17 **THE COURT:** Right. So what is the repercussion if they
18 fail to do it? Are they subject to ---

19 **MR. WISE:** There's only one. If you don't comply with
20 the statute, it gets suppressed. I think that's the only ---

21 **THE COURT:** Well, couldn't that very easily -- couldn't
22 the legislature very easily have put that in there as well?

23 **MR. WISE:** They could have.

24 **THE COURT:** If that was their intent?

25 **MR. WISE:** Well, I would assume if the legislature used

1 the word must, their intent was must.

2 **THE COURT:** To suppress it? I mean, I guess, you know,
3 ...

4 **MR. WISE:** There's no discretion there. But clearly
5 those regulations apply to this case because it applies to all
6 law enforcement. And they didn't comply with it.

7 Clearly there's a big gap in what happened to the drugs.
8 We don't even know, I mean, we don't -- we have the drugs
9 being given to a third party, a security officer who has never
10 come in and said I didn't change anything. And it was given
11 to him.

12 It was out of the control of one of the EMS people. He
13 opened it and looked at it. So he's in the chain of custody.
14 And yet he has not come in and said I didn't put anything in
15 it, you know, or whatever. So, again, there are a lot of gaps
16 in the chain of custody in this case. And I think you should,
17 you know, suppress it.

18 The form they introduced, I forget what the number was,
19 12, I believe, or 15, clearly doesn't comply with those
20 requirements of SLED. And if must doesn't mean must, I think
21 you're right it goes for the Court's consideration. But when
22 they say must, I don't think it's -- only one definition of
23 the word must.

24 **THE COURT:** But you're jumping from must to the fact that
25 I must -- I don't see I must suppress it. That's what --

1 that's what I'm missing here.

2 **MR. WISE:** I understand that. But what other remedy is
3 there? To ---

4 **THE COURT:** Well, if that was the intent of the
5 legislature wouldn't the legislature have put it in there?

6 **MR. WISE:** Not necessarily. Not necessarily at all. But
7 I think they were ---

8 **THE COURT:** Isn't that the whole -- isn't legislative
9 intent that that's what you're supposed to put in there?

10 **MR. WISE:** If the legislature had meant for them to be
11 advisory, the legislature would have used the word advisory.
12 And they didn't.

13 **THE COURT:** All right. Well, here's this. How about
14 this, though? How about who came up with the regulatory --
15 who came up with the regulations? The legislature didn't do
16 the regulations.

17 **MR. WISE:** SLED did.

18 **THE COURT:** Right.

19 **MR. WISE:** And the legislature authorized SLED or
20 required SLED to come up with the regulations in the statute.

21 **THE COURT:** Yeah.

22 **MR. WISE:** And so that's part of the must.

23 **THE COURT:** So SLED could have come up with anything, say
24 they're not even reasonable, and you're saying, therefore, the
25 Court would have no discretion because of that must language

1 in there just because SLED came up with it.

2 **MR. WISE:** I'm saying precisely that. But, having said
3 that, if this Court finds these regulations unreasonable, then
4 we can cross that bridge. But none of these are unreasonable.

5 **THE COURT:** Yeah.

6 **MR. WISE:** Or unable to be complied with. They're pretty
7 -- to me, they're pretty basic.

8 **THE COURT:** I mean, in looking at -- yeah, they're very
9 basic and very detailed. And it's just like -- I'm just
10 surprised that that's -- there's not a -- I mean, these came
11 out, what, 1992 ---

12 **MR. WISE:** Ninety something, yeah.

13 **THE COURT:** And there's -- so -- and there's never been a
14 suppression case 'cause I'm sure you would have it right there
15 with you if it was.

16 **MR. WISE:** I don't think there have been any cases one
17 way or the other.

18 **THE COURT:** Yeah. So -- all right.

19 **MR. WISE:** But they're pretty clear on the face to me.

20 **THE COURT:** All right. Mr. Blouin.

21 **MR. BLOUIN:** Your Honor, I will address the first issue
22 with Officer Miller. You know, all due deference to Mr. Wise,
23 I believe there was also testimony that he received the
24 contraband directly from Ms. Edmonds, and that it was in his
25 possession, and that he put it in the lock box.

1 There is an idea of a gap, this idea of a gap, -- I know
2 there was some questions about when he came and picked up the
3 black bag, but I do not believe that there was any issue of
4 him saying, no, I left contraband sitting in the emergency
5 room.

6 I believe he testified to -- now, maybe -- maybe there's
7 something that they can harp on closing, but I do think that
8 there's evidence on the record that he testified to he
9 received it from Ms. Edmonds and that he put it into the
10 locker. So I think that would satisfy that level of the
11 chain. There's no sort of put it down. There was no sort of
12 mystery where is it?

13 As to the statutory argument, Your Honor, you know, for
14 what it's worth, I believe what the defense is doing is almost
15 making like a Pseudo-Chisholm argument, basically saying that
16 if it's not on the blue sheet of paper, then it must be
17 suppressed. Well, if you take all of the documents together
18 from the Greenville Health System, both their incident reports
19 and the sheet of paper, it makes a complete chain.

20 So in other words, Mr. Wise is basically saying, well
21 because it's not all on the blue sheet of paper, but some of
22 it's on the white sheet of paper, then that means it should be
23 suppressed. You know, case law, since these regulations have
24 come out, you know, State v. Carter, State v. Taylor and
25 State, you know, Hatcher, we have found evidence inadmissible

1 only where there is a missing link in the chain of possession
2 because the identity of those who handled, and this is Carter,
3 blood was not established, at least as far as practical.

4 Your Honor, we have produced every single link in the
5 chain. I believe the spirit of that regulation was so that
6 defense counsel would have in writing every link of the chain
7 so that it would be known to them. Through discovery, through
8 sheets they have been apprized of every single link of the
9 chain and have had the opportunity to cross-examine every
10 single link of that chain.

11 **MR. WISE:** And ---

12 **MR. BLOUIN:** And -- I'm sorry.

13 **MR. WISE:** I thought you were ---

14 **MR. BLOUIN:** And basically under Mr. Wise's argument
15 based on his question of the paramedic, every single case in
16 Greenville County should be dismissed because they do not
17 follow to the letter of the law what SLED does, but they have
18 their own policies and procedures, which, Your Honor, I'm sure
19 SLED's aware of and if they have a problem with it, would
20 correct the issue. But SLED clearly doesn't have a problem
21 with it.

22 You know, they've run the same thing for decades. And,
23 you know, Your Honor, -- and even then I don't believe the
24 correct remedy would be then to suppress the case. I think it
25 would be more in align to say as a drug, turning in a search

1 warrant ten days late or after ten days, you know, suppression
2 of the search warrant isn't the valid remedy or, you know,
3 turning in a search warrant returned to the wrong magistrate,
4 not necessarily the valid remedy.

5 So we would just say that, you know, Your Honor, if you
6 look at the totality that the chain was complete, that while
7 it wasn't all on the one form that it was in writing, those
8 other bits of information, that information was available to
9 the defense, was released to the defense beforehand and so
10 that they had an opportunity to know every link of that chain
11 and where those drugs went from step A to step B to step C.

12 **MR. WISE:** Just briefly.

13 There is evidence Mr. Miller left the emergency room
14 without any of the drugs, or the bag or the little black box.
15 It's on the video. Mr. Yarborough asked him, did you have it
16 in your hands? Miller, no, I did not. That's on the video.
17 This is not -- that's not a factual dispute. That's
18 conclusive. We never had any testimony of when it came back.

19 Secondly, for them to argue that SLED has no objection to
20 Greenville County's method of doing things is assuming a fact
21 not in evidence. There's no testimony from SLED. There's no
22 testimony from any witness that what we do has been approved
23 by SLED.

24 Now, you know, the requirements in the -- I think in the
25 lab, while they don't comply with the statute either, they are

1 much closer than the documents from the hospital.

2 And as far as not doing an inventory within ten days as
3 required with a search warrant, that doesn't go to the
4 integrity of the evidence. Failure to abide by the chain of
5 custody goes to the integrity of the evidence. Not returning
6 it within ten days is basically a procedural issue. These are
7 not procedural issues. These are things designed to protect
8 the integrity of the evidence.

9 **THE COURT:** All right.

10 **MR. BLOUIN:** Just briefly, Your Honor. As to the whole
11 he didn't have it on video, of course not because we have in
12 evidence the stipulation that the hand-off between Ms. Edmonds
13 and the officer did not occur on the video. They stipulated
14 to it in evidence. We've mentioned it multiple times.

15 And then, you know, as far as the idea that, well, the
16 lab didn't quite -- but it's not as bad, I mean, it's either
17 all or nothing. I mean, he can't -- there's not degrees of
18 this. If it's all there -- and like I said, I would say that
19 all, you know, per case law, all of the individuals in the
20 chain had been identified. They were all available to the
21 defense. And the defense had all of them prior to trial. And
22 they all testified and had a chance to be cross-examined. I
23 think that that under Taylor and others forms a complete
24 chain.

25 **MR. WISE:** On the video, the stipulation was the cameras

1 inside the trauma bay were not operating. And that's correct.
2 So there's no transfer of anything there. But clearly there
3 was video camera working, people coming into and out of the
4 emergency room or trauma bay.

5 And I assume that if we'd seen -- if such a video
6 existed, the person who was designed or were told to go get
7 the evidence would have also preserved that video, but they
8 didn't. So we have a void of Mr. Miller coming back to the
9 emergency room to pick up anything.

10 **THE COURT:** Well, but -- yeah. And ---

11 **MR. WISE:** And if it's not there, it's certainly not our
12 fault because they're the ones that messed it up. And I don't
13 think we can be punished for that.

14 **THE COURT:** Well, -- and this is the way I looked at the
15 evidence on that. I mean, because I was making a little chart
16 as you were -- they were testifying and all.

17 But we're clear, although, it's not supported by the
18 video. He clearly testifies -- Ms. Edmonds testifies, I have
19 it, I gave it to Miller. Miller says, I took it from Miller,
20 I mean, I took it from Edmonds. And at some point -- and at
21 what point, I don't know. That is I don't know. But then he
22 takes it and puts it in the box.

23 I think that, you know, and I'm looking at the -- I've
24 looked at the Pulley case beforehand. And it says that, you
25 know, where multiple people have handled it -- they quote

1 Sweet, that the identity of the individuals who've acquired
2 the evidence was done with evidence between -- no, that's not
3 it.

4 Proof of chain of custody need not negate all possibility
5 of tampering so long as a chain of possession is complete.
6 And I think we have testimony that that makes it complete.

7 Now, there's a lot of -- I think y'all have some
8 arguments, you know, maybe to this jury and maybe to the Court
9 of Appeals. But I believe that there's a -- that this is not
10 the prettiest case of chain of custody.

11 So, you know, on that basis I'm going to deny that. I
12 think that the, you know, the totality of all the documents
13 either comply or substantially comply with the regulations.
14 So I'm going to deny your motion to suppress for chain of
15 custody.

16 **MR. YARBOROUGH:** Your Honor, based on your ruling, we'd
17 ask that you consider a charge to the jury that the State has
18 the burden of proving the chain of custody in this case, and
19 if that chain of custody is not proven beyond a reasonable
20 doubt to them, then they're -- they're required to return a
21 verdict of not guilty.

22 **THE COURT:** Okay. Do you have such a charge to present?

23 **MR. WISE:** I've got one I can send ---

24 **MR. YARBOROUGH:** We'll get you one, yeah.

25 **MR. WISE:** It's based upon language out of -- I ---

1 **THE COURT:** That's fine. Just -- okay. If y'all have
2 any charges, then y'all need to submit those this evening if
3 possible.

4 **MR. WISE:** I'll submit it -- I'll submit it to everybody
5 this evening.

6 **THE COURT:** Okay. All right.

7 And then first thing we're going to do in the morning is
8 start off and decide whether Mr. Swaringen's going to testify.
9 And then we'll have -- or, I guess, -- first we'll start about
10 the -- well, we'll discuss -- let's discuss the charge at
11 9:00.

12 **MR. WISE:** 9:00?

13 **THE COURT:** Yeah.

14 **MR. WISE:** Okay.

15 **THE COURT:** And then we can go on the record at 9:30 with
16 putting anything on him. And then if we need to start, you
17 know, any additional testimony, the jury will be ready to go
18 at ten. If not, we can argue and charge at ten.

19 **MR. WISE:** Okay.

20 **THE COURT:** All right?

21 **MR. BLOUIN:** Thank you, Your Honor.

22 **MR. YARBOROUGH:** Thank you, Your Honor.

23 (Whereupon court was in recess at 4:41 pm)

24 **Wednesday, June 29, 2022:**

25 (Whereupon court reconvened at 9:53 am)

1 **THE COURT:** Okay. We had the charge conference,
2 discussed the charge. And I've got my law clerk emailing it
3 to both of y'all so y'all can have it and review.

4 And I'll let y'all put whatever you need to on the record
5 here, but in the charge conference I advised that I would be
6 charging the one sentence about the amount, that one -- I
7 can't remember how -- let me pull that up. All right. The
8 portion added recommended by the State about determine the
9 weight of controlled substance. I've added that.

10 I have denied the request to charge about controlled
11 substance. And upon further review I am not going to be
12 charging lesser included. It's just -- I figure it's just all
13 or nothing on that.

14 And, again, -- so -- and I've also got the verdict forms.
15 I want y'all to look at those. And then y'all -- I want y'all
16 to put whatever y'all feel on the record. And these are
17 copies for you. That's your -- you can take that copy.

18 **MR. WISE:** Okay.

19 **THE COURT:** All right. So with that being said, from the
20 State, anything you want to put on the record?

21 (Pause)

22 **THE COURT:** Does the State -- anything the State wants to
23 put on the record?

24 **MR. BLOUIN:** Nothing, Your Honor.

25 **THE COURT:** All right. Yes, I'll be glad to hear from

1 the defense.

2 **MR. WISE:** First off, I had sent the Court a request to
3 charge on chain of custody.

4 **THE COURT:** You know, I printed that out, too.

5 **MR. WISE:** Okay. Just need to mark that as a Court's
6 exhibit for purposes ---

7 **THE COURT:** I think -- all right. Yeah, let me go grab
8 that right quick.

9 **MR. WISE:** All right.

10 And, secondly, I'd also requested in chambers you
11 substitute the word defendant for Joey Swaringen in your -- in
12 your jury charge because he is the defendant.

13 **THE COURT:** Right.

14 **MR. WISE:** He is the person on trial. And to me it
15 communicates to the jury that all this applies to him
16 individually and not some generic defendant.

17 **THE COURT:** Yeah. I mean, and I appreciate your position
18 on that, but I'm -- I'm just going to stick to the tried-and-
19 trues, so to speak.

20 **MR. WISE:** Okay.

21 And, of course, we'd object to not charging simple
22 possession.

23 **THE COURT:** Okay.

24 Here's the -- you want to just mark that, then. Make

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1 sure that's the one that you're referring to.

2 **MR. BLOUIN:** Your Honor, just quickly, do you send the
3 indictment back with the jury ---

4 **THE COURT:** No.

5 **MR. BLOUIN:** --- or not? Okay. Just wanted to make
6 sure.

7 **THE COURT:** I just send the verdict form.

8 **MR. BLOUIN:** That's perfect.

9 (Pause)

10 (Whereupon Court's exhibit 4 was marked)

11 **MR. YARBOROUGH:** Can we discuss ---

12 **THE COURT:** Yes, okay.

13 Mr. Swaringen, if you'll -- all right. You're already
14 under oath from yesterday, but, you know, one of the
15 discussions we had is an important decision for you to make is
16 whether you want to testify or not. Okay.

17 First of all let me ask you again to make sure that --
18 you know. Are you under any influence of any alcohol or drugs
19 this morning?

20 **MR. SWARINGEN:** No, sir.

21 **THE COURT:** You have any health or mental issues which
22 would keep you from understanding what's going on?

23 **MR. SWARINGEN:** No, sir.

24 **THE COURT:** All right. So you understand your Fifth
25 Amendment right that you have the right not to testify and

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1 that cannot be used against you?

2 **MR. SWARINGEN:** Yes, sir.

3 **THE COURT:** Okay. And I know you've had plenty of
4 opportunity overnight to discuss with your attorneys. Have
5 you had all the time you need to discuss with your attorneys
6 whether you should testify or not?

7 **MR. SWARINGEN:** Yes, sir.

8 **THE COURT:** Okay. And ultimately, again, you can have
9 the advice from them, or family members, or whoever, but
10 ultimately the decision is yours. And so you understand your
11 rights?

12 **MR. SWARINGEN:** Yes, sir.

13 **THE COURT:** Okay. And what do you wish to do?

14 **MR. SWARINGEN:** I'm not going to testify.

15 **THE COURT:** Okay. And is that your decision?

16 **MR. SWARINGEN:** Yes, sir.

17 **THE COURT:** And nobody's forcing you to make that
18 decision?

19 **MR. SWARINGEN:** No, sir.

20 **THE COURT:** And you're doing that freely and voluntarily?

21 **MR. SWARINGEN:** Yes, sir.

22 **THE COURT:** All right. Then I find that it is an
23 appropriate waiver of your right to testify and to exercise
24 your constitutional rights. All right.

25 Anything else from the defense?

1 **MR. YARBOROUGH:** Your Honor, in discussing last night
2 with Mr. Swaringen his rights not to testify he asked me to
3 put on the record -- I think ---

4 **MR. WISE:** We were going to get that as soon as we make a
5 motion for a directed verdict.

6 **MR. YARBOROUGH:** Okay. Yeah -- okay.

7 **MR. WISE:** We haven't made the motion for a directed
8 verdict ---

9 **THE COURT:** Oh, okay. That's true. That's right.

10 **MR. WISE:** What he's going to bring up is included in
11 that.

12 **THE COURT:** Okay. Okay. Well, then let's -- that's
13 right because -- I guess then y'all have rested then?

14 **MR. WISE:** Right.

15 **THE COURT:** Okay.

16 **MR. WISE:** Well, we haven't rested in front of the jury
17 ---

18 **THE COURT:** Right. And we'll let you -- well, and do
19 you, I mean, and then what we can -- what we can do is bring
20 the jury out and then y'all want to rest on the record? And
21 then we'll immediately go into -- and I'll tell them that it's
22 time for closing arguments?

23 **MR. WISE:** Well, we've got to make our motion ---

24 **THE COURT:** That's right.

25 **MR. WISE:** --- for a directed verdict.

1 **THE COURT:** Okay. See, that's why we should have done
2 all this yesterday. But, anyway. Okay.

3 **MR. WISE:** And we can do it now and then formally rest in
4 front of the jury, too.

5 **THE COURT:** I mean, I'd hate to bring them out here for
6 just ---

7 **MR. WISE:** I agree.

8 **THE COURT:** --- just to say -- I mean, I think that's
9 going to agitate them, ---

10 **MR. WISE:** I agree.

11 **THE COURT:** --- quite frankly.

12 **MR. WISE:** And our basis for a directed verdict is
13 basically the same as we had made yesterday. And we
14 incorporate all those arguments ---

15 **THE COURT:** And you can sit down for this, Mr. Swaringen.

16 **MR. WISE:** We have two additional things. First of all,
17 we think the failure to comply with the statute ---

18 **THE COURT:** Oh, before we do that, just for the record,
19 the State has rested, I mean, the defense has rested.

20 **MR. WISE:** That's correct.

21 **THE COURT:** All right. Okay.

22 **MR. WISE:** Two additional grounds from yesterday, and we
23 incorporate all of them from yesterday, too, when the
24 legislature passes law that says you must do something, we
25 think it's a denial of due process of law for evidence to be

1 introduced that did not fully and completely comply with the
2 statute and the regulations that were promulgated through the
3 statute. That's the Due Process Clause under both the
4 Fourteenth Amendment of the United States Constitution and the
5 State Constitution.

6 Secondly, based upon the testimony of the chemist
7 yesterday, when he said the only thing he can really say is
8 that the one one-hundredth of a gram is meth, and he said
9 because of the way they were packaged he's unable to tell if
10 any of the other bags were not meth because they all got co-
11 mingled, that creates a real problem as to whether or not the
12 State has proven at least twenty-eight (28) grams of
13 methamphetamine. If just one of those bags is not meth, and
14 we have no way of knowing, no way, then that's a directed
15 verdict of not guilty because they haven't proved twenty-eight
16 (28) grams.

17 And I think that chemist did not testify beyond a
18 reasonable doubt there was twenty-nine (29) grams or at least
19 twenty-eight (28) grams of methamphetamine in those bags
20 because he had no way of knowing because they were co-mingled.
21 So if you just take out one bag, they haven't met the
22 indictment.

23 **THE COURT:** Mr. Blouin.

24 **MR. BLOUIN:** Your Honor, obviously the law says that any
25 sort of mixture of substances, if it contains meth, it's all

1 meth. The State would say that the chemist testified to his
2 sheet that says that there were twenty-nine (29) and change
3 grams of meth, which would have exceeded the twenty-eight (28)
4 grams, in the light most favorable to the State.

5 Also, he didn't testify that there were any other
6 substances that were located, you know, in any bags that he
7 tested or the bags that he tested.

8 So we believe that we have met, in the light most
9 favorable to the State, our burden as far as overcoming
10 directed verdict.

11 **THE COURT:** All right. And, again, just like yesterday,
12 I feel like this is an issue -- I'm going to let the jury make
13 the decision of that. So ...

14 **MR. WISE:** All right.

15 **THE COURT:** Did you have something else?

16 **MR. YARBOROUGH:** Yes, sir, Your Honor. In talking to Mr.
17 Swaringen last night about him testifying, he has asked me
18 repeatedly to put on the record that the tapes or the videos
19 from the hospital that were destroyed or taped over that are
20 part of the stipulation, Mr. Swaringen believes, and I really
21 -- I understand where he's coming from, that if there was a
22 videotape of when the bag was searched by the security guard
23 coming into the ambulance, that if they would have had that
24 videotape and that videotape would not have been destroyed or
25 -- or the camera wasn't working, that was such strong and

1 meaningful evidence that this Court wouldn't be moving forward
2 at this time.

3 And so Mr. Swaringen's asked me to make a motion that the
4 case be dismissed based on the fact that exculpatory evidence
5 was either destroyed or -- or it ---

6 **MR. SWARINGEN:** That camera was working.

7 **MR. YARBOROUGH:** Yeah.

8 **MR. SWARINGEN:** That camera worked.

9 **MR. YARBOROUGH:** It -- there's an argument that that
10 camera was working at that point and that that evidence has
11 since -- it's part of the stipulation that that evidence was
12 destroyed or was not available.

13 **MR. BLOUIN:** And, Your Honor, just in response, and this
14 kind of goes back to the suppression hearing when Al Harrison
15 initially testified. He based his -- basically pulling from
16 the server to the recording based off of incident reports. He
17 didn't destroy any video. He just in his own kind of job
18 authority said, okay, we've taken him in here, and he stopped
19 that video recording at a certain point.

20 The State hasn't destroyed any evidence. The State
21 doesn't know of any exculpatory evidence. The State hasn't
22 spoliated any evidence. It's just based on the fact that that
23 evidence didn't exist based on his original testimony and then
24 kind of going into that stipulation that there was not saved
25 video and that that could have potentially contained relevant

1 information, which obviously they're able to argue about.

2 **THE COURT:** I mean, don't you have to have something a
3 little more -- I mean, I understand your position. But don't
4 you have to have something more -- some kind of evidence to
5 show that something else happened to it?

6 **MR. YARBOROUGH:** What our position is is that on that
7 night that officer made a decision not to save that video and
8 that the value of that video at this point is so important and
9 so obvious to anybody, that law enforcement searching the bag
10 before the bag comes into the hospital, he believes that that
11 would exculpate -- I can't even use the right ---

12 **THE COURT:** Exculpate.

13 **MR. YARBOROUGH:** Exculpate him without any -- without any
14 question. We wouldn't even be moving forward. I mean, at
15 that point this Court would have directed a verdict in our
16 favor.

17 And so he says that minutes -- minutes later Edmonds
18 searching that bag -- well, minutes, it's probably ten or 15
19 minutes later, but she searches that bag. So you've got the
20 bag being searched by security, by security, which was the
21 testimony, which -- that the bag was open, it was searched by
22 security, and 15, 20 minutes later Ms. Edmonds finds a bag --
23 we're assuming that's the same bag that was searched, and if
24 that videotape would have been available from the search --
25 the jury could see that at that point -- the jury would know

1 that the -- he didn't have any drugs when he came in because
2 he never touched the bag again.

3 **THE COURT:** Well, first of all, does that argument change
4 when -- I mean, is this security law enforcement? And is that
5 the state at the time?

6 **MR. YARBOROUGH:** Okay. The testimony was that the
7 security was by -- security -- Mr. Harrison's security
8 company. So it was their security. They were ---

9 **THE COURT:** American -- I think he testified it was
10 American Security.

11 **MR. YARBOROUGH:** American Security.

12 **THE COURT:** Which is the same people downstairs.

13 **MR. YARBOROUGH:** Right.

14 **THE COURT:** No, they're not -- they're not law
15 enforcement.

16 **MR. YARBOROUGH:** Right. But they -- and I've -- I've
17 discussed that with Mr. Swaringen. Mr. Swaringen and I have
18 talked about it.

19 And he says -- but it -- they're not law enforcement, but
20 they are trained to search by SLED and they're trained to
21 search. That's what they're hired to do.

22 And they opened the bag. They looked, and they sent the
23 bag on in. And, you know, at that point there weren't any
24 drugs in it.

25 **THE COURT:** Well, I mean, don't you have -- you have

1 testimony that they searched the bag.

2 **MR. YARBOROUGH:** I've told him we have -- but what his
3 point is, and I don't disagree with him, that if that tape was
4 available, that tape would be so beneficial to him, that at
5 that point the -- you know, you wouldn't even be sending this
6 to the jury because you would say, okay, I see a tape of this
7 bag being searched. Where, Mr. Blouin, has that bag ever been
8 touched by Mr. Swaringen again? Because it hasn't been. It
9 never was touched by him again. There's no testimony that he
10 ever had a bag in the hospital.

11 **THE COURT:** No, no, I don't think -- I mean, I agree with
12 you, but, I mean, obvious -- whether that tape is in or not
13 you still have testimony that the bag was searched and nothing
14 was found at that time.

15 **MR. YARBOROUGH:** Right. We do have ---

16 **THE COURT:** So what would -- the tape is just, you know,
17 additional evidence of that.

18 **MR. YARBOROUGH:** Well, the tape -- yeah. But the --
19 okay. If you had -- if you had a DUI and you've got a stop,
20 and law enforcement testifies that this is what happened on
21 the side of the road, South Carolina has gone and said, you
22 know, look, you've got to save the tape, you've got to follow
23 the rules, you've got to do all those things. It's the same
24 thing here.

25 And in this case it was not the decision of the security

1 -- it wasn't the decision of the security guard there to not
2 save the tape, it was the -- it was the decision of Mr.
3 Harrison, who is the subject of the stipulation.

4 **THE COURT:** Anything else, Mr. Blouin?

5 **MR. BLOUIN:** Nothing from the State, Your Honor.

6 **THE COURT:** All right.

7 **MR. YARBOROUGH:** The only thing, he ---

8 **THE COURT:** Yeah.

9 **MR. YARBOROUGH:** He does want me to point out, you know,
10 this is a video world. This would -- people -- the jury would
11 understand that. And we think that evidence is so important
12 that it should have been saved and by not saving it it has
13 significantly prejudiced his case.

14 **THE COURT:** And I believe it's -- like I said, I think
15 it's ---

16 **MR. YARBOROUGH:** In violation of Due Process. Thanks,
17 Mr. Wise.

18 **THE COURT:** I think, you know, I mean, I totally -- I
19 understand where you're coming from, but I feel like at most
20 it's cumulative. And, I mean, y'all are going to argue they
21 didn't -- they didn't find it, so it wasn't there.

22 And I'm sure the State's going to argue, well, just
23 because they looked in it doesn't mean it wasn't there. And
24 that video does not change either of that. So I'm going to
25 deny your request of dismissal on that basis.

1 **MR. YARBOROUGH:** Thank you, Your Honor.

2 **THE COURT:** All right. Is the State ready?

3 **MR. BLOUIN:** The State is ready to proceed, Your Honor.

4 **THE COURT:** And the defense is ready?

5 **MR. WISE:** Defense is ready, Your Honor.

6 **THE COURT:** All right. And just to make sure because I
7 -- funny you get asked this every trial it seems like. I
8 mean, we're still under the process. The State goes first,
9 defense goes and then the State ---

10 **MR. WISE:** The State's required to open fully on the law
11 and the facts.

12 **THE COURT:** Right.

13 **MR. WISE:** Right.

14 **MR. BLOUIN:** And then I would get a reply since they've
15 put up ---

16 **THE COURT:** Exactly.

17 **MR. BLOUIN:** --- a case.

18 **THE COURT:** Right. Just making sure because that gets
19 questioned almost every trial even though it's like -- nothing
20 ever really changes except for about a month.

21 **MR. BLOUIN:** It took me still about three and a half
22 years to figure it out.

23 **THE COURT:** Yeah. All right. Ready for the jury?

24 **MR. BLOUIN:** Yes, sir.

25 **THE COURT:** Oh, when the jury comes out -- oh, well, any

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1 reply testimony? I mean, any reply evidence?

2 **MR. BLOUIN:** No, Your Honor.

3 **THE COURT:** All right. When the jury comes out do you
4 want me to just tell them that y'all've rested?

5 **MR. WISE:** We can do -- formally rest, makes no
6 difference. And I'm probably going to just say I renew our
7 motions as previously ---

8 **THE COURT:** Okay.

9 **MR. WISE:** --- discussed just so that that motion is
10 technically made after we rested.

11 **THE COURT:** All right.

12 **MR. WISE:** The attorney general's picky about that.

13 (Whereupon the jury entered the courtroom at 10:13 am)

14 **THE COURT:** All right, ladies and gentlemen. I hope
15 everybody had a good evening. And I know we're running a few
16 minutes late. And I apologize for that. Some things we had
17 to get -- to go over.

18 Defense? Mr. Wise?

19 **MR. WISE:** Defense rests, Your Honor.

20 **THE COURT:** All right. Any additional ---

21 **MR. WISE:** I don't know if the State has any reply.

22 **MR. BLOUIN:** No reply from the State, Your Honor.

23 **THE COURT:** Okay.

24 **MR. WISE:** And we'd renew our motions as we discussed
25 earlier.

1 **THE COURT:** All right.

2 **MR. WISE:** Thank you.

3 **THE COURT:** All right, ladies and gentlemen, the -- all
4 the evidentiary phase of the trial is over. So what that
5 means is you have gotten all of the evidence that you'll be
6 getting to make your decision, okay?

7 And so at this point we will have closing arguments by
8 the attorneys. And I -- I'll remind you, as I said earlier,
9 closing arguments is not evidence. That's merely the argument
10 that the counsel makes about the evidence. Ultimately you're
11 the ones to determine what that evidence means based on the
12 law.

13 Then when the attorneys -- the State will open. They'll
14 have the opening argument. Then the defense will have their
15 argument. And the State has a brief reply based on the
16 defendant's argument.

17 At that -- then at that point I will charge you on the
18 law. And then I'll go back and discuss the -- you can
19 deliberate the case.

20 And this is something I forgot about, but we need to make
21 arrangements for lunch.

22 **THE BAILIFF:** I have the ---

23 **THE COURT:** See, they're already -- okay. We'll make
24 arrangements for lunch so that y'all can continue
25 deliberations or at least eat here, you know, in the jury

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1 room.

2 So with that being said, I will now turn it over to
3 counsel for their closing arguments. Mr. Blouin.

4 **MR. BLOUIN:** May it please the Court, Your Honor?

5 Once again, my name is Hunter Blouin. And as I've
6 introduced myself twice before and you've heard during this
7 trial, I represent the State of South Carolina in the State
8 versus Joseph Swaringen.

9 Now, when I came to you the first time I said the State
10 had to prove three fundamental elements in this case. That,
11 one, Mr. Joseph Swaringen, two, possessed, either actually
12 possessed or constructively possessed, and as the Judge will
13 tell you when he goes through his charges, that means like
14 dominion and control, whether he had control over, and, third,
15 that over or between twenty-eight (28) and one hundred (100)
16 grams of methamphetamine.

17 Now, I'm going to get into, you know, the State's proof
18 of those things. But first I kind of want to take y'all from
19 a thirty thousand (30,000) foot view of what exactly has been
20 going on.

21 What are the facts that both sides really have no
22 argument about? The first is on November 18th of 2020 that
23 Mr. Swaringen was riding a motorcycle on White Horse Road,
24 that the State's witness, Katlin Glenn, ultimately hit Mr.
25 Swaringen from behind, Mr. Swaringen wasn't wearing a helmet,

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1 that he sustained some sort of injury to his head. We've
2 heard from multiple witnesses about Mr. Swaringen's injuries
3 and that EMT or, you know, was the first first responders on-
4 scene.

5 So then he gets taken to the hospital along with his
6 personal effects; a black saddlebag. And once he's in the
7 hospital, those items get carried into the trauma bay.

8 Now once they get to the trauma bay -- we've heard from
9 the State's witness, Lisa Edmonds. And Ms. Edmonds stated
10 that, you know, they do an inventory search of everyone's
11 property.

12 And why do they do an inventory search? It is for the
13 protection not only of Prisma to make sure that there's not
14 like illegal things that are coming into the hospital, but
15 also for the protection of the patients because they carry
16 sometimes large amounts of money, they carry valuables, they
17 have things, you know, on them that they need to put in safes
18 to make sure that they document what's going on so that they
19 cannot be accused later of taking things. It's a way to
20 document what comes in because people come into the emergency
21 room in different states.

22 The fact is that Ms. Edmonds found what she believed to
23 be contraband. So she did what she's trained to do. She
24 called the law enforcement.

25 Now, what did law enforcement do? Law enforcement

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1 basically took the contraband from Ms. Edmonds, secured it
2 until they could take it to a lab in order to test it. And
3 that contraband has been secured from this point forward.

4 Now, in the opening and throughout this case the defense
5 has used the word chaos a lot. They said, well, there's
6 chaotic situations. You know, at the scene of a wreck there's
7 a lot of chaos. At the hospital there's a lot of chaos going
8 on. And that's true. Those are chaotic situations.

9 But we also heard from witnesses who are trained to deal
10 with such chaotic situations. EMTs, when they respond to
11 emergencies, always enter into or very often enter into
12 chaotic situations.

13 You know, you saw video from the hospital. Sure, there
14 are a bunch of people coming in and out of that trauma bay
15 because in an emergency room there are chaotic situations and
16 that individuals are trained to deal with those.

17 Now, one thing I want you to keep in mind is I don't want
18 you to take the chaos and let the defense manufacture chaos.
19 Don't let them manufacture chaos that doesn't exist.

20 And ask yourself why would they want to manufacture
21 chaos? And ultimately is -- that is because they want to
22 distract you. They want you over here instead of seeing the
23 facts of the case as they were presented.

24 So I'm going to start off with the very beginning and I'm
25 going to walk you through the witnesses and what they

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1 testified to. Now, one very important fact, you get that
2 evidence back with you in the jury deliberation room. If you
3 have questions about what a witness testified to, or you don't
4 remember exactly what someone testified to, you can look at
5 everything, you can hold certain things, you can, you know,
6 use certain things and manipulate certain things.

7 If there are questions about what was going on on video,
8 you can ask to have the video replayed. You can also ask to
9 have testimony reheard. So understand that you are going to
10 have control over this evidence if you have any questions.
11 But I'm going to start by taking you back to the beginning.

12 First, we had Ms. Katlin Glenn. She came in here and
13 said, yes, on that night I was driving. I had five kids in my
14 car, and a motorcycle pulled out in front of me, and I hit
15 him. Did she know Mr. Swaringen? Absolutely not. Never seen
16 him before in her life.

17 What did she do? She did what any sort of person caught
18 in that situation would do. She jumped out of the car and she
19 wanted to make sure that he was all right. Now, why would she
20 do that? Because she'd just hit a guy on a motorcycle and
21 she's driving a car.

22 What did she testify to? That he tried to get up and
23 leave, and that her and another woman had to physically
24 restrain him. I believe she said he tried to get up and run
25 away three times until first responders came.

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1 Now ask yourself, what reason does Ms. Glenn have to lie
2 about that? She admitted to hitting him. There's no question
3 about that. She cooperated with law enforcement. She pulled
4 off to the side of the road when law enforcement asked her to.
5 Law enforcement let her go home.

6 I think she was asked, well, did you get charged with
7 anything? And she was like, yeah, reckless driving. What
8 reason does she have to tell an untruth? Because as the
9 arbiters of the facts, it is your job to give different
10 weights to different testimony. You use your -- you -- sorry
11 -- your all's -- you all's decision to believe or not to
12 believe to different standards to each person's testimony.

13 Well, then we have Michael McKnight and Alex Henry.
14 Those are the two EMTs you heard -- well, EMT and paramedic
15 you heard from. You heard from Mr. McKnight first. We got a
16 call sitting at the QT that there was a wreck on White Horse
17 Road. We responded.

18 Mr. Swaringen was sitting on the side of the road. What
19 was beside him? A black saddlebag. Well, what was he like?
20 He was agitated. He did not want to go to the hospital.
21 Well, what was going on? Well, he had a cut on his head. He
22 was in a motorcycle accident with a car while he was on a
23 motorcycle. We eventually talked him into going to the
24 hospital. Okay.

25 What happened to the bag? Well, we take personal items

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1 with -- or with someone with them to the hospital. Why?

2 Because what else are they going to do? Just leave them on
3 the side of the road?

4 Alex Henry basically said the same thing. That Mr.
5 Swaringen was conscious. He did not want to go to the
6 hospital. And he changed his mind.

7 Now, I would argue that at that time people start to show
8 up, you know. It's time to go to the hospital. He's got a
9 head injury. They put him on the stretcher. They take his
10 saddlebag and off he goes.

11 Now the defense also had a witness, a lady who said that
12 she was standing at the Walgreens, I believe she said
13 somewhere between the door and the witness stand. And, you
14 know, she couldn't have been watching very long because even
15 the witnesses, Ms. Glenn as well as EMT, said they weren't
16 there very long, a few minutes. Took a few minutes to get
17 there, a few minutes to leave, you know.

18 Their witness said, well, I saw it happen. And, you
19 know, I saw someone's, you know, the EMTs putting stuff into a
20 black bag. Was she able to identify it as the saddlebag? No,
21 she was not. She actually said she -- it was just a black
22 bag. They were asked, was it a saddlebag? I don't know.

23 So then you get to the defense's case. So they're going
24 to say to you, well, it's possible on White Horse Road after
25 this wreck that someone took, turns out to be a bunch of meth,

1 you know, it's got value to it, and walking down the road --
2 no one's in trouble, you know? No one's under arrest. There
3 aren't police everywhere. And just decided, you know what I'm
4 going to do? I'm going to slip this into this person here's
5 random bag on White Horse Road and, you know, just leave it
6 there and walk off. Ladies and gentlemen, that's outrageous.
7 That's not reasonable. People don't do that.

8 They're going to take this, like I said, just random
9 individual on busy White Horse Road? There was testimony
10 there was a bunch of people around. And we're going to just
11 clandestinely walk up to a person who's just been on a
12 motorcycle accident, is being held down, and then first
13 responders come, and we're just going to slip it in? No,
14 ladies and gentlemen, that's not reasonable.

15 And even then, well, it's possible the EMT decided to put
16 the meth in the bag. I mean, you know, why not? Once again,
17 outrageous. These aren't law enforcement officers. These
18 aren't -- these are people who are doing their job. These are
19 people who are responding to an accident and trying to make
20 sure that Mr. Swaringen gets to the hospital with a possible
21 head injury.

22 But we're going to believe that they're just like, well,
23 you know, I got this meth on me right now. And it's just --
24 it's just that time. So I'm just going to slip this in here.
25 And, you know, hate it for him. That's outrageous. That's

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1 not reasonable.

2 They take Mr. Swaringen to the hospital. There Michael
3 McKnight and Alex, you can see it on video, they take him into
4 the trauma bay. Mr. McKnight testifies that the bag was still
5 in the EMS truck, that I went and later got it. Why? Because
6 he can't hold onto personal effects. Took it to the trauma
7 bay.

8 Well, it was searched first by American Security, who are
9 not law enforcement, who don't have -- we don't know what sort
10 of training he has. We don't know if it was wanted. They're
11 looking for weapons a lot of the time. They didn't find any
12 drugs there. And took it into the trauma bay and then they
13 left.

14 Once again, he said the bag didn't look like it had been
15 messed with. It was in the same place it was when they
16 brought Mr. Swaringen into the hospital.

17 Again, we had Lisa and Ms. Edmonds, Ms. Lisa Edmonds.
18 And she said, well, this is part of my job as I stated
19 earlier. It is my job to go through everybody's possessions
20 to make sure that those are documented because people come
21 into emergencies -- room.

22 They're going to be taken out of trauma and be taken for
23 other tests. So we want to make sure because, you know, we've
24 got to take everybody's clothes off when they come to the
25 emergency room to get access to everything and to diagnose

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1 injuries and to take x-rays. And so we scribe it out and we
2 document it.

3 And we want to make sure, if there's a bag, which you can
4 see on the video Mr. McKnight brings in, and got to make sure
5 we document all this because, A, if there's something valuable
6 in it, if there's cash in it, if there's money in it, I think
7 she actually used like an Apple watch example, we want to lock
8 it up in the safe.

9 She doesn't know Mr. Swaringen. Never seen Mr. Swaringen
10 before in her life. She has no reason to make up the fact
11 that she found contraband. I believe when they recalled her
12 she stated they'd found contraband in -- in the black
13 saddlebag. Once again, it goes to why would Ms. Edmonds --
14 what purpose would Ms. Edmonds have in lying about that?

15 She then calls the law enforcement officer, Deputy
16 Miller. Or not Deputy Miller, I'm sorry, Officer Miller.
17 Officer Miller comes and picks up the contraband, the
18 methamphetamine and also a Pelican case.

19 Now what did he do during this entire investigation?
20 This isn't like, you know, looking at TV shows like Cops or
21 different other TV shows where there is a police investigation
22 that involves like pulling someone over, searching vehicles,
23 search warrants. None of that happened.

24 At the point that Officer Miller became involved, the
25 drugs had already been found. His job was to document what

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1 had been found, take pictures of it, they're all here for you
2 to look at and put it in a secure lock box. Lock box number
3 6, which once he turns the handle it cannot be opened except
4 by the evidence custodians. Now why is that? That's to make
5 sure that what was found remained in the same condition as
6 when he put it in there.

7 And then what happened? Officer Keiper says that the
8 next morning he's got one of two keys to the lock box, unlocks
9 it, there's some stuff in there, picks it up, takes it to the
10 secure property and evidence room, documents things in his
11 report and on the evidence sheet and puts it behind lock and
12 key.

13 And what does he mean by lock and key? He means by lock
14 and key that you have to use a fingerprint identification to
15 get through door number one. And only two people's
16 fingerprints work. And then if you manage to get through door
17 number one, there's a steel cage. And only two people have a
18 key, him and then a major.

19 That he then just transported that to Greenville Property
20 and Evidence, the County Property and Evidence where there's
21 more security measures. Everything's on video, steel doors,
22 all sorts of things before the chemist tests it.

23 Now what did the chemist testify to? That the scientific
24 methods he used involve weight, spot test, and then he puts it
25 basically in a big, you know, his sample in a big oven that

1 heats it up, burns it off so then another instrument can read
2 what it is. And, ladies and gentlemen, as you can see, per
3 his report, twenty-nine point six five (29.65) grams of
4 methamphetamine right here.

5 Now defense is going to argue, well, it's not all meth.
6 It doesn't have to be all meth. He just tested a small
7 amount. Well, once again, I'm going to have to ask you to use
8 common sense based on what the chemist testified to.

9 He puts the sample in a big oven. If he tested the whole
10 -- put the whole thing in the oven, then we wouldn't have
11 anything left to show you because it would all be burned up.

12 And as the Judge will tell you, under South Carolina law,
13 if there is a mixture of stuff, meth and something, that under
14 South Carolina law that is all meth. And that meth weighed
15 two hundred and sixty-five (265) grams.

16 And it is a -- kind of clear, crystalline substance.
17 That is why it's called crystal meth. You may hear it called
18 clear. You may hear it called ice because this is what meth
19 looks like. It looks like little chunks of ice.

20 Now, I entered something into evidence at the end of the
21 day, which you didn't get to look at, but, once again, we put
22 it into evidence so that you can look at it later in the day
23 or when you deliberate. And this is the affidavit of the
24 records custodian at the jail where Mr. Swaringen's property
25 was located. I would point your attention to the bottom,

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1 black saddlebag. It's his bag and his clothes.

2 So I say all this to say don't let the existence -- don't
3 let the defense manufacture chaos beyond what actually
4 happened. And here's what happened. Mr. Swaringen was riding
5 his motorcycle down White Horse Road. He didn't know he was
6 going to get hit by a car. No one knows when they're going to
7 get in a wreck. He got hit -- he got hit and thrown off his
8 bike, hit his head.

9 He tried to run. Why would you try to run? I don't
10 know. Twenty-nine point six five (29.65) potential reasons
11 why you might want to leave that scene.

12 He then didn't want to be transported to the hospital.
13 Why not? Get out of there. He got transported to the
14 hospital. He agreed, you know. Troopers started showing up.
15 Police. Agrees to get transported.

16 And why is that? Because he didn't think his stuff was
17 going to get searched when he went to the hospital. And now
18 he is throwing everything against the wall and saying, well,
19 possibly someone planted it here. It's possible someone
20 planted that there. It's outrageous.

21 My job as the prosecutor is to prove the elements beyond
22 a reasonable doubt. And it is not reasonable under these
23 circumstances to believe that anyone other than Joseph
24 Swaringen right there had possession and control of those
25 drugs.

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1 Were they in his hand? No. He was riding a motorcycle.
2 Hands were full. Were they in his bag? Per the testimony you
3 heard yesterday, yeah. He didn't believe he was going to get
4 caught. He got caught. And now he wants to blame any other
5 possible reason why you shouldn't convict him.

6 But he is guilty of trafficking between twenty-eight (28)
7 and a hundred (100) grams. And I'm going to ask you to come
8 back with a verdict of guilty against Mr. Swaringen for
9 trafficking between twenty-eight (28) and a hundred (100)
10 grams. Thank you.

11 **MR. WISE:** Madam Forelady, ladies and gentlemen of the
12 jury, when you go into your jury room and you say to yourself
13 or among yourselves, when you start discussing this case, if
14 you say, you know, Joey Swaringen's probably guilty, he
15 probably had those drugs in his -- in that black saddlebag,
16 and he's probably guilty, what should your verdict be? Your
17 verdict should be not guilty.

18 Because when we talk about proof beyond a reasonable
19 doubt, we're not talking about what probably happened. We're
20 not talking about what could have happened or what might have
21 happened. We're not even talking about what possibly
22 happened. It is the highest standard known to man short of an
23 absolute certainty. It is that standard when we brag about
24 our criminal justice system to people around the world that we
25 point out.

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1 Now people have said that's for the protection of the
2 defendant. No, it isn't. In part, yes, but not entirely.
3 It's for the protection of the jury. Because when the burden
4 is that high, a juror doesn't go along and say to themselves a
5 week later or two weeks later, you know, I thought about it a
6 little more, and I'm not so sure I made the right decision.
7 When it is that clear, then -- that it's proof beyond a
8 reasonable doubt, you can put your head on the pillow at night
9 and sleep with a clear conscience because that is the standard
10 that this -- the State has to meet in this case because it's a
11 serious thing.

12 The Judge told you in opening that we talk about
13 preponderance of evidence in a civil case, when you want to
14 take somebody's money. That you can have a little doubt
15 about, but still preponderance of evidence is a much lower
16 standard.

17 When the State of South Carolina wants to take someone's
18 child from them, they have to do it by clear and convincing
19 evidence, which is higher than preponderance. And beyond a
20 reasonable doubt is even beyond clear and convincing evidence.
21 And that's the standard that has to be met in this case as to
22 everything the State is required to prove to secure a
23 conviction.

24 There's a -- in football season, if you watch enough
25 football, they always have instant replay. And as the

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1 announcers get ready to do an instant replay, they always say,
2 well, you know, there has to be irrefutable evidence that the
3 call on the play -- on the field is wrong. Irrefutable
4 evidence.

5 And they'll show that replay, and show that replay, and
6 show that replay, and they'll talk about it. Well, that's
7 close. I don't know. Yeah, but is there enough to overturn?
8 Well, I don't know. You know how those discussions go. And
9 then they'll keep constantly saying irrefutable evidence,
10 irrefutable evidence.

11 In this courtroom the call on the field is not guilty.
12 So the question is has the State produced irrefutable evidence
13 that the call on the field is wrong? And let's analyze what
14 they claim is irrefutable evidence to show that that call is
15 wrong.

16 The State's case, to be successful, should be clear,
17 concise and convincing. Instead what we have here is a
18 calamity of chaos and confusion. And it is not manufactured
19 chaos and confusion. It is chaos and confusion created by the
20 State's witnesses themselves.

21 And this confusion starts at the very, very beginning.
22 They bring in a witness that says Joey's trying to leave. I
23 went and sat on him. Me and another person sat on him to make
24 sure he couldn't leave. First, I don't know of anybody at any
25 accident that I've ever heard of went and sat on somebody

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1 because, one, if you're injured, you don't want to sit on
2 them. All right? That's just ludicrous. Oh, he was trying
3 to leave, so we sat on him.

4 What does EMS say? Joey was sitting there on the curb.
5 All Right? Like somebody's supposed to do. He wasn't getting
6 up running. He wasn't picking up a bag and running away. He
7 was sitting there on the curb.

8 They asked about going to the hospital. He said, no.
9 But he wasn't leaving. EMS says he's sitting there. If he
10 wanted to leave, he could have been long gone. All Right?
11 But he's sitting there.

12 And I think that's probably a prudent thing to do, let
13 EMS come check you out. If they find something really wrong,
14 then, yeah, we're going to the hospital. If they don't find
15 anything wrong, he didn't want to go to the hospital. They
16 finally talked him into going. But he was sitting on the curb
17 is what EMS tells us. And that's probably what happened. All
18 Right?

19 Then a witness says he saw a thing, you know, somebody
20 putting something in a black bag. Was it a black saddlebag?
21 Don't know. They didn't know. Doesn't change the fact that
22 that was observed there at the scene. That is something that
23 you have to consider.

24 And somebody was doing that when the ambulance was there.
25 The ambulance people admitted that they had spent a great -- I

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1 mean, not a great deal of time, but took them a few minutes to
2 get there. They had their backs turned to where the bag was
3 several times and all this. And they eventually get Joey to
4 go into the ambulance.

5 But here's an important thing, Joey doesn't insist the
6 bag go with him. I mean, the motorcycle's there. The bag
7 could go with the motorcycle. He doesn't sit there and say,
8 oh, I got to have the bag. I got to have that bag. No, no.
9 They bring it, you know, basically assuming it's his. You
10 know, they put it in the ambulance with him.

11 Now, here's the key. When that bag was finally taken out
12 of the ambulance after sitting -- sitting in the back for a
13 while and brought into the hospital, there is absolutely no
14 question that bag was searched. There's no question about
15 that. The guy has one job, search items coming into the
16 hospital, go make sure nothing illegal gets in. It's his only
17 job.

18 It's not a busy night. We saw, I think, one other
19 person, maybe, in there. But there aren't people in both
20 trauma bays. It's not that busy a night. I think the -- Ms.
21 Edmonds testified no one else had been in there that night.

22 So he had plenty of time to inspect. He had plenty of
23 time to look inside. He had plenty of time -- if there was
24 anything in the black bag with -- that was a container, to
25 open that to make sure nothing illegal got in. He had plenty

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1 of time to do his job right.

2 And they want to say, we don't know his training. We
3 don't know his training about what to look for. Why don't we
4 know what his training was? And I'll tell you why we don't
5 know what his training was because they didn't bring that
6 person in here to testify. They didn't bring him in here.
7 They didn't bring him in here to say, oh, we don't really do a
8 thorough search. They didn't bring him in.

9 They have the burden of proof. All we know is everybody
10 testified they don't let drugs and guns into the hospital.
11 And, therefore, it is a correct assumption on your part to
12 assume that he did his job like he should have done because
13 there's nothing in this record to indicate he didn't have time
14 to do his job thoroughly, do it properly and do it
15 successfully.

16 Is there a real possibility that there were no drugs in
17 that bag when that man looked in it? The answer to that is
18 yes. There's probably more than a possibility, it's a real
19 probability.

20 And the reason I say real possibility is this. When the
21 Judge charges you as to what reasonable doubt is, he'll give
22 you some guidelines. And then he will tell you this, if,
23 however, you believe there's a real possibility he is not
24 guilty, you are to find him not guilty. And if there's a real
25 possibility there were no drugs in that bag when that man

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1 inspected it according to his job, according to his job
2 description and according to what he gets paid for, then Joey
3 Swaringen is not guilty.

4 Because that bag was never in his possession again that
5 evening. You saw the bag being brought into the trauma bay
6 when he was not in the room. You saw people going in there
7 claiming to search it when he was not in the room. He never
8 touched that bag again.

9 Is that a real possibility there were no drugs in the bag
10 when it was brought into the hospital? Absolutely. And the
11 State has done nothing to refute that real possibility except
12 to ask you to use -- surmise and conjecture as to what
13 happened. They have the burden.

14 We can only assume based upon this testimony that that
15 man did his job like he's supposed to do it, like he's trained
16 to do it and like he's paid to do it. No drugs in the bag
17 when it came in.

18 Now, Ms. Edmonds, she came back up in reply testimony and
19 admitted that what she found was some loose bags of drugs,
20 allegedly drugs inside a saddlebag. All Right? You know, we
21 have to take her word for it. That's what she remembered.

22 Ms. Edmonds, you remember, is the lady who unfortunately
23 got fired from the hospital for messing with -- checking her
24 husband's records. And then she was fired for that.

25 But you remember what the State has done to Ms. Edmonds?

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1 All the investigators in this case. Ms. Edmonds is what we
2 call a relatively important witness. She allegedly found the
3 contraband November the 18th of 2020. This case was so
4 important to these investigators, so important to them that
5 they never sat down with Ms. Edmonds and interviewed her and
6 asked her where did you find these drugs? You know, what did
7 you do with them and so forth?

8 She had very little recall of that evening. She admitted
9 she had little recall. We don't, I mean, we know she did
10 testify a few weeks ago that there were loose bags inside the
11 black bag. How they got there, I'm not going to tell you I
12 know. I can speculate. But all I know is they were not in
13 there when they were inspected by the security officer.

14 And then Ms. Edmonds, I mean, common sense would tell you
15 that someone that found the drugs who's not a law enforcement
16 officer and doesn't make notes should be interviewed, should
17 be talked to and get a very clear concise answer as to where
18 they were found.

19 She talked -- original testimony about going through
20 clothes. Well, where were they found in the clothes? I don't
21 know. Were they found in shirt, pants? I don't know, you
22 know. They come back, yeah, I think -- I think they were
23 found in the black -- in the black saddlebag.

24 That's not manufactured confusion and chaos. That's
25 confusion and chaos because somebody didn't do their job and

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1 do a decent interview with her that night.

2 She didn't remember who was in the room. When we look at
3 the video, we see several people in the room. Did somebody
4 not even go bother to try to find out and identify those and
5 prepare them for this trial to see if they can confirm what
6 Ms. Edmonds said? They -- and if you look at the video, you
7 could identify them. The State could have had those people in
8 here.

9 One name was Ms. Ridgeway 'cause it's in the medical
10 records. And the medical records say that Ms. Ridgeway found
11 the drugs on the person. We know that's not true because he
12 wasn't in the trauma bay when this allegedly happened. You
13 know, on the person is not the same as in the clothes. But
14 what can we say? Ms. Ridgeway wasn't here.

15 And when you look at the evidence in this case, you can
16 base the verdict of not guilty on two things, evidence and
17 lack of evidence. And if the State hasn't produced evidence
18 to satisfy you beyond a reasonable doubt, because they didn't
19 produce witnesses, that's something that you can consider.

20 A number of people in the trauma bay, 15 or more. Did
21 somebody find something in the hall they thought went with the
22 saddlebag and bring it in? I don't know. I don't know. That
23 is a distinct possibility, but I can't tell you that because
24 everybody in the trauma bay wasn't interviewed. And if Ms.
25 Edmonds had been interviewed better, we may be able to answer

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1 that question. But we don't know.

2 Several people were helping with the search. Didn't
3 testify. Only name we know is Ms. Ridgeway. Were they even
4 interviewed? We don't know. We don't know.

5 Then we get to Mr. Miller. He left, as you can see on
6 the video, nothing in his hands. And Mr. Yarborough asked
7 him, hey, did you leave with the Pelican box? And he said,
8 no. Question -- and it seems to me this is a question that if
9 you've got anything like a decent chain of custody should be
10 real, real easy to answer.

11 And the question if Mr. Miller did not leave the trauma
12 bay with the drugs and the Pelican box, when did he get them?
13 Who had whatever they found for a period of time from the time
14 Mr. Miller left the trauma bay to the time he put them in a
15 lock box? And how did he get them from the trauma bay if he
16 didn't go back and get them?

17 We know for sure that the cameras to the trauma bay was
18 working. We saw it. We saw it. I mean, it's on -- it's on
19 the video you can look at. We know that camera's working for
20 the entire time of this episode.

21 If there's a video of Mr. Miller coming back to the
22 trauma bay with gloves and bags to put it in like he's
23 supposed to, why don't we see it? Why? I don't know. All I
24 know is it doesn't exist.

25 So we have no clue what happened to those drugs for a

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1 period of time or those things that were seized for a period
2 of time from the time Mr. Miller left til the time he put it
3 in there. We simply don't know.

4 The other interesting thing, never once did Ms. Edmonds
5 ever say she even saw a Pelican box. Never once. She never
6 said it. They have -- they brought her in. They could have
7 asked her. She never said it. She never -- never said it.

8 We had a picture here of the -- I thought we did. Ah, we
9 have pictures of the drugs. But let me ask you something
10 else. Take these drugs, look at them. Take these plastic
11 baggies. Would they fit in there? Is there a real
12 possibility they wouldn't fit?

13 If there's a real possibility they don't fit, then I
14 don't know what -- I don't know what to say because it's not a
15 very big box. It's a magnetic box. Something you put on a
16 car. Something that can come loose if a car stops in a hurry.
17 But we don't know.

18 And they want to accuse Joey Swaringen of possessing
19 drugs. Under one of their theories, it's in the box. Under
20 another of their theories, it's in a saddlebag, which is not
21 here. So apparently they have a habit of getting rid of
22 evidence and giving it away or whatever.

23 They never once sent this box for touch DNA. Touch DNA
24 simply would tell you whether or not Joey Swaringen has held
25 this box in his hand. It's not there. And you can acquit on

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1 the lack of evidence, the lack of it. We don't know.

2 He doesn't know when he took the pictures of the
3 saddlebag. Don't know if he knows when he took these. And
4 what's interesting, too, if you look at these pictures, if I
5 can find it, -- if y'all can figure this out, congratulations.

6 This is labeled baggy four. All Right? And y'all will
7 have this in the jury room with you. You can look at it. All
8 right? This is labeled baggy 4 sitting on the scale. Is that
9 the same baggy 4?

10 And if you want to have an interesting time, I would
11 suggest you go look at baggy 2 on the scales and -- let's see,
12 baggy 2. There's a picture of baggy 2. All right? Here's a
13 picture of baggy 2 on the scale. Is that the same baggy? Is
14 there a real possibility that's not the same bag?

15 And if that's a real possibility they're not the same
16 bag, there's a real possibility this case is really messed up
17 and your verdict should be not guilty. And you can do the
18 same with the others, too.

19 Then let's look at Mr. Miller. He admitted he didn't
20 comply with the SLED regulations. All right? He had the
21 place wrong. He had resus two. It should have been one.
22 It's not that far apart according to testimony. So be it.
23 All right?

24 But what time did he seize the drugs? Joey went to the
25 hospital about -- I believe about 10:00 that night. All

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1 right? On his Greenville Hospital System Police Department
2 form he says the drugs were seized at 20:15, 8:15. He seized
3 them before Joey got to the hospital according to his chain of
4 custody form. What can you say? What can we say?

5 Mr. Miller was asked about how he graded himself on his
6 chain of custody in this case. He said, fair. Fair may be
7 good enough because fair's about a C. Fair may be good enough
8 for preponderance of the evidence. A, B may be good enough
9 for clear and convincing. But when we talk about proof beyond
10 a reasonable doubt, you've got to make an A. And if you don't
11 make an A, your chain of custody is bad. And he admitted it
12 was only fair.

13 Another thing, too, about this. You look at the bottom,
14 the pink sheet goes to the officer. All right? What did Mr.
15 Miller testify? Oh, I didn't take the pink sheet off. I
16 attached it to it, and I sent it just like it is. Okay. That
17 can happen.

18 But there's no pink sheet with it now. Why? What
19 difference does the pink sheet missing mean? Well, if we
20 could find out a little bit about whether everything was
21 filled out on the pink sheet, too. Or was the pink sheet just
22 what Miller did? We don't know because we don't have the pink
23 sheet.

24 And if the pink sheet had this writing on it, something's
25 wrong. We don't have the pink sheet. Not a major thing, but

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1 it's another example of it's not done right. It's not done in
2 keeping with the proper chain of custody. All right?

3 Now, I'm going to talk about the chain of custody a
4 little bit. It's a hodge-podge of tests. Joey can't be
5 convicted for what these officers failed to do in their chain
6 of custody for preserving evidence properly. And Joey can't
7 be convicted for the fair job that Miller did as opposed to a
8 proper job.

9 Now, the drugs. The indictment in this case says more
10 than twenty-eight (28) grams. If the State can't prove beyond
11 a reasonable doubt that there's more than twenty-eight (28)
12 grams of methamphetamine, the verdict has to be not guilty
13 even if you think it's ten (10) grams, or twelve (12) grams,
14 or twenty (20) grams or twenty-seven point nine (27.9) grams
15 because they allege a specific amount. They have to prove to
16 you not there's just some drugs there, but beyond a reasonable
17 doubt there is twenty -- at least twenty-eight (28) grams of
18 methamphetamine.

19 And what did their chemist say? He said, you know, there
20 are crooked drug dealers out there who sell imitation drugs
21 that are not methamphetamine. And that is why when he gets a
22 case, the gold standard, the A rating, the one that proves
23 things beyond a reasonable doubt, that happens, you measure
24 each bag that comes in. They put all the bags into one big
25 bag. And as a result they -- they contaminated each other as

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1 it was being processed, and picked up and moved around. All
2 right?

3 So we don't know and he doesn't know. He said the most
4 he can say, because he can't say each bag contained
5 methamphetamine, the most he can say is he had one one-
6 hundredth of a gram that was for sure methamphetamine.

7 They had four bags that weighed different amounts. And
8 you've got pictures here showing it. All right? Six point
9 seven (6.7) is one. And you've got some pictures that show
10 weights on them.

11 But here's the point. Mr. Armstrong could not say beyond
12 a reasonable doubt that every single bag contained
13 methamphetamine because of the way it was botched. And if one
14 of those bags, just one of them, did not contain
15 methamphetamine, the State has not met its burden of proving
16 more than twenty-eight (28) grams of methamphetamine. They
17 haven't met it. Just one.

18 And Mr. Armstrong knows there's a real possibility that
19 everything you get that's supposed to be drugs isn't. And
20 that's why he said I can only say one one-hundredth of a gram
21 is.

22 It wasn't Joey Swaringen that contaminated the evidence.
23 And he -- he didn't have it in his possession. It wasn't
24 Joey. Law enforcement did it. Law enforcement did it when
25 they took each individual bag and put them inside the big bag

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1 instead of putting each individual bag in a baggy and sealing
2 it. Because when they were handled, they fell out and co-
3 mingled.

4 And as he said at that point, I can't tell you what each
5 individual bag would -- would weigh. I can't tell you what
6 each individual bag contained. And, therefore, there's no
7 proof beyond a reasonable doubt of even twenty-eight (28)
8 grams. As I say, a couple of grams less, one bag out, the
9 State hasn't proven its case.

10 Now, a verdict of not guilty in this case does a lot more
11 than saying Joey Swaringen's not guilty or the State hasn't
12 proven its case. And that's really what a criminal trial is
13 about, whether or not the State can prove its case.

14 But this is one of those cases where a not guilty does
15 more. You can send a message and say, oh, this police work is
16 fine. Don't save the video. Don't store the drugs properly.
17 Don't handle them properly. Don't bring in all the witnesses
18 we really need to know what happened such as the security
19 guard and people in the emergency room. Don't do any of that.
20 And we're going to let this pass for a criminal justice system
21 and say he's guilty beyond a reasonable doubt. You can say
22 that.

23 You can also say wait a minute. We as a community
24 deserve better. We deserve things to be done right. We
25 deserve for things to be done by the book. And before we're

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1 going to take a fellow citizen and label him a felon, a drug
2 trafficker, we want it done right.

3 And if you send that message, and six -- a year from now,
4 two years from now you're serving on another jury, you'll see
5 a better case because it can't be done sloppily. It has to be
6 done by the book. It has to be done by the gold standard. It
7 has to be the A performance. It cannot be what passed the
8 chain of custody in this case, investigation in this case or
9 anything else. The proper verdict in this case is not guilty.
10 Thank you.

11 **THE COURT:** All right. Reply, Mr. Blouin.

12 **MR. BLOUIN:** May it please the Court, Your Honor?

13 I'm just going to say a few things and try to clear up a
14 few things.

15 First of all, Mr. Wise was talking about, you know,
16 burden of proof, beyond a reasonable doubt. You know, he made
17 examples like possible doubt, absolute doubt. And then he
18 used a analogy with football, irrefutable evidence. That is
19 not the law. The law in the State of South Carolina is beyond
20 a reasonable doubt. In other words, is it reasonable?

21 Now, I'm going to take a look at a few things. One,
22 there was a stipulation made at the beginning of the case in
23 which both parties admitted that when Ms. Lisa Edmonds handed
24 the contraband, which is what she called it, and we've been
25 calling this a Pelican case because that's the brand and

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1 that's what the officers called it, she called it contraband,
2 to Officer Miller, it was not on videotape. They admitted
3 that. We admit that.

4 And like I said, there -- do not let them manufacture
5 chaos based on the facts that you've heard because when Ms.
6 Edmonds found the drugs, she was doing a simple inventory.
7 She was doing what she was trained to do. She's not law
8 enforcement.

9 And you're right, I can't speak to the American security
10 guard, who there was testimony on, we don't know what their
11 training is. They're not law enforcement officers. They are
12 not trained at the law enforcement center. They are just
13 hired to try to, you know, they use a wand to make sure that
14 no weapons get in. And I do not know the thoroughness.

15 But I do know it's not reasonable to believe that the
16 EMT, Mr. McDavid, planted this on his way into the hospital.
17 I know it's not reasonable to believe, as Mr. Wise said that,
18 you know, sitting in the hallway, doctor walks up, oh, this
19 must go -- let's put this in this bag.

20 I mean, look at it. That's crystal meth. Also bags in
21 here with it. You can, like I said, manipulate it all you
22 want to. It is not reasonable to believe that that happened.

23 It is not reasonable to believe that in the moment they
24 were putting Mr. Swaringen in the ambulance, once again,
25 someone on 25, White Horse Road, one of the busier roads in

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1 South Carolina, just walked up and said, you know, I'm not in
2 trouble, there's nothing really going on, you know, I'm just
3 going to take my twenty-nine point six five (29.65) grams of
4 methamphetamine and I'm going to give it away. And you know
5 who's the lucky recipient this week? It is that man right
6 there because I'm just going to slip it in his saddlebag.
7 It's not reasonable.

8 And as much as they want to harp on, well, Officer
9 Miller, you know, you did this. What did Officer Miller
10 actually do? He took the drugs from a woman who was doing her
11 job, who saw something suspicious, and he locked it in a
12 locker after taking some pictures.

13 Ms. Edmonds, you know, they want to have it both ways.
14 Well, Ms. Edmonds testified when we recalled her that she
15 found the loose baggies in the bag. Well, can you fit all of
16 this in the Pelican case? You can't have it both ways. You
17 can't have it both ways.

18 This methamphetamine was in that saddlebag. That
19 saddlebag belonged to Mr. Swaringen. We know this because it
20 was in his property. Made reference, oh, they just got rid of
21 the evidence, they got rid of the saddlebag. No, they didn't.
22 They gave it back to him. Sitting right there, got signed out
23 for it. Y'all look at it. Do not let them create chaos where
24 no chaos exists.

25 They put, you know, the chemist tested this. It's his

1 initials. Twenty-nine point six five (29.65) grams of meth.
2 Look at the meth. Then stored it. All of the actions that
3 occurred up unto the finding of this meth happened from people
4 who are not law enforcement. People doing their jobs.

5 You know, once again, Katlin, hit him on the back of a
6 motorcycle and said her -- you know, he says they sat on him.
7 I don't believe that was her testimony. I believe they said
8 him -- her and another woman had to hold him down.

9 Why would he run from the scene? What's a reasonable
10 explanation? Because he had something he don't want to be
11 there for. Why not? It's not his fault. She testified it's
12 her fault. You know, why would you want to leave? Because,
13 man, I don't need to be right here right now.

14 He gets taken on the ambulance with the bag. That's his.
15 That's documented. Does an inventory. They go through
16 pockets, they say. They go through each individual, you know,
17 compartments. We found contraband.

18 And that contraband came back as methamphetamine. And
19 that methamphetamine belonged to Mr. Swaringen. And he's
20 guilty, trafficking in methamphetamine twenty-eight (28) to
21 one hundred (100) grams. And I'd ask you to come back with
22 that verdict. Thank you.

23 **THE COURT:** All right, ladies and gentlemen. We've been
24 going about an hour. There's one item I need to go over with
25 the jury, I mean, the lawyers. So if you'll step back in your

1 jury room. Do not discuss the case because I still have to
2 give you the charge on the law.

3 Would this be a good time they can do their lunch --
4 okay. And then you can go ahead and make your lunch order.
5 That way we can get that in the -- go ahead and get that
6 ordered. And then when you come back out, I'll charge you,
7 and then I'll send you back for your deliberation.

8 (Whereupon the jury exited the courtroom at 11:15 am)

9 **THE COURT:** What I wanted to address is -- you need to
10 take a break?

11 **MR. WISE:** He needs to use the restroom.

12 **MR. BLOUIN:** Restroom.

13 **THE COURT:** Y'all want to do that right quick? Okay.

14 **MR. SWARINGEN:** I'm sorry.

15 **THE COURT:** No, that's fine. Let's take two or three
16 minutes. Then we'll come back out when ---

17 **MR. SWARINGEN:** I'm sorry, Judge.

18 **THE COURT:** No, you're fine.

19 (Whereupon court was in recess at 11:16 am)

20 (Whereupon court reconvened at 11:23 am)

21 **THE COURT:** One of the things I wanted to address with
22 both sides is normally I do not send the drugs back into the
23 jury room. But I think in this case because of the arguments
24 made by the defense, I think that may be more necessary than
25 normal just because some of the position there.

1 So, I guess, do we have gloves so I can maybe give --
2 what I would ---

3 **MADAM CLERK:** Yes.

4 **THE COURT:** What I'm going to instruct, if they need to
5 look at the drugs, would have the foreperson handle and take
6 out. You can put them with the -- like in the box.

7 **MR. WISE:** I don't -- needs to go would be the envelope
8 that ---

9 **MR. BLOUIN:** The heat-sealed ---

10 **MR. WISE:** --- with the bags that were in.

11 **MR. BLOUIN:** Are you talking about the heat-sealed bag
12 it's in?

13 **MR. WISE:** Yeah.

14 **THE COURT:** No, no, I'm just saying -- normally I
15 wouldn't send any, I mean, the package back.

16 **MR. WISE:** I mean, no problem in sending it back, I mean,
17 sending the gloves back with it.

18 **THE COURT:** Right.

19 **MR. WISE:** Yeah.

20 **THE COURT:** I know, I mean, just -- and if they -- I
21 mean, what it is, I can say they can use them ---

22 **MR. WISE:** Right.

23 **THE COURT:** --- if they want to.

24 **MR. YARBOROUGH:** Use the drugs?

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1 **THE COURT:** So I kind of give them some instructions that
2 they need to handle that with care and that the -- all right.
3 Is the State ready for the -- State ready for the jury?

4 **MR. BLOUIN:** The State's ready, Your Honor.

5 **MR. YARBOROUGH:** Defense is ready, Your Honor.

6 **THE COURT:** All right. If they're ready, bring them in.

7 **MR. BLOUIN:** Oh, and, Judge, just -- I would tell them,
8 not that we really need to, not to open the bag.

9 **MR. YARBOROUGH:** I think they know that.

10 **THE COURT:** No, I always just tell them -- I'll tell
11 them, handle with care.

12 (Whereupon the jury entered the courtroom at 11:27 am)

13 **THE COURT:** All right, ladies and gentlemen. I'm going
14 to come down here as well. I always feel like when I sit up
15 there, it feels like the Wizard of Oz. Get Toto away from the
16 curtain there, so -- all right.

17 We are now at the kind of final phase of the trial. And
18 what that means is I'm going to charge you on the law. And as
19 you will recall, as I told you in the beginning and you've
20 heard throughout, the charge that you are being presented with
21 is trafficking methamphetamine of more than twenty-eight (28)
22 grams but less than a hundred (100) grams. That's the State
23 statute and how that is classified.

24 Now, I also told you in the very beginning that the fact
25 that I read an indictment to you, that is merely the formal

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1 charge. That's the formal paper that brings this matter to
2 the court. Those are merely the allegations that the State
3 has made. But that is not to be considered by you in any way
4 as evidence.

5 The fact that someone may be arrested, that they were
6 charged or that they were indicted is not evidence. That's
7 merely the allegations made by the State to bring this case to
8 trial.

9 And Mr. Swaringen has pled not guilty. And, therefore,
10 that puts the burden on the State to prove each element of the
11 case beyond a reasonable doubt. As I repeat, the defendant in
12 this matter has no burden whatsoever. The burden is clearly
13 on the State.

14 Now, I also told you that each of us have different, I
15 mean, each -- you and I have different roles in this case. My
16 job is to preside over the trial, is to rule on objections.
17 And objections are merely the attorneys making sure that the
18 evidentiary rules are properly preserved in the court rules
19 that we all have to abide by. And also I'm to charge you on
20 the law.

21 Now, if you had an idea before you came into this
22 courtroom what you thought the law in this matter was, and if
23 it differs from what I'm telling you, if it's something you
24 got off TV or maybe some of your reading -- from some reading,
25 if it differs from what I'm telling you, then you're to

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1 disregard that. Because by your taking an oath you're saying
2 I am going to apply the law that the Judge charges and
3 regardless of what I think it was or what I think it should be
4 because this is the law that I have determined applies in this
5 matter.

6 Now your role is to determine what the facts are. And
7 ultimately, as I will discuss with you in a minute, you will
8 determine what the verdict is. And the verdict is either
9 guilty or not guilty. That's the question that you will be
10 asked. I'll go into that in a little more detail in just a
11 minute.

12 And you're to determine that by the evidence and the
13 evidence only, the evidence that's been presented. And that's
14 by way of stipulation, by way of actual exhibits or testimony.
15 Those are the -- and everything else presented in here.

16 If anything was stricken from the record, I don't believe
17 there was, but if there was anything stricken from the record,
18 then that's something you're not to consider. You're to look
19 at this evidence and you're to apply the law and you're also
20 to use in addition to the evidence presented the law that I'm
21 charging you on now. That's how you determine what the facts
22 are.

23 Now if there is anything that I have done or said
24 throughout this trial that makes you think I have an opinion
25 about the facts or I made an inference about what I think is

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1 the facts, then you are to disregard that because that's not
2 my job. That's your job ultimately. My role is totally
3 different from yours.

4 Now, I'd also mentioned the defendant has pled not
5 guilty. And that plea puts the burden on the State. And a
6 person charged with committing a crime in this State is never
7 required to prove himself innocent. This presumption of
8 innocence is a substantial right. It's one of the foundations
9 of our criminal justice system.

10 And that stays with an individual throughout the entire
11 criminal process, the entire criminal trial, until you, the
12 jury, have found beyond a reasonable doubt that the State has
13 met its burden. And only then is that presumption of
14 innocence -- is removed.

15 But throughout your deliberation, that presumption
16 remains until you have reached a verdict that they have met
17 their burden. If you find they have not met their burden,
18 then that presumption of innocence stays with the defendant.

19 Now, what is reasonable doubt? Again, the State has the
20 burden of proving the defendant guilty beyond a reasonable
21 doubt on each element that it must prove.

22 Now, as has been referenced several times, it's much
23 different than in a civil matter. Civil matter is by a
24 preponderance or greater weight or more likely than not.
25 That's kind of the civil thing. Criminal, much higher. That

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1 is -- it's not absolute, they must prove beyond absolute
2 certainty, but reasonable doubt.

3 And reasonable doubt is the kind of doubt that would make
4 a reasonable person hesitate to act. Proof beyond a
5 reasonable doubt is proof that leaves you firmly convinced of
6 the defendant's guilt.

7 You know, there's very few things that we know with
8 absolute certainty. And our law does not require the State to
9 prove that with absolute certainty, to overcome every
10 possibility. But if, based on your consideration of the
11 evidence, you're firmly convinced of the defendant's guilt,
12 then you must find the defendant guilty.

13 On the other hand, if you think there's a real
14 possibility the defendant is not guilty, then you must give
15 the defendant the benefit of the doubt and find him not
16 guilty. Facts and circumstances that merely place suspicion
17 upon the defendant is not sufficient. Or merely raise a
18 speculation or conjecture that the defendant is guilty, that
19 is not sufficient to find the defendant or to make a finding
20 that the defendant is guilty.

21 Now, there are two types of evidence that the -- that can
22 be used by the State in meeting its burden, that is direct and
23 circumstantial evidence. Direct evidence is when evidence
24 proves a fact without an inference which in itself true --
25 conclusively establishes that fact. Direct evidence is

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1 basically evidence that you can see, observe or hear.

2 Circumstantial evidence, on the other hand, may be a
3 group -- a series of facts that need to be proven to show a
4 particular fact. In other words, you may have heard a
5 particular event occurred based on a proof of circumstances
6 warranting such an inference. It's nothing -- something that
7 one observes but from facts one can draw a conclusion.

8 I always like to -- this is kind of a simple analogy, but
9 it gives you a little -- an idea of what I'm talking about
10 between direct and circumstantial. If you pull into your
11 driveway this afternoon and all of a sudden the bottom drops
12 out and it's pouring rain, and you run into the house, I mean,
13 you have direct evidence that it was raining because you saw
14 it.

15 But on the other hand, you pull into our driveway and
16 it's dry, clouds kind of dark, you go into your house and it
17 wasn't raining and you come back out ten minutes later, it's
18 still not raining, the car's wet, the pavement's wet around
19 it, a different breeze to it, and that's circumstantial
20 evidence. It had to be a series of facts you had to consider
21 to determine that. I know that's a simple analogy, but that's
22 kind of the difference between direct and circumstantial.

23 Now, crimes may be proven by both direct and
24 circumstantial, a combination of the two. It's still -- the
25 burden is the same on the State whether they use direct or

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1 circumstantial. It's beyond a reasonable doubt. And each
2 piece of evidence, whether there's direct or circumstantial,
3 is also to be given the weight and value which you feel is
4 appropriate.

5 However, to the extent that the State relies on
6 circumstantial evidence, all of the circumstances must be
7 consistent with each other and when taken together point
8 conclusively to the guilt of the defendant beyond a reasonable
9 doubt. If these circumstances merely portray the defendant's
10 behavior as suspicious, then that proof has failed.

11 The State has the burden of proving the defendant guilty
12 beyond a reasonable doubt. And that rests with the State,
13 again, whether it's direct evidence, circumstantial evidence
14 or a combination of the two.

15 Now, also let me talk to you a little bit about expert
16 witnesses. Now, I know I mentioned this when the individual
17 was qualified as an expert. Now normally a witness cannot
18 testify and give their opinions about anything. They can give
19 you -- a witness can tell you exactly what they saw, exactly
20 what they heard, exactly what they felt. That's what -- what
21 we call a lay witness.

22 Now the exception to that is when somebody has been
23 qualified as an expert. At that point they can testify about
24 their opinions and their conclusions in their particular
25 field. And that is based on their experience, their training,

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1 their education and everything related to -- and their job.

2 And -- but you still are to give that the weight and the
3 value that you feel is appropriate even when it may not be
4 contradicted by any other evidence. But like every piece of
5 evidence, you give it the weight and the value that you feel
6 is appropriate.

7 Now, let me talk -- one of the tools that you have in
8 determining what the facts are, and that is determining the
9 credibility of witnesses. Now that's one of the tools that
10 you have. And that's a decision that you have to make based
11 on your own common sense.

12 But one of the things that you can consider and determine
13 whether a witness is credible or believable, that is, you can
14 determine -- did they have a particular bias? Did they have a
15 particular motive? Do they have an interest in the outcome?
16 How did they appear on the stand? All those things are things
17 to be considered by you.

18 Now you may accept one witness' testimony over several
19 others. You may accept several witness' testimony over one
20 witness. You may accept a portion of a witness' testimony and
21 reject the remaining portion. Or you may accept the testimony
22 of a witness in its entirety or reject it in its entirety.
23 That's up to you to give it the weight and value that you feel
24 is appropriate for every witness.

25 Now another very important kind of foundation of our

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1 judicial system is a person's right -- to exercise their
2 right, Fifth Amendment right not to testify. In this case the
3 fact that the defendant did not testify is merely his exercise
4 of his Fifth Amendment right not to testify.

5 And that is something that you are not to even consider.
6 That is not anything that you are even to discuss in your jury
7 room because the fact that a person who fails to testify is
8 not to be used against him or even to be considered in this
9 matter because he has no burden in this case.

10 The burden is on the State. And whether the defendant
11 testifies or not has nothing to do with the burden on the
12 State. The State still has that burden of proof beyond a
13 reasonable doubt.

14 So, again, that's a very important part, a foundation of
15 our criminal process. And that is that anybody charged with a
16 crime has the right to exercise their Fifth Amendment right.
17 And that is not something for you to consider.

18 Now let me talk to you a little bit about intent. In
19 order to establish criminal liability criminal intent is
20 required. For example, the mental state required to be proven
21 by the State for a particular crime might be purpose, intent,
22 knowledge, recklessness or criminal negligence.

23 Criminal intent must -- again, must be proved beyond a
24 reasonable doubt. It's always a matter that must be
25 determined by the jury from the circumstances surrounding the

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1 situation. You know, there's no way to prove criminal intent
2 with mathematical certainty or, you know, looking into
3 someone's brain to determine what they had, you know, what
4 their intent was.

5 So the law requires that criminal intent may be inferred
6 from the circumstances existing at the time. And this is how
7 you make a determination of whether or not the element of
8 intent is required, I mean, was present.

9 It's not necessary for it to be established by direct
10 evidence. It can be established by circumstantial evidence as
11 well using the rules that I indicated when I mentioned --
12 discussed with you about circumstantial evidence.

13 Criminal intent is a mental state. It's a conscious
14 wrongdoing. It is up to you to determine what the defendant
15 intended to do based on the circumstances shown to have
16 existed at the time.

17 Criminal intent can arise from action or failure to act.
18 It may arise from negligence, recklessness or an indifference
19 to duty or to consequences that are considered by the law to
20 be the equivalent of criminal intent. So those are some
21 general rules that you will have in making your decision on
22 the facts.

23 Now let me discuss with you the specific elements of the
24 charge that you're -- will be looking at. And that is the
25 charge of trafficking methamphetamine. And this is -- these

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1 are the elements.

2 The State must prove beyond a reasonable doubt that the
3 defendant -- and this is a list of things that come straight
4 out of the statute. And there's quite -- quite a few of them.
5 And you must determine if any of these apply.

6 That the State [sic] knowingly sold, manufactured,
7 cultivated, delivered, purchased, brought into this State or
8 provided financial assistance or otherwise aided, abetted,
9 attempted or conspired to sell, manufacture, cultivate,
10 deliver, purchased or bring into this State or was knowingly
11 in actual or constructive possession or knowingly attempted to
12 become in actual or constructive possession of
13 methamphetamine. So any of those items, that's the -- kind of
14 the laundry list of what is determined by trafficking when
15 added to this next element.

16 And that is the State must also prove beyond a reasonable
17 doubt that the amount of methamphetamine that was either
18 controlled in any way by -- as indicated above was more than
19 twenty-eight (28) grams but less than one hundred (100) grams.
20 So you have to have twenty-eight (28) to one hundred (100)
21 grams, and the defendant must have done one of the other
22 things that I just listed.

23 And the State has to prove that beyond a reasonable
24 doubt. And that is what is designated by our law as
25 trafficking methamphetamine.

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1 Now to prove possession the State must prove beyond a
2 reasonable doubt that the defendant had both the power and the
3 intent to control the disposition or use of the
4 methamphetamine. Possession may be either actual or
5 constructive.

6 Actual possession means that the meth was in the actual
7 physical custody of the defendant. Constructive possession,
8 on the other hand, means that the defendant had dominion and
9 control or the right to exercise dominion or control over
10 either the methamphetamine itself or the property in which the
11 methamphetamine was found.

12 Mere presence at the scene where the drugs were found is
13 not enough to prove possession. The defendant's knowledge and
14 possession may be inferred when a substance is found on the
15 property under the defendant's control. However, this
16 inference is simply an evidentiary fact to be taken into
17 consideration by you along with the other evidence in this
18 case and to be given the weight and the value which you deem
19 appropriate.

20 Now in determining the weight of the controlled
21 substance, the weight of any controlled substance reference is
22 the weight of the substance in pure form, or a compound or a
23 mixture thereof.

24 Now I want to also tell you a little bit, too, we have --
25 the exhibits we have here, you have some photographs, you have

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1 a bag with an item in it. And first let me -- and you also
2 have a video.

3 Let me address the video. I'm not sure if we have a --
4 if you need to look at the video, then we can -- then you need
5 to let me know. That's one of the jobs you have as the
6 foreperson is to communicate. Any kind of communication, you
7 would write on a piece of paper, sign and date it. And then
8 give it to the bailiffs and they'll bring it to me.

9 If you want to review the DVD, then what you will do is
10 we'll send a -- what we call is a clean laptop that you can --
11 back there and review it all. Sometimes that presents a
12 problem. And if it does, we may have to bring you back out
13 here. But, otherwise, that's what you need to do.

14 And you also have as exhibits -- you will have what's
15 been designated -- alleged as drugs. And they will be in --
16 and it may be something you need to review, maybe not. Again,
17 that depends on you.

18 We're going to be sending some gloves back. And if, I
19 think, you need to make sure that if it's something maybe you
20 feel like the drugs -- the gloves are appropriate to look at
21 the drugs or handle the drugs, then make sure you use the
22 gloves. That's up to y'all.

23 Again, be very careful. Don't be, you know, doing any
24 type of manipulation of that because, like I said, that's a
25 very serious exhibit. So make sure you take the appropriate

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1 precautions when using or handling any of -- any of the
2 evidence -- exhibits, but specifically the drugs. All right.

3 Your verdict, the verdict form -- and let me just -- I'll
4 give you what you're going to be having. The top portion of
5 this is merely the caption and the indictment number. It says
6 verdict form.

7 It says please answer the following question. As to the
8 charge of trafficking methamphetamine more than twenty-eight
9 (28) grams but less than a hundred (100) grams, we, the jury,
10 find the defendant, Joseph Martin Swaringen, and you check
11 one.

12 If you find that the State has met its burden as I've
13 discussed, then -- beyond a reasonable doubt, then you would
14 check guilty. If you find that the State has not met its
15 burden beyond a reasonable doubt, then you would check not
16 guilty.

17 Once you've reached a verdict, Madam Forelady, you would
18 sign, date and you'd let the bailiff know that you've reached
19 a verdict. Now, your verdict must be unanimous. That means
20 all 12 of you must agree on what the verdict is.

21 And your verdict must be based on the evidence and the
22 law that I've given you. It cannot be based on any sympathy,
23 any passion, any prejudice, any emotion, anything other than
24 what you've received in this courtroom.

25 Also I'm going to tell you that the evidence that you are

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1 to consider has already been presented. You cannot -- we
2 cannot give you anymore evidence. The parties have presented
3 all the evidence which they feel is to be presented to you.

4 So you -- sometimes juries will have questions like,
5 well, what about this form? Or what about this witness? We
6 cannot -- we can't answer factual questions. You have
7 everything that you can use to make your deliberation. But if
8 you do have any questions, then you would just merely write it
9 down on a piece of paper and give that to the bailiff.

10 Now the alternates, I want to tell you this is -- your
11 role in this matter has been very important just like all the
12 other 12. But under our law you cannot be in the room and you
13 cannot be involved in the deliberation at this time.

14 So -- but I don't want you to feel that your role is not
15 important. If something -- if one of the regular jurors could
16 not have completed the trial, then you would have had to step
17 in and serve in that role. So it's very important that we
18 have alternates even though they can't -- can't go to the
19 conclusion there.

20 So -- also it is -- we should have your -- I think lunch
21 should be coming around 12:30. And that's something that --
22 and the alternates, we'll have yours, too. Don't worry. If
23 you want to stick around.

24 And that's something you can -- y'all can decide, if
25 y'all want to stop deliberating and eat your lunch or if you

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1 want to continue. That's totally up to you when it gets here.

2 So -- all right.

3 At this time -- would you put that verdict form on top of
4 there. Just -- yeah, put it right there, that'd be good. All
5 right.

6 At this time I'm going to send you back to your -- all of
7 you back to your jury room. But, you know what, I'm going to
8 tell you one more time you can't discuss the case. And the
9 reason is, I've got to talk to the lawyers to make sure, one,
10 I haven't missed something or that I haven't misstated. And
11 if I have, then I'll have to bring you back out. I don't want
12 to have to repeat the whole thing, but I'll give you any
13 additional charges that I need to do.

14 But if not, then your signal that you can begin your
15 discussion, your deliberations of the case is the bailiff will
16 bring the exhibits with the verdict form, and she'll exchange
17 them for the alternates, and the alternates will step out at
18 that time. That's the signal for you. But at this time I'd
19 ask that you return to your jury room and wait for additional
20 instructions or signals.

21 (Whereupon the jury exited the courtroom at 11:50 am)

22 **THE COURT:** All right. Any exception or objections from
23 the State?

24 **MR. BLOUIN:** None from the State, Your Honor.

25 **THE COURT:** From the defense?

1 **MR. WISE:** Yes, Your Honor.

2 First of all, one of substance as opposed to the others,
3 perhaps. Your Honor charged on page 8 of the charge that the
4 defendant's knowledge and possession may be inferred by the
5 substances found on the property under the defendant's
6 control. However, this inference is simply an evidentiary
7 fact to be taken into consideration. That charge was
8 disallowed by State versus Terrance Stewart, which was decided
9 on May the 19th of last year.

10 The other part of that page where you could find
11 constructive possession is the right to exercise dominion and
12 control over either the meth or the property was also -- I
13 believe that was also declared unconstitutional in that case.

14 **THE COURT:** And what's the case again?

15 **MR. WISE:** State versus Stewart. It's August, excuse me,
16 May 19 case of last year. I'm kind of familiar with it.

17 **THE COURT:** Is that one of yours?

18 **MR. WISE:** Yes.

19 (Pause)

20 **THE COURT:** We're not finding it on the ...

21 **MR. WISE:** South Carolina Supreme Court case.

22 **THE COURT:** Yeah. We ---

23 **MR. WISE:** S-t-e-w-a-r-t.

24 **THE COURT:** Yeah, we popped that in.

25 **MR. WISE:** Use opinion number 28029.

1 **THE COURT:** What is the number again?

2 **MR. WISE:** 28029.

3 (Pause)

4 **THE COURT:** All right. We found it. All right. While
5 she's getting that, any other objections or exceptions?

6 **MR. WISE:** Of course, renew our objection to failure to
7 charge chain of custody. And renew our objection to not using
8 our client's name instead of defendant.

9 **THE COURT:** I've got her ---

10 **MR. WISE:** And ---

11 **THE COURT:** --- printing that.

12 **MR. WISE:** Excuse me, Your Honor.

13 **THE COURT:** Yes. And all objections made prior to the
14 charge, ---

15 **MR. WISE:** Right.

16 **THE COURT:** --- yes.

17 (Pause)

18 **THE COURT:** So you don't have a proposed charge, I
19 assume?

20 **MR. WISE:** Well, there's no -- the charge has got to be
21 -- basically the first paragraph on page 8 has got to be taken
22 out.

23 **THE COURT:** I don't have the same pages that you do. I
24 have mine different.

25 **MR. WISE:** Oh, I'm sorry. It's right above jury verdict.

1 **THE COURT:** All right. So what is your -- what are you
2 saying should be removed?

3 **MR. WISE:** You should tell the jury that this paragraph I
4 charged you earlier is not a correct statement of law and they
5 are to ignore it.

6 **THE COURT:** Which one -- which one are you saying is
7 removed?

8 **MR. WISE:** Paragraph that begins constructive possession
9 means the defendant had dominion and control. I guess you
10 could write exercised dominion and control over the meth,
11 itself, but the rest of it has to be stricken.

12 Well, technically constructive possession means the
13 defendant had dominion and control or the right to exercise
14 dominion and control over the methamphetamine, period.

15 **THE COURT:** All right. Do you think that ...

16 **MR. WISE:** And then after that, the rest of it
17 (unintelligible).

18 **THE COURT:** And then the rest of it what?

19 **MR. WISE:** The rest of it is stricken, should be
20 stricken.

21 **THE COURT:** All right. And what's your position?

22 **MR. BLOUIN:** I mean, the Supreme Court didn't really --
23 while it struck that down, it didn't really give us many
24 options of what should replace it.

25 **THE COURT:** Yeah, I know.

1 **MR. BLOUIN:** So I'm kind of at a loss, Your Honor.

2 **MR. WISE:** I think the answer is they gave no options to
3 replace it, so there's nothing to replace it.

4 (Pause)

5 **THE COURT:** All right. I have underlined parts of this
6 -- I'm going to just read straight from the case. If y'all
7 will look at that and see if I ...

8 (Pause)

9 **MR. WISE:** Yeah. Yeah.

10 **MR. BLOUIN:** Hold on.

11 (Pause)

12 **MR. BLOUIN:** Sure.

13 **THE COURT:** All right. Is there anything else?

14 **MR. BLOUIN:** Your Honor, I'd briefly mentioned whether it
15 would be appropriate to send Court's exhibit 2, which was the
16 original stipulation as far as the video since there was
17 obviously some arguments and some confusion over that, and
18 since that spells it out, back to the jury.

19 **MR. WISE:** I think it's a piece of evidence. They can --
20 if they have a question about it, they know how to read it.

21 **MR. BLOUIN:** Well, they don't see -- they don't get it
22 because it's a Court's exhibit.

23 **MR. WISE:** Oh.

24 **MR. BLOUIN:** They're not going to send it back. We're
25 asking ---

1 **MR. WISE:** Oh.

2 **MR. BLOUIN:** --- to send it back.

3 **MR. WISE:** Oh, okay. Yeah. I thought they were going to
4 get it. I'm sorry.

5 **MR. BLOUIN:** So ---

6 **THE COURT:** I mean, I don't ---

7 **MR. BLOUIN:** --- is it okay with them getting it?

8 **THE COURT:** I mean, I thought -- I don't know why you
9 made it a Court's -- usually it's -- it should have been ---

10 **MR. BLOUIN:** I don't know why it was -- I thought it was
11 made as part of exhibit 1, too. But ---

12 **MR. WISE:** That's never really been read to the jury.

13 **MR. BLOUIN:** Well, it was read to the jury.

14 **MR. WISE:** It was? I missed that.

15 **MR. BLOUIN:** It was.

16 **THE COURT:** Well, I mean, I was wondering why it was not
17 a State's exhibit anyway. So ...

18 **MR. BLOUIN:** But is there any objection to sending it
19 back?

20 **MR. WISE:** Uh-uh (negative).

21 **MR. BLOUIN:** Okay.

22 **THE COURT:** All right.

23 **MR. YARBOROUGH:** But will you tell them that you're
24 sending it back?

25 **THE COURT:** I'll -- we'll just put it over there.

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1 **MR. YARBOROUGH:** Okay.

2 (Whereupon Court's exhibit 2 was admitted into evidence,
3 which should have been marked as a part of State's exhibit 1,
4 and will be sent back to the jury)

5 **MR. WISE:** And I assume when you recharge them you're
6 going to tell them that the previous statement ---

7 **THE COURT:** Right.

8 **MR. WISE:** --- about an inference. Okay.

9 **THE COURT:** All right. Is the jury ready? Bring them --
10 bring them back in here.

11 (Whereupon the jury entered the courtroom at 12:03 pm)

12 **THE COURT:** Sorry, you're not released quite yet.

13 So, all right. Ladies and gentlemen, I need to -- I
14 brought you back out here to correct a misstatement that I had
15 made for you. And when -- and that is when I was talking
16 about the elements of the charge.

17 Now I mentioned to you that the elements of trafficking
18 methamphetamine you had the various acts that a person can do
19 to constitute trafficking. And there also has to be proof
20 beyond a reasonable doubt that the amount is between twenty-
21 eight (28) grams and a hundred (100) grams.

22 And when you're talking about actual -- possession of a
23 drug, it can be by way of actual possession or constructive
24 possession. And what I brought you out here for is my charge
25 to you on how constructive possession was defined is to be

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1 disregarded. I mentioned something about inferences in there
2 that is not to be considered by you. So disregard anything I
3 said about constructive possession. And now I'm going to give
4 you the appropriate charge at this time that you are to use.

5 First, the State -- again, this will be by actual or
6 constructive possession. First, the State must prove the
7 defendant had the right and power to control the disposition
8 or use of the drugs. For actual possession, the State may
9 meet this burden by proving the defendant had actual physical
10 custody of the drug.

11 For constructive possession the State must prove by other
12 evidence that the defendant had the right and power to
13 exercise control over the drug. And, second, the State must
14 prove the defendant had knowledge of the drugs and the intent
15 to control the disposition or use of the drugs.

16 So it's a slightly different, but a very important
17 distinction in your consideration. That is what's defined as
18 constructive possession.

19 So with that being said, I will send you back just to
20 make sure we've got everything covered. And wait, again, for
21 the signal before you begin your deliberations.

22 (Whereupon the jury exited the courtroom at 12:07 pm)

23 **THE COURT:** All right. Any objections or exceptions to
24 the additional charge from the State?

25 **MR. BLOUIN:** Nothing from the State, Your Honor.

1 **THE COURT:** From the defendant?

2 **MR. WISE:** No, Your Honor.

3 **THE COURT:** All right. That solved the issues you had?

4 **MR. WISE:** That's all the issues ---

5 **THE COURT:** All right. Well, make sure y'all have all
6 the exhibits there.

7 **MR. YARBOROUGH:** We did.

8 **THE COURT:** All right. Well, if they're ready, then send
9 them back to the jury in exchange for the alternates.

10 (Whereupon the jury began deliberations at 12:08 pm)

11 (Whereupon court was in recess at 12:08 pm)

12 (Whereupon Court's exhibit 5 was marked)

13 (Whereupon Court's exhibit 6 was marked)

14 (Whereupon court reconvened at 1:44 pm)

15 **THE COURT:** We have a question. And I'm not really sure
16 what it's asking. It says can we use any of the videos or
17 just the one that was used in court?

18 **MR. BLOUIN:** Well, Your Honor, there's four, like, clips.
19 I think we played two of them on there. We actually presented
20 them, but they're all in evidence, so they can look at
21 anything on those videos they want to.

22 **THE COURT:** I wasn't sure if that's what they were asking
23 or not because ---

24 **MR. BLOUIN:** That's the way I understood that.

25 **THE COURT:** Yeah. And I guess they have them -- I wonder

1 if they can find them on there.

2 MR. BLOUIN: So they're -- when they open it up, it
3 should list four separate videos.

4 THE COURT: Oh, okay.

5 MR. BLOUIN: And then, you know, the one that, I mean, if
6 we want to tell them this, the one that we kind of played the
7 most of was the last one on the list. And then they should be
8 able to figure out clicking which one's which. Yeah, they're
9 labeled pretty well.

10 THE COURT: So you -- so I guess my response is you can
11 review any videos that are on that disk.

12 MR. BLOUIN: Yes, Your Honor.

13 THE COURT: All right. Y'all look -- I just put you can
14 review any disk -- any videos on that disk.

15 MR. BLOUIN: Perfect.

16 THE COURT: Any objections from the State?

17 MR. BLOUIN: None from the State.

18 THE COURT: Defense?

19 MR. YARBOROUGH: No, sir.

20 THE COURT: And if that's not what they were asking, then
21 they'll come back.

22 MR. WISE: Yes, sir, that's true.

23 THE COURT: Was that good enough for you? I didn't ask
24 you.

25 MR. WISE: I like that verbiage.

1 **THE COURT:** All right.

2 (Whereupon court was in recess at 1:46 pm)

3 (Whereupon court reconvened at 1:54 pm)

4 **THE COURT:** Please be seated. My understanding, we have
5 a verdict. So anything from the State before we bring the
6 jury in?

7 **MR. BLOUIN:** Nothing from the State, Your Honor.

8 **THE COURT:** Anything from the defendant?

9 **MR. YARBOROUGH:** No, sir, Your Honor.

10 **THE COURT:** All right. And, Mr. Swaringen, I know this
11 has been a long ordeal for you. And regardless of the
12 verdict, I would ask that you keep your composure, all right?

13 **MR. SWARINGEN:** Yes, sir.

14 **THE COURT:** And then -- so. All right. Bring the jury
15 in.

16 (Whereupon the jury entered the courtroom at 1:57 pm)

17 **THE COURT:** All right. Madam Forelady, I understand
18 you've reached a verdict.

19 **MADAM FORELADY:** Yes, sir, we have.

20 **THE COURT:** And you can hand it to the bailiff, please.

21 **MADAM FORELADY:** Yes, sir.

22 **THE COURT:** All right. If you could publish the verdict,
23 please.

24 **MADAM CLERK:** Your Honor, this is case number 2021-GS-23-
25 06825, the State of South Carolina versus Joseph Martin

VERDICT OF THE JURY

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1 Swaringen. As to the charge of trafficking methamphetamine
2 more than twenty-eight (28) grams but less than one hundred
3 (100) grams, we, the jury, find the defendant, Joseph Martin
4 Swaringen, guilty. Signed by our foreperson.

5 Ladies and gentlemen, if this -- if you agree with this
6 verdict and is what you have reached in the deliberation room,
7 please raise your right hands.

8 (Whereupon all jurors raised their right hand)

9 **THE COURT:** All right. Thank you.

10 Anything from the jury before I release them from the
11 State?

12 **MR. BLOUIN:** Nothing from the State, Your Honor.

13 **THE COURT:** Anything from the defense?

14 **MR. YARBOROUGH:** Will you poll the jury, Your Honor?

15 **THE COURT:** All right.

16 **MADAM CLERK:** The verdict I have published was the
17 verdict you reached in the jury room, I ask you was it your
18 verdict then and is it your verdict now? When I call your
19 number, please answer yes or no.

20 Juror number 82?

21 **JUROR #82, JOHN FRYE:** Yes.

22 **MADAM CLERK:** Juror 139?

23 **JUROR #139, LATORIA MAYES:** Yes.

24 **MADAM CLERK:** Juror 233?

25 **JUROR #233, LAUREN WELCH:** Yes.

POLLING OF THE JURY

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1 **MADAM CLERK:** Juror 105?
2 **JUROR #105, HEATHER HERDT:** Yes.
3 **MADAM CLERK:** Juror 29?
4 **JUROR #29, MORGAN BROWN:** Yes.
5 **MADAM CLERK:** Juror 37?
6 **JUROR #37, TAMMY BURRELL:** Yes.
7 **MADAM CLERK:** Juror 182?
8 **JUROR #182, HAROLD ROBINS:** Yes.
9 **MADAM CLERK:** Juror 67?
10 **JUROR #67, KERRIANNA DURHAM:** Yes.
11 **MADAM CLERK:** Juror 62?
12 **JUROR #62, WILLIAM DEVANEY:** Yes.
13 **MADAM CLERK:** Juror 25?
14 **JUROR #25, MICHAEL BRIGNAC:** Yes.
15 **MADAM CLERK:** Juror 121?
16 **JUROR #121, CHRISTINA LATHAM:** Yes.
17 **MADAM CLERK:** Juror 71?
18 **JUROR #71, BERNADETTE FARROW:** Yes.
19 **THE COURT:** All right. So that has been confirmed.
20 Anything else from the defense?
21 **MR. YARBOROUGH:** No, sir, Your Honor.
22 **THE COURT:** All right. Ladies and gentlemen, I'm going
23 to release you back to your jury room. I've got a couple of
24 things to discuss with you about the rest of the week. I'll
25 be back there in just a minute to discuss that with you.

POST-TRIAL MOTIONS

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1 (Whereupon the jury exited the courtroom at 1:59 pm)

2 **THE COURT:** Let me go release the jury because I've got
3 to tell them they've got to come back in the morning for
4 another trial. Y'all gather everything that you need to do,
5 and then I'll -- we'll see.

6 (Whereupon court was in recess at 2:00 pm)

7 (Whereupon Court's exhibit 7 was marked)

8 (Whereupon court reconvened at 2:09 pm)

9 **THE COURT:** All right. First of all, motions from the
10 defendant?

11 **MR. WISE:** Your Honor, let me reserve -- well, no, I
12 won't -- I won't have time, not with my schedule.

13 We would again renew our motion for a directed verdict.
14 And one of the things I wanted to illustrate to the Court on
15 this case, and I think these bottles can illustrate it very
16 well.

17 What they did in this case is took a sample of
18 methamphetamine from a package and said -- well, this is in
19 essence what they did. They took a sample from
20 methamphetamine from one package, tested it, and it said
21 methamphetamine.

22 They then took samples from three packages that they did
23 not test, poured it into the one they did test and say the
24 total weight is methamphetamine. As a matter of law, they
25 didn't prove the case.

POST-TRIAL MOTIONS

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1 Now, that's not exactly what they did, but in substance
2 that's what they did once the State permitted the four bags to
3 intermingle with each other so that you couldn't separate
4 them. If a case came into this court in which a lab did what
5 I first said, took sample A, tested it, it tested for meth,
6 and then said, oh, the other three samples must be meth, too,
7 and poured them all together and weighed them, no judge would
8 let that case get to the jury, but that is in essence what
9 they did here.

10 **THE COURT:** And that was, I mean, you made that argument
11 earlier. And I'll consider it ---

12 **MR. WISE:** Well, I just found a way to illustrate it a
13 little ---

14 **THE COURT:** No, ---

15 **MR. WISE:** --- better.

16 **THE COURT:** --- I mean, I -- it's a good illustration,
17 too. But I think based on my same analysis, I'm going to deny
18 the motion, so ...

19 **MR. WISE:** And then, again, the only grounds is the chain
20 of custody that we don't think was adequately proven in this
21 particular case.

22 **THE COURT:** Right. And, again, that was addressed as
23 well previously, so ...

24 **MR. WISE:** Okay.

25 **THE COURT:** All right. Anything else?

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1 **MR. WISE:** That's it.

2 **THE COURT:** All right. From the State?

3 **MR. BLOUIN:** Your Honor, obviously, just going forward we
4 had served a notice with intent to seek sentence of
5 imprisonment for life without the possibility of parole.

6 This was based on prior convictions of a distribution of
7 methamphetamine, second, or subsequent offense with an
8 incident date of July 30th, 2015; a possessing of heroin with
9 intent to distribute, second offense, with an incident date of
10 June 22nd, 2016; trafficking in methamphetamine with an
11 incident date of June 22nd, 2016; possession of heroin with
12 intent to distribute, second, with an incident date of July
13 6th, 2016; trafficking in methamphetamine with an incident
14 date of July 6th, 2016; and possession of methamphetamine with
15 intent to distribute with an incident date of November 30th,
16 2016.

17 Your Honor, we are going to make a -- marked as Court's
18 exhibit 7 with that as well as affidavits of service that Mr.
19 Swaringen was served with that notice on 11th of August, 2021
20 and that Mr. Yarborough was served on the 11th of August,
21 2021.

22 And then I'm also including, attached these certified
23 convictions of those convictions I read back. And we would
24 just make those Court's exhibit number 7.

25 **THE COURT:** All right. Have you seen -- you got a copy?

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1 **MR. WISE:** We've seen that, Your Honor.

2 **THE COURT:** All right.

3 **MR. WISE:** We would have a disposition for the Court.

4 First, that the pleas were on the same day. And I think
5 the spirit of the life without parole law certainly should not
6 apply to charges that are pled on the same day and then a
7 subsequent conviction because life without parole is where you
8 keep re-offending after you've been sentenced. Or at least
9 that's, I think, the spirit of it.

10 **THE COURT:** Let me ---

11 **MR. WISE:** The ---

12 **THE COURT:** Hold on. Let me look at this. All right.
13 Go ahead.

14 **MR. WISE:** And the other thing, too, is we want the
15 record to reflect that Mr. Swaringen is not admitting the
16 validity of those in any way in these proceedings today as he
17 may seek to do a collateral attack on some of those at a later
18 date. So the record should reflect that he is not conceding
19 to the validity of those convictions.

20 **THE COURT:** All right.

21 **MR. BLOUIN:** And, Your Honor, we would just point to
22 State v. -- Bryant v. the State of South Carolina, which
23 stated that for purposes of strikes, they are separate
24 incident dates and do not -- it doesn't matter if they plead
25 to them on the same day if they are distinct incidents that

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1 happened.

2 **THE COURT:** All right. And it looks like there's one,
3 two, three, four different incident dates based on the priors.

4 **MR. WISE:** I know there's more than two incident dates.

5 **THE COURT:** There was a July -- I'm sorry. There's May
6 -- July 30, 2015; a June 22nd, 2016; July 6, 2016; and a
7 November 30, 2016 based on the summary. I have not compared
8 the -- yeah, there.

9 **MR. YARBOROUGH:** Your Honor, just -- Mr. Swaringen tells
10 me that when he entered into those guilty pleas on that day he
11 was represented by Mr. Eppes. Mr. Eppes told him to -- that
12 it didn't matter if they pled to all of them together.

13 Now, of course, they -- at that point were not thinking
14 about the, you know, two strikes. But that -- based on -- he
15 entered pleas to all of those based on advice of counsel at
16 that time. And he got seven years concurrent for all of them.

17 **MR. WISE:** And that may be something -- that's why he
18 doesn't want to agree to the validity of those charges -- that
19 was collateral -- possible collateral attack later.

20 **THE COURT:** All right. Anything else? Mr. Blouin?

21 **MR. BLOUIN:** Your Honor, I'd just read his record in full
22 regardless of those. In 1983, attempt to obtain a controlled
23 substance by fraud and an ABWIK; '84, obtaining goods by false
24 pretense, failure to stop for blue lights; '85, a parole
25 violation; '88, resisting arrest; '92, two shopliftings, grand

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1 larceny, six forgeries, driving under suspension and assault
2 and battery; '96, failure to stop for blue light, petty
3 larceny; '97, petty larceny; '98, grand larceny; '99, forgery,
4 grand larceny, resisting arrest, breaking and entering an
5 automobile, shoplifting, there's a trespassing, failure to
6 stop for blue light, receiving stolen goods, petty larceny,
7 another driving under suspension; 2000, grand larceny; 2001,
8 parole revocation, three petty larcenies; 2002, failure to
9 stop for blue light, shoplifting, grand larceny; 2007, petty
10 larceny; 2009, failure to stop for blue light, habitual
11 traffic offender, resisting arrest, fraudulent check times 16,
12 driving under suspension, DUI, hit and run; 2008, driving
13 under suspension, shoplifting; 2009, grand larceny, three
14 forgeries, a resisting arrest, failure to stop for blue
15 lights; 2010, forgery; 2011, failure to stop for blue light;
16 2013, driving under suspension, failure to stop for blue
17 light; 2017, resisting arrest, possession of cocaine base,
18 distribution of heroin, second offense, distribution of
19 methamphetamine, second offense, possession with intent to
20 distribute heroin, second offense, times two, two trafficking
21 in methamphetamines, possession with intent to distribute
22 meth, second, and a shoplifting.

23 He also has a Florida conviction in 1991 for DUI and
24 Georgia convictions of a 1988 DUI and false name to law
25 enforcement; an '89 fraud, and battery, and false name to law

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1 enforcement, and FTC fraud; 1990 DUI; 1991 DUI and probation
2 violation; 1992, false name and probation violation and theft;
3 2006, fleeing from law enforcement, false information or false
4 name to law enforcement, DUI and receiving stolen goods.

5 **THE COURT:** All right. Anything else from the defense?

6 **MR. YARBOROUGH:** Your Honor, I think that it's -- a lot
7 of those charges were small charges. I mean, it does go back.
8 He struggled with alcohol and drug addiction.

9 I will say this, Your Honor, that on his behalf his
10 mother can't bear to be in here. She's met with me on
11 numerous, numerous occasions. And she loves Joey very much.

12 He's got a wife, Linda, that cares very much about him.
13 She's been in and out of the courtroom at different times.
14 He's got a young little girl that he cares very much -- cares
15 very much for.

16 I don't know that I've ever had a client that worked as
17 hard on his individual cases as Joey has. And he's worked
18 hard with my office, with my office staff. He has always
19 treated us with -- we might have cross words at different
20 times because we don't agree, but he's always treated us with
21 dignity and respect.

22 He's a good guy. I've watched this, Judge. You know,
23 I've got a -- spent a lot of time dealing with people with
24 addiction issues and dealing with my own personal problems,
25 but I know that from watching him over time, being in jail and

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1 being away from alcohol or drugs, whatever his -- his drug of
2 choice was, I've watched his mind get better, and watched his
3 ability to interact with people get better.

4 And, you know, Judge, I know that there's a sentence
5 here, but I'd ask you to be as lenient as possible. It's been
6 a -- it's been an honor to represent Mr. Swaringen. And, you
7 know, I wish nothing but the best for him and for his family.
8 I know he loves them very much.

9 **THE COURT:** All right. And, Mr. Swaringen, anything you
10 want to tell me?

11 **MR. SWARINGEN:** Yes, sir.

12 Your Honor, I'm 59 years old. I think the mandatory
13 minimum is 25 years. I'll be 80 something years old if I come
14 home then. All these charges and stuff, I've never run over a
15 dog. I never hurt a soul.

16 I got shot at by a highway patrolman for speeding on my
17 way to Judge Eppes' house to take him a Christmas present,
18 literally. I have the newspaper article. And he -- it put me
19 in the hospital, and I was strung out on opiates. And my
20 life's been hell.

21 I mean, do I have to die in a prison? I mean, am I a
22 threat at 80 years old? I mean, 25 years at 85 percent, I'm
23 59. And have I done something to deserve dying in prison?
24 Anything?

25 Fraudulent checks, I wrote some bad checks. The

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1 forgeries, they were my mama's -- my mama's checks. And she
2 put my ass in jail where I belonged. Saved my life. I was on
3 drugs. You know, credit card, my mother's.

4 I've never had one victim up here saying I couldn't feed
5 my kids at night, or I couldn't go to work, or he hurt my
6 husband or he hurt my wife. Never. Never once.

7 I mean, I've been -- I did the time. I always took --
8 and say, hey, I'm guilty. I got a hit by a lady, I mean, I --
9 I'm not going to rehash all that.

10 But, I mean, isn't me coming home at 82 or 80 something
11 -- I mean, I'm 59, 22 years from now. I mean, 81, isn't that
12 enough? I mean, would I still be a threat to anybody? I
13 mean, I don't -- I mean, I've never hurt anybody.

14 And I -- Frank said, they going to give you -- he said,
15 if you'll just plead, we'll give you seven years to each one
16 of these charges. Ain't going to be but seven years. And it
17 don't matter. Those will all be gone instead of fighting
18 them. So I signed.

19 I mean, most of these pleas, this charge and that charge,
20 you just sign, okay, we'll just plead you out to all of them
21 and we'll give you -- they'll give you less time. That's the
22 way that works with the solicitor's office.

23 I mean, you know, you just plead to all these and we'll
24 just give you this and let you go on about your way. And, I
25 mean, that's the way it works. That's the way it's done every

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1 day.

2 Judge Miller's -- Judge Miller's been my attorney before,
3 you know. Judge Stilwell's been my attorney. I mean, -- I
4 mean, I got some esteemed attorneys now. I don't think the
5 people that's been in my life, if I was just a scumbag, you
6 know, nothing, I don't think they would have been involved
7 with me.

8 And I've got a little girl. She's nine years old. And
9 she has acute ataxia, you know, a debilitating disease. And,
10 you know, how you tell her, your daddy's never coming home?
11 And how do I tell my 83 year old mama, I'll never be home,
12 mama?

13 I haven't -- I've never hurt nobody. I've never hurt a
14 soul, not once. Not once. Except he talked about in 1980, I
15 was 16 years old. And I didn't hurt nobody then. That was a
16 misdemeanor or a common law misdemeanor. And Judge Victor
17 Pyle gave me the max for it. Tried me as an adult. I was 16.
18 I had not -- I've never once hurt nobody. Not one person.

19 You know, I watched them the other day give a man who
20 watched his wife beat a little girl to death. He got 20
21 years. I mean, I don't -- I mean, Judge, I don't understand
22 what's going on with the solicitor's office in this. I don't.

23 I mean, I watch these people, you know, I just see these
24 things and it doesn't make any sense to what he -- some things
25 are just -- some people are treated one way and some people

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1 are treated another.

2 I mean, how is this not unusual punishment? When's the
3 last time they gave somebody with a drug charge a life
4 sentence? You got these people up here every week with State
5 Grand Jury indictments getting, from prison, already in prison
6 for selling dope out of prison, and they're not getting life
7 without parole.

8 I mean, I wasn't subject to no drug task force
9 investigation. Nobody was after me or investigating me for
10 being involved in a drug ring or anything else. I got hit by
11 a car. I have no -- nobody -- there wasn't no -- no, you
12 know, undercover investigation or manpower hours chasing Joey
13 down. You know, there just wasn't.

14 I mean, I don't -- I mean, I would like to have at least
15 a date to come home, maybe, if I could live that long. I
16 mean, 82 years old. Wouldn't that, you know, I mean, you
17 would think that would be enough for twenty-nine (29) grams of
18 methamphetamine.

19 **MR. WISE:** Your Honor, I just would like to echo his
20 sentiment on the harshness of the drug laws of life without
21 parole. You know, I've always envisioned it as someone who is
22 a true danger to other human beings in our society. And you
23 can argue that dealing in drugs is a danger to other people in
24 society, so be it, but it's not like someone who takes
25 aggressive action against strangers.

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1 Secondly, I have read the newspaper article where he got
2 shot on the way to Judge Eppes' house. And it was -- I think
3 it had an impact on him, unfortunately, not in a good way.
4 But he was clearly assaulted many, many, many years ago. And
5 it may have been what started the spiral into drug addiction.
6 But that did -- that did happen.

7 **MR. SWARINGEN:** I refused to testify at the grand jury
8 against that highway patrolman. And I signed a civil waiver.
9 He made a mistake. Your Honor, I went to his house and found
10 him and shook his hand. L.E. Warden, I hunted him down.

11 And he shot my wife's car up. I jumped out and ran. He
12 shot me. And then he pistol whipped me because I couldn't get
13 up and walk. And then it got me strung out on opiates. I
14 mean, you're in there getting a shot every two or three hours
15 and then they send you home.

16 I don't -- but nobody's ever come up in here in this
17 court and said I couldn't feed my kids because of something he
18 did, or he stole my car, and I couldn't go to work, or he
19 stole my tools, or he broke in my house. Never. Never.

20 I mean, I don't -- I've never -- all my stuff, I mean, I
21 never victimized people. The only people I hurt was the
22 people who loved me. That's it.

23 **THE COURT:** And yourself.

24 **MR. SWARINGEN:** Yes, sir. I mean, I hurt my mama so
25 much. Judge Eppes, he -- he cussed me out for getting shot, I

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1 mean, literally. You know, Ms. Gibson, Lottie Gibson, I don't
2 know if you knew her, I broke her heart. She's like my second
3 mama.

4 I hadn't done anything to deserve to die in a prison. I
5 mean, I don't -- I mean, who am I a danger to at 80 something
6 years old? If I make it that long.

7 **THE COURT:** Anything else from the State?

8 **MR. BLOVIN:** Nothing from the State, Your Honor.

9 **THE COURT:** I think in light of the circumstances, the
10 prior convictions that are on the notice of intent, they were
11 all -- I realize they were different incident dates, but they
12 were all the same conviction dates and representations. I'm
13 going -- so the sentence of the Court is going to be 28 years
14 in the Department of Corrections.

15 **MR. SWARINGEN:** Thank you, Judge.

16 **THE COURT:** So good luck to you.

17 **MR. SWARINGEN:** Thank you, Judge. I'll try to behave.

18 (Whereupon court was in recess at 2:29 pm)

19 (Whereupon court reconvened at 2:31 pm)

20 **THE COURT:** All right. It has been brought to my
21 attention after the verdict form, I mean, that -- I guess I
22 just didn't look at the statute, not part of the verdict, but
23 sentencing sheet.

24 The -- under 17 25 45 it appears that the -- I guess I
25 just didn't consider this. But in light of the 17 25 45,

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1 under these circumstances, it is a mandatory, once life
2 without parole has been served, and then if -- it meets with
3 the qualifications. So I'll be glad to hear from the defense.

4 **MR. YARBOROUGH:** Your Honor, I think that you just
5 highlighted the exact problem with the life without parole
6 statute and the way it was served in this case. This is a
7 case where this defendant pled guilty to certain charges on a
8 certain date, and they were all run concurrent. And they were
9 run by the advice of counsel without counsel having noticed
10 him that those would be more than one strike, they would -- it
11 was held that way.

12 The Court looked at it, came to the same conclusion that
13 everyone else does that that seems unfair and sentenced the
14 defendant to 28 years versus life. And we'd ask that you
15 remain there because that's what I asked you to do to begin
16 with. And I think the 28 years is more than a fair sentence
17 under the circumstances.

18 **THE COURT:** You know, and I think there's a practical
19 matter, it may not make much of a difference practical, but,
20 you know, now upon further review of this statute, I'm not
21 sure that there is any discretion regardless if I think it's
22 fair or not. So I don't think there's -- I don't have any
23 choice but to amend my sentence and sentence to life without
24 parole. So ...

25 **MR. SWARINGEN:** Your Honor?

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1 **THE COURT:** Yes.

2 **MR. SWARINGEN:** Bill said that he was going to file the
3 notice of intent to appeal. I mean, is it -- is this
4 sufficient?

5 **MR. WISE:** No, no. We'll file ---

6 **MR. YARBOROUGH:** No, we'll file a written notice.

7 **MR. WISE:** Yeah, it's a written document you file.

8 **THE COURT:** Yeah, he'll -- he'll take care of that.

9 **MR. WISE:** I meant to say earlier -- Mr. Yarborough said
10 it's been a pleasure to represent Joey. I will say it's going
11 to be a pleasure to continue to represent him.

12 **THE COURT:** All right. Well, good luck to you, Mr.
13 Swaringen.

14 **MR. SWARINGEN:** Thank you, sir.

15 (Hearing Ended at 2:34 pm)

16 (End of Requested Transcript of Record)



2021 Report to the Greenville Health Authority

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NOTE: This report spans a primary time frame of Fiscal Year 2021 (October 2020–September 2021). COVID-19 protocols were in effect during this period, so some figures may differ markedly from previous years.

Increase accessible, affordable care

(Compliance with lease sections 3.11a, 3.11b, 3.11c, 3.11d, 3.11e)

Community benefit report

Prisma Health uses guidelines set by the Catholic Health Association (CHA)* allowing for equitable comparisons of community benefits among healthcare institutions. In recognizing the importance of community outreach in ensuring a high quality of life for all residents in the region, Prisma Health offered support in a variety of ways during Fiscal Year 2021 (October 2020–September 2021).

To help meet the medical needs of Upstate residents who have no healthcare coverage and cannot afford to pay for medical services, Prisma Health provided \$152 million in charity and government-sponsored healthcare (at cost) in Fiscal Year (FY) 2021.

Community benefit programs encompass community health services, education of health professionals, subsidized health services, research, and financial and in-kind contributions. In addition to offering health fairs, screenings and information sessions, our organization works with community groups and educational institutions to train healthcare workers and to ensure access to basic medical services for everyone.

Although the numbers below are for the Upstate only, it is important to note that the percentage of operating expense recognized as community benefit for our health company overall was 15.4%.

Prisma Health: Upstate only (FY 2021)

Net cost of charity and Medicaid services	\$152 million
Support to the community and community health partners	\$21.9 million
Benefits recognized by CHA.....	\$173.9 million

Medicare shortfall and bad debt (at cost) are also benefits that the health company provides. The Medicare shortfall represents \$128.3 million of unpaid costs when reimbursement falls short of the actual cost of care. Bad debt, which totaled \$104.8 million, occurs when patients are unwilling or unable to pay for services and do not seek charity care.

Medicare shortfall.....	\$128.3 million
Bad debt	\$104.8 million
Additional benefits recognized by American Hospital Association	\$233.1 million

TOTAL QUANTIFIABLE COMMUNITY BENEFIT \$407 million

These figures and amounts are reported based on information through Sept. 30, 2021 (as of Jan. 17, 2022), and are subject to change. Updated information or changes may be reflected differently in more current filings such as tax forms and cost reports. Figures may differ markedly from previous years due to COVID-19.

**CHA guidelines are used by most hospitals to measure their community benefit.*

Medicare and Medicaid participation

Our organization has long been committed to providing care for all Greenville County residents. To fulfill this commitment, Prisma Health takes part in Medicare and Medicaid programs.

In FY 2021, Prisma Health provided \$690,153,735 in care for Medicaid patients and \$1,933,609,942 in care for Medicare patients who live in Greenville County. This care was received at our facilities and practices in the Upstate, including our five Prisma Health hospitals in Greenville County: Greenville Memorial, Greer Memorial, Hillcrest, North Greenville and Patewood (see below).

FY 2021	Total charges	Payor mix by total charges
Private/Managed care insurance	\$1,712,575,437	36.8%
Medicaid	\$690,153,735	14.85%
Medicare	\$1,933,609,942	41.5%
Self-pay/Charity	\$319,376,401	6.9%
Grand total	\$4,655,715,515	100%

Ongoing response to COVID-19

- Prisma Health continues to lead the state's COVID-19 response in both the Upstate and Midlands – treating 30% of patients hospitalized with the virus. Of our 13,713 total hospitalizations, 8,202 occurred in the Upstate. Some of our patients avoided or reduced hospital stays and severe illness by receiving monoclonal antibody treatments early in their disease progression; 2,339 treatments were given in the Upstate.
- In January 2021, Prisma Health created mass vaccination sites, taking a leadership role in vaccine distribution in the Upstate (vaccines to team members began Dec. 15, 2020). At its peak, 9,656 vaccines were administered Jan. 22 throughout Prisma Health, with 6,093 being given in the Upstate that day! We additionally outfitted three mobile vans in the Upstate to deliver vaccines, targeting residents in rural and underserved areas. These three vans administered 4,350 vaccinations to 2,929 participants at 106 "popup" sites starting in February. In total across Prisma Health, 444,384 vaccines were administered by Sept. 30, with 234,788 dispensed in the Upstate.
- Because testing remains key to managing the local impact of coronavirus, Prisma Health continued to provide COVID-19 tests throughout the Upstate – 203,140 to be exact – with many being administered at drive-thru sites in our communities.
- In large part due to COVID-19, Prisma Health's virtual care platform approximately 360,000 visits by video, phone or eVisit in the Upstate. These options have been particularly helpful for people reluctant to seek on-site care for other health concerns during the pandemic.
- Quick adaptability has proven essential to our coronavirus response, perhaps best exemplified by North Greenville Hospital, which became a COVID-19 inpatient facility during the surges in FY20. When cases declined in spring 2021, the hospital transitioned back to providing long-term acute care. As cases then reached record highs in late summer and beyond, the hospital again transitioned as a site for treating COVID-19 patients who need extra recovery time.

Increase access

- LifeNet South Carolina, an air medical program, and Prisma Health have collaborated to offer additional air ambulance coverage. The partnership has established a base at the Pickens County Airport with new aircraft. This new base will ensure that residents in Upstate South Carolina, northwestern North Carolina and northeastern Georgia have access to excellent air medical services, resulting in quicker response times during emergency and trauma situations.

- Prisma Health Baptist Easley Hospital began construction on a new cancer facility, called the Larry Winn, MD, Cancer Care Unit. The \$1.9 million project will open in 2022 and allow patients to stay close to home to receive treatment.
- A groundbreaking ceremony was held in August at Prisma Health Oconee Memorial Hospital to expand the Emergency Department. The \$13 million project is slated for completion in 2023 and will more than double the current space, providing at least 22 new private treatment rooms.
- Despite the pandemic, Prisma Health Carolina Dermatology opened a practice in Easley and Prisma Health Orthopedics launched a new office in Greenville. North Greenville Hospital also greatly expanded its adult and pediatric walk-in clinic. Other examples of increasing access include adding more on-site clinics in Upstate businesses and increasing the use of advanced practice providers.

New providers

In addition to establishing or expanding patient access points, Prisma Health has added new providers to enhance accessibility of care. Marked gains occurred in the Upstate number of nurse practitioners (adding 45 for a total of 389) and employed physicians (adding 107 for a total of 1,355) over the previous year. Specialty areas of anesthesiology and orthopedics saw the highest physician growth, with cardiology and neurology/neurosurgery logging noteworthy increases in the number of advanced practice providers. It is no surprise that as clinician – and practice – numbers increase, so does patient accessibility to the services provided.

New services

- Prisma Health announced the formation of a Transplant Center in response to rising community needs. South Carolina ranks second per capita for those on the waiting list for kidney transplants. One of two such centers in the state and 253 nationwide, this center at Greenville Memorial Hospital received approval to perform kidney transplants starting fall 2021.
- Prisma Health has begun a 10-year strategic relationship with medical technology company Siemens Healthineers to innovate healthcare. As part of this relationship, Prisma Health is upgrading major clinical technology to more modern systems that improve patient outcomes, reduce costs and enhance team members' skills. The organization is also collaborating with Siemens to develop new medical technology and software.
- Prisma Health announced an agreement with Aetna to offer a new Medicare Advantage product for South Carolinians age 65+ and others eligible in Greenville, Spartanburg, Anderson, Pickens, Oconee and Laurens counties. The goal is to connect consumers with an integrated solution to their healthcare needs. The focus is to improve coordination, clinical performance and efficiency of care for plan members.
- Home Recovery Care, a program that makes possible hospital-at-home services for those with select conditions, is now available through Oconee Memorial Hospital. This care model keeps patients out of the hospital and provides nursing oversight, thus allowing them to avoid hospital-acquired infections while enjoying the comforts of home. Patients with acute, non-life-threatening medical conditions spanning approximately 150 diagnoses are eligible for this service. The program was first offered at Greenville Memorial Hospital last fiscal year.
- Patewood Hospital opened a Breastfeeding and Newborn Care Center. The center helps ensure a seamless transition from hospital to home for breastfeeding moms and their newborns.
- Prisma Health now has a Hemophilia Treatment Center in Greenville. Our organization houses the state's two federally supported treatment centers (the other is in Columbia), serving both adults and children.

Advance population health

(Compliance with lease sections 3.11a, 3.11b, 3.11d)

Prisma Health Upstate Network

In spring 2014, our health company began partnering with independent doctors, hospitals and other healthcare providers across the Upstate to form a physician-led clinically integrated network. This created the infrastructure to operationalize clinical and cultural change to transform healthcare and improve patient outcomes.

Prisma Health Upstate Network engages providers in a patient-centered performance improvement program that integrates quality initiatives across the continuum of care. This collaboration fosters a high degree of coordination to enhance quality, improve the patient experience, create efficiencies in care and reduce healthcare costs.

Value-based care necessitates focusing on the patient's needs and the convenience to access healthcare in innovative ways. The key to success in any payment model is a well-poised clinical delivery system that can ensure high quality and exceptional patient experience. By partnering with physicians and other providers, the network can work together in new ways to ensure optimal care delivery within and across the continuum to meet the healthcare needs of our communities.

The network negotiates value-based contracts directly with employers, Medicare and commercial payors that hold providers accountable for quality performance in their patient populations, for instance, reducing A1c levels in those with diabetes. These value-based contracts shift payment from fee-for-service, volume-driven models to shared savings if quality performance and/or financial targets are met, or shared risk if quality performance and/or financial targets are not met.

The network's initial contract was with the Medicare Shared Savings Program (MSSP) in 2015, which then expanded into the direct-to-employer market.

In its sixth year of taking part in the MSSP in 2020, Prisma Health Upstate Network improved clinical quality and cut Medicare costs by more than \$4.5 million across a population of 59,553 patients. Although the network exceeded the quality target and came in under the Centers for Medicare & Medicaid Services (CMS) benchmark, saving CMS in excess of \$4.5 million, it did not meet the shared savings thresholds. Through the MSSP contract, Prisma Health Upstate Network has cumulatively saved the Centers for Medicare & Medicaid Services more than \$67 million for the 59,000+ Medicare fee-for-service beneficiaries.

In 2020, the network made great strides by adding three Medicare Advantage contracts, along with a large commercial agreement totaling more than 42,000 at-risk lives. In 2021, the network partnered with BlueCross BlueShield of South Carolina to offer a new product – Blue Exclusive Reedy – that included nearly 3,000 Greenville County individual exchange members.

Although the network has not yet engaged in a Medicaid contract, Prisma Health has a value-based, at-risk contract with Healthy Blue Medicaid.

By putting management and decision-making in the hands of providers and patients, Prisma Health Upstate Network can ensure that clinical quality priorities remain at the forefront of care.

Population health initiatives

Hypertension Management Program

In this evidence-based program, participants with high blood pressure meet for 16 weeks to receive health education on how to control their hypertension. The program (in partnership with Clemson Cooperative Extension) graduated 78 patient participants this past year. Of those, 47 (60%) lost weight, 40 (51%) decreased their blood pressure or maintained a normal blood pressure and 50 (64%) showed an increase in their knowledge scores related to high blood pressure.

Diabetes Prevention Program

This evidence-based, yearlong program helps prevent or delay type 2 diabetes. The Diabetes Prevention Program offered 18 courses in FY21 (six completed, 12 ongoing) with 171 participants. Total weight loss was 1,900 pounds.

AccessHealth

Prisma Health AccessHealth programs work with community partners, such as free medical clinics, to improve access to care and services for those in need. In FY 2021, Upstate AccessHealth programs resulted in a 65% reduction in Emergency Department (ED) use and 15% decrease in inpatient care for patients enrolled in the programs, resulting in a \$3.6 million savings for Prisma Health. Since inception, Upstate AccessHealth programs have served approximately 11,000 uninsured patients.

Mobile Mammography unit

Prisma Health's Mobile Mammography unit is making it more convenient to screen women across the Upstate – 1,275 in its inaugural year in FY21. The new service has partnered with nearly 100 corporate and community sites to offer mammograms at various locations.

Mobile Health Clinic

The Prisma Health Mobile Health Clinic provides proactive healthcare for those facing barriers in access to care by going directly to communities with high rates of preventable illnesses, hospitalizations, and ED and emergency medical services (EMS) use.

The clinic completed 2,002 patient visits for the underinsured or uninsured at 180 community clinics in FY21. More than 70% of the patients seen have been referred to AccessHealth for continuum of care.

Community Paramedicine program (through June 2021)

Community paramedics are advanced paramedics with field experience and Community Paramedic Certification. They provide preventive care, treat non-emergent health needs, and help patients manage their chronic conditions to prevent inappropriate use of EMS, ED, and inpatient services.

Greenville County

The Community Paramedicine program in Greenville County has reduced unnecessary ED use by 9.3% and inpatient use by 29.3% for participants – decreasing costs by \$2,259,420 through June 2021 (the most recent data). Also, primary care visits have increased by 180%. The program enrolled 201 patients with chronic conditions and set self-management goals to improve participants' overall health.

Oconee and Pickens counties

The Community Paramedicine program in Oconee and Pickens counties has reduced unnecessary inpatient use by 39.1% and EMS use by 65% for participants – decreasing costs by \$477,315. Primary care visits also increased by 10%. The program enrolled 52 patients in FY21.

Community Care program

The Community Care program consists of volunteers who work together to offer practical, emotional and spiritual support to patients in the community. The goal is to reduce readmissions, improve patient engagement and avoid unnecessary medical costs.

In its first full year, the Community Care program received 131 referrals; of those, 43 people were eligible and enrolled in our program.

Community Health Worker program (through March 2021)

Community Health Workers are front-line public health workers who handle patients' social determinant of health needs through home visits, phone calls or by accompanying patients to medical appointments. They act as navigators to connect patients with health services and community resources. They also help ensure compliance with appointments, screenings, treatments and medications, and they address self-management of health conditions, establish goals and facilitate transportation.

The Community Health Worker program has reduced unnecessary ED use by 39% and inpatient use by 65% for participants, while decreasing costs by \$929,262 through March 2021 (the most recent data). In addition, primary care visits have increased by 215.6%. This program enrolled 647 uninsured patients to help them access healthcare services and connect with community resources.

PASOs Greenville

PASOs ("steps" in Spanish) is a Greenville-based organization formed in response to the maternal and child health needs of the growing Hispanic population in South Carolina.

During FY 2021, PASOs Greenville connected:

- 439 adults and 34 children to a social determinant of health referral
- 1,130 adults and 875 children with access to healthcare
- 147 adults and three children with SNAP (Supplemental Nutrition Assistance Program) benefits
- 179 pregnant women with education on folic acid; 193 received general pregnancy education
- 207 women and 399 children to be enrolled in WIC (Special Supplemental Nutrition Program for Women, Infants and Children)
- 416 adults and 1,025 parents of children with information on WIC benefits
- 548 new adults and 500 new children from the numbers above to take part in PASOs

Bradshaw Institute for Community Child Health & Advocacy

The Bradshaw Institute for Community Child Health & Advocacy, part of Prisma Health Children's Hospital–Upstate, works to create healthy and safe communities, increase access to care for those experiencing vulnerabilities, provide evidence-based strategies to improve health literacy, and ultimately become a best practice leader. Made possible by a legacy gift in 2016, the institute's funding comes from various sources: grants, philanthropy and operational dollars.

What follows is a summary of the team's activities or statistics in the Upstate during FY21:

- Pediatric Support Services, which was established throughout our ambulatory pediatric practices, received 4,346 referrals.
- The Survey of Well-being of Young Children screening tool was fully implemented at all Prisma Health Children's Hospital ambulatory practices and is available to all family medicine and internal medicine-pediatrics practices.
- 244 students were seen during 392 total visits at our School-based Health Centers in the 2020–21 school year; 163 of those visits were for mental health screenings and psychosocial management.
- 160 Tdap, HPV and meningococcal vaccinations were administered to Greenville County students through these School-based Health Centers.

- 144 students received sports physicals through School-based Health Centers.
- Safety educators provided personalized pediatric injury prevention education to 1,371 families at Greenville Memorial Hospital and 858 families at Patewood Hospital before their baby's discharge from Newborn Services at our Children's Hospital.
- 108 individuals participated in Bradshaw Institute's virtual Parenting Support Series.
- The team maintained 31 permanent Child Passenger Safety Inspection Stations in the community, including the on-site station at Greenville Memorial Hospital; new services began at Patewood Hospital and Oconee Memorial Hospital with the addition of a Child Life/Safe Kids position that covers inpatient and community car seat/safe sleep needs.
- 496 car seat inspections were completed in the community, including 75 through our Diaper Bank.
- To help keep 4,000 children healthy and dry, nearly 180,000 diapers were distributed via our Diaper Bank to 2,406 families in need.
- 843 Upstate students took part in the Wheels to Wellness bike skills program.
- 242 safe sleep referrals and education were provided via Cribs for Kids; 55 cribs were supplied to families.
- 40 of our medical residents were trained in community health and advocacy.
- Six Title 1 schools received comprehensive health promotion messaging from September–May.
- 565 referrals for Connect for Health text messages were made by 49 providers from eight of our pediatric practices.
- Six of our pediatric practices received outreach education on Connect for Health and pediatric obesity weight management.
- 150 faculty, staff and administrators from Greenville County Schools took part in a daylong training offered by our institute on conscious discipline.
- On average each month, 175 Prisma Health pediatric patients who attend their well child appointment are eligible to participate in the Connect for Health intervention.

Improve quality and safety

(Compliance with lease sections 3.11a, 3.11b, 3.11d)

National recognitions

ABCs of safety

In the Upstate, all Prisma Health general acute-care hospitals earned “A” rankings in the spring 2021 Leapfrog Group report. Overall, only 33% of eligible hospitals attained this top ranking.

- A: Baptist Easley Hospital
- A: Greer Memorial Hospital
- A: Hillcrest Hospital
- A: Laurens County Hospital
- A: Oconee Memorial Hospital
- A: Greenville Memorial Hospital

Leapfrog’s report uses national performance measures from CMS, Leapfrog Hospital Survey, Agency for Healthcare Research and Quality, Centers for Disease Control and Prevention, and the American Hospital Association’s Annual Survey and Health Information Technology Supplement. Taken together, those measures produce a grade representing an acute-care hospital’s overall performance in keeping patients safe from preventable harm and medical errors.

The Leapfrog Hospital Safety Grade is assigned to general acute-care hospitals only. Time frames used in calculating these ratings range from 2017–20.

Greer Memorial Hospital is the state’s sole hospital to earn an A for six years in a row!

Maternity care laurels

Recognized for Best Maternity Care nationally by Newsweek/The Leapfrog Group were all Prisma Health birthing facilities in the Upstate: Greenville Memorial, Greer Memorial, Laurens County, Oconee Memorial and Patewood hospitals. Baptist Easley Hospital was also named, although it is not offering maternity services at this time due to ICU capacity increases related to COVID-19. Overall, Prisma Health accounts for 7 of the 10 hospitals named for Best Maternity Care in South Carolina.

- ✓ Baptist Easley Hospital
- ✓ Greenville Memorial Hospital
- ✓ Greer Memorial Hospital
- ✓ Laurens County Hospital
- ✓ Oconee Memorial Hospital
- ✓ Patewood Hospital

Quality Star listings

The Centers for Medicare & Medicaid Services (CMS) released its 2021 Overall Hospital Quality Star Ratings, with top (5-star) ratings going to Hillcrest and Patewood hospitals. Just 455 hospitals (10%) nationwide garnered top marks for quality performance!

*****	Hillcrest Hospital
*****	Patewood Hospital
****	Baptist Easley Hospital
****	Greer Memorial Hospital
****	Oconee Memorial Hospital
***	Laurens County Hospital
**	Greenville Memorial Hospital

Four stars went to Baptist Easley, Greer Memorial and Oconee Memorial hospitals. Three stars were given to Laurens County Hospital, with Greenville Memorial Hospital receiving two stars.

This initiative uses scores of quality metrics to rate more than 4,500 U.S. hospitals on a 1–5 scale. Time frames used in calculating these ratings range from 2016–19.

Best Hospital honors

Healthgrades lauded Patewood as being one of the nation's 100 Best Hospitals for Joint Replacement. Healthgrades also tapped Greenville Memorial Hospital for clinical excellence in coronary intervention and Oconee Memorial Hospital for clinical excellence in pulmonary care.

U.S. News & World Report ratings

U.S. News & World Report recognized three of our Upstate hospitals as High Performing in these areas:

- ✓ Greenville Memorial Hospital: heart attack, colon cancer surgery, lung cancer surgery, stroke
- ✓ Oconee Memorial Hospital: heart failure, chronic obstructive pulmonary disease (COPD)
- ✓ Patewood Hospital: hip replacements, knee replacements

Kudos to these hospitals

Three Upstate hospitals were honored by the American Heart Association for high-quality stroke care:

- Greenville Memorial: Gold Plus Achievement/Quality Award; Stroke Elite Plus, Honor Roll; Stroke Advanced Therapy, Honor Roll; Type 2 Diabetes, Honor Roll
- Greer Memorial: Gold Plus Achievement/Quality Award; Stroke, Honor Roll; Type 2 Diabetes, Honor Roll
- Hillcrest: Gold Plus Achievement/Quality Award; Type 2 Diabetes, Honor Roll

Most Wired award

Prisma Health was again named a Most Wired organization by the College of Healthcare Information Management Executives, reaching Level 8 (of 10) and placing it in the top quartile of the more than 16,000 facilities surveyed. The Most Wired program evaluates technology use to improve healthcare in multiple areas, including clinical quality and safety, interoperability, population health, patient engagement, and analytics and data management.

Supply chain recognition

For a second consecutive year, Prisma Health was named the 2020 GHX Excellence in Vendor Credentialing & Compliance winner. This award recognizes healthcare supply chain leaders who set the standard for optimizing sourcing, contracting and onboarding; credentialing and payment approval; and performance reviews. Our team also received Supply Chain of the Year honors from the Emergency Care Research Institute.

Ambulance accolades

Prisma Health's Ambulance Service was the 2020 South Carolina Large EMS System of the Year. The state's EMS Association tapped the service team for "outstanding professionalism and service to communities and citizens."

Community hospital congratulations

Hillcrest Hospital was recognized by Vizient as the 2021 Bernard A. Birnbaum, MD, Quality Leadership winner in the Community Hospital category. Rankings measure quality of patient care in five areas: safety, mortality, effectiveness, efficiency and patient-centeredness.

Breastfeeding award

Prisma Health's Center for Pediatric Medicine received the 2021 IBCLC Care Award (IBCLC stands for international board-certified lactation consultants) for training those who care for breastfeeding families, promoting breastfeeding and supporting the lactation consultant profession.

Outstanding Employer honors

Baptist Easley Hospital was named 2020–2021 Outstanding Employer of the Year by the S.C. Division on Career Development and Transition, serving as a host site for Project SEARCH, which boosts employment opportunities for youth with disabilities (in partnership with the School District of Pickens County).

Energizing news

Hillcrest Hospital and Patewood Hospital were presented the Energy to Care Award from the American Society for Health Care Engineering for reducing campus energy consumption by 10% in a year. Both were the only hospitals in South Carolina recognized for energy conservation the previous year as well.

Patient recognitions/Satisfaction score awards

Women's Choice winners

The Women's Choice Award identifies the country's best healthcare institutions based on the most recent publicly available data from CMS and accreditation information that considers clinical excellence and the preferences of women when selecting a hospital. Three of our hospitals in the Upstate received a total of six awards for meeting high standards.

Women's Choice winners	Mammogram imaging	Obstetrics	Patient safety	Stroke care
Greer Memorial Hospital		✓	✓	✓
Oconee Memorial Hospital	✓			
Patewood Hospital	✓	✓		

Greer Memorial Hospital received recognition for Obstetrics, Patient Safety and Stroke Care. Patewood Hospital garnered Obstetrics honors. Both Patewood and Oconee Memorial hospitals were commended for their mammogram imaging.

Best of the Best

Greenville News readers voted Prisma Health entities among the top three in these Best of the Best categories:

- Hospital: Greer Memorial Hospital
- Orthopedic Surgeon: Brayton Shirley, MD (Prisma Health Steadman Hawkins Clinic of the Carolinas)
- Pediatrician: Prisma Health Pediatrics—Mills Avenue and Maxwell Pointe
- Primary Care: Prisma Health Internal Medicine Associates of Greenville
- Urgent Care: Prisma Health Urgent Care
- Virtual Medical Experience: Greenville Memorial Hospital Emergency Department

In addition, the Prisma Health Swamp Rabbit Trail was named Best Hiking Trail and listed as a Best Remedy for Cabin Fever.

Greer Citizen readers tapped Greer Memorial Hospital as Best Hospital, Prisma Health Pediatrics—Greer as Best Pediatrician and Prisma Health Internal Medicine—Maxwell Pointe as Best Family Doctor.

Readers of the Pickens County Courier voted Prisma Health Pediatrics—Easley as Best Pediatrician.

Patient experience recap

National award

Greer Memorial Hospital again received the Healthgrades Outstanding Patient Experience Award in 2021. This honor was given to the top 15% of hospitals in the nation for patient experience.

Prisma Health Service and Quality Pillar performance

Across our enterprise, a key measure of service quality is creating a better experience for patients and their families. This experience includes interactions that patients may have with Prisma Health as they seek and receive care, such as communication with providers and the support team, along with access to facilities and timely appointments.

Commitment to an excellent patient experience is reflected in the organization's Pillar goals, particularly Service and Quality. The Service Pillar goal was not met, which has been a challenge for all hospitals in terms of delivering outstanding patient experience during the pandemic. Prisma Health performed well on the Quality Pillar goal of clinical excellence, designed to enhance both patient outcomes and the patient experience. These enterprise-wide goals are intended to drive long-term improvements in quality and safety.

Service Pillar goal: Serve our patients and their families by providing them with an exceptional experience.

Measurement	Metric	Target	Actual
Inpatient satisfaction	9 of 9 HCAHPS metrics	7 of 9 (49th %-ile)	2 of 9

Quality Pillar goal: Deliver high-quality care that keeps our patients and caregivers safe.

Measurement	Metric	Target	Actual
Clinical excellence	Quality and Patient Safety Dashboard	at least 100%	101%
Ambulatory	Quality and Patient Safety Dashboard	at least 100%	103%
Acute	Quality and Patient Safety Dashboard	at least 100%	101%
Post-acute	Quality and Patient Safety Dashboard	at least 100%	95%

For the complete Pillar Performance Scorecard showing all of Prisma Health, refer to Appendix Page 36.

Accreditations, certifications, designations

Zero Harm accolades

In the Upstate, Prisma Health hospitals amassed 40 of 223 Certified Zero Harm Awards (18%) in the latest announcement from the S.C. Hospital Association. The awards, given semiannually, recognize hospitals when no preventable hospital-acquired infections of a specific nature are recorded during the reporting period. Also included are two Drive to Zero Suicide Awards. In two preventable harm categories, Greer Memorial Hospital earned a special Crystal Award for logging no such infections over a time frame of at least seven continuous years!

Stroke certifications

Hillcrest Hospital and Laurens County Hospital received Primary Stroke Center certification from the Joint Commission in collaboration with the American Heart Association/American Stroke Association. Greer Memorial Hospital (recertified in FY21) and Oconee Memorial Hospital have already received this recognition.

Baby-Friendly designation

Patewood Hospital earned international Baby-Friendly designation. Baby-Friendly hospitals offer optimal care for infant feeding and mother/baby bonding, and all Prisma Health birthing facilities in the Upstate are now designated as Baby-Friendly.

Centers of Excellence

The Prisma Health Cancer Institute was designated by the National Pancreas Foundation as South Carolina's first clinical Center of Excellence for pancreatic cancer. This status demonstrates that our Cancer Institute provides multidisciplinary care while treating the "whole patient."

Hillcrest Hospital was named a Center of Excellence by Optum for bariatric surgery. And the facility was again recognized as the state's only Diagnostic Imaging Center of Excellence by the American College of Radiology.

Blue Distinction Centers

Across the Upstate, BlueCross BlueShield of South Carolina designated these five Prisma Health hospitals as a Blue Distinction Center+ (BDC+) for maternity care: Greenville Memorial, Greer Memorial, Laurens County, Oconee Memorial and Patewood. Blue Distinction Centers are nationally designated hospitals with expertise in specialty care. A Blue Distinction Center+ demonstrates enhanced cost efficiency in delivering care. (Baptist Easley Hospital was honored as a BDC for maternity care, but it is not offering maternity services at this time due to ICU capacity increases related to COVID-19.)

Hillcrest Hospital was deemed a BDC for bariatric surgery. BDC honors for spine surgery and for cardiac care went to Greenville Memorial Hospital. Oconee Memorial Hospital earned knee and hip replacement designation.

Blue Distinction Centers	Bariatric surgery	Cardiac care	Hip/Knee replacement	Maternity care	Spine surgery
Baptist Easley Hospital				✓	
Greenville Memorial Hospital		✓		✓+	✓
Greer Memorial Hospital				✓+	
Hillcrest Hospital	✓				
Laurens County Hospital				✓+	
Oconee Memorial Hospital			✓	✓+	
Patewood Hospital				✓+	

Be responsible stewards of resources

(Compliance with lease sections 1.8 and 3.11d, 3.11e)

Annual commitment to Greenville County and its municipalities

Pursuant to the Lease between Prisma Health–Upstate and the Greenville Health Authority (GHA), Prisma Health is pleased to provide funding to the GHA for an annual commitment of \$1 million to Greenville County and \$1 million divided among the incorporated municipalities within Greenville County. The annual commitments were provided to the county and its municipalities in February 2021 to support programs and services that enhance the health and well-being of Upstate communities.

Municipality/County	Population based on 2010 census	FY21 GHA award based on census data
Fountain Inn	7,799	\$56,750.54
Greenville	58,409	\$425,021.47
Greer	25,515	\$185,663.56
Mauldin	22,889	\$166,555.09
Simpsonville	18,238	\$132,711.42
Travelers Rest	4,576	\$33,297.92
Greenville County	n/a	\$1,000,000

This commitment continues for the life of the Lease between Prisma Health–Upstate and GHA.

Healthy Greenville grants

Pursuant to the same Lease, Prisma Health is pleased to provide funding in the amount of \$4 million annually to the GHA so that it may award grants to improve the health of Greenville County and the Upstate community. This funding has enabled the GHA to pledge more than \$20 million in yearlong and multiyear grants through FY22.

In 2021, the GHA Board of Trustees approved major grants for these organizations:

- A Child's Haven
- Greenville County Schools
- Greenville Free Medical Clinic
- Mill Community Ministries
- Servants for Sight

This \$4 million in annual funding continues for the life of the Lease between Prisma Health–Upstate and the GHA (34 years).

Healthy Greenville, Too! grants

In addition to Healthy Greenville grants, a portion of the \$4 million in annual funding provided by Prisma Health supports the Healthy Greenville, Too! “micro-grant” program. Healthy Greenville, Too! grants support nontraditional health services that provide a valuable charitable role in improving the well-being of the people of Greenville County.

This year’s recipients were:

- A Child’s Haven
- First Impression of SC
- Fostering Great Ideas
- Fountain Inn Kid Enrichment Center
- Girl Scouts of South Carolina Mountains to Midlands
- Greer Community Ministries Inc.
- Julie Valentine Center
- Just Say Something
- LiveWell Greenville
- Meyer Center for Special Children
- Piedmont Women’s Center
- Project Host
- Rebuild Upstate
- Servants for Sight
- Specialized Alternatives for Families and Youth of SC
- The Salvation Army
- United Ministries
- Unity Sports
- YMCA of Greenville

Insurance coverage and licensures

The ability to maintain insurance coverage and the appropriate licenses for our facilities and services highlights our dedication to quality as well as our commitment to protecting and maintaining our resources.

Please refer to Appendix Page 28 for a summary of insurance coverages.

Before FY17, our facilities did not have a common license renewal date with the S.C. Department of Health and Environmental Control. However, Prisma Health has now moved all licensure renewals to Oct. 31.

Please refer to Appendix “License Application Processing/Applied for/Renewed” on Page 29 for a list of licensures expiring in the next year.

Supply chain challenges

As the state’s largest, most comprehensive integrated healthcare organization, Prisma Health possesses the breadth and depth of resources to rapidly respond to supply chain challenges across the healthcare spectrum – many resulting from the ongoing pandemic – such as securing critical medical supplies to ensure our patients and team members have the medicines and equipment they need, no matter what the illness. Thanks to our size, we can go directly to manufacturers around the globe to obtain supplies in bulk at a reduced cost. We can then quickly, conveniently and cost efficiently store and ship these items from our central distribution center.

Flu shots

Each year, Prisma Health administers hundreds of flu vaccinations at multiple drive-thru and walk-in sites, including Greenville, Greer, Simpsonville and Travelers Rest. Vaccinations are free to the public and available on a first-come, first-served basis. In addition, our Business Health Solutions department provided 3,908 flu vaccinations to 55 businesses in FY21.

Internally, Prisma Health dispenses influenza vaccinations for free to team members as a way to keep the community healthy. During last year's flu season (September 2020–March 2021), 14,284 vaccinations were administered internally. An additional 303 were given to other Prisma Health associates (volunteers, health students, credentialed providers and contractors).

Because flu symptoms can closely mirror COVID-19 symptoms, Prisma Health launched a vaccination campaign in August for the upcoming flu season. As of Jan. 13, 2022, the number of Upstate vaccinations administered internally was 13,955 with an additional 442 being given to other Prisma Health associates.

Prisma Health–Upstate and GHA financial statements

Please refer to Appendix Page 31 for these FY21 financial statements.