

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable R. Kirk Griffin, Circuit Court Judge

JOSEPH RUSSELL UMPHLETT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001539

APPENDIX

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[Exhibits pre-marked unless otherwise noted in transcript]

MARKED/ADMITTED

State's Exhibit Number 60	/ 60
[Defendant's Statement]	
[Admitted for <u>Jackson v. Denno</u> Hearing]	

Court's Exhibit Number 1	150 /
[Search warrant and Return]	

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JURY VOIR DIRE

[Whereupon, the jury panel enters the courtroom
at 10:41 a.m.]

[Whereupon, the jury panel is duly sworn by the
clerk of court]

[Whereupon, the jury panel roll is called by
the clerk of court]

[Whereupon, the jury is qualified by the Court]

THE COURT: Is the State ready?

MS. NICKLES: Yes, Your Honor, the State is
ready.

THE COURT: Is the defendant ready?

MR. SEATON: Yes, Your Honor.

THE COURT: Solicitor, call your case.

MS. NICKLES: The State calls Joseph Umphlett
on indictment numbers 2014-GS-08-0152, 2014-GS-08-
0156, 2014-GS-08-01528, for the charges of
trafficking methamphetamine, possession of a weapon
during a violent crime, and possession of a weapon by
someone convicted of a violent felony.

THE COURT: Does your client request formal
arraignment?

MR. SEATON: No, Your Honor. We waive
arraignment.

THE COURT: All right. Thank you.

1 Ladies and gentlemen, the State has alleged in
2 an indictment -- and there are three indictments in
3 this case. The indictment is simply the piece of
4 paper that brings us to court here today. It is not
5 in any sense evidence of the allegations it contains.

6 Mr. Umphlett has pled not guilty to each of the
7 indictments. The State alleges in 2014-GS-08-1525,
8 in a trafficking methamphetamine indictment, that
9 Russell -- excuse me -- Joseph Russell Umphlett did
10 in South Carolina, on or about May 12th, 2014,
11 knowingly sell, deliver, purchase or bring into this
12 state or aid, abet, attempt or conspire to deliver,
13 sell, purchase, or bring into the state, or was in
14 actual or constructive possession or attempted to
15 become in actual or constructive possession of a
16 quantity of methamphetamine in an amount of more than
17 100 grams but less than 200 grams, same being a
18 controlled substance, all within the meaning of
19 Section 44-53-375 and following South Carolina Code
20 of Laws, 1976 as amended, such possession not having
21 been authorized and being in violation of Section
22 44-53-375(e)(2), South Carolina Code of Laws, 1976 as
23 amended, for the crime of trafficking.

24 The State further alleges that Joseph Russell
25 Umphlett did in Berkeley County, South Carolina, on

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1 or about May 12th, 2014, possess a handgun or visibly
2 display what appeared to be a handgun during the
3 commission or attempted commission of trafficking
4 methamphetamine, a violent crime. This is in
5 violation of Section 16-23-490 of the South Carolina
6 Code of Laws, 1976 as amended.

7 The State further alleges in 2014-GS-08-1528
8 that Joseph Russell Umphlett did in Berkeley County,
9 South Carolina, on or about May 12th, 2014, did
10 unlawfully, willfully, and feloniously have in his
11 possession and under his control a handgun, to wit, a
12 Reuger LCR .38 Special and he has been convicted of a
13 violent crime as defined by Section 16-1-60. This
14 action is in violation of Section 16-23-0500(a) of
15 the South Carolina Code of Laws, 1976 as amended.

16 Does anybody know anything about this case,
17 other than what I have just read to you? If so,
18 please stand.

19 [Whereupon, there is no response]

20 THE COURT: Thank you. There are none.

21 Mr. Seaton, if you would please stand,
22 introduce yourself, your client, tell us a little
23 bit about your practice, anything else you would like
24 the jury to know.

25 MR. SEATON: Thank you, Your Honor.

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1 Good morning, ladies and gentlemen. My name is
2 Beau Seaton. I practice law primarily here in
3 Berkeley County right across the street here. With
4 me today is Mr. Joseph Umphlett.

5 THE COURT: Is there any member of the jury
6 panel related by blood, marriage, close personal
7 friend, ever have any business, personal,
8 professional dealings, or you know Mr. Umphlett in
9 any way? If so, please stand.

10 [Whereupon, there is no response]

11 THE COURT: Thank you. There are none.

12 Any member of the jury panel related by blood,
13 marriage, close personal friend, ever have any
14 business, personal, professional dealings, or ever
15 had any matters handled by Mr. Seaton? If so, please
16 stand.

17 Yes, ma'am. Your jury number and name?

18 JUROR NUMBER 42: 42. Stephanie Donahue.

19 Personal friend.

20 THE COURT: Is there anything about that that
21 would affect your ability to be fair and impartial in
22 this case?

23 JUROR NUMBER 42: No.

24 THE COURT: And when is the last time you have
25 seen Mr. Seaton?

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1 JUROR NUMBER 42: Last weekend.

2 THE COURT: And that was in a personal
3 function?

4 JUROR NUMBER 42: Yes, ma'am.

5 THE COURT: All right. Thank you.

6 JUROR NUMBER 24: Juror number 24.

7 Mr. Seaton was the attorney for my daughter's
8 father in a custody hearing in April.

9 THE COURT: Is there anything about that
10 representation that would affect your ability to be
11 fair and impartial in this case?

12 JUROR NUMBER 24: No, ma'am.

13 THE COURT: And your jury number and name?

14 JUROR NUMBER 24: 24. Mary Chiasson.

15 THE COURT: Thank you.

16 Is there anyone else?

17 [Whereupon, there is no response]

18 THE COURT: Thank you. There are none.

19 Ms. Nickles, if you will please stand and
20 introduce yourself, any persons who will be assisting
21 you throughout this trial, and tell us a little bit
22 about your office.

23 MS. NICKLES: My name is Jessica Nickles and
24 I'm representing the State along with Wilton McNeely,
25 from our office, who is also an assistant solicitor.

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1 And sitting with us is Ms. Jenetta Brown.
2 She's going to be assisting us with this case.

3 Also sitting with me is Detective Matthew
4 Strickland. He will be with us throughout the
5 presentation of this case.

6 THE COURT: Thank you.

7 Is there any member of the jury panel related
8 by blood or marriage or close personal friend, ever
9 have any business, personal, professional dealings,
10 or ever had any matters handled by Solicitor Nickles
11 or Solicitor McNeely? If so, please stand.

12 [Whereupon, there is no response]

13 THE COURT: Thank you. There are none.

14 Is there any member of the jury panel that has
15 ever been employed by or a close friend or family
16 member ever been employed with the ninth circuit
17 solicitor's office? And that's Charleston and
18 Berkeley County. If so, please stand.

19 [Whereupon, there is no response]

20 THE COURT: Thank you. There are none.

21 I'm now going to call a list of potential
22 witnesses who may be called to testify in this case.
23 If you are related by blood, marriage, close personal
24 friend, ever have any business, personal, or
25 professional dealings, please stand as I call their

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1 name.

2 Hobie Williams, with the Summerville Police
3 Department; Dennis Henderson, with the Summerville
4 Police Department; Thomas Oswald, Summerville Police
5 Department; Wade Rollings, Summerville Police
6 Department; Ryan Tanner, Summerville Police
7 Department; Cassandra Williams; Summerville Police
8 Department; Matthew Strickland, Dorchester County-
9 Summerville Police Narcotics; Frank Thompson,
10 Dorchester County-Summerville Police Narcotics;
11 Hurshel Tanner, Dorchester County-Summerville Police
12 Narcotics; Rick Gebhardt, Summerville Police
13 Department; Lawrence Zivkovich, with SLED, State Law
14 Enforcement Division; Doris Yarborough, with SLED;
15 Amy Stephens, with SLED; Randal Olsen, Summerville
16 Police Department; Nicole Pia; Lisa Parker; Patricia
17 -- excuse me -- Patrick Ogier; Kory Abdon; James
18 Flood; Ollie Tucker, with the Berkeley County Clerk
19 Of Court; Katy Shuler.

20 If you are related by blood, marriage, close
21 personal friend, know these individuals in any way,
22 please stand at this time.

23 Your jury number and name?

24 JURY NUMBER 80: Juror number 80. Angela Joye.
25 I'm friends with Katy Shuler.

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1 THE COURT: And how do you know -- when is the
2 last time you've seen Ms. Shuler?

3 JURY NUMBER 80: It's probably been a couple of
4 months.

5 THE COURT: Did you discuss this case with her
6 at all?

7 JURY NUMBER 80: [Indicates negatively]

8 THE COURT: All right. And your jury number?

9 JURY NUMBER 80: 80.

10 THE COURT: Thank you.

11 JURY NUMBER 24: Juror number 24.

12 I grew up with Officer Ryan Tanner. And it's
13 been years since I've spoken to him.

14 THE COURT: Is there anything about your
15 relationship with Officer Tanner that would affect
16 your ability to be fair and impartial in this case?

17 JURY NUMBER 24: No.

18 THE COURT: Thank you. And your jury number,
19 before you sit down?

20 JURY NUMBER 24: 24.

21 THE COURT: 24. Thank you.

22 Yes, ma'am?

23 JURY NUMBER 94: Melissa McClung, juror number
24 94.

25 Did you say if we know Ollie Tucker, also?

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1 THE COURT: Yes.

2 JURY NUMBER 94: I used to work with Ollie in
3 the clerk of court's office.

4 THE COURT: And there is a potential she may be
5 called as a witness in this case, called to testify.
6 Is there anything about that that would affect your
7 ability to be fair and impartial in this case?

8 JURY NUMBER 94: No, it would not.

9 THE COURT: And tell me your jury number.

10 JURY NUMBER 94: 94.

11 THE COURT: Thank you.

12 Is there anyone else?

13 [Whereupon, there is no response]

14 THE COURT: Thank you. There are none.

15 Is there any member of the jury panel that has
16 previously been a witness in a civil or a criminal
17 case? If so, please stand.

18 [Whereupon, there is no response]

19 THE COURT: Thank you. There are none.

20 Is there anyone who has previously testified
21 for the State or for the defendant in a criminal
22 case? If so, please stand.

23 [Whereupon, there is no response]

24 THE COURT: Thank you. There are none.

25 Is there any member of the jury panel that is a

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1 member of, or supporter of, the National Rifle
2 Association? If so, please stand.

3 Yes, sir. Your jury number and name?

4 JURY NUMBER 72: Jeffrey Humbert. Juror number
5 72.

6 THE COURT: Yes, sir? You are a supporter --

7 JURY NUMBER 72: I'm a member of the National
8 Rifle Association.

9 THE COURT: Is there anything about that that
10 would affect your ability to be fair and impartial in
11 this case?

12 JURY NUMBER 72: No, ma'am.

13 THE COURT: Thank you.

14 Yes, sir?

15 JURY NUMBER 111: David Potts. Jury number
16 111. Supporter of NRA.

17 THE COURT: Is there anything about that that
18 would affect your ability to be fair and impartial in
19 this case?

20 JURY NUMBER 111: No, ma'am.

21 THE COURT: Thank you.

22 Yes, ma'am?

23 JURY NUMBER 132: Janene Schmidt, 132.

24 I don't think my membership is current at this
25 time.

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1 THE COURT: Were you a previous member of the
2 NRA?

3 JURY NUMBER 132: Yes, ma'am.

4 THE COURT: Is there anything about that that
5 would affect your ability to be fair and impartial in
6 this case?

7 JURY NUMBER 132: No, ma'am.

8 THE COURT: Is there any particular reason you
9 are not a current member, other than you perhaps just
10 did not fill out the paperwork or --

11 JURY NUMBER 132: No.

12 THE COURT: And tell me your jury number one
13 more time.

14 JURY NUMBER 132: 132.

15 THE COURT: 132. Thank you.

16 Is there any member of the jury panel that has
17 ever had any construction or tile work completed by a
18 company called Straight Line Tile? If so, please
19 stand.

20 [Whereupon, there is no response]

21 THE COURT: Thank you. There are none.

22 Is there any member of the jury panel that has
23 ever been employed with the Summerville Police
24 Department, the Dorchester County Sheriff's
25 Department, State Law Enforcement Division, otherwise

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1 known as SLED, or with the Berkeley County Clerk of
2 Court? Please stand. If you have ever been employed
3 or had any business dealings with any of those
4 agencies, please stand, or if a close friend or
5 family member has ever been employed there.

6 Yes, ma'am. Your jury number and name?

7 JURY NUMBER 94: Jury number 94.

8 I was employed by the Berkeley County Clerk of
9 Court.

10 THE COURT: And you have shared with us that
11 you know Ms. Tucker?

12 JURY NUMBER 94: Yes.

13 THE COURT: Did you recognize any of the other
14 names?

15 JURY NUMBER 94: No, I didn't.

16 THE COURT: Is there anything about your
17 previous employment that would affect your ability to
18 be fair and impartial in this case?

19 JURY NUMBER 94: No.

20 THE COURT: And your jury number?

21 JURY NUMBER 94: 94.

22 THE COURT: Thank you. Yes, sir?

23 JUROR: Previous employment. I was a state
24 probation officer in Dorchester County. I also
25 worked here in Berkeley County.

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1 THE COURT: Do you know any of the individuals
2 that I called their name?

3 JUROR: Not that I'm -- not that I'm aware of.
4 I've been gone for ten years.

5 THE COURT: Is there anything about your
6 previous employment that would affect your ability to
7 be fair and impartial in this case?

8 JUROR: No, ma'am.

9 THE COURT: You'll be able to listen to the
10 facts from the witness stand, apply the law as I give
11 it, and render a verdict based only upon those
12 things?

13 JUROR: Yes, ma'am.

14 THE COURT: Thank you. Your jury number before
15 you sit down.

16 JURY NUMBER 111: 111.

17 THE COURT: 111. Thank you.

18 Is there anyone else?

19 [Whereupon, there is no response]

20 THE COURT: Thank you. There are none.

21 Ladies and gentlemen, I have a series of
22 questions that I have determined it is appropriate
23 for you to come forward and answer them with me in
24 private. And as you just realized, there is no real
25 private in this courtroom because we are a court of

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1 record. I'll have you come forward if you need to
2 answer any of these questions.

3 I ask a series of questions so that no one will
4 say, that's why that individual came forward and
5 answered that question. I need your complete and
6 truthful responses. Please, if you think that you
7 need to answer these questions, you probably do need
8 to come forward.

9 Ladies and gentlemen, have you or a member of
10 your family or a personal friend ever been the victim
11 of a violent crime?

12 Have you or any member of your family or a
13 close personal friend ever been accused of committing
14 a violent crime?

15 Have you, a member of your family or a close
16 personal friend ever been accused of a drug crime?

17 Have you, a member of your family or a close
18 personal friend ever been accused of a weapon's
19 crime?

20 Have you, a member of your family or a very
21 close personal friend ever had any criminal charges
22 adjudicated or that are currently pending with the
23 Berkeley County Solicitor's Office?

24 Ladies and gentlemen, is there any member of
25 the jury panel who believes that drugs should not be

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1 illegal?

2 If for any reason you need to answer those
3 questions, now would be the appropriate time. If
4 there is a reason you need to speak with me
5 concerning any of these matters, please come forward
6 at this time.

7 THE BAILIFF: Juror Number 175, Alfreda Wilson.

8 [Whereupon, an off-the-record bench conference
9 is held]

10 [Whereupon, Juror Number 175 comes forward]

11 [Whereupon, the Court, Juror Number 175, and
12 counsel confer]

13 THE COURT: All right. Juror 175 will remain.
14 Thank you.

15 THE BAILIFF: Juror Number 44, Siana Duckworth.

16 [Whereupon, Juror Number 44 comes forward]

17 [Whereupon, The Court, Juror Number 44, and
18 counsel confer]

19 THE COURT: Juror 44 will remain.

20 THE BAILIFF: Juror Number 179, Janda Yanzer.

21 [Whereupon, Juror Number 179 comes forward]

22 [Whereupon, the Court, Jury Number 179, and
23 counsel confer]

24 THE COURT: All right. 179 will remain. Thank
25 you.

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1 THE BAILIFF: Juror Number 180, Jennifer
2 Truesdale-Schavel.

3 [Whereupon, Juror Number 180 comes forward]

4 [Whereupon, the Court, Jury Number 180, and
5 counsel confer]

6 THE COURT: All right. 180 will remain. Thank
7 you.

8 THE BAILIFF: Juror Number 2. Ruby Allen.

9 [Whereupon, Juror Number 2 comes forward]

10 [Whereupon, the Court, Jury Number 2, and
11 counsel confer]

12 THE COURT: All right. Juror 2 will remain.
13 Thank you.

14 THE BAILIFF: Juror Number 55. Gloria Goodman.

15 [Whereupon, Juror Number 55 comes forward]

16 [Whereupon, the Court, Juror Number 55, and
17 counsel confer]

18 THE COURT: Ladies and gentlemen, is there any
19 member of the jury panel that is currently employed
20 with the Department of Corrections in any capacity?
21 If so, please come forward.

22 [Whereupon, Juror Number 55 comes forward]

23 [Whereupon, the Court, Juror Number 55, and
24 counsel confer]

25 THE COURT: Juror 55 will remain. Thank you.

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1 THE BAILIFF: Juror Number 76. Dan Jenkins.

2 [Whereupon, Juror Number 76 comes forward]

3 [Whereupon, the Court, Juror Number 76, and
4 counsel confer]

5 THE COURT: Juror 76 will remain.

6 THE BAILIFF: Juror Number 37. Anthony Davis.

7 [Whereupon, Juror Number 37 comes forward]

8 [Whereupon, the Court, Juror Number 37, and
9 counsel confer]

10 THE COURT: 37 will remain.

11 THE BAILIFF: Juror Number 11. Michael
12 Bennette.

13 [Whereupon, Juror Number 11 comes forward]

14 [Whereupon, the Court, Juror Number 11, and
15 counsel confer]

16 THE COURT: Juror 11 is protected from the
17 trial of this case.

18 THE BAILIFF: Juror Number 80. Angela Joye.

19 [Whereupon, Juror Number 80 comes forward]

20 [Whereupon, the Court, Juror Number 80, and
21 counsel confer]

22 THE COURT: All right. Juror 80 will remain.

23 THE BAILIFF: Juror Number 111. David Potts.

24 [Whereupon, Juror Number 111 comes forward]

25 [Whereupon, the Court, Juror Number 111, and

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1 counsel confer]

2 THE COURT: Juror 111 is excused.

3 THE BAILIFF: Juror Number 19, Shawn Bunton.

4 [Whereupon, Juror Number 19 comes forward]

5 [Whereupon, the Court, Juror Number 19, and

6 counsel confer]

7 THE COURT: Juror 19 will remain. Thank you.

8 Any additional questions from the State?

9 MS. NICKLES: No, Your Honor.

10 THE COURT: From the defendant?

11 MR. SEATON: No, Your Honor.

12

13

14

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- - -

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- - -

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STRIKING OF THE JURY

1

2

THE COURT: Is the State ready?

3

MS. NICKLES: [No response].

4

THE COURT: The State is ready?

5

MS. NICKLES: Yes, Your Honor.

6

MR. SEATON: Yes, Your Honor.

7

THE COURT: Strikes are?

8

MS. NICKLES: Five for the State, Your Honor,

9

and ten for the defendant.

10

MR. SEATON: Are you asking me can I have more?

11

THE COURT: Strikes are five and ten.

12

MR. SEATON: Yes, ma'am.

13

THE COURT: Is that correct?

14

MR. SEATON: Yes, ma'am.

15

THE COURT: Thank you. Strikes are five and

16

ten.

17

[Off the record momentarily]

18

THE COURT: Counsel approach.

19

[Whereupon, an off-the-record bench conference

20

is held]

21

THE COURT: Madam Clerk, whenever you are

22

ready.

23

THE CLERK OF COURT: The State is ready to

24

proceed?

25

MS. NICKLES: [No response].

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1 THE CLERK OF COURT: Is the State ready to
2 proceed?

3 MS. NICKLES: Yes, the State is ready.

4 THE CLERK OF COURT: Is the defendant ready to
5 proceed?

6 MR. SEATON: Yes, Madam Clerk.

7 THE CLERK OF COURT: Thank you.

8 Ladies and gentlemen of the jury, as I call
9 your name, please come forth and bring your personal
10 belongings with you.

11 If I say seat the juror, please have a seat in
12 the jury box. If I say excuse the juror, please
13 return to your original seating. And just follow the
14 instruction of the bailiff right here standing to my
15 right.

16 Juror Number 78, Kathryn Jones.

17 [Whereupon, Juror Number 78 comes forward]

18 THE CLERK OF COURT: What says the State?

19 MS. NICKLES: Please present Ms. Jones.

20 THE CLERK OF COURT: What says the defendant?

21 MR. SEATON: Please excuse the juror.

22 THE CLERK OF COURT: Excuse the juror.

23 [Whereupon, Juror Number 78 returns to the
24 audience]

25 THE CLERK OF COURT: Juror 114. Kasey Purvis.

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1 [Whereupon, Juror Number 114 comes forward]

2 THE CLERK OF COURT: What says the State?

3 MS. NICKLES: Please excuse this juror.

4 THE CLERK OF COURT: Excuse the juror.

5 [Whereupon, Juror Number 114 returns to the
6 audience]

7 THE CLERK OF COURT: Juror 179. Janda Yanzer.

8 [Whereupon, Juror Number 179 comes forward]

9 THE CLERK OF COURT: What says the State?

10 MS. NICKLES: Please present this juror.

11 THE CLERK OF COURT: What says the defendant?

12 MR. SEATON: Please seat the juror.

13 THE CLERK OF COURT: Seat the juror.

14 [Whereupon, Juror Number 179 is seated in the
15 jury box as a juror]

16 THE CLERK OF COURT: Juror 156. Jason
17 Stillinger.

18 [Whereupon, Juror Number 156 comes forward]

19 THE CLERK OF COURT: What says the State?

20 MS. NICKLES: Please present this juror.

21 THE CLERK OF COURT: What says the defendant?

22 MR. SEATON: Please seat the juror.

23 THE CLERK OF COURT: Seat the juror.

24 [Whereupon, Juror Number 156 is seated in the
25 jury box as a juror]

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1 THE CLERK OF COURT: Juror 115. Dianne Quzah.

2 [Whereupon, Juror Number 115 comes forward]

3 THE CLERK OF COURT: What says the State?

4 MS. NICKLES: Please present this juror.

5 THE CLERK OF COURT: What says the defendant?

6 MR. SEATON: Please excuse the juror.

7 THE CLERK OF COURT: Excuse the juror.

8 [Whereupon, Juror Number 115 returns to the
9 audience]

10 THE CLERK OF COURT: Juror Number 2. Ruby
11 Allen.

12 [Whereupon, Juror Number 2 comes forward]

13 THE CLERK OF COURT: What says the State?

14 MS. NICKLES: Please present this juror.

15 THE CLERK OF COURT: What says the defendant?

16 MR. SEATON: Please excuse the juror.

17 THE CLERK OF COURT: Excuse the juror.

18 [Whereupon, Juror Number 2 returns to the
19 audience]

20 THE CLERK OF COURT: Juror 109. Kenniston
21 Pena.

22 [Whereupon, Juror Number 109 comes forward]

23 THE CLERK OF COURT: What says the State?

24 MS. NICKLES: Please excuse this juror.

25 THE CLERK OF COURT: Excuse the juror.

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1 [Whereupon, Juror Number 109 returns to the
2 audience]

3 THE CLERK OF COURT: Juror 153. Jonathan
4 Staley.

5 [Whereupon, Juror Number 153 comes forward]

6 THE CLERK OF COURT: What says the State?

7 MS. NICKLES: Please present this juror.

8 THE CLERK OF COURT: What says the defendant?

9 MR. SEATON: Please seat the juror.

10 THE CLERK OF COURT: Seat the juror.

11 [Whereupon, Juror Number 153 is seated in the
12 jury box as a juror]

13 THE CLERK OF COURT: Juror 171. Donna West.

14 [Whereupon, Juror Number 171 comes forward]

15 THE CLERK OF COURT: What says the State?

16 MS. NICKLES: Please excuse this juror.

17 THE CLERK OF COURT: Excuse the juror.

18 [Whereupon, Juror Number 171 returns to the
19 audience]

20 THE CLERK OF COURT: Juror 69. Debra Hopkins.

21 [Whereupon, Juror Number 69 comes forward]

22 THE CLERK OF COURT: What says the State?

23 MS. NICKLES: Please present this juror.

24 THE CLERK OF COURT: What says the defendant?

25 MR. SEATON: Please excuse the juror.

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1 THE CLERK OF COURT: Excuse the juror.

2 [Whereupon, Juror Number 69 returns to the
3 audience]

4 THE CLERK OF COURT: Juror 132. Janene
5 Schmidt.

6 [Whereupon, Juror Number 132 comes forward].

7 THE CLERK OF COURT: What says the State?

8 MS. NICKLES: Please present this juror.

9 THE CLERK OF COURT: What says the defendant?

10 MR. SEATON: Please seat the juror.

11 THE CLERK OF COURT: Seat the juror.

12 [Whereupon, Juror Number 132 is seated in the
13 jury box as a juror]

14 THE CLERK OF COURT: Juror 94. Melissa
15 McClung.

16 [Whereupon, Juror Number 94 comes forward]

17 THE CLERK OF COURT: What says the State?

18 MS. NICKLES: Please present this juror.

19 THE CLERK OF COURT: What says the defendant?

20 MR. SEATON: Please excuse the juror.

21 THE CLERK OF COURT: Excuse the juror.

22 [Whereupon, Juror Number 94 returns to the
23 audience]

24 THE CLERK OF COURT: Juror 147. Cynthia Smith.

25 [Whereupon, Juror Number 147 comes forward]

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1 THE CLERK OF COURT: What says the State?

2 MS. NICKLES: Please present this juror.

3 MR. SEATON: Please seat the juror.

4 [Whereupon, Juror Number 147 is seated in the
5 jury box as a juror]

6 THE CLERK OF COURT: Juror 36. Victor Davey.

7 [Whereupon, Juror Number 36 comes forward]

8 THE CLERK OF COURT: What says the State?

9 MS. NICKLES: Please present this juror.

10 THE CLERK OF COURT: What says the defendant?

11 MR. SEATON: Please seat the juror.

12 THE CLERK OF COURT: Seat the juror.

13 [Whereupon, Juror Number 36 is seated in the
14 jury box as a juror]

15 THE CLERK OF COURT: Juror 91. Jennifer
16 Martin.

17 [Whereupon, Juror Number 91 comes forward]

18 THE CLERK OF COURT: What says the State?

19 MS. NICKLES: Please present this juror.

20 THE CLERK OF COURT: What says the defendant?

21 MR. SEATON: Please seat the juror.

22 THE CLERK OF COURT: Seat the juror.

23 [Whereupon, Juror Number 91 is seated in the
24 jury box as a juror]

25 THE CLERK OF COURT: Juror 75. James Hyde

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1 [Whereupon, Juror Number 75 comes forward]

2 THE CLERK OF COURT: What says the State?

3 MS. NICKLES: Please present the juror.

4 THE CLERK OF COURT: What says the defendant?

5 MR. SEATON: Please seat the juror.

6 THE CLERK OF COURT: Seat the juror.

7 [Whereupon, Juror Number 75 is seated in the
8 jury box as a juror].

9 THE CLERK OF COURT: Juror 160. David Teague.

10 [Whereupon, Juror Number 160 comes forward]

11 THE CLERK OF COURT: What says the State?

12 MS. NICKLES: Please present the juror.

13 THE CLERK OF COURT: What says the defendant?

14 MR. SEATON: Please seat the juror.

15 THE CLERK OF COURT: Seat the juror.

16 [Whereupon, Juror Number 160 is seated in the
17 jury box as a juror]

18 THE CLERK OF COURT: Juror 121. Angel Rivera.

19 [Whereupon, Juror Number 121 comes forward]

20 THE CLERK OF COURT: What says the State?

21 MS. NICKLES: Please present this juror.

22 THE CLERK OF COURT: What says the defendant?

23 MR. SEATON: Please seat the juror.

24 THE CLERK OF COURT: Seat the juror.

25 [Whereupon, Juror Number 121 is seated in the

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1 jury box as a juror]

2 THE CLERK OF COURT: Juror 37. Anthony Davis.

3 [Whereupon, Juror Number 37 comes forward]

4 THE CLERK OF COURT: What says the State?

5 MS. NICKLES: Please excuse this juror.

6 THE CLERK OF COURT: Excuse the juror.

7 [Whereupon, Juror Number 37 returns to the
8 audience]

9 THE CLERK OF COURT: Juror 139. Angel Sigala.

10 [Whereupon, Juror Number 139 comes forward]

11 THE CLERK OF COURT: What says the State?

12 MS. NICKLES: Please present this juror.

13 THE CLERK OF COURT: What says the defendant?

14 MR. SEATON: Please seat the juror.

15 THE CLERK OF COURT: Seat the juror.

16 [Whereupon, Juror Number 139 is seated in the
17 jury box as a juror]

18 THE CLERK OF COURT: Juror 125. Leslie Orr.

19 [Whereupon, Juror Number 125 comes forward]

20 THE CLERK OF COURT: What says the State?

21 MS. NICKLES: Please present this juror.

22 THE CLERK OF COURT: What says the defendant?

23 MR. SEATON: Please excuse the juror.

24 THE CLERK OF COURT: Excuse the juror.

25 [Whereupon, Juror Number 125 returns to the

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1 audience]

2 THE CLERK OF COURT: Juror 48. Roger Feitlin.

3 [Whereupon, Juror Number 48 comes forward]

4 THE CLERK OF COURT: What says the State?

5 MS. NICKLES: Please present this juror.

6 THE CLERK OF COURT: What says the defendant?

7 MR. SEATON: Please excuse the juror.

8 THE CLERK OF COURT: Excuse the juror.

9 [Whereupon, Juror Number 48 returns to the
10 audience]

11 THE CLERK OF COURT: Juror 80. Angela Joye.

12 [Whereupon, Juror Number 80 comes forward]

13 THE CLERK OF COURT: What says the State?

14 MS. NICKLES: Please present this juror.

15 THE CLERK OF COURT: What says the defendant?

16 MR. SEATON: Please excuse the juror.

17 THE CLERK OF COURT: Excuse the juror.

18 [Whereupon, Juror Number 80 returns to the
19 audience]

20 THE CLERK OF COURT: Juror 19. Shaun Bunton.

21 [Whereupon, Juror Number 19 comes forward]

22 THE CLERK OF COURT: What says the State?

23 MS. NICKLES: Please present this juror.

24 THE CLERK OF COURT: What says the defendant?

25 MR. SEATON: Please seat the juror.

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1 THE CLERK OF COURT: Seat the juror.

2 [Whereupon, Juror Number 19 is seated in the
3 jury box as a juror]

4 THE COURT: Two alternates.

5 THE CLERK OF COURT: Alternates.

6 Juror 130. Garfield Sanders.

7 [Whereupon, Juror Number 130 comes forward]

8 THE CLERK OF COURT: What says the State?

9 MS. NICKLES: Please excuse this juror.

10 THE CLERK OF COURT: Excuse the juror.

11 [Whereupon, Juror Number 130 returns to the
12 audience]

13 THE CLERK OF COURT: Juror 180. Jennifer
14 Truesdale-Schavel.

15 [Whereupon, Juror Number 180 comes forward]

16 THE CLERK OF COURT: Any challenge for cause
17 from the State?

18 MS. NICKLES: Please present this juror.

19 THE CLERK OF COURT: What says the defendant?

20 MR. SEATON: Please excuse the juror.

21 THE CLERK OF COURT: Excuse the juror.

22 [Whereupon, Juror Number 180 returns to the
23 audience]

24 THE CLERK OF COURT: Juror 164. Amber Tobin.

25 [Whereupon, Juror Number 164 comes forward]

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1 THE CLERK OF COURT: Any challenge for cause
2 from the State?

3 MS. NICKLES: No.

4 THE CLERK OF COURT: What says the defendant?

5 MR. SEATON: Please seat the juror.

6 [Whereupon, Juror Number 164 is seated in the
7 jury box as an alternate juror]

8 THE CLERK OF COURT: The next alternate. Juror
9 127. Carmen Rutledge.

10 [Whereupon, Juror Number 127 comes forward]

11 THE CLERK OF COURT: What says the State?

12 MS. NICKLES: Please seat this juror.

13 THE CLERK OF COURT: What says the defendant?

14 MR. SEATON: Please seat the juror.

15 THE CLERK OF COURT: Seat the juror.

16 [Whereupon, Juror Number 127 is seated in the
17 jury box as an alternate juror]

18 THE COURT: Any motions or matters pertaining
19 to the jury as selected? From the State?

20 MS. NICKLES: No, Your Honor.

21 THE COURT: From the defendant?

22 MR. SEATON: No, Your Honor.

23 THE COURT: Ladies and gentlemen, you have been
24 selected as the jury to try this case. If you will
25 please be escorted to your jury deliberation room.

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1 We're going to get your phone numbers and contact
2 information. Thank you.

3 [Whereupon, the jury exits the courtroom at
4 12:04 p.m.]

5 THE COURT: Outside the presence of the jury,
6 any motions or matters pertaining to the jury as
7 selected?

8 MS. NICKLES: No, Your Honor.

9 MR. SEATON: Nothing from the defendant, Your
10 Honor.

11 THE COURT: Ladies and gentlemen, you were not
12 selected as the jury to try this case but as you
13 know, your service is for the week. What we have
14 done is instituted a callback number, so if you will
15 call that number after 6:00 p.m. to receive further
16 instructions for the week. Please call back after
17 6:00 p.m. today to receive your instructions for the
18 remainder of the week.

19 I do not know at this time what that message is
20 going to say, so I may not see you for the remainder
21 of the week. I want to go ahead and thank you for
22 your service to Berkeley County. I got to meet most
23 of you in our discussions this morning in private on
24 the record, and I just want to thank you.

25 Without you, our doors would cease functioning.

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1 We would shut down. And there have been some times
2 in other counties when I have not had enough jurors
3 to do my work. So thank you for showing up. I know
4 that it was an inconvenience. There were probably
5 other places you wanted to be here today, but thank
6 you for your contribution to our justice system and
7 for your contribution to our Constitution.

8 Thank you. Have a lovely afternoon. Please
9 call back after 6:00 p.m.

10 [Whereupon, the jury panel exits the courtroom
11 at 12:06 p.m.]

12 THE COURT: Mr. McNeely, as far as Juror Number
13 90, is there anything you wanted to place on the
14 record about the juvenile conviction?

15 MR. MCNEELY: No, Your Honor.

16 THE COURT: You concur with the Court's
17 assessment?

18 MR. MCNEELY: Yes, Your Honor.

19 THE COURT: And anything we need to place on
20 the record about the number of strikes?

21 The State had no objection to the number of
22 strikes; is that correct?

23 MS. NICKLES: Yes, Your Honor.

24 MR. SEATON: Nothing from the defendant, Your
25 Honor.

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1 THE COURT: And I understand that we have
2 basically have a full afternoon of motions, so I'll
3 just have the jury return in the morning; is that
4 correct?

5 MR. SEATON: Yes, ma'am.

6 MS. NICKLES: Yes, Your Honor.

7 THE COURT: Anything other than my general
8 charge to them to not discuss the case? Anything
9 else?

10 MS. NICKLES: [No response]

11 MR. SEATON: [No response]

12 THE COURT: What time would you like them back?

13 MS. NICKLES: Whenever Your Honor wants to
14 begin.

15 MR. SEATON: It is certainly up to you, Judge.
16 Whatever you prefer.

17 THE COURT: All right. Thank you.

18 [Off the record momentarily]

19 THE BAILIFF: The jury is coming in.

20 THE COURT: All right. Thank you. Please rise
21 for the jury.

22 [Whereupon, the jury enters the courtroom at
23 12:08 a.m.]

24 THE COURT: Thank you. Please be seated.

25 Ladies and gentlemen, as I have indicated to

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1 you, you are the jury to try this case. And I will
2 give you more instructions regarding this matter, but
3 we have reached a point where it's lunchtime and by
4 the time we get back there are some motions and
5 matters that I must take up outside your presence.
6 So in order to minimize your waiting time, I'm going
7 to go ahead and release you for the afternoon.

8 I'm going to give you my general admonition, my
9 general charges, so please listen very carefully
10 because these apply throughout the trial until I tell
11 you otherwise.

12 Until you have been discharged from service in
13 this case, you may not perform any investigation,
14 research, or experiment of any kind on your own,
15 either individually or as a group, about this case.

16 Do not consult any dictionaries for the meaning
17 of words or any encyclopedias for the general
18 information on the subjects of this trial.

19 Do not look up anything on the internet
20 concerning this case or any of the people involved.
21 Ladies and gentlemen, that includes the attorneys,
22 the defendant, the witnesses, as well as the judge
23 and any court personnel.

24 Do not go to the scene where any of the events
25 that are the subject of this trial are alleged to

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1 have taken place.

2 Do not use any internet maps or Google Earth or
3 any other program or device used to search for or
4 view any place discussed in this case.

5 Until you are discharged, you must not have any
6 discussions about this case or make any entry on
7 facebook, my space, linked in or any other internet
8 social media site. That includes all forms of
9 communication: face-to-face communication, as well
10 as any e-mail, texting, blogging, or anything of that
11 nature.

12 Ladies and gentlemen, I cannot -- we would be
13 here all afternoon if I went over all the things that
14 you cannot do. Simply put, do not discuss this case
15 with anyone in any form or fashion. That includes
16 any electronic communication, but also any face-to-
17 face communication.

18 Ladies and gentlemen, do not research this case
19 in any way. That includes looking up things in a
20 yearbook or on the internet or anything. Do not do
21 any independent research.

22 Everything you know about this case must come
23 from the witness stand and any exhibits that are
24 introduced into evidence in this case.

25 Please understand that I am giving these

State vs. Joseph Umphlett
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1 directions as part of my responsibility to ensure
2 fairness to all the parties in this case. That
3 fairness would be compromised and your actions could
4 jeopardize the results of this case if you violate my
5 instructions. Not only are you responsible for your
6 own actions but if you become aware of another
7 juror's violations, you must report that to me or to
8 my bailiffs immediately.

9 Ladies and gentlemen, please be back -- we will
10 begin trial in the morning at 9:30. Please remember
11 all of my admonitions. Please have a wonderful
12 afternoon.

13 Please rise for the jury.

14 [Whereupon, the jury exits the courtroom at
15 12:08 p.m.]

16 THE COURT: Thank you. Be seated.

17 When I say rise for the jury, that applies to
18 everyone in the courtroom. Thank you.

19 All right. I think it would be appropriate for
20 us to go ahead and break for lunch and then come back
21 and do our motions.

22 Does that work with your schedule?

23 MS. NICKLES: Yes, Your Honor.

24 MR. SEATON: Yes, ma'am.

25 THE COURT: Mr. Seaton?

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1 MR. SEATON: Yes, ma'am.

2 THE COURT: So be back at 1:15. 1:15. Thank
3 you.

4 [Whereupon, a recess is taken from 12:10 p.m.
5 to 1:22 p.m.]
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State vs. Joseph Umphlett
Proceedings
September 28, 2015

PROCEEDINGS

1
2 THE COURT: Whenever you're ready, and whatever
3 order you want to do the hearings.

4 MS. NICKLES: May it please the Court?

5 THE COURT: Yes.

6 MS. NICKLES: Your Honor, there are a few
7 things that I would like to put on the record before
8 we begin, the first being the offer that was extended
9 in this case.

10 The offer was extended on August 6, 2015, to
11 the defense counsel via e-mail. The expiration date
12 on that offer was August 28, 2015.

13 And then on August 27th, 2015, the defendant
14 appeared here in Berkeley County General Sessions
15 Court before the Honorable Judge Dennis and expressly
16 rejected the State's plea offer on the record, and at
17 the same time the State served the defendant with the
18 notice of intention to seek life without parole.

19 The offer that was extended was for the
20 defendant to plead guilty as charged for the
21 trafficking methamphetamine in exchange for dismissal
22 of one of the possession of a weapon charges. That
23 charge carries a mandatory minimum of twenty-five
24 years.

25 Additionally, the evidence from -- the physical

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1 evidence from Summerville had been delivered to the
2 courtroom by way of Brian Tanner. And I spoke with
3 Mr. Seaton and he is consenting to let that be locked
4 in a locker in the back and that will enter into our
5 chain of custody so Mr. Tanner is not to stay with
6 the evidence.

7 THE COURT: Please swear Mr. Umphlett.

8 THE CLERK OF COURT: Please stand.

9 [Whereupon, Mr. Umphlett complies]

10 THE CLERK OF COURT: Please raise your right
11 hand.

12 [Whereupon, Mr. Umphlett is duly sworn by the
13 clerk of court as follows: do you solemnly swear or
14 affirm the testimony you shall give in this case
15 shall be the truth, the whole truth, and nothing but
16 the truth, so help you God]

17 MR. UMPHLETT: Yes, ma'am.

18 THE CLERK OF COURT: You can put your hand
19 down. Thank you.

20 THE COURT: Mr. Umphlett, did Judge Dennis, a
21 circuit judge, someone sitting right here where I'm
22 sitting today, advise you of the State's offer?

23 MR. UMPHLETT: Yes, ma'am.

24 THE COURT: And did you understand that offer?

25 MR. UMPHLETT: Yes, ma'am.

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1 THE COURT: And you rejected that offer?

2 MR. UMPHLETT: Yes, ma'am.

3 THE COURT: And that offer is no longer
4 available; is that correct, Ms. Nickles?

5 MS. NICKLES: Yes, Your Honor.

6 THE COURT: Anything further we need to place
7 on the record concerning that matter, Mr. Seaton?

8 MR. SEATON: No, Your Honor.

9 THE COURT: Thank you, Mr. Umphlett.

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State vs. Joseph Umphlett
Pretrial Motions
August 28, 2015

PRETRIAL MOTIONS

THE COURT: All right. What else?

MS. NICKLES: Your Honor, we can start with the statements or we can start with Mr. Seaton's suppression motion, whichever order Your Honor prefers.

THE COURT: Since I know about the statements, and that's been articulated, let's start with that.

MR. SEATON: Your Honor, maybe it would be a little faster, too, if we took care of some of the motions in limine. I have a couple, and I think the State has one that I'm aware of.

THE COURT: What are the motions?

MR. SEATON: [No response]

THE COURT: What are the motions?

MR. SEATON: Your Honor, I would certainly make a motion to sequester the witnesses. I think this is a case where there is going to be numerous witnesses.

THE COURT: Does the State have any objection to the sequestration?

MS. NICKLES: No objection, Your Honor.

THE COURT: And so the lead detective will be allowed to stay; is that correct?

MS. NICKLES: Yes, Your Honor.

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August 28, 2015

1 THE COURT: And who is that?

2 MS. NICKLES: Detective Matthew Strickland.

3 THE COURT: Is that you, sir?

4 DETECTIVE STRICKLAND: It is, Your Honor.

5 THE COURT: All right. Thank you.

6 Everyone else that will be testifying, the rule
7 has been invoked.

8 [Whereupon, witnesses exit the courtroom]

9 MR. SEATON: Your Honor, I only have one motion
10 in limine, and that would be -- and you know what?
11 It would have made more sense if I had taken this up
12 before everybody left.

13 But there is mention made in several of the
14 reports about a gun, a stolen gun, or a gun that --
15 one of the guns that was in the possession or alleged
16 to be in the possession of the occupants of the
17 Econolodge or Economy Inn was stolen.

18 The State has dismissed and is not going
19 forward on the charge of the stolen firearm and so
20 any mention of that or of it being stolen I think
21 would be inappropriate. It would be merely
22 prejudicial rather than probative. I would ask the
23 State not make any mention of one of the guns
24 allegedly having been stolen.

25 THE COURT: Ms. Nickles?

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1 MS. NICKLES: Your Honor, the State has no
2 objection to that. However, in the defendant's
3 statement, he does mention that he bought this gun on
4 a road. The State would request to be allowed to
5 mention -- to introduce that. But we're fine just
6 not mentioning the stolen -- that it came back as
7 stolen.

8 MR. SEATON: I'm not agreeing to them
9 mentioning anything --

10 THE COURT: Well, we haven't gone that far
11 but --

12 MR. SEATON: -- but I'm certainly agreeable for
13 them not to be able to mention anything.

14 THE COURT: They agreed. So no discussion
15 about --

16 MS. NICKLES: The stolen --

17 THE COURT: -- the stolen --

18 MR. SEATON: Yes, ma'am.

19 That would be the only -- we certainly have a
20 Jackson v. Denno issue and our motion to suppress
21 that we would make at the appropriate time.

22 THE COURT: Motion to suppress?

23 MR. SEATON: All evidence, Your Honor, that was
24 obtained via search warrant of the -- Officer
25 Strickland, Detective Strickland, on May the 11th and

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1 rolling over into May the 12th.

2 THE COURT: I assume that you have the
3 sufficient officers to testify?

4 MS. NICKLES: Yes, Your Honor. The State is
5 prepared to go forward.

6 THE COURT: All right. Let's do the Jackson V.
7 Denno.

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Jackson v. Denno
Hobie Williams
Direct Examination by Mr. McNeely

JACKSON V. DENNO

MR. MCNEELY: The State calls Hobie Williams.

[Whereupon, Mr. Williams comes forward]

THE CLERK OF COURT: Left hand on the Bible,
and raise your right hand.

[Whereupon, Mr. Williams is duly sworn by the
clerk of court as follows: do you swear or affirm
the testimony you shall give in this case shall be
the truth, the whole truth, and nothing but the
truth, so help you God]

THE WITNESS: Yes, ma'am.

THE CLERK OF COURT: If you'll have a seat.

[Whereupon, Mr. Williams takes the witness
stand]

THE CLERK OF COURT: State your full name for
the record, and spell your last.

THE WITNESS: My full name is Hobert Earl
Williams. The last name is spelled W-I-L-L-I-A-M-S.

MR. MCNEELY: Thank you, Mr. Williams.

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1 HOBIE WILLIAMS,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. MCNEELY:

6 Q. Where are you currently employed?

7 A. I'm a landscape keeper. I've got a business
8 with me and my brother.

9 Q. Thank you.

10 Where were you employed on May 11th, 2014?

11 A. I was a K-9 handler, assigned to patrol with
12 the Summerville Police Department.

13 Q. What was your position in that employment?

14 A. I worked a dog for them and I was assigned to
15 the patrol division to assist them with any type of in-
16 progress calls, emergencies, and also to concentrate on
17 drug activity.

18 Q. So you were a patrol officer that handled a
19 K-9, as well?

20 A. Yes, sir.

21 Q. How long had you worked in that capacity as of
22 May 11, 2014?

23 A. Just under a year at that point.

24 Q. What were your general duties?

25 A. Our primary job was to assist the patrol teams
26 with anything that would be in progress, any type of

1 major crime. Also, we concentrated in drugs when we
2 weren't doing that.

3 Q. Were you working on the evening of May 11,
4 2014?

5 A. Yes, sir.

6 Q. Did you receive a call or did you get
7 dispatched or did you end up at the Economy Inn, on
8 Holiday Drive, in Summerville on that evening?

9 A. I did, sir.

10 Q. Do you recall approximately what time?

11 A. Approximately it was right around 9:35, 9:36 at
12 night.

13 Q. Did you encounter the defendant, Joseph
14 Umphlett, during that time?

15 A. I did, sir.

16 Q. What was your basis of your encounter with the
17 defendant?

18 A. We had received a request to conduct a child-
19 welfare check.

20 We knocked on the hotel room and Mr. Umphlett
21 was in there.

22 Q. Did Mr. Umphlett open the door?

23 A. He did, sir, after a few minutes of knocking.

24 Q. Did you notice anything in particular at that
25 time when the door was open?

26 A. Mr. Umphlett didn't have a shirt on and he was

1 sweating pretty bad and he appeared like he had been
2 startled or that he was concerned.

3 Q. Did you smell anything?

4 A. As soon as the door opened, we smelled a strong
5 odor of raw marijuana or a fresh marijuana that was very
6 pungent.

7 Q. Did you request to search the room?

8 A. We did, sir.

9 Q. When you requested permission to search the
10 room, how did the defendant respond?

11 A. He advised that we could collect up the
12 marijuana, and he pointed to a night stand, but we could
13 not search anything else.

14 Q. At any point, did you Mirandize the defendant?

15 A. I did, sir.

16 Q. When did you Mirandize the defendant?

17 A. Just before separating the defendant and
18 codefendant -- or another person who was in the room, we
19 Mirandized him right there.

20 Q. How much time elapsed between the time you
21 requested to search the room, and he denied, to the time
22 you Mirandized him?

23 A. Maybe a couple of minutes. Not far --

24 Q. Did you question the defendant during that
25 time?

26 A. I -- no.

1 Q. Did you advise Joseph Umphlett of his Miranda
2 rights prior to taking any statement from him?

3 A. Correct.

4 Q. Where were you when you Mirandized him

5 A. We were sitting -- or he was sitting on the bed
6 and we were right there at the doorway.

7 Q. You said we. Who is we?

8 A. We would be Officer Oswald and sargent -- or
9 Corporal, then, Henderson, with the Summerville Police
10 Department.

11 Q. Anyone else?

12 A. At that point, no.

13 Q. Was the defendant in handcuffs at that time?

14 A. No, sir.

15 Q. Was he detained at that time?

16 A. No, sir.

17 Q. Was he free to move about the hotel room?

18 A. He was not free to move at that point because
19 we hadn't conducted any type of protective sweep. We had
20 only done a quick walkthrough of the residence looking
21 for children.

22 Q. So just so I'm clear, where was he standing or
23 seated?

24 A. He was seated on the edge of the bed, the bed
25 that's closest to the doorway, the entryway.

26 Q. When you Mirandized the defendant, did you do

1 it from memory or did you read it off of a Miranda card?

2 A. Off of a Miranda card.

3 Q. Do you have that card with you today?

4 A. I do, sir.

5 Q. What did you say to the defendant when you read
6 him his Miranda rights?

7 A. You have the right to remain silent. Anything
8 you say can be used against you in a court of law. You
9 have the right to talk to an attorney prior to
10 questioning and to have them with you during questioning,
11 if you desire. If you cannot afford an attorney, you
12 have the right to have one appointed prior -- appointed
13 to you, prior to questioning, at no cost to you. Do you
14 understand these rights.

15 I also go a little bit further. I ask if
16 they've ever had Miranda read before and he said that he
17 had.

18 Q. The defendant confirmed that he had been read
19 Miranda rights prior to that occasion?

20 A. Yes, sir.

21 Q. And that's verbatim what you read to Mr.
22 Umphlett on May 11th, 2014?

23 A. Yes, sir.

24 Q. Did the defendant confirm that he understood
25 those rights?

26 A. He did, sir.

1 Q. And he confirmed that he understood those
2 rights prior to you taking any statement from him?

3 A. Correct, sir.

4 Q. Did he acknowledge it verbally?

5 A. Yes, sir.

6 Q. Did he sign any writing acknowledging the
7 receiving the Miranda rights?

8 A. At that point, no, sir, because we hadn't done
9 the written statement. I believe later on a written
10 statement was done and he acknowledged on that form.

11 Q. So it was just a verbal confirmation of
12 understanding?

13 A. Yes, sir.

14 Q. Do you know how old Mr. Umphlett is?

15 A. He is -- I believe it's on this sheet.

16 [Whereupon, the witness reviews documents]

17 A. I don't have it in front of me, sir.

18 Q. [Mr. McNeely] If I told you approximately
19 thirty-five years, would that sound accurate?

20 A. That would be approximate, yes, sir.

21 Q. What was Mr. Umphlett's demeanor on the evening
22 of May 11th, 2014?

23 A. Very jittery. Very nervous.

24 Part of the reason that I asked if he could sit
25 down was he was moving back and forth, pacing. We were
26 trying to have a conversation with another person in

1 there. He was over-talking us. It seemed as though he
2 was just upset or concerned.

3 While I was talking to him, I noticed he
4 wouldn't make eye contact with me And that's -- in my
5 job, I know that to mean that something's going on.

6 Q. Did he appear to have any mental defects?

7 A. He did not, sir.

8 Q. How was he speaking?

9 A. His words were broken up.

10 He would be in the middle of a sentence and he
11 would stop and he would change out and start talking
12 about something else. It's almost as if he couldn't get
13 his thoughts together fast enough.

14 Q. Did he seem coherent, though?

15 A. Yes, sir.

16 Q. Was he speaking rationally?

17 A. He was speaking rationally, but it seemed that
18 he was evasive. He was trying to change statements in
19 the middle of a statement.

20 Q. Did he appear to understand what was happening
21 at the time?

22 A. Yes, sir.

23 Q. You already described --

24 Did he seem to have any physical defects at the
25 time?

26 A. Not that I could see, sir.

1 Q. Did he appear to be drunk or intoxicated?

2 A. No, sir.

3 Q. Did he appear to be under the influence of any
4 other substance?

5 A. Not that I could tell, sir.

6 Q. What's the basis for your observation of that?

7 A. As far as?

8 Q. Him not appearing to be intoxicated or under
9 the influence.

10 A. When I would ask him a question, he was at
11 least -- he would acknowledge part of it. He might
12 change his story a little bit, but he would -- he could
13 acknowledge the question.

14 And he had thoughts that were together, he just
15 -- he would be in the middle of a thought, he would try
16 and change it.

17 Q. Did he slur his words at all?

18 A. I heard no slurred speech.

19 Q. Were his eyes bloodshot?

20 A. Not that I could tell.

21 Q. Was he unsteady on his feet?

22 A. No, sir.

23 Q. Did he appear to comprehend the meaning and
24 effect of his words?

25 A. He did, sir.

26 Q. Did you make any threats to Mr. Umphlett?

1 A. No, sir.

2 Q. Was he under duress in any way?

3 A. No, sir.

4 Q. Did you make any promises to Mr. Umphlett?

5 A. No, sir.

6 Q. Did you make any officer -- did you witness any
7 other officer make any misrepresentations or promises or
8 threats to Mr. Umphlett?

9 A. No, sir.

10 Q. Did you use any trickery against the defendant?

11 A. No, sir.

12 Q. The defendant waived his Miranda rights either
13 verbally or in writing to you?

14 A. Yes, sir.

15 Q. Was it verbally or in writing?

16 A. It was verbally.

17 Q. Did the defendant waive his Miranda rights
18 verbally to you prior to you taking any statement from
19 him?

20 A. Correct, sir.

21 Q. Was it a knowing and intelligent and voluntary
22 wavier of the rights?

23 A. It was, sir.

24 Q. How long did your conversation interview with
25 the defendant -- excuse me.

26 How long did your conversation with the

1 defendant last subsequent to him waiving his Miranda
2 rights?

3 A. Talking about the conversation prior to waiving
4 his rights?

5 Q. Subsequent.

6 A. After? It was probably about an hour.

7 Q. During that time, did he make any requests
8 regarding needing relief from the questioning?

9 A. No, sir.

10 Q. Did he ask to go to the bathroom?

11 A. No, sir.

12 Q. Did he ask for food?

13 A. No, sir.

14 Q. Did he ask for water?

15 A. No, sir.

16 Q. Do you believe that he knew what he was saying
17 at the time?

18 A. Yes, sir.

19 Q. How do you know that?

20 A. He appeared -- towards the end of our
21 conversation, he appeared remorseful.

22 He started -- he stated I think at one point, I
23 want to tell you straight, I want to -- or something just
24 like that, I want to tell you straight. And I took that
25 to be that he was telling the truth, or trying to.

26 Q. Did he ever ask to stop the conversation or

1 interview?

2 A. No, sir.

3 Q. Did he ever ask for a lawyer to be present with
4 him while he was speaking with you?

5 A. No, sir.

6 MR. MCNEELY: No further questions at this
7 time. Please answer any questions Mr. Seaton may
8 have.

9 THE COURT: Mr. Seaton?

10 MR. SEATON: Thank you, Your Honor. Please the
11 Court.

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Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

CROSS-EXAMINATION

BY MR. SEATON:

Q. Mr. Williams --

A. Yes, sir.

Q. -- I understand you're no longer in law enforcement.

A. Yes, sir.

Q. And how long ago did you stop being a law enforcement officer?

A. August 3rd.

Q. Why was that?

A. My brother and I decided to go in and start our own business.

Q. You were not let go?

A. No, sir.

Q. Okay. And you created an incident report from this particular night, didn't you?

A. Yes, sir.

Q. And do you recall having written that incident report?

A. Yes, sir.

Q. Did you write more than one incident report, or just that one that I've been provided?

A. Just -- I've only written one incident report on this incident.

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Cross-Examination by Mr. Seaton

1 Q. The one I have appears to be eight pages long.
2 Do you happen to have that in front of you?

3 A. I do, sir.

4 Q. Is that incident report, is that the same one
5 that I'm talking about?

6 A. I believe so, sir. It's the only one I have on
7 this incident.

8 Q. I understand.

9 A. Okay.

10 Q. It certainly appears that we both have an
11 eight-page incident report with your name on it, and the
12 first page being this one that says number 14038000,
13 responsible, Williams, H.

14 A. Yes, sir.

15 Q. I'll just hand you this one, if you don't mind.

16 A. Okay. Perfect.

17 Q. Take a look and just --

18 A. Yes, sir.

19 Q. -- make sure we're singing out of the same hymn
20 book.

21 A. Understood.

22 [Whereupon, the witness reviews documents]

23 A. Yes, sir.

24 Q. [Mr. Seaton] In looking at your incident
25 report, anywhere in there does it mention the fact that

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 he's married to your cousin?

2 A. No, sir.

3 Q. Anywhere in there does it mention the fact that
4 y'all know each other?

5 A. As far as? There's nothing in there --

6 Q. In any capacity.

7 A. No, sir.

8 Q. Does it mention anything about the fact that
9 you would go trick-or-treating with him and y'all's kids
10 together?

11 A. I've never been trick-or-treating with him,
12 sir.

13 Q. And does it mention the fact that less than a
14 month before that, his wife, your cousin, and he just
15 split up?

16 A. It doesn't mention anything about that, sir.

17 Q. You tell us that you gave him verbal Miranda
18 warnings shortly after having knocked on the door; is
19 that correct?

20 A. Correct, sir.

21 Q. What time did you knock on the door?

22 A. I don't have the exact time, sir. Very close
23 to 9:36 at night.

24 Q. So approximately 9:30 is when you get to this
25 hotel room and you knock on the door?

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 A. Correct, sir.

2 Q. And shortly after that is when you say you read
3 him --

4 A. Miranda.

5 Q. -- Miranda warnings?

6 A. Yes, sir.

7 Q. And you say that he was sitting on the bed
8 during this time; is that correct?

9 A. Yes, sir.

10 Q. And were you sitting on the bed with him? Or
11 where were you located?

12 A. I was standing right at the doorway.

13 Q. If you can help me to understand.

14 A. Okay.

15 Q. He's -- if the front -- if the door is right
16 here beside you --

17 A. Okay.

18 Q. We'll pretend this is the door.

19 A. Yes, sir.

20 Q. I'm assuming this is what most people would
21 call a typical hotel room. You open the door and you've
22 got two beds either on this wall or on the other wall?
23 Left wall, right wall?

24 A. Right, sir.

25 Q. Do you recall when you opened the door are the

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 beds on the left wall or the right wall?

2 A. They're on the right one.

3 Q. And which bed was he sitting on?

4 A. The bed closest to the front door.

5 Q. And where were you standing?

6 A. Right at the front door. Right in that area.

7 Q. Were you standing -- if you walk inside the
8 door right by the curtain, is that where? Or over by
9 the -- I'm assuming there's also a cabinet or drawers
10 along the other wall?

11 A. Right, sir.

12 There's drawers over there. I'm closer to
13 the --

14 Q. Were you standing by the drawers --

15 A. I'm by the curtains, pretty much. Not -- maybe
16 one foot. Right there. The foyer area.

17 Q. Uh-huh.

18 A. Does that make sense?

19 Q. Yeah.

20 A. I'm right there.

21 Q. So if he's on the bed closest to you, if I
22 assume this is the door, you were standing right here
23 beside him? Were you standing --

24 A. Right.

25 Q. -- above him?

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Hobie Williams
Cross-Examination by Mr. Seaton

1 A. Not so much, because he's sitting in the middle
2 of the bed towards the center portion all the way at the
3 feet. I've probably got three feet, four feet, between
4 me and him. Does that help out a little better?

5 Q. Yeah.

6 A. Okay.

7 Q. So how far from inside from the door inside
8 to -- to where you were standing?

9 A. No more than a foot.

10 I think I was even leaning against the
11 doorjamb.

12 Q. And you said that you read him his Miranda
13 rights. This would have been about 9:30 or so.

14 And at some point, he was actually given a
15 Miranda form to sign; is that correct?

16 A. Correct, sir.

17 Q. Do you know what time that was?

18 A. I don't, sir.

19 I don't believe that came from me. I think
20 that was another investigator, another person, on the
21 scene.

22 Q. And are you aware that that statement -- do you
23 know what time the written statement was taken?

24 A. I don't have that in front of me, sir. I don't
25 know.

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Hobie Williams
Cross-Examination by Mr. Seaton

1 Q. You didn't participate in either one of those?

2 A. I may have been right around there, but I can't
3 tell you the exact time.

4 Q. But you weren't the one that had him sign the
5 Miranda warnings for the statement that he -- the written
6 statement that was taken?

7 A. No, sir. Not that I recall.

8 Q. And when you told us about him being -- that he
9 wasn't under the influence of alcohol or drugs, didn't
10 you earlier say that he was sweating?

11 A. Yes, sir. I did, sir.

12 Q. What would be the point of us -- you know,
13 telling us that he's sweating, if you were not suggesting
14 that he was under the influence of alcohol or drugs?

15 A. Well, in my experience, when people are
16 incredibly nervous they tend to sweat a good bit. It
17 could also mean a summer night. But that's what I've
18 found.

19 Q. Do you recall when he was actually given the
20 written statement that he had to throw up?

21 A. I don't recall it.

22 Q. If I told you that happened -- I think you told
23 us you were there. Do you recall that he got sick while
24 he was giving the statement?

25 A. I don't remember it, but I'm not going to say

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 it didn't happen because I don't -- I don't remember him
2 throwing up.

3 Q. There was a woman in the room with him at the
4 time; is that correct?

5 A. Yes, sir.

6 Q. Her name is Kory Abdon?

7 A. Yes, sir.

8 Q. And would you agree that he was told that if he
9 writes a statement, that she would not be arrested, that
10 she would not get in trouble?

11 A. I wasn't there for that. I don't --

12 Q. You didn't make that statement?

13 A. I'm pretty sure I didn't, sir. I don't recall
14 it.

15 Q. You don't recall anybody making that statement?

16 A. I don't recall that statement.

17 Q. Is that a statement that you would have made or
18 anyone else in your department would have made? Would
19 that be considered --

20 A. I couldn't tell you what anybody else -- but I
21 can tell you that I would not have made that comment.

22 Q. How about the threat --

23 This whole thing starts with a child-welfare
24 check?

25 A. Yes, sir.

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 Q. You would agree with me there was no children
2 in the room?

3 A. After we conducted a quick walkthrough, there
4 was no kids.

5 Q. So you would agree with me there was no
6 children in the room?

7 A. At that time. Right, sir.

8 Q. Well, what other time are you -- were you there
9 other than then?

10 A. Well, he told us that there was children there
11 normally, they just weren't there at that time.

12 Q. But you would agree with me the only time that
13 you were there was -- there was no children in the room?

14 A. Correct, sir.

15 Q. And so you get there, you do a welfare check,
16 you find out there's no kids. So the information you had
17 was incorrect. And then you go into the room. You said
18 that you, or no one that you heard, made a threat that if
19 he didn't sign a statement -- that if he signed a
20 statement, that y'all would let Kory go?

21 A. I did not hear that.

22 Q. How about a threat that DSS would come and take
23 the children if he didn't sign and mama got arrested?

24 A. I didn't hear that, either.

25 Q. You didn't say that?

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 A. No, sir.

2 Q. You didn't hear anyone else there say that?

3 A. No, sir.

4 Q. Do you know whether or not Kory Abdon was ever
5 arrested?

6 A. I don't know, no, sir. I have no clue.

7 Q. Well, you --

8 A. I did not arrest her, if that's what you're
9 asking.

10 Q. To your knowledge, she's never been arrested
11 and charged with any crime that was related to that
12 night?

13 A. Correct.

14 Q. And you would agree with me that Mr. Umphlett
15 is on trial for possession of several firearms; is that
16 correct?

17 A. That is correct, sir.

18 Q. He's charged with 197 or 198 grams of
19 methamphetamine; is that correct?

20 A. I don't know the exact number, sir.

21 Q. It was quite a bit of methamphetamine?

22 A. Yes, sir.

23 Q. He was charged with trafficking --

24 A. Yes, sir.

25 Q. -- is that correct?

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 A. That's correct, sir.

2 Q. And there were some other pills found there, as
3 well?

4 A. I didn't get the full inventory, sir. I'm
5 sorry.

6 Q. And the other co -- when I say codefendant, the
7 other person that was in the room the room was actually
8 registered to, wasn't it?

9 A. Yes, sir.

10 Q. Ms. Abdon was the one who actually registered
11 for this room?

12 A. Correct, sir.

13 Q. And she's never charged with anything related
14 to this incident?

15 A. Correct, sir.

16 Q. Did Mr. Umphlett tell you that they had been
17 out drinking at the Japanese place next door and that he
18 was under the influence?

19 A. I don't recall that, sir.

20 Q. Do you recall discussing where they had been?

21 A. Very vividly, sir. Not in-depth.

22 I don't recall a Japanese place, or whatever
23 it's called.

24 Q. Do you recall whether or not there was boxes
25 there or bags there from Yokoso or one of the other

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 Japanese places around here in Summerville?

2 A. I don't recall any boxes. I couldn't tell you.

3 Q. At what point was Mr. Umphlett not free to go?

4 A. It would be after we -- after he had stated
5 that there was marijuana inside the room.

6 Q. Which would have been when you knocked on the
7 door?

8 A. No.

9 He stated it probably about maybe ten or
10 fifteen minutes after that somewhere, give or take,
11 because it took us a few minutes to talk with him before
12 there was any statement as far as that's concerned.

13 Q. So approximately -- and I'm not going to hold
14 you to the exact minute.

15 A. Okay.

16 Q. But approximately ten to fifteen minutes after
17 you knocked on the door is when you allege that Mr.
18 Umphlett made a voluntary statement that there was
19 marijuana in the room?

20 A. And he pointed at it, too.

21 Q. And do you know what time radio logs suggest
22 that there were two people in custody?

23 A. I don't have that in front of me, either, sir.

24 Q. You do not know about the written statement or
25 the written waiving of Miranda?

Jackson v. Denno
Hobie Williams
Cross-Examination by Mr. Seaton

1 A. Correct.

2 Q. You did not participate as a witness or --

3 A. I believe I witnessed that they were signed,
4 but that was -- I'm not a hundred percent sure on that.
5 I would have to see the form to verify what you --

6 Q. Let me just show you this.

7 [Whereupon, the witness reviews documents]

8 Q. [Mr. Seaton] And I don't believe that that's
9 your signature on either one of those, is it?

10 A. No, sir.

11 The first one, the voluntary statement form,
12 no. And the rights waiver form, no.

13 MR. SEATON: Nothing further, Your Honor.

14 MR. MCNEELY: A couple of questions, Your
15 Honor.

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Jackson v. Denno
Hobie Williams
Redirect Examination by Mr. McNeely

REDIRECT EXAMINATION

BY MR. MCNEELY:

Q. Mr. Williams, the defense attorney asked you a couple of questions regarding you knowing Mr. Umphlett or having some prior contact with him?

A. Yes, sir.

Q. Can you explain that to the Court, please?

A. After speaking with Mr. Umphlett, it was discovered that he is married to my cousin. And I don't really have much contact with my cousin, so I had no clue that they were married. And I didn't even know who he was.

Q. Did you recognize his face upon seeing him at the door?

A. No, sir.

It was so awkward that I think during the conversation he told me he knew a Hobie Williams and I have no clue who he is. And afterwards he asked, are you Hobie. So I don't think he noticed who I was, either.

Q. And him asking if you knew Hobie Williams was an indication to you that he didn't --

A. It was a little awkward --

Q. -- know you, either?

A. -- because I've never met him before.

And he obviously hasn't met me, because I think

Jackson v. Denno
Hobie Williams
Redirect Examination by Mr. McNeely

1 I'm the only Hobie Williams at the Summerville Police
2 Department.

3 Q. Did you and the defendant ever engage in social
4 interactions outside of this incident?

5 A. Not that I know of.

6 I don't go to many social functions just
7 because with that -- my time at the police department. I
8 work nights, and it was hard to get up during the day.

9 Q. Mr. Seaton made reference to them going to a
10 Japanese restaurant. Did you smell any alcohol on the
11 defendant?

12 A. I didn't smell any alcohol.

13 Q. And how close were you to him at any given
14 point?

15 A. Within three feet. Three, four feet.

16 Q. At the time the defendant was seated on the
17 bed, how close were you standing to him?

18 A. I was within three feet.

19 Q. Were you over him in an intimidating manner?

20 A. No, sir. I was leaned up against the doorjamb.

21 Q. So you were just conversationally apart?

22 A. Yes, sir.

23 Q. Were you present when that -- the Miranda form
24 was signed by Mr. Umphlett?

25 A. I believe I was present, but I don't -- I

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Hobie Williams
Redirect Examination by Mr. McNeely

1 didn't take part in it. I was on scene, still.

2 Q. But you don't know for sure?

3 A. [Indicates negatively]

4 Q. Mr. Seaton made reference to the defendant said
5 he was about to throw up. Do you recall anything about
6 that?

7 A. I'm trying to think back, and I don't remember
8 throwing up -- anybody throwing up.

9 But it was about a year ago. More than that.

10 Q. But the defendant appeared coherent and
11 rational and in a proper state of mind when you were
12 talking to him?

13 A. Yes, sir.

14 Q. And he appeared in that proper state of mind
15 when you provided him Miranda rights?

16 A. Yes, sir.

17 Q. And he appeared in a proper state of mind when
18 he waived those Miranda rights and agreed to talk to you?

19 A. Yes, sir.

20 Q. Did you ever hear any promises made to Mr.
21 Umphlett?

22 A. I heard none, sir.

23 Q. Was it news to you when Mr. Seaton referenced
24 the promise that the female would not be arrested on this
25 incident?

Jackson v. Denno
Hobie Williams
Redirect Examination by Mr. McNeely

1 A. That's news to me, sir.

2 Q. Was it news to you when Mr. Seaton made
3 reference to the possibility that any promise was made --
4 or a threat was made about DSS?

5 A. Right.

6 Q. You didn't hear any of that?

7 A. I didn't hear that, sir.

8 MR. MCNEELY: No further questions from the
9 State, Your Honor.

10 THE COURT: Mr. Seaton, anything further?

11 MR. SEATON: No, Your Honor.

12 THE COURT: You may step down, Mr. Williams.
13 Thank you.

14 THE WITNESS: Thank you, Your Honor.

15 [Whereupon, Mr. Williams is excused and exits
16 the witness stand]

17 THE COURT: Call your next witness.

18 MR. MCNEELY: The State calls Officer
19 Henderson.

20 [Whereupon, Mr. Henderson comes forward]

21 THE CLERK OF COURT: Left hand on the Bible.
22 Raise your right.

23 [Whereupon, Mr. Henderson is duly sworn by the
24 clerk of court as follows: do you solemnly swear or
25 affirm the testimony you shall give in this case

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Hobie Williams
Redirect Examination by Mr. McNeely

1 shall be the truth, the whole truth, and nothing but
2 the truth, so help you God]

3 THE WITNESS: I do, ma'am.

4 THE CLERK OF COURT: If you'll have a seat.

5 [Whereupon, Mr. Henderson takes the witness
6 stand]

7 THE CLERK OF COURT: State your full name for
8 the record, and spell your last name.

9 THE WITNESS: Dennis Allen Henderson. The last
10 name is H-E-N-D-E-R-S-O-N.

11 MR. MCNEELY: Thank you, Officer Henderson.

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Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

DENNIS HENDERSON,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MCNEELY:

Q. Where are you currently employed?

A. With the Summerville Police Department.

Q. Were you employed by the Summerville Police
Department on May 11th, 2014?

A. Yes, sir, I was.

Q. What was your position at the Summerville
Police Department at that time?

A. Corporal on night shift, first-line supervisor.

Q. So you were a patrol supervisor?

A. First-line supervisor, yes, sir. There's a
sargent and a lieutenant above me.

Q. How long had you worked in that capacity on May
11, 2014?

A. Roughly six or seven years.

Q. What were your duties in that job?

A. I was there to, you know, answer the questions
for my teammates maybe less experienced that had
questions. Also, perform tasks as assigned by my
lieutenant and my sargent. So I'm kind of in between the
road guys and the supervisors.

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1 Q. But you respond to scenes when called?

2 A. Oh. Absolutely. Sure.

3 Q. Were you working on the evening of May 11th,
4 2014?

5 A. Yes, sir, I was.

6 Q. Did you receive a call to go to the Economy Inn
7 on Holiday Drive in Summerville on that evening?

8 A. Yes, sir.

9 I actually spoke with PFC or Patrolman Oswald
10 and he made me aware of the call that he had been
11 dispatched to.

12 Q. So Oswald was dispatched to the scene and he
13 called you and --

14 A. They --

15 Q. -- alerted you of that?

16 A. Sure. Yes, sir.

17 Q. Did you respond to the scene?

18 A. Yes, sir, I did.

19 Q. Did you make contact with an individual named
20 Joseph Umphlett at the time?

21 A. Yes, sir.

22 Q. Do you recall -- do you recall approximately
23 what time that was?

24 A. No, sir, I don't really -- it was dark. I
25 don't remember the exact time, no, sir.

Jackson v. Denno
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Direct Examination by Mr. McNeely

1 Q. It was at night?

2 A. Yes, sir.

3 Q. Do you recall the reason for the call to the
4 Economy Inn?

5 A. When I spoke with Patrolman Oswald, he had
6 advised me that he received a call from a complainant in
7 reference to some children at the Economy Inn hotel,
8 possibly at risk due to drug activity in the room.

9 Q. So it was a child-welfare check?

10 A. Yes, sir.

11 Q. How did you make contact with the defendant,
12 Joseph Umphlett?

13 A. Well, we received information that he was
14 possibly driving a vehicle -- we received information on
15 his vehicle description. Eventually located that outside
16 of his room.

17 We also checked with the clerk and found out
18 which room they were registered at.

19 Q. Did you and other officers go knock on that
20 door?

21 A. Yes, sir, we did.

22 Q. Who was present at that time from the
23 Summerville Police Department?

24 A. Myself, Patrolman Oswald, and PFC Hobie
25 Williams.

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 Q. Did the occupants in the room come to the door
2 and open it?

3 A. Not immediately. But eventually they did, yes,
4 sir.

5 Q. Did you notice anything in particular when the
6 door was opened?

7 A. Yes, sir.

8 There was a strong odor of raw marijuana
9 emitting from inside the room.

10 Q. Did the officers request permission to search
11 the room?

12 A. Yes, sir, they did.

13 Q. Was that request made because of the odor?

14 A. Yes, sir.

15 Q. When officers requested permission to search
16 the room, how did the defendant respond?

17 A. They declined. They did not grant consent for
18 us to search the room.

19 Q. Did you advise Joseph Umphlett of his Miranda
20 rights at any time on May 11th, 2014?

21 A. I did not. Officer Williams did.

22 Q. Were you present and observed the defendant
23 being advised of his Miranda rights on May 11th, 2014?

24 A. Yes, sir.

25 Q. I believe you said that Officer Williams

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 provided him his Miranda rights?

2 A. Yes, sir.

3 Q. How long after making contact with the
4 defendant at the door of room 119 was Mr. Umphlett
5 Mirandized?

6 A. Within minutes. Just a few minutes, because --

7 Q. Was Mr. Umphlett advised of his Miranda rights
8 prior to any officer taking a statement from him?

9 A. Yes, sir.

10 Q. Where was Mr. Umphlett when he was Mirandized?

11 A. The way the room was laid out, the door -- if
12 the door was here [indicates], there were two double beds
13 just inside the room, and a dresser, TV to your left. So
14 he was sitting -- we had him sit on the corner of this
15 bed that was closest to the door, which is almost arm's
16 reach from the front door. Very close.

17 Q. Why was he seated?

18 A. Due to the smell of the marijuana, and them not
19 granting us consent to search the room, we then separated
20 the two parties and called the metro narcotics detectives
21 so they could obtain a search warrant.

22 Q. Was he Mirandized before or after you called
23 metro narcotics for the search warrant?

24 A. I don't recall that sequence, sir. I would say
25 if I -- I would have to say it was afterwards.

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 Q. How long after you made contact with the
2 defendant was metro narcotics called for a search
3 warrant?

4 A. I don't recall minute-wise, but it -- fifteen
5 minutes, maybe, if I had to guess. Twenty minutes.

6 Q. Shortly after he declined consent to search the
7 room?

8 A. Yes, sir.

9 Q. And I believe you said under -- the other
10 people that were present for his Mirandas were Officers
11 Oswald and Williams.

12 A. Yes, sir.

13 Well, Officer Williams Mirandized him, read him
14 his Miranda rights.

15 Q. Do you recall if that was done from Officer
16 Williams' memory, or if he read it off of a card?

17 A. No, sir, I don't recall.

18 Q. Were the Miranda -- were the Miranda rights
19 read in their standard fashion?

20 A. Yes, sir.

21 Q. Did Joseph Umphlett confirm that he understood
22 his Miranda rights at that time?

23 A. Yes, sir, he did.

24 Q. Was his confirmation oral or written?

25 A. Oral.

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 Q. Did he confirm that he understood his Miranda
2 rights prior to any statements being taken from him?

3 A. Yes, sir, he did.

4 Q. Did he -- and he said he acknowledged that
5 verbally?

6 A. Yes, sir.

7 Q. How old is Mr. Umphlett?

8 [Whereupon, the witness reviews documents]

9 Q. [Mr. McNeely] If I told you thirty-five,
10 approximately, would that sound correct?

11 A. Approximately, yes, sir.

12 I would have to look it up. I have trouble
13 with names, let alone date of births.

14 Q. Sure.

15 How was Mr. Umphlett's demeanor at the time he
16 was read his Miranda rights?

17 A. He was, you know, upset, I think.

18 I know when Officer Williams was trying to
19 develop a rapport with him and speak with him about the
20 whole situation, I think he was -- kind of had his head
21 hung a little bit in that, you know -- given the
22 situation, I think he was pretty uptight.

23 Q. So he was upset with the situation?

24 A. Sure.

25 Q. Did he appear coherent, though?

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 A. Yes, sir. Yes, sir.

2 Q. Did he appear rational?

3 A. Yes, sir.

4 Q. Did he appear to have any mental defects?

5 A. No, sir.

6 Q. Was he speaking in a coherent manner?

7 A. Yes, sir.

8 Q. He seemed to understand what was happening?

9 A. Yes, sir.

10 Q. Did he seem to have any mental or physical
11 defects?

12 MR. SEATON: Your Honor, I think I've let the
13 leading go on a little too long.

14 THE COURT: Sustained.

15 MR. SEATON: I was trying to move things along.

16 THE COURT: We got it. Thank you.

17 Q. [Mr. McNeely] Did he appear drunk?

18 A. No, sir.

19 Q. Did Mr. Umphlett appear to you to be under the
20 influence of any substance?

21 A. No, sir, not at that time, not to me.

22 But, again, you know, I was not in direct
23 interface with him as much as Officer Williams. As the
24 supervisor, I would have been -- I actually positioned
25 myself, after we separated the two parties, so I could

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 keep my eyes on both of them.

2 Q. From what you heard, did he appear to
3 comprehend the meaning of the words?

4 A. Yes, sir. Absolutely.

5 Q. Did you ever hear anyone make any threats to
6 Mr. Umphlett?

7 A. No, sir.

8 Q. Did he appear under duress to you?

9 A. Due to the situation, I think he was under a
10 little bit of duress because of -- you know, I think he
11 knew what was happening.

12 Q. Did anyone make any promises to Mr. Umphlett?

13 A. No, sir.

14 Q. Did anyone make any misrepresentations to --

15 A. No, sir.

16 Q. -- Mr. Umphlett?

17 Did anyone use any tricks or attempt to --

18 A. No, sir.

19 Q. -- trick Mr. Umphlett?

20 A. No, sir, not at all.

21 Q. Did anyone pressure Mr. Umphlett into providing
22 a statement?

23 A. No, sir.

24 Q. Did the defendant waive his Miranda warnings
25 either verbally or in writing?

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 A. Verbally. Yes, sir.

2 Q. Did he waive his Miranda warnings prior to any
3 statements being taken from him?

4 A. Yes, sir, he did.

5 Q. Was it a knowing, intelligent, and voluntary
6 waiver?

7 A. Yes, sir.

8 MR. SEATON: Objection, Your Honor. That
9 certainly calls for a legal conclusion.

10 THE COURT: Rephrase your question.

11 Q. [Mr. McNeely] Did Mr. Umphlett's waiver of his
12 Miranda rights appear to be voluntary?

13 A. Yes, sir.

14 Q. Did anyone force him to waive his Miranda
15 rights?

16 A. No.

17 Q. Did anyone intimidate him to --

18 A. No, sir.

19 Q. Did you witness Mr. Umphlett provide a
20 statement?

21 A. No, sir.

22 Q. You were not present when he provided the
23 statement?

24 A. He was in a vehicle at the time when he was
25 writing a statement, I believe.

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 Q. I'm not talking about a writing -- a written
2 statement. Did he provide an oral statement --

3 A. I'm sorry.

4 Q. -- to Mr. Williams?

5 A. Yes, sir.

6 Q. Were you present when that oral statement --

7 A. Yes, sir. I'm sorry.

8 Q. You witnessed him provide that oral statement
9 to Mr. Williams?

10 A. Yes, sir.

11 As I said, Mr. Williams was speaking with him
12 and developing a rapport with him.

13 Q. How long did the conversation between Officer
14 Williams and the defendant take place?

15 A. It could have been fifteen or twenty minutes,
16 I'm guessing, sir, because, you know, I called
17 detectives and advised them of the situation and they
18 were coming to get the search warrant. So it was a -- it
19 was a little bit.

20 Q. Did you hear the defendant make any request for
21 a break during the interview?

22 A. No, sir.

23 Q. Did you hear the defendant ask to use the
24 bathroom?

25 A. No.

Jackson v. Denno
Dennis Henderson
Direct Examination by Mr. McNeely

1 Q. Did you hear the defendant request food or
2 water?

3 A. No, sir.

4 Q. Do you believe that the defendant knew what he
5 was saying?

6 A. Yes, sir. Absolutely.

7 Q. Did Mr. Umphlett ever ask to stop the
8 interview?

9 A. No, sir.

10 Q. Did he ever request that he have an attorney
11 present during the interview?

12 A. No, sir.

13 MR. MCNEELY: Thank you, Officer. Please ask
14 -- answer any questions Mr. Seaton has.

15 THE WITNESS: Thank you.

16 MR. SEATON: Please the Court, Your Honor.

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Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

CROSS-EXAMINATION

BY MR. SEATON:

Q. Officer Henderson, as I understand it, you weren't actually present when -- I'm not trying to put words in your mouth. You didn't see him giving his written statement, did you?

A. The written statement, no, sir.

Q. Okay.

A. I was aware he was doing it.

Again, I was a supervisor so I'm trying to take everything in and --

Q. I understand.

A. Yes, sir.

Q. I'm just trying to make sure that when you say no, it's because you have personal knowledge or, no, because you don't know what happened. The -- the difference between those two negatives.

There was a statement that was written, that you're not aware, you were not there present when he was writing that; is that correct? I think that's the one that was in the car that you were talking about.

A. I was in the area.

The car was parked -- they were on the end room and the car was parked right there. These rooms -- these hotel rooms aren't very big. I was aware that he was

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 doing a statement at some point --

2 Q. I understand.

3 A. -- but I was also -- yes, sir?

4 Q. You're pointing out exactly what I was trying
5 to get at. And that is, just because you were around
6 doesn't mean that you participated in knowing what he was
7 writing down or whether -- what conversation he had with
8 the officer about the statements?

9 A. No.

10 Q. Okay.

11 A. No. I did not --

12 Q. You didn't stand there and watch him physically
13 --

14 A. No, sir. No, sir --

15 Q. Right.

16 A. -- I was not.

17 Q. You're not even aware whether or not that he's
18 the one that wrote the statement or whether --

19 A. Yes.

20 Q. -- he simply answered questions? Are you aware
21 of that?

22 A. I'm not aware of what was on the statement, no,
23 sir.

24 Q. Are you aware whether he wrote the statement or
25 whether one of your officers wrote the statement?

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 A. I was aware that he was in the back seat of
2 this vehicle with a writing instrument in his hand --

3 Q. I understand.

4 A. -- writing on a piece --

5 Q. That's not --

6 A. -- of paper.

7 Q. -- the question I asked you.

8 If you would answer the one that I asked, which
9 was you're not aware whether he wrote the statement or
10 whether one of your officers wrote the statement?

11 A. [No response]

12 Q. If I showed you the actual written statement,
13 would you know whether he wrote it or whether the -- one
14 of your officers wrote it?

15 A. Well, I know as standard procedure we have them
16 write. It is a voluntary written statement, which is
17 typically in their own words. They sign at the bottom
18 that it's -- that it is their statement, they wrote it,
19 and it's the truth, and a second signature indicating
20 they received a copy.

21 Now, sometimes on these written statements,
22 depending on the incident, we can do a question and
23 answer section.

24 Q. I understand. I'm not trying to trick you.
25 I'm just --

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 A. Okay. Well, I guess --

2 Q. -- you said standard operating procedure.

3 Let me ask you if that looks like a standard
4 operating procedure report that was -- that certainly
5 this man didn't write, answer, question, answer, question
6 --

7 MR. MCNEELY: Your Honor --

8 A. Right. Yes, sir.

9 Q. [Mr. Seaton] Would you agree with me he didn't
10 write --

11 THE COURT: Hold on one second.

12 THE WITNESS: Yes, ma'am.

13 MR. MCNEELY: Your Honor, I object.

14 The officer has already testified that he
15 wasn't present when this was done, so I don't know
16 where this line of questioning is going.

17 THE COURT: Well, let's see.

18 You may answer.

19 A. But I can tell you about the statement. The
20 top part was be -- would be something that he wrote. And
21 then typically this is the question and answer section
22 part right here.

23 Q. [Mr. Seaton] Yes, sir.

24 A. Okay? And typically what we do is write down
25 the questions that we ask them and the answers that they

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 gave us.

2 Q. So in other words, he didn't write it --

3 A. The top part --

4 Q. -- the officer wrote it?

5 A. The top part he likely did.

6 Q. You mean the part where it says Joseph Umphlett
7 and then his address?

8 MR. MCNEELY: Your Honor, I object.

9 He wasn't present when this was written. He
10 can't say.

11 MR. SEATON: He's certainly done a good job so
12 far.

13 THE COURT: Well --

14 THE WITNESS: I'm --

15 THE COURT: All right. This is the way it
16 works.

17 THE WITNESS: I'm sorry.

18 THE COURT: There's an objection. I need you
19 to stop talking when --

20 THE WITNESS: Yes, ma'am.

21 THE COURT: -- there's an objection.

22 I need you to let me rule, Mr. Seaton.

23 Any questions about how the procedure works?

24 Thank you.

25 You inquired -- he has indicated to you several

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Dennis Henderson
Cross-Examination by Mr. Seaton

1 times that he was not there when this was written. I
2 allowed him to let you ask him about whether or not
3 this was standard operating procedure because he
4 indicated he was the supervisor.

5 I am sustaining your objection now. We have
6 gone far afield with that. Let's move on.

7 MR. SEATON: Thank you, Your Honor.

8 THE WITNESS: My apologies, Your Honor.

9 Q. [Mr. Seaton] Were there -- you're familiar
10 with the form that's called advisement of rights --
11 Summerville Police Department Advisement of Rights?

12 A. Yes, sir.

13 Q. Were you there when --

14 A. No, sir, I wasn't there.

15 Q. Okay. So you don't have any personal knowledge
16 of --

17 A. No.

18 Q. -- of this document and you don't have any
19 personal knowledge of this document?

20 A. Other than I was aware he was doing it.

21 Q. And the oral statement that was taken that was
22 allegedly taken by Mr. Williams, was -- I think your
23 testimony was that Mr. Umphlett was sitting on the bed?

24 A. Yes, sir.

25 Q. Do you know where Mr. Williams was at the --

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 A. He --

2 Q. -- time when he took that statement?

3 A. Seated in -- I think he was seated in a chair,
4 kind of face-to-face with him.

5 Q. And this would have been shortly after y'all
6 knocked on the door?

7 A. Yes, sir.

8 Q. And I think you've already told us that
9 Mr. Umphlett, as well as Ms. Abdon, did not consent to
10 search?

11 A. That's correct.

12 Q. And yet they were -- your officers were in the
13 room?

14 A. He -- Officer Williams was just inside the
15 room.

16 Q. So he was in the room, without having consent
17 to search, with the --

18 A. He wasn't --

19 Q. -- occupants saying that they did not want to
20 allow them to come in. And this was certainly prior to
21 y'all having gotten a search warrant?

22 MR. MCNEELY: Your Honor, I object.

23 This is out of the confines of the Denno
24 hearing.

25 THE COURT: Let's move on.

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 Q. [Mr. Seaton] And when he reads the Miranda
2 warning, were you in the room?

3 A. I believe I was just right by the front door.
4 As I said, I positioned myself so after they
5 were separated.

6 Q. Let me see if I can understand, Officer
7 Henderson.

8 Earlier, I suggested that this was the front
9 door of the hotel room.

10 A. Uh-huh.

11 Q. And if you're looking in the front door, the
12 beds would have been on the left or the right?

13 A. On the right.

14 Q. And there would have been a dresser of some
15 type, with a TV on it, to the left?

16 A. Yes, sir.

17 Q. And the chair that you're talking about
18 Mr. Williams being in, where would that chair have been
19 located?

20 A. Right inside the door on -- by the little round
21 table, air conditioner --

22 Q. I understand.

23 A. -- this much space right there.

24 Q. So when you walk in the front door, you've got
25 a table and chair, or maybe two tables and --

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 A. Right.

2 Q. -- excuse me -- two chairs --

3 A. Yeah.

4 Q. -- and a table?

5 A. Like a little dining thing.

6 Q. All right. And where would you have been
7 standing when the --

8 A. Right --

9 Q. -- Miranda was read.

10 A. Right outside the door.

11 Q. Would you agree with me that there was two
12 occupants of the room?

13 A. Sure. Mr. Umphlett and Officer Williams.

14 Q. Let me rephrase that.

15 Do you know whether when y'all --

16 A. I'm sorry. Okay.

17 Q. -- did you arrive at the same time? Did you
18 knock --

19 A. Yes, sir.

20 Q. When the door was originally knocked on, were
21 you there?

22 A. Yes, sir.

23 Q. And when the door was opened, was there two
24 occupants --

25 A. Yes, sir.

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 Q. -- in the room?

2 Are you aware that one of the occupants of the
3 room, Casy Abdon -- excuse me -- Ms. Abdon, Kory, was the
4 one that the room was actually registered to?

5 A. I don't recall who it was registered to.

6 Q. I understand.

7 A. But we obtained information that that was
8 the --

9 Q. I haven't heard any testimony. Was she -- was
10 Ms. Abdon ever read her Miranda rights?

11 A. No, sir, I don't think so. Not while I was
12 present.

13 Q. To your knowledge, she was not arrested?

14 A. I don't think so, sir, no, sir.

15 Q. So she was never Mirandized. She was never --
16 was she questioned?

17 A. No, sir.

18 She just sat outside the room there after we
19 separated the two of them.

20 Q. Let me make sure I understand this.

21 Y'all went there on an eight [phonetic], you
22 were told that her children were in the room and y'all
23 did a welfare check; is that correct? That was the
24 reason y'all were there originally?

25 A. Yes, sir.

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 Q. And you come there for Ms. Abdon's children,
2 you knock on the door, there's no children there, y'all
3 don't Mirandize her, you don't question her, and you
4 don't arrest her; is that correct?

5 A. That's correct.

6 MR. SEATON: Thank you. Nothing further, Your
7 Honor.

8 THE COURT: Any redirect?

9 MR. MCNEELY: No redirect, Your Honor.

10 THE COURT: You may step down. Thank you.

11 [Whereupon, Mr. Henderson is excused and exits
12 the witness stand]

13 MR. MCNEELY: The State calls Sargent Frank
14 Thompson.

15 [Whereupon, Mr. Thompson comes forward.

16 [Whereupon, Mr. Thompson is duly sworn by the
17 clerk of court as follows: do you solemnly swear or
18 affirm the testimony you shall give in this case
19 shall be the truth, the whole truth, and nothing but
20 the truth, so help you God]

21 THE WITNESS: Yes, ma'am, I do.

22 THE CLERK OF COURT: If you'll have a seat.

23 [Whereupon, Mr. Thompson takes the witness
24 stand]

25 THE CLERK OF COURT: State your full name for

Jackson v. Denno
Dennis Henderson
Cross-Examination by Mr. Seaton

1 the record and spell your last name.

2 THE WITNESS: It's Frank N. Thompson.

3 T-H-O-M-P-S-O-N.

4 MR. MCNEELY: Good afternoon, Sargent Thompson.

5 How are you?

6 THE WITNESS: Good. You?

7 MR. MCNEELY: Good.

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Jackson v. Denno
Frank Thompson
Direct Examination by Mr. McNeely

FRANK N. THOMPSON,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MCNEELY:

Q. Where are you currently employed?

A. I am employed with Dorchester County Sheriff's Office and I'm assigned to the metro narcotics unit's task force with Summerville Police Department.

Q. So you work closely with the Summerville Police Department?

A. Yes, I do.

Q. And you're technically employed by Dorchester County Sheriff's Office?

A. Correct.

Q. Where were you employed on May 11th and 12th, 2014?

A. With Dorchester County Sheriff's Office.

Q. What was your position at -- with the sheriff's office at that time?

A. I was at the time, and still am, a sargent with the sheriff's office, assigned to the metro narcotics unit.

As I said before, it's a task force between Dorchester County and the town of Summerville.

Jackson v. Denno
Frank Thompson
Direct Examination by Mr. McNeely

1 Q. And as of May 11th and 12th, 2014, how long had
2 you worked in that capacity?

3 A. Right about seven years.

4 Q. What were your duties in that job?

5 A. As a supervisor, I am a front -- first-line
6 supervisor, so I'm in charge of six detectives -- I'm
7 sorry, seven detectives, and I just do the day-to-day --
8 make sure the day-to-day activities, as far as
9 investigations are conducted, management of case files,
10 and assist them in any way that may be of help.

11 Q. So you're an investigator?

12 A. I am.

13 Q. Did you respond to an incident at the Economy
14 Inn on Holiday Drive in Summerville on the evening of May
15 11th, 2014, and early morning of May 12th, 2014?

16 A. I did.

17 Q. Please describe the reason you responded to the
18 scene.

19 A. Detective Strickland, who was a detective at
20 the time with Summerville Police Department, was the on-
21 call investigator and he was called by the police
22 department in reference to the officers being out at the
23 hotel room and were needing a search warrant because they
24 had smelled marijuana inside the hotel room. And it was
25 hotel room 119 at the Economy Inn on Holiday Drive.

Jackson v. Denno
Frank Thompson
Direct Examination by Mr. McNeely

1 Q. Do you know approximately what time you arrived
2 at the scene?

3 A. I honestly do not know. It was before
4 midnight.

5 Q. When you arrived at the scene, did you go to
6 the room?

7 A. I met with Officer Williams about three rooms
8 -- three doors down from 119 and spoke with him about
9 what he -- the situation he had at the time up to that
10 point.

11 Q. Did you notice any odors at that time?

12 A. I did.

13 I did detect the odor of marijuana, which was
14 coming down the -- the Economy Inn is outdoors. All the
15 doors face out into the parking lot, so we were on the
16 sidewalk and I could smell the odor of marijuana coming
17 towards me from that room.

18 Q. And you said you were about three doors down?

19 A. Three doors down. Yes, sir.

20 Q. Were any other doors open?

21 A. No. Only room 119 was open.

22 Q. Did you encounter -- or come in contact with
23 the defendant, Joseph Umphlett, at the Economy Inn that
24 evening?

25 A. Yes, sir, I did.

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1 Q. How did you make contact with Joseph Umphlett
2 at the Economy Inn?

3 A. He was in the back of one of the Summerville
4 patrol cars.

5 I don't know which officer it was. They had
6 him in the back there. I asked first if he was
7 Mirandized. I asked Officer Williams, which he said he
8 was.

9 And then I went to the back seat of the car,
10 opened the door and identified myself as a detective with
11 the narcotics unit, asked Umphlett if he had been
12 Mirandized, which he acknowledged he had, and I asked him
13 if he would -- if he wanted to speak with me and he said
14 he would.

15 Q. Okay. Let's back up just a minute.

16 A. Sure.

17 Q. So prior to making contact with Mr. Umphlett,
18 who you said was seated in the back of the patrol car,
19 you confirmed that he had been read his Miranda warnings?

20 A. Correct.

21 I asked Officer Williams if he had been
22 Mirandized.

23 Q. And Officer Williams confirmed that he had?

24 A. Yes, sir.

25 Q. Then at that point, you make contact with the

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1 defendant in the back seat of the patrol car?

2 A. Correct.

3 Q. When you make contact wit the defendant, was he
4 seated in the back seat?

5 A. Yes.

6 Q. Where were you?

7 A. On the outside of the door.

8 Q. Was the window rolled down, or was the door
9 open?

10 A. We opened the door.

11 Q. So you're standing on the outside of the door
12 and he's seated in the back seat?

13 A. Yes, sir.

14 Q. Is he in handcuffs at this point?

15 A. That's my recollection, he was in handcuffs.

16 Q. And you said you confirmed with Mr. Umphlett,
17 when you made contact with him, that he had been
18 Mirandized?

19 A. I did ask Mr. Umphlett if he had been
20 Mirandized. And at first he kind of --

21 MR. SEATON: Objection, Your Honor. Relevance.

22 MR. MCNEELY: This is a Denno hearing.

23 THE COURT: I'm going to give you a little bit
24 of leeway.

25 You may answer.

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1 A. At first he just nodded his head and I asked
2 him -- or I told him I need a yes or a no if he was
3 willing to speak with me, and then he said yes.

4 Q. [Mr. McNeely] Prior to that, did you confirm
5 with him that he had been Mirandized?

6 A. Yes.

7 MR. SEATON: Objection, Your Honor.

8 There is no relevance to whether or not he's
9 acknowledged. That certainly would not be a question
10 for a Jackson v. Denno hearing. The question is
11 whether or not the police did it, rather than whether
12 or not -- how could he possibly know whether he's
13 been properly Mirandized? I don't know the
14 relevance.

15 THE COURT: I think it's very relevant to the
16 very issue that we're here.

17 You may continue.

18 MR. MCNEELY: Thank you, Judge.

19 Q. [Mr. McNeely] So you spoke with Mr. Umphlett
20 initially and confirmed with him that he had been read a
21 Miranda warning?

22 A. Yes.

23 Q. And he confirmed that he had?

24 A. Yes.

25 Q. Did he confirm orally?

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1 A. At first he just nodded his head. And then I
2 said, I need a yes or a no. He acknowledged yes. And
3 then I asked him if he would be willing to speak with me,
4 and he said yes.

5 Q. Do you know how old Mr. Umphlett is?

6 A. No. I mean, not without --

7 Q. If I said approximately thirty-five, would that
8 sound accurate?

9 A. I would buy it, yeah.

10 Q. How was Mr. Umphlett's demeanor when you were
11 speaking with him?

12 A. He wasn't aggressive or agitated. He spoke
13 with me. Wasn't, you know, boisterous or anything like
14 that.

15 Q. Can you describe his speech?

16 A. [No response]

17 Q. Was it clear?

18 A. Oh, yes. Yeah. Very clear.

19 Q. Did it seem rational?

20 A. Yes.

21 Q. Did it seem coherent?

22 A. Yes.

23 MR. SEATON: Objection, Your Honor. Leading.

24 THE COURT: I'm going to give him -- overruled.

25 Q. [Mr. McNeely] Did he appear to understand what

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Direct Examination by Mr. McNeely

1 was going on?

2 A. I felt that he did understand what I was saying
3 to him and what he was giving me back as feedback was
4 clear and competent.

5 Q. Did you notice anything that would indicate he
6 was intoxicated?

7 A. No.

8 Q. Did you notice anything that would indicate he
9 was under the influence of any substance?

10 A. No.

11 Q. Did he have slurred words?

12 A. No.

13 Q. Did he have bloodshot eyes?

14 A. Not that I recognized, no.

15 Q. Did he speak to you clearly?

16 A. Yes.

17 Q. Did he appear to have any mental defects?

18 A. Not that I know of.

19 MR. SEATON: Objection, Your Honor. Hearsay.

20 Excuse me. I apologize. I was trying to do
21 two things at once. Leading, Your Honor.

22 THE COURT: Overruled.

23 Q. [Mr. McNeely] Did he appear to have any
24 physical defects?

25 A. No.

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1 Q. Did he appear to comprehend the meaning of your
2 words?

3 A. Yes.

4 Q. Did he appear to comprehend the meaning of the
5 words that he was speaking to you?

6 A. Yes.

7 Q. Did you make any threats to Mr. Umphlett?

8 A. No, sir.

9 Q. Did you make any promises to Mr. Umphlett?

10 A. No, sir.

11 Q. Did you witness any officer make any
12 misrepresentations or promises to Mr. Umphlett?

13 A. No, sir.

14 Q. Did he appear to be under duress in any way?

15 A. No, sir.

16 Q. I believe you already indicated the defendant
17 waived his Miranda rights verbally to you?

18 A. He did, after acknowledging me with a head nod
19 and me asking him -- or telling him I need a yes or no if
20 he was willing to speak with me. He did indicate yes.

21 Q. Did the defendant's waiver of his Miranda
22 warning appear to be knowing and voluntary to you?

23 A. Yes.

24 MR. SEATON: Objection, Your Honor.

25 THE COURT: What is your basis?

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Frank Thompson
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1 MR. SEATON: Legal conclusion.

2 THE COURT: Rephrase your question.

3 Q. [Mr. McNeely] Did the defendant appear to be
4 making a knowing waiver of his Miranda rights?

5 A. Yes.

6 Q. Did he make this waiver to you prior to you
7 taking any statement from him?

8 A. Prior to the statement, yes.

9 Q. Did you take an oral statement from Mr.
10 Umphlett?

11 A. I spoke with him generally about a -- before
12 we got to the written statement, I spoke to him about
13 another incident that I was investigating, which he
14 was -- his name came up.

15 But then we moved to the incident we were on.
16 I asked him for a written statement, which he did
17 provide. And he also did give a verbal statement.

18 Q. Did he give you a verbal statement with regard
19 to the incident at the Economy Inn on --

20 A. Yes, sir.

21 Q. -- May 11th, 2014?

22 Was that verbal statement provided to you prior
23 to any written statement?

24 A. By him, yes.

25 Q. Did he make any request, while giving this

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Direct Examination by Mr. McNeely

1 verbal statement, for the discussion to stop?

2 A. No.

3 Q. Did he ask to go to the bathroom?

4 A. No.

5 Q. Did he ask for food?

6 A. I believe at one point he did ask for some
7 water and I think we accommodated that.

8 Q. Do you believe that he knew what he was saying
9 to you?

10 A. Yes.

11 Q. Did he ever ask to stop the oral interview?

12 A. No.

13 Q. Did he ever request to have an attorney present
14 during the oral interview?

15 A. No.

16 Q. At some point, did you request that the
17 defendant provide a written statement?

18 A. I did.

19 Q. When was this in time in relation to the oral
20 statement he provided to you?

21 A. Shortly thereafter.

22 We were still on scene and he was still in the
23 patrol car.

24 Q. Was this a continuous interaction between you
25 and Mr. Umphlett?

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1 A. Yes.

2 I had walked away at some point, after
3 discussing with him giving the oral statement, and then I
4 can back and asked him to write a written statement,
5 which he said he would. Provided him with a Summerville
6 statement form, as well as a writing instrument.

7 Q. So Mr. Umphlett agreed to providing you a
8 written statement?

9 A. Yes.

10 Q. Did you make any threats or promises to
11 Mr. Umphlett in order to get him to provide a written
12 statement?

13 A. No, sir.

14 Q. Did he provide the written statement
15 voluntarily?

16 A. Yes, sir.

17 Q. Who wrote the written statement?

18 A. He did.

19 He wrote the statement out, and then I followed
20 up with a question and answer where I wrote the question
21 and he wrote the answer.

22 Q. Did he write the -- did he write the statement
23 at your request?

24 A. Yes.

25 Q. Where did he write the statement?

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1 A. He was in the back of a patrol car at the
2 Economy Inn.

3 Q. Was he handcuffed at the time?

4 A. I can't really recall. If he was, they were in
5 front of him so he could write. But I believe he still
6 may have been handcuffed.

7 Q. Did you witness him write the statement?

8 A. I didn't witness him write the statement, but
9 he was the only one in the car.

10 While he was writing the statement I was doing
11 other things, and I had come back to the car, read over
12 the statement, and then did the question and answer
13 portion of it.

14 Q. Okay. Just so myself and the Court are clear:
15 you handed him the written statement form --

16 A. Correct.

17 Q. -- is that correct?

18 A. Correct.

19 Q. And a writing instrument?

20 A. Correct.

21 Q. And then walked away from the car?

22 A. Closed the patrol-car door and he wrote the
23 statement inside the patrol car.

24 Q. Did you leave the car at this time?

25 A. Yes, sir.

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1 Q. How long before you came back?

2 A. Minutes. I wouldn't say more than ten minutes.

3 Q. You were just giving him a couple of minutes to
4 write his statement?

5 A. Yes, sir.

6 And I was taking care of other things, as far
7 as making phone calls to detectives and getting things in
8 place.

9 MR. MCNEELY: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 Q. [Mr. McNeely] Sargent Thompson, I want to show
13 you what's been previously marked as State's Exhibit 60
14 for identification.

15 [Whereupon, the witness reviews documents]

16 A. This is the Summerville Police Department
17 voluntary statement form which I had provided to
18 Mr. Umphlett to record his written statement.

19 Q. [Mr. McNeely] Is this the written statement
20 that Joseph Umphlett provided to you on May 11th and
21 12th, 2014?

22 A. It is.

23 Q. You indicated that he wrote a portion of it and
24 you wrote a portion of it. Can you point out for the
25 Court the portion that he wrote?

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1 A. The first eight lines up at the top of the
2 page.

3 Q. Does that appear to be a continuous paragraph?

4 A. It is.

5 Q. It is not written in question and answer;
6 correct?

7 A. No, it is not.

8 Q. And then there's a section below that --
9 correct me if I'm wrong -- that is in question and answer
10 format?

11 A. That is correct.

12 Q. Who wrote that section?

13 A. I wrote the question and then he responded with
14 the answer --

15 Q. Did he --

16 A. -- Mr. Umphlett wrote the answer.

17 Q. So you would write out the question on the form
18 and then hand the form back to him and let him write the
19 answer?

20 A. Yes, sir.

21 I would write the question out and then I would
22 read it to him and ask him for his answer, which either
23 he would tell me and then write it, or just write it.

24 Q. So you did not write his answers to the
25 question section?

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1 A. No, sir.

2 Q. Does this appear to be a true and accurate copy
3 of the written statement?

4 A. Yes, sir.

5 Q. Does it appear to have been altered in any way?

6 A. No, sir.

7 Q. Is your signature on that statement?

8 A. Yes, it is.

9 Q. Can you point that out for the Court, please?

10 A. The bottom-left corner.

11 Q. Is that your signature indicating that you were
12 the witness to the statement?

13 A. Yes, sir.

14 Q. Did Mr. Umphlett sign the statement?

15 A. Yes, he did.

16 Q. Can you indicate that to the Court?

17 A. It's the bottom-right corner where it says
18 signature.

19 Above it is: I read or had read to me the
20 forthgoing statement, which I made freely and
21 voluntarily. The facts contained therein are true and
22 correct to the best of my knowledge.

23 MR. MCNEELY: At this time, Your Honor, I move
24 for the State's Exhibit 60 to be entered for purposes
25 of the Denno hearing.

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Direct Examination by Mr. McNeely

1 THE COURT: Mr. Seaton?

2 MR. SEATON: For purposes of the hearing only.

3 THE COURT: Okay. Thank you. It will.

4 [Whereupon, State's Exhibit Number 60 is
5 admitted, for purposes of Jackson v. Denno hearing,
6 into evidence by the Court]

7 MR. MCNEELY: Just a couple more questions.

8 Q. [Mr. McNeely] Did you provide the defendant,
9 Joseph Umphlett, with a waiver of rights form prior to
10 taking that statement?

11 A. Prior to this one, no, because he was
12 Mirandized by Officer Williams. Which I had confirmed
13 with Mr. Umphlett if he had been Mirandized.

14 Q. So you were relying exclusively on his verbal
15 waiver of Miranda?

16 A. Yes, sir.

17 Q. At some point, did you give Mr. Umphlett a
18 waiver of rights form?

19 A. Yes, I did.

20 Q. When did that take place?

21 A. Later, at the Summerville Police Department.

22 We were continuing the investigation and I had
23 the form available there. I provided it to him.

24 MR. MCNEELY: May I approach, Your Honor?

25 Q. [Mr. McNeely] Showing you what's been

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1 previously marked as State's Exhibit 59. Could you
2 please tell the Court what that is?

3 A. This is a Summerville Police Department
4 advisement of rights form.

5 Q. Is that a document that was filled out by
6 Joseph Umphlett on May 12th, 2014?

7 A. He signed it.

8 I filled out the information at the top, as far
9 as the demographics of Mr. Umphlett, and then I placed my
10 name and then read the Miranda form to him and then he
11 signed acknowledgment of it.

12 Q. Was this waiver of rights form presented to
13 Mr. Umphlett in relation to the written statement you
14 obtained at the Economy Inn on May 12th, 2014, or was it
15 with regard to another statement?

16 A. Another statement.

17 Q. What was that statement?

18 A. We were talking about his source of supply in
19 furtherance of our investigation.

20 Q. About how many hours separated the incidents?

21 A. Well, this was taken at 2:48 p.m., the next --
22 or that day, that evening. I would say maybe twelve
23 hours. Ten to twelve hours.

24 Q. But it had nothing to do with the statement
25 Mr. Umphlett gave on scene?

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1 A. No, sir.

2 MR. MCNEELY: No further questions from the
3 State at this time.

4 THE COURT: Mr. Seaton?

5 MR. SEATON: Thank you, Your Honor.

6 Detective Thompson, let's get a couple of
7 things straight.

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CROSS-EXAMINATION

BY MR. SEATON:

Q. Would you agree with me that there was two occupants in the hotel room?

A. To my knowledge there was a female occupant, also.

Q. When you arrived on the scene I think you told us that Officer Williams briefed you on what kind of situation they had?

A. Correct.

Q. Did he tell you that Kory Abdon had rented that room?

A. I don't know if he told me that at first, but I later learned that through our investigation.

Q. And did you also determine that the reason that everyone was there was because of a phone call about Kory Abdon's children and that this was a welfare check?

A. I did know that it was for a welfare check, children being in the hotel room and drug activity taking place in their presence. I did not know whose children they were.

Q. And you do realize -- you are aware that no children were found in the hotel room?

A. There were no children present when I got there, but there was children's clothing inside the room.

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1 There was children's toys and other paraphernalia that
2 would indicate that a child was staying there.

3 Q. To your knowledge, from the moment that they --
4 that your officers arrived, until long after they were
5 arrested, was there ever any children at that hotel?

6 A. No, not children at the hotel while I was
7 there.

8 But as I said before, there's clothing, there's
9 toys, there's children's belongings, which indicated that
10 there had been children there, had been staying there.

11 Q. But nobody never saw any children?

12 A. To my knowledge, no.

13 Q. And would you agree with me that Kory Abdon was
14 never Mirandized?

15 A. I can't agree with you.

16 I don't know about that. I didn't ask about
17 it. I didn't talk to Kory.

18 Q. You didn't even ask?

19 A. No, sir.

20 Q. Would you agree with me she was never arrested?

21 A. I don't believe she was arrested.

22 Q. Do you know whether or not she was questioned?

23 A. Not by myself, no.

24 Q. If she rented the room and y'all were there for
25 her children, and you Mirandized and asked questions and

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1 arrested the other one of the two occupants of the room,
2 why was she never Mirandized, questioned, or arrested?

3 A. Because Mr. Umphlett provided in his statement
4 that there was a quantity of ice methamphetamine in the
5 room and everything in there was his.

6 Q. And would you agree with me that you told
7 Mr. Umphlett that, if you give this statement we're not
8 going to arrest Kory?

9 A. No.

10 Q. What did --

11 A. I can't remember that.

12 Q. What did you tell him about him giving a
13 statement?

14 A. As far as if he gave a statement, not arresting
15 her? No.

16 I believe Mr. Umphlett did ask us not to arrest
17 her and I told him that if we found that she wasn't
18 involved in it, that we would not.

19 Q. So the only way you're going to find that --
20 because you would agree if she was there and drugs were
21 there, everything points to her being just as guilty as
22 Mr. Umphlett. The only thing that wouldn't happen is if
23 Mr. Umphlett wrote a statement incriminating himself and
24 not Kory, that's the only thing that he could possibly
25 do, isn't it?

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1 A. No, sir. I'm not sure you --

2 Q. Well, what other -- what other evidence --

3 A. He --

4 Q. -- did he provide you?

5 A. Mr. Umphlett was forthcoming and said that
6 everything in the room was his, that she had no knowledge
7 of it.

8 Q. And you said that she wasn't going to be
9 arrested if he --

10 A. No, sir.

11 Q. -- tells you that he was -- it was his drugs?

12 A. I believe you're twisting around what I'm
13 saying.

14 What I'm saying is when we asked him for a
15 statement, he provided the statement saying that
16 everything was his.

17 He asked us not to arrest her and I told him
18 that if we investigated and find that she's not involved
19 in the drugs, then we wouldn't arrest her.

20 Q. Well, how did you investigate it, other than
21 having him write the statement?

22 A. Because he knew where everything was inside the
23 room. Everything was in the places he said that they
24 were.

25 Q. Well, how do you know she didn't if you didn't

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1 ask her?

2 A. Mr. Umphlett provided the statement saying --

3 Q. How do you know she didn't if you didn't ask
4 her?

5 A. Going on Mr. Umphlett's admission of guilt.

6 Q. So it was his admission of guilt that said --
7 that made y'all say, we don't even have to Mirandize her,
8 we don't have to question her, we don't have to do
9 anything, we're just going to cut her loose?

10 A. Mr. Seaton, I'm not saying she wasn't
11 Mirandized.

12 I didn't Mirandize her. I didn't question --

13 Q. Did you see --

14 A. Can I finish?

15 Q. Yes, sir. You certainly --

16 A. I didn't --

17 Q. -- may.

18 A. I didn't question her. I didn't Mirandize her.

19 I don't know if she was Mirandized by one of
20 the other officers. I'm sure she probably was, since the
21 patrol officers were there first. But --

22 Q. Are you aware if anybody Mirandized her?

23 A. I did not ask.

24 Q. Have you ever read the case?

25 A. I have the case in front of me. Yes, sir, I've

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1 read it --

2 Q. Have you read anything besides the stuff that
3 you took, the information that you collected?

4 A. No, sir.

5 Q. That's the only thing you've read is the
6 information --

7 A. Our case file.

8 Q. You read the case file?

9 A. Our case file. Yes, sir.

10 Q. All right. And in your case file does it say
11 anything at all about her being Mirandized, questioned,
12 arrested, charged with anything or -- or even being
13 questioned?

14 MR. MCNEELY: Your Honor, I'm going to object
15 at this point.

16 This is a hearing to determine the
17 voluntariness of the defendant's statement, not
18 regarding anyone else present at the scene whether
19 they were Mirandized or questioned.

20 THE COURT: I'm going to overrule on that
21 ground.

22 You may answer this last time.

23 A. Could you say that again, please.

24 Q. [Mr. Seaton] Certainly.

25 Nothing in the file suggests that she was ever

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1 questioned, Mirandized, or arrested?

2 A. I have the narcotics file. I don't have the
3 patrol officer's file, so I can't tell you what that
4 says. But in my files, nothing says that she was
5 arrested or questioned.

6 Q. Thank you.

7 A. Yes, sir.

8 Q. Let me ask -- I'm sorry. Let me make sure I
9 understand this.

10 I've got two written documents that I've been
11 provided that I think the State has already made a part
12 of their motion. One is the written statement of Joseph
13 Umphlett that was taken on May the 12th at 12:01; is that
14 correct?

15 A. Yes, sir.

16 Q. And then you've got the advisement of rights
17 that was given at 2:48 p.m. later that same day about
18 three hours later?

19 A. Yes, sir.

20 Q. Excuse me. I can't even --

21 A. I've got 2:48 p.m.

22 Q. -- military got me messed up. It was later
23 that afternoon?

24 A. Yes, sir.

25 Q. So this was significantly after this written

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1 statement?

2 A. Yes, sir.

3 Q. I didn't quite understand what you told the
4 Court about what the reason was why approximately twelve
5 hours later we get this advisement of rights.

6 A. Sure.

7 We had a DEA agent, that is assigned to the
8 Summerville Police Department, come up to speak with
9 Mr. Umphlett, as well. At that point, he was provided
10 with the advisements of rights while we started to
11 question him again, because of the lapse of time that he
12 had been arrested and now we're starting to talk to him
13 again.

14 Q. Who was it that spoke to him?

15 A. A task force officer with the Summerville
16 Police Department who was assigned to the DEA.

17 Q. Who would that have been?

18 A. Detective Hall.

19 Q. And would you agree with me, in looking at your
20 file and my file and everybody else's file, there ain't
21 no words -- that's the first I've ever --

22 Would you be surprised if I told you that's the
23 first I've ever heard of that?

24 A. I wouldn't be surprised. It didn't go anywhere
25 so it wasn't really -- nothing happened with it.

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Cross-Examination by Mr. Seaton

1 Q. Well, shouldn't there have been an incident
2 report created that said that Mr. Umphlett was approached
3 by the police department and that he signed an advisement
4 of rights from a completely different issue twelve hours
5 later? Shouldn't there be something in my file?

6 A. It's not a completely different issue.

7 Q. Even more so, then. If it's the same issue,
8 then shouldn't there certainly be something other than
9 just an advisement twelve hours later? Shouldn't there
10 be something in the file?

11 A. I don't know what you're looking for.

12 I mean, Detective Hall came to speak with him
13 about furthering the investigation and nothing went -- or
14 nothing went --

15 Q. How do you know that, sir?

16 A. How do I know that?

17 Q. Yes, sir.

18 A. Because I tried to contact your client
19 afterwards and was unsuccessful.

20 Q. Well, my question is how do you know that
21 Officer Hopper, or whatever his name is, contacted this
22 Mr. Umphlett?

23 A. He didn't contact him. He came there at my
24 request.

25 Q. Okay.

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1 A. To the police department.

2 Q. I understand.

3 A. We debriefed him, and he was supposed to
4 contact me again. Never did.

5 And I tried contacting him. Never went
6 anywhere. And the investigation on the DEA's end ceased
7 at that point.

8 Q. So why would you have gone into Mr. Umphlett --
9 I assume at that point he was in jail?

10 A. Yes.

11 Q. Why would you have gone to the jail and have
12 him sign an advisement of rights?

13 A. He was brought over.

14 He wanted to talk. He wanted to help us out
15 with an investigation. But after we talked to him, we
16 never heard from him again.

17 Q. And there was no incident report that was
18 created from that?

19 A. No.

20 Q. There was no documentation that you had
21 Mr. Umphlett brought from the jail --

22 A. I think --

23 Q. -- over to your office?

24 A. I think he was waiting for his bond hearing.

25 But, I mean, we have the advisement of right

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Cross-Examination by Mr. Seaton

1 form.

2 Q. That's not what I'm asking, sir.

3 There is no transportation order, there is no
4 nothing, that suggests that at any point while he's
5 sitting over at the jail --

6 Would he have been held here at Hill-Finklea?

7 A. I believe he was still at Summerville Police
8 Department.

9 Q. So he had been sitting in the Summerville
10 Police Department's jail for that period of time?

11 A. I believe so. I can't be certain.

12 I don't -- Summerville and Dorchester County's
13 operations, as far as prisoner transport, is totally
14 different. In my seventeen years of law enforcement,
15 I've never filled out a transport list, or whatever
16 you're asking about. Don't know what you're talking
17 about.

18 Mr. Umphlett was brought back over because he
19 indicated that he was wanting to assist us with the
20 source of supply. I contacted the DEA task force agent.
21 Mr. Umphlett was there with us. I provided him with the
22 advisement of rights form and then --

23 Q. How were you told -- how were you told that he
24 was going to cooperate and give y'all more information?

25 A. Because he made a phone call to his source of

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Frank Thompson
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1 supply for me.

2 Q. I'm sorry?

3 A. He made a phone call to his source of supply
4 for me.

5 Q. And where is that documented?

6 A. [No response]

7 Q. You understand this is all things I've never
8 heard before today?

9 So my question is when you show up twelve hours
10 later with a whole new advisement of rights, my question
11 is advisement of what rights for what information? Do
12 you have anything in your files that indicates that there
13 was anything that was ever documented about any of this
14 stuff?

15 A. The phone call was made prior to the advisement
16 of rights form that we're talking about.

17 Q. Well, when would that have been? I certainly
18 don't know.

19 A. Because he made it to the police department.

20 Q. When, sir?

21 A. That morning. The morning of the 11th.

22 Q. The morning of the 11th or morning -- it would
23 have been the 12th, wouldn't it?

24 A. I'm sorry. You're correct. The 12th.

25 Q. The morning of the 12th. Again, where is any

Jackson v. Denno
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Cross-Examination by Mr. Seaton

1 of that?

2 A. Again, it was part of an ongoing to continue
3 the investigation. It didn't go anywhere.

4 Q. Would you agree with me that all of that should
5 have been documented, that this should not be the first
6 time that we hear about it other than twelve hours later
7 an advisement of rights?

8 A. And I agree with you.

9 And I did document that Mr. Umphlett told me
10 about Mr. Fludd, who was his source of supply in
11 Marietta, Georgia; that he would go there to pick up
12 methamphetamine from him. It's in that report.

13 Q. And that would have been in -- on this
14 statement?

15 A. No, sir. It's in my incident report.

16 Q. That would have been --

17 A. Third paragraph.

18 Q. Make sure I've got the right one. You gave --
19 I think there was two incidents reports? Or just one
20 that you did?

21 A. Just one.

22 Third paragraph. Starts with Sargent Thompson
23 asked Umphlett about presence of illegal drugs -- and
24 it's about middle way down where I asked about his
25 supplier. He said his supplier was from Marietta,

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Frank Thompson
Cross-Examination by Mr. Seaton

1 Georgia, he would pick up methamphetamine from an
2 individual by the name of James Fludd.

3 Q. Sargent Thompson asked Umphlett if he would
4 write a statement detailing the location and drug types
5 that would be found in the hotel room. Umphlett agreed
6 and completed a written statement in the back of a patrol
7 car.

8 Is that what you're talking about? The end
9 of -- that's the paragraph?

10 A. Third paragraph?

11 Q. Yes, sir.

12 A. Yes, sir. About middle ways down.

13 Q. Doesn't that appear to you that that's all what
14 was taken there the night that y'all were at the hotel?
15 Isn't that what you're talking about in this paragraph
16 and in this whole statement? Isn't this all from that
17 same night rather than the next day?

18 A. Yeah.

19 That was information that he gave me in the
20 car. And then once we got to the police department, I
21 asked him to record a phone call for me, which he was
22 willing to do. He provided me with the phone number.

23 Q. I understand, sir.

24 But all of that took place before he -- all of
25 this took place before you took him to the police

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Frank Thompson
Cross-Examination by Mr. Seaton

1 department; correct? Before you took him to jail, didn't
2 all this take place?

3 A. Yes, sir.

4 Q. All right. And then you tell us about these
5 other things that we're not aware of and you gave us,
6 twelve hours later, this advisement of rights about all
7 the things that happened after you took him to the police
8 department; correct?

9 A. He provided the written statement prior to the
10 advisement of rights being taken at the police station.

11 When we got to the police station, he made a
12 recorded phone call to his source of supply. Came back
13 later that afternoon. Spoke with him again, and I
14 provided him with the advisements of rights.

15 Q. And where does he say that he made the --

16 A. It doesn't say it.

17 Q. It doesn't say it, does it?

18 A. No.

19 Q. So everything you've just told us about has not
20 been documented and it's never been testified or never
21 told to the defense prior to this moment; correct?

22 MR. MCNEELY: Your Honor, I'm going to object.

23 A copy of the phone call was provided to the
24 defense in discovery on September the 2nd.

25 THE COURT: Mr. Seaton?

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Frank Thompson
Cross-Examination by Mr. Seaton

1 MR. SEATON: The question isn't the phone call,
2 Your Honor. The question is everything that goes
3 with it. We're not here to talk about the phone
4 call, it's everything that took place along with it.

5 THE COURT: I'm going to sustain the objection

6 --

7 MR. SEATON: And what we're really --

8 THE COURT: Mr. Seaton? Mr. Seaton, I'm not
9 sure that this witness can testify as to what the
10 State has provided you, so if you have an additional
11 argument outside of the Jackson v. Denno issue, I'll
12 be happy to entertain that. But let's stay on the
13 Jackson v. Denno issue.

14 MR. SEATON: I absolutely am, Your Honor. I'm
15 trying to understand why we have an advisement of
16 rights from twelve hours later. That's what I was
17 trying to get at.

18 But you're absolutely right. The issues I
19 raised are not for right this moment. For this
20 moment, my question simply had to do with why we had
21 an advisement of rights from twelve hours later.

22 Nothing further, Your Honor.

23 THE COURT: Mr. McNeely?

24 MR. MCNEELY: Just a couple, Your Honor.

25 - - -

Jackson v. Denno
Frank Thompson
Redirect Examination by Mr. McNeely

REDIRECT EXAMINATION

BY MR. MCNEELY:

Q. Let's talk a second about the statement that was taken at the scene.

A. Yes.

Q. Mr. Seaton asked you about statements to the defendant with regard to the investigation and not arresting the lady, Kory Abdon, that was present at the scene?

A. Correct.

Q. Did Mr. Umphlett give you his written statement prior to or after those statements regarding the female?

A. As far as arresting her?

Q. Correct.

A. I would say afterwards.

Q. So he gave you a written statement; correct?

A. First he gave an oral statement just telling us about the things in there. But that's when I wanted him to write it down.

Q. And subsequent to that is when you had the conversation about whether or not Kory Abdon would be arrested?

A. He was asking us not to arrest her because he was saying everything was his, or claiming ownership.

Q. That was after the written statement?

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Frank Thompson
Redirect Examination by Mr. McNeely

1 A. Yes.

2 MR. MCNEELY: Nothing further, Your Honor.

3 MR. SEATON: No questions, Your Honor.

4 THE COURT: You may step down. Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: Call your next witness.

7 MR. MCNEELY: No further witnesses from the
8 State on this issue, Your Honor.

9 THE COURT: Do you have any witnesses, Mr.
10 Seaton?

11 MR. SEATON: No, Your Honor.

12 THE COURT: Happy to hear argument, unless
13 y'all need a moment.

14 MR. SEATON: Your Honor, my client does need a
15 bathroom break.

16 THE COURT: All right. Take a short break.
17 Ten minutes.

18 [Whereupon, a recess is taken from 2:53 p.m. to
19 3:07 p.m.]

20 THE COURT: All right. Arguments?

21 MR. MCNEELY: Does the defense want to call
22 witnesses, Your Honor?

23 THE COURT: I'm sorry?

24 MR. SEATON: No, Your Honor.

25 - - -

Jackson v. Denno
Arguments by Counsel

ARGUMENTS BY COUNSEL

MR. MCNEELY: Your Honor, at this time the State would move to admit the statements of the defendant.

The totality of the circumstances in this incident indicate that Mr. Umphlett was well aware of his Miranda warnings before giving any statement and he made a knowing and intelligent waiver of those rights speaking with officers on three separate occasions and providing a written statement, as well.

There's nothing to indicate that he wasn't coherent or aware of his surroundings and there's nothing to indicate that he did not understand the meaning of the Miranda warnings or the implications of his waiver of those rights. In fact, the situation indicates quite the opposite. He refused consent to search the room and thereafter was provided Miranda warnings, and gave a voluntary waiver of those Miranda warnings prior to the statements.

As I said, nothing indicates that he did not provide them voluntarily and nothing indicates that he did not fully understand his right not to waive his rights, should he choose to do so. But he chose to waive them, and the statements should be admitted

Jackson v. Denno
Arguments by Counsel

1 into evidence.

2 I'll leave it at that, Your Honor.

3 THE COURT: All right. Mr. Seaton?

4 MR. SEATON: Thank you, Your Honor. Please the
5 Court.

6 We certainly believe that the statements were
7 not voluntarily made. Despite the officer's
8 assertion that there wasn't an implied threat and/or
9 promise, either way you want to read it, it was clear
10 that when they neither asked questions or Mirandized
11 or take any investigative stance about the co-
12 habitant of the room that was registered in Kory
13 Abdon's name, the only conclusion you can draw from
14 that is that he was told that if you give this
15 statement, then we're not going to further any
16 investigation of Kory Abdon. There's no other
17 logical conclusion that you can draw from that.

18 We would certainly believe that for that
19 reason, the statements were not voluntarily made,
20 there was a deal cut or a promise made or a threat
21 made, however you want to look at it, and clearly
22 that's what the Summerville Police Department did.

23 And, you know, the idea that they're going to
24 provide a written statement -- or not written
25 statement, but a written form that they had him file

Jackson v. Denno
Arguments by Counsel

1 -- or sign some twelve house later is just further
2 proof that they have not followed the mandates, and
3 we believe that they should certainly be excluded,
4 Your Honor.

5 THE COURT: Mr. McNeely?

6 MR. MCNEELY: Thank you, Your Honor.

7 In response, the State would just contend that
8 Mr. Umphlett was Mirandized not once but three times
9 separately and on all of those occasions he
10 voluntarily waived those rights. He was continuously
11 under Miranda the entire time.

12 The officers, all of them on the stand,
13 indicated that there was no duress or promises or
14 threats made, especially regarding Kory Abdon. The
15 last officer that testified, Sargent Thompson,
16 actually point-blank said that their discussion
17 regarding Kory Abdon's arrest was subsequent to him
18 providing the oral and written statement and that
19 they ultimately decided not to arrest Kory Abdon
20 because the investigation, when they searched the
21 room, comported exactly with what Mr. Umphlett said
22 in his statement.

23 All indications are that he voluntarily waived
24 his Miranda rights and provided a statement. He
25 indicated, initially, actually that he wished to

Jackson v. Denno
Arguments by Counsel

1 speak to Officer Williams.

2 So there's nothing to indicate that Mr.
3 Umphlett was forced or coerced to give a statement.
4 He gave a voluntary waiver. Ths statements should be
5 admitted. And he was alone when he wrote the
6 statement in the car, and that statement was
7 corroborated, exactly, by the search warrant.

8 THE COURT: What was your last statement?

9 MR. MCNEELY: I said he was alone when he wrote
10 the statement in the car and the statements in -- his
11 statements were corroborated by the search warrant in
12 the investigation.

13 THE COURT: Tell me how him being along in the
14 car is significant.

15 MR. MCNEELY: That statement was not influenced
16 by anyone, Your Honor.

17 THE COURT: So the officer was not in the car?
18 Is that what you're --

19 MR. MCNEELY: The officer was not in --

20 THE COURT: -- indicating, that --

21 MR. MCNEELY: -- the car.

22 No one was present in the car when he wrote the
23 statement, other than himself.

24 - - -

25 - - -

Jackson v. Denno
Court's Ruling

COURT'S RULING

1
2 THE COURT: Under Jackson v. Denno, a defendant
3 is entitled to a reliable determination as to the
4 voluntariness of his confession. The due process
5 clause of the fourteenth amendment requires that the
6 trial judge determine the confession was voluntary
7 before permitting the jury to hear it.

8 The totality of the circumstances test applies
9 in determining whether or not a confession was freely
10 and voluntarily given. I must determine if under the
11 totality of the circumstances the State has proven
12 that the defendant gave the statement freely and
13 voluntarily, and must determine the admissibility of
14 the statement upon proof of its voluntariness by a
15 preponderance of the evidence.

16 The test of the voluntariness of a statement is
17 whether a defendant's will was overborne by the
18 circumstances surrounding the given statement. The
19 due process test takes into consideration the
20 totality of the circumstances, as well as the
21 characteristics of the accused and the details of the
22 interrogation. Coercive police activity is a
23 necessary predicate to finding a confession is not
24 voluntary. A statement may not be extracted by any
25 sort of threats or violence or promises of any kind.

Jackson v. Denno
Court's Ruling

1 A statement induced by a promise of lenience is
2 involuntary only if it is so connected with the
3 inducement as to be a consequence of the promise.

4 Other factors that I can consider in looking at
5 the totality of the circumstances are the age of the
6 accused, the education, physical and mental health,
7 the lack of advice to the accused of his
8 Constitutional rights, the length of his detention
9 and location, the nature of the questioning, and the
10 use of any punishments such as a deprivation of food
11 or sleep.

12 Based upon the totality of the circumstances, I
13 do not find that there was any coercive police
14 activity. The officers that testified indicated that
15 the defendant had indicated that he had been given
16 Miranda before, that he understood the Miranda. As a
17 matter of fact, Sargent Thompson asked if Williams --
18 asked Williams if the defendant was Mirandized, and
19 the defendant acknowledged that he had been given
20 Miranda by Officer Williams.

21 The fact that what I perceive that Mr. Seaton,
22 on behalf of the defendant, is making the assumption
23 that the statement was given as a promise that
24 charges would not be brought against Ms. Abdon. The
25 statement by Sargent Thompson indicated that if we

Jackson v. Denno
Court's Ruling

1 found that she was not involved, that we would not
2 press charges, not that if you gave the statement
3 making -- acknowledging that all the drugs were
4 yours, that we wouldn't press charges.

5 Based upon the totality of the circumstances,
6 again, I do not find that there was any coercive
7 police conduct, and based upon the totality of the
8 circumstances, I find that the statements were freely
9 and voluntarily given and they will not be
10 suppressed.

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State vs. Joseph Umphlett
Motion to Suppress
September 28, 2015

MOTION TO SUPPRESS

1
2 THE COURT: All right. Mr. Seaton, what do you
3 have left?

4 MR. SEATON: Your Honor, the defendant would
5 make a motion to suppress all evidence that was
6 obtained under the search warrant. We believe that
7 the search warrant did not contain probable cause for
8 which the warrant should have been issued.

9 THE COURT: Do you have a copy of the warrant?

10 MS. NICKLES: Yes, Your Honor.

11 [Off the record momentarily]

12 MS. NICKLES: Were you asking me about the
13 search warrant, Your Honor?

14 THE COURT: Yes.

15 MS. NICKLES: Your Honor, there were several
16 search warrants in this case.

17 THE COURT: So which one are you challenging?

18 MS. NICKLES: I'm assuming he's challenging the
19 Econolodge --

20 MR. SEATON: Yeah, the --

21 MS. NICKLES: -- Economy Inn. I'm sorry.

22 MR. SEATON: The phone and computer, and all
23 that stuff later, nothing came from that so we're not
24 going to waste the Court's time on that.

25 THE COURT: So the search of the hotel room is

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1 what you are challenging?

2 MR. SEATON: Yes, Your Honor.

3 MS. NICKLES: Beg the Court's indulgence.

4 [Whereupon, Ms. Nickles reviews documents]

5 THE COURT: Can you listen and look, Ms.

6 Nickles?

7 MS. NICKLES: Excuse me?

8 THE COURT: Can you listen and look?

9 MS. NICKLES: Yes, Your Honor.

10 THE COURT: Let me hear your argument, Mr.

11 Seaton.

12 MR. SEATON: Your Honor, the search warrant
13 itself, the only probable cause listed was that the
14 officers alleged that they smelled raw marijuana and
15 that that would have been the plain -- I'm assuming
16 that their argument is that that is within plain
17 view, which is then extended to plain smell.

18 As you've already heard from prior testimony,
19 the officers actually went into the room without
20 consent and crossed the curtilage of the hotel room
21 prior to having received a search warrant. And we
22 believe that that certainly is violative of the plain
23 smell test that is required if that's going to be the
24 probable cause. But certainly on the face of it,
25 that is the only probable cause that was used. They

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1 start off by --

2 THE COURT: What did the warrant and the
3 affidavit -- what does the affidavit say?

4 MS. NICKLES: Your Honor, would you like me to
5 mark this as a Court's Exhibit?

6 THE COURT: Sure.

7 MS. NICKLES: And I was prepared to call
8 Detective Strickland, who obtained this, if you would
9 like to hear testimony on it. However, if you don't,
10 I'm --

11 THE COURT: Well, let me see --

12 MS. NICKLES: -- I'm happy to --

13 THE COURT: -- what it says.

14 MS. NICKLES: May I approach?

15 THE COURT: You may.

16 MS. NICKLES: And I'm handing up what we can
17 mark as Court's Exhibit 1.

18 [Whereupon, Court's Exhibit Number 1 is marked
19 by the court reporter]

20 MS. NICKLES: And, Your Honor, this is the
21 search warrant and the return.

22 [Whereupon, Ms. Nickles proffers documents to
23 the Court]

24 [Whereupon, the Court reviews documents]

25 THE COURT: All right. You've reviewed these?

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1 MR. SEATON: Yes, Your Honor.

2 THE COURT: Do you need to hear from the
3 detective?

4 MR. SEATON: Yes, Your Honor.

5 THE COURT: All right. Call the detective.

6 MS. NICKLES: The State calls Matthew
7 Strickland.

8 [Whereupon, Mr. Strickland comes forward]

9 THE CLERK OF COURT: Put your left hand on the
10 Bible and raise your right hand.

11 [Whereupon, Mr. Strickland is duly sworn by the
12 clerk of court as follows: do you solemnly swear or
13 affirm the testimony you shall give in this case
14 shall be the truth, the whole truth, and nothing but
15 the truth, so help you God]

16 THE WITNESS: I do.

17 THE CLERK OF COURT: Have a seat.

18 [Whereupon, Mr. Strickland takes the witness
19 stand]

20 THE CLERK OF COURT: State your full name for
21 the record, and spell your last name.

22 THE WITNESS: My name is Matthew McCloud
23 Strickland. My last name is S-T-R-I-C-K-L-A-N-D.

24 MS. NICKLES: Thank you.

25 - - -

Motion to Suppress
Matthew Strickland
Direct Examination by Ms. Nickles

MATTHEW STRICKLAND,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. NICKLES:

Q. Detective, where are you currently employed?

A. I'm currently employed with the Florence County Sheriff's Office.

Q. Prior to being employed in Florence County, were you employed in Summerville?

A. I was with the Summerville Police Department.

Q. And what was your position there?

A. I was a narcotics detective assigned to the Dorchester County Summerville Police Metro Narcotics Unit.

Q. And you were so employed in May of 2014?

A. Yes, ma'am.

Q. Did you have a chance to become involved, on May 11th to May 12th of 2014, with an investigation at the Economy Inn located at 200 Holiday Drive in Berkeley County?

A. Yes, ma'am.

Q. What was your initial involvement in that investigation? How were you contacted?

A. I was actually the -- we have certain on-call

Motion to Suppress
Matthew Strickland
Direct Examination by Ms. Nickles

1 weeks that each investigator is assigned so if there's
2 any kind of narcotics complaint or anything that an
3 officer needs, they contact us. And I just happened to
4 be on call that night, so I was contacted by Corporal
5 Henderson.

6 Q. And when Corporal Henderson contacted you, what
7 was the purpose of that contact?

8 A. He advised me that they went to the hotel room
9 and for a -- to do a child-welfare check and upon making
10 contact -- when the subject and the defendant opened the
11 door, that they detected the odor of marijuana coming
12 from the room.

13 Q. And did Corporal Henderson advise you of the
14 reason for their initial response to that room?

15 A. Yes, ma'am.

16 He said it was for a call about a child-welfare
17 check, the possibility of narcotics activity going on
18 inside the room while some children were present.

19 Q. And they contacted you to become involved.

20 Did they request anything of you in your
21 involvement in this case?

22 A. Well, they -- because they had that probable
23 cause with the smelling of the odor of marijuana coming
24 from the room, in order to get a search warrant they
25 contacted me. That's one of the things that I would do.

Motion to Suppress
Matthew Strickland
Direct Examination by Ms. Nickles

1 So I advised them I would be on the way.

2 And I contacted Detective Sargent Thompson to
3 let him know what I had, and he came out there and
4 assisted, as well.

5 Q. So Detective Thompson responded to the scene
6 and you --

7 A. Initially. Correct.

8 Q. -- and you went to --

9 A. I went to my office to -- he actually went to
10 the scene and contacted me with a description and the
11 probable cause.

12 Q. And what did he give you, when he was on scene,
13 as the probable cause for the search warrant?

14 A. Do you mind if I have a copy of the case file?

15 Q. No. That's fine.

16 MS. NICKLES: And, Your Honor, if I may get
17 that exhibit to --

18 [Whereupon, Ms. Nickles reviews documents]

19 MS. NICKLES: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. [Ms. Nickles] I'm going to show you what's
23 been marked as Court's Exhibit 1. Do you recognize that?

24 A. Yes, ma'am. That's the search warrant.

25 Q. And that's what you got?

Motion to Suppress
Matthew Strickland
Direct Examination by Ms. Nickles

1 A. [No response]

2 Q. Did you record the purposes for the probable
3 cause in an affidavit when you were seeking the search
4 warrant?

5 A. Yes, ma'am.

6 Q. And what was that probable cause?

7 A. Do you want me to read the entire affidavit or
8 just --

9 Q. You can just give me a brief summary of the
10 probable cause.

11 A. Basically, it was that the police department
12 was contacted to respond to room 119, at the Economy Inn
13 at 200 Holiday Drive, because a complainant had called in
14 and stated that there were children inside and alleged
15 narcotic activity was going on.

16 Once PFC K-9 Williams, and I think somebody --
17 I think Corporal Henderson had arrived with them. But
18 whenever they knocked on the door and Mr. Umphlett made
19 contact with them, he opened the door and they detected
20 the odor of marijuana.

21 Q. And did you relay that sworn testimony to a
22 magistrate?

23 A. I did.

24 Q. And as a result of that, were you issued a
25 search warrant?

Motion to Suppress
Matthew Strickland
Direct Examination by Ms. Nickles

1 A. Yes, ma'am.

2 MS. NICKLES: Your Honor, I'm happy to go
3 through all the bases for the search warrant. I'm
4 unaware if Mr. Seaton is just alleging that the
5 probable cause should invalidate the search warrant,
6 or if there's any other factor. I'm happy to go
7 through all of them, if necessary.

8 THE COURT: What's the issue?

9 MR. SEATON: The issue is the -- well, I
10 haven't heard all of his testimony, so I don't know
11 what the issue is until I hear all of his testimony.

12 THE COURT: Well, I think what Ms. Nickles is
13 trying to do is, so that we're not here all
14 afternoon, if you would narrow down your problem with
15 the search warrant. He's indicated what the --
16 indicated to the magistrate was the probable cause,
17 which is in the affidavit.

18 So if you could -- I'm either going to tell her
19 she's addressed the questions, or you can tell me
20 what the specific issue is with the search warrant so
21 that she can articulate her question.

22 MR. SEATON: Well, Judge, I'll be very candid
23 with you. I'm a little uncomfortable having to tell
24 them what I think the problem is with their search
25 warrant.

Motion to Suppress
Matthew Strickland
Direct Examination by Ms. Nickles

1 THE COURT: All right. I've heard enough.

2 Thank you.

3 All right. Thank you.

4 MS. NICKLES: I'll continue --

5 THE COURT: Mr. Seaton, your witness.

6 MR. SEATON: Thank you, Judge.

7 MS. NICKLES: You've heard enough from me, Your
8 Honor?

9 THE COURT: I've heard enough. I read the
10 search warrant. Thank you.

11 Mr. Seaton, your witness.

12 MR. SEATON: Thank you, Your Honor.

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Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

CROSS-EXAMINATION

BY MR. SEATON:

Q. Detective Strickland, you would agree with me that all -- everything that you put in your affidavit is -- was told to you by one of the other officers?

A. By Detective Sargent Thompson. Yes, sir.

Q. You were not present at the scene. You do not have any personal knowledge. Everything that you have was told to you by Detective Thompson?

A. As far as this goes, at that time, yes, sir.

Q. And that's specifically what I'm getting at is the information that you gave to Magistrate Lemon [phonetic] or Judge Lemon --

Is that who you went in front of?

A. Yes, sir.

Q. All right. And did you have to go in front of Judge Lemon just once, or more than once?

A. To the best of my knowledge, I think just once.

Q. Do you know if there was any issues with your original affidavit?

A. If there were, I don't recall.

Q. And this affidavit that I have is two pages long; is that correct? Just the affidavit, not the warrant itself.

A. Right, sir. Two pages.

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 Q. And that's the entire basis of what you told
2 the magistrate? You didn't tell the magistrate anything
3 different than what's on this affidavit, did you?

4 A. No, sir, nothing -- no extra words outside of
5 that.

6 Q. And did you tell the magistrate that -- in here
7 you talk about that the children were made to sit on the
8 bed while they go to work, that that was presented to
9 you -- complainant stated that the mother --

10 First of all, you don't state who the
11 complainant is, do you?

12 A. Not by name specifically, no, sir.

13 Q. You don't give us any indication of the
14 voracity of the complainant's complaint?

15 A. [No response]

16 Q. There's no verification -- there's nothing that
17 verifies this information that you were given, by this
18 person who did not want to be known or not wanted to
19 be -- remain anonymous, you didn't give us any
20 information that verifies that, did you?

21 A. I'm not sure if I understand.

22 Q. Sure.

23 A. But if I may answer as I understand the
24 question?

25 Q. Sure.

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 A. Other than we actually arrived there finding
2 Mr. Umphlett and Ms. Abdon, if I'm saying that right --

3 Q. Yes.

4 A. -- actually there, which was relayed from the
5 complainant.

6 Q. Well --

7 A. I don't know if I'm answering --

8 Q. Well, I guess here's my question. Your very
9 first sentence is: on May the 11th, officers with the
10 Summerville Police Department were dispatched to room 119
11 at the Economy Lodge in reference to a welfare check.

12 Correct?

13 A. Uh-huh.

14 Q. Do you say: and when they got there, they
15 realized that there were no children there? Did you tell
16 the -- were you in the least bit fair to Mr. Umphlett in
17 telling them -- telling the judge that there were no
18 children there for this welfare check?

19 A. I don't think that's in there --

20 Q. It was never mentioned --

21 A. -- so, no, sir.

22 Q. -- was it?

23 A. No, sir.

24 Q. Then you say: the complainant stated that the
25 mother, Kory Abdon, and her boyfriend, Joseph Umphlett,

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 make the children sit on the bed while they go to work in
2 the bathroom.

3 Did you -- is that correct? Is that your
4 second sentence?

5 A. That is the second sentence, correct.

6 Q. Would you agree with me that when you put that
7 right behind the sentence that talks about the welfare of
8 the children, that it sounds like the children are there
9 when the police arrive?

10 A. I mean, if that's how you interpret it, sir.

11 I'm not trying to dodge anything, but the
12 reason I worded it the way it was was because that's why
13 they were called out there --

14 Q. Well, I --

15 A. -- that's the information that we --

16 Q. Well, I understand --

17 A. -- we got --

18 Q. I understand why you put it that way.

19 But it certainly says that the police arrived
20 there for a welfare check and that the complainant, who
21 we don't even list who that is -- but that the
22 complainant states that the mother, Kory Abdon, who was
23 not arrested, and her boyfriend, Joseph Umphlett, make
24 the children sit on the bed while they go to work in the
25 bathroom.

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 Is there any voracity -- is there anything that
2 you gave this magistrate or judge -- because I believe
3 actually Judge Lemon is a judge, not a magistrate; is
4 that correct? A municipal --

5 A. A municipal judge. Yes, sir.

6 Q. Okay. There was no -- nothing that you gave to
7 the judge that helped them to understand that there was
8 any truth to whether or not these children are made to do
9 that, or any truth to the fact that the children were not
10 at the hotel when the police arrived?

11 A. I wasn't trying to --

12 MS. NICKLES: Your Honor --

13 A. -- slant it either --

14 MS. NICKLES: -- I'm going to object.

15 THE WITNESS: Sorry.

16 THE COURT: What's your basis?

17 MS. NICKLES: He's arguing outside the scope of
18 the probable cause section of this search warrant and
19 with that they had probable cause to -- probable
20 cause exists to believe that marijuana was located in
21 the hotel room, not that children were located in the
22 hotel room.

23 THE COURT: Overruled.

24 You may continue.

25 MR. SEATON: Thank you, Your Honor.

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 Q. [Mr. Seaton] But you didn't tell Judge Lemon
2 that you have nothing to back up this statement?

3 A. I didn't tell him that. No, I didn't.

4 Q. Complainant also advised that Abdon and
5 Umphlett have histories of drug use.

6 A. Correct.

7 Q. Did you do anything to check that out?

8 A. At that time, no, sir.

9 Q. So you had no idea, other than this -- whoever
10 made this phone call --

11 You would agree with me you don't know who made
12 the phone call?

13 A. Not with what I have, no, sir.

14 Q. I understand.

15 A. It could be in somewhere, but I --

16 Q. I understand. And I'm --

17 A. -- off the top of my head --

18 Q. -- I'm simply asking what your knowledge was.
19 When you went in front of the judge, anything
20 that --

21 A. I did not --

22 Q. -- you've learned --

23 A. No, sir. I didn't --

24 Q. -- since then --

25 A. I didn't have a name.

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 Q. Understand.

2 So you had no idea whether or not Abdon and
3 Umphlett had histories of drug use, as well as charges?

4 A. Correct.

5 Q. Upon arrival at room 119, PFC K-9 H. Williams
6 advised he made contact with Abdon and Umphlett and
7 detected an overwhelming odor of what he recognized from
8 his training and experience to be marijuana.

9 Is that correct?

10 A. Yes, sir.

11 Q. Did you tell the judge that they -- that PFC
12 Williams went over the curtilege into their room after
13 they were denied consent to enter into the room?

14 A. I did not tell him that, no, sir.

15 Q. PFC Williams advised Umphlett stated there was
16 marijuana in the night stand but denied consent to search
17 the room. PFC Williams had Abdon and Umphlett exit the
18 room and contacted your affiant, Detective Strickland.

19 Which is not quite correct, but I'm not going
20 to beat you up too bad about that. It wasn't Detective
21 Williams that contacted you, it was Thompson.

22 A. He actually contacted me later, too. But
23 initially -- yeah. I'm with you on that one.

24 Q. Probable cause exists for the above-cited
25 items.

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 Do you know how much marijuana was actually
2 found?

3 A. I want to say it was around maybe five grams.

4 Q. And when you talk about five grams of
5 marijuana, that's about -- I think most of that was in
6 one what they call a blunt, cigar that's been cut open.
7 Was that where the vast majority of this overwhelming
8 smell of raw marijuana came from?

9 A. I believe so.

10 Q. And this was in the night stand? They found
11 this in the night stand of the -- according to your
12 affidavit? Or, excuse me. I saw that somewhere. I
13 thought it was in the affidavit.

14 There was marijuana in the night stand --

15 A. He told me that there was -- there was --
16 that's what was relayed to me for the search warrant
17 affidavit, was that he told PFC Williams that there was
18 marijuana in the night stand.

19 Q. So there's a blunt in the night stand, and it's
20 the officer's testimony that there's this overwhelming
21 smell of marijuana that I think you heard Officer
22 Thompson saying even three doors down they could smell --

23 A. Correct, sir.

24 Q. -- the blunt.

25 Does that seem reasonable to you?

Motion to Suppress
Matthew Strickland
Cross-Examination by Mr. Seaton

1 A. Yes, sir.

2 Q. And at no point did you tell the judge that the
3 officers had already entered into the property?

4 A. I'm not sure if I did or not. I don't think
5 it's on the search --

6 Q. But certainly you've told us that you didn't
7 tell anything different other than -- you didn't add --
8 you didn't orally amend, did you?

9 A. No, sir.

10 Q. So everything that's contained in the affidavit
11 is everything you told the judge --

12 A. Correct.

13 Q. -- the judge?

14 And at no point did you tell the judge, oh, and
15 by the way, the officers have already entered into the
16 property?

17 A. No, sir.

18 MR. SEATON: Thank you.

19 MS. NICKLES: Just a few brief follow-up
20 questions, Your Honor.

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Motion to Suppress
Matthew Strickland
Redirect Examination by Ms. Nickles

REDIRECT EXAMINATION

BY MS. NICKLES:

Q. When Officer Henderson contacted you on the phone, he was giving you -- I'm sorry. When Detective Thompson contacted you, he was giving you a brief overview of the scene as he was observing it --

A. Correct --

Q. -- on his response --

A. -- the description of the location to be searched and then the probable cause.

Q. And when he arrived on scene, he told you that he also smelled the strong presence of marijuana?

A. Correct.

Q. Did he relay to you any information about anything they observed through the open door into the room?

A. No, ma'am.

Q. Did the magistrate ask you for any follow-up sworn testimony?

A. No, ma'am.

Q. If you could look at that search warrant again. At the end, what was the probable cause for?

A. The last one? I'm sorry. The last one?

Q. Yes.

A. You just want me to read it?

Motion to Suppress
Matthew Strickland
Redirect Examination by Ms. Nickles

1 Q. Yes.

2 A. Based on the above facts, I believe probable
3 cause exists that the above-sought items, mainly
4 marijuana, will be located in room 119.

5 Q. And marijuana was recovered?

6 A. Yes, ma'am.

7 Q. Do you recall -- you mentioned that there was
8 some in a bedside-table drawer, that there was a portion
9 of a blunt that had been smoked?

10 A. I think there was a blunt that --

11 MR. SEATON: Your Honor, I'm going to object.

12 That is not what his testimony -- first, I
13 would object to relevance because it was not part of
14 what he told the magistrate or the judge. He's
15 simply testifying about things that he had discovered
16 afterwards, rather than things that were told to the
17 judge. And so it would not be relevant if it has
18 nothing to do with the affidavit of how the search
19 warrant was given. It's like trying to say it's -- I
20 was right because I found drugs. That doesn't make
21 it right. So I think that he should be limited to
22 merely what he's testified to in the affidavit or
23 about the affidavit.

24 THE COURT: Sustained. Rephrase your question.

25 Q. [Ms. Nickles] When you were informed that

Motion to Suppress
Matthew Strickland
Redirect Examination by Ms. Nickles

1 officers were present at a hotel room and they smelled
2 marijuana and believed that they would find marijuana
3 inside --

4 A. Yes, ma'am.

5 Q. -- that was the purpose for which you went to
6 the magistrate to seek a search warrant?

7 A. Correct.

8 Q. And one was granted?

9 A. Yes, ma'am.

10 Q. Without additional testimony?

11 A. Correct.

12 Q. And the magistrate signed it?

13 A. Yes, ma'am.

14 MS. NICKLES: Thank you.

15 MR. SEATON: Nothing further, Your Honor.

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Motion to Suppress
Examination by the Court

EXAMINATION

BY THE COURT:

Q. Officer, have you ever dealt with anonymous phone calls to DSS before?

A. Yes, ma'am, I have.

Q. And are they typically anonymous? Or you just don't put that information in your --

A. It depends.

THE COURT: Let me finish my question --

THE WITNESS: I'm sorry.

THE COURT: -- so the record --

THE WITNESS: I'm sorry, Your Honor.

THE COURT: -- is really clear.

Q. [The Court] Are they typically anonymous? Do you not ask the name or something else?

A. Well, sometimes they do. It's up to dispatch whether they get that information or not.

A lot of times they do have a name, but sometimes people don't want to get I guess found out by whoever they're calling on, so sometimes we don't have a name.

Q. And is that different than an antonymous call pursuant to a DSS report? Is that different and handled differently by you than would be a tip to a drug line or something like that?

Motion to Suppress
Examination by the Court

1 A. I'm not following you. I'm sorry. I may be a
2 little slow today.

3 Q. So do you have those -- you're with Florence
4 now.

5 A. Correct.

6 Q. But did Dorchester have a tip line, a drug-tip
7 line?

8 A. Yes.

9 Q. And could you call and make an anonymous call,
10 or was there a way to check that out?

11 A. You could call -- I mean, you could call and
12 make it anonymous. You know, you could leave a name and
13 number if you wanted to. But you could be anonymous.

14 Q. And so you were with Dorchester --

15 A. Yes, Your Honor.

16 Q. And so when you got a confidential or an
17 anonymous drug tip, did you follow that with other
18 information?

19 A. We tried the best we could, Your Honor, yes.

20 Q. And so do you -- have you ever dealt with DSS
21 calls?

22 A. I have some, Your Honor.

23 Q. And do you -- are you required to go out, or
24 are you required to find supplemental information before
25 you go out?

Motion to Suppress
Examination by the Court

1 A. We usually go out to at least check and see,
2 make contact. And, you know, if there's -- that can
3 dispel, you know, whatever concern there is just off of
4 making contact or not, whether an address exists, stuff
5 like that. So we normally go out any time we're called
6 for any kind of welfare check.

7 THE COURT: Based upon my questions, do you
8 have any follow-up questions? Ms. Nickles?

9 MS. NICKLES: Your Honor, I don't have a
10 follow-up question.

11 But to clarify for the Court's purposes, I do
12 have the caller outside ready to testify if Your
13 Honor would like to hear from her as far as -- if
14 we're going to go that far into the probable cause.

15 THE COURT: Well, if we did, why wasn't that
16 contained in the warrant, Ms. Nickles?

17 MR. SEATON: That would have been my argument,
18 Your Honor. That's completely outside of the scope
19 of the affidavit.

20 THE COURT: All right. At what point did you
21 have the caller's name?

22 MS. NICKLES: Your Honor, that -- so the
23 initial responders to this call were the Summerville
24 Police Department. They followed up with the 911
25 caller. They received the initial call.

Motion to Suppress
Examination by the Court

1 They called her back to confirm the
2 information. They actually called her after the
3 scene had been cleared, the search had been executed,
4 to give her an update. As a result of this call, DSS
5 custody of the children was taken. But --

6 THE COURT: Because you have just really
7 muddled the waters. Please sit down.

8 Mr. Seaton, based only up my questions --

9 MR. SEATON: No questions.

10 THE COURT: -- do you have any follow-up
11 questions for this witness?

12 MR. SEATON: No, ma'am.

13 THE COURT: All right. You may step down.
14 Thank you.

15 THE WITNESS: Thank you, Your Honor.

16 [Whereupon, Mr. Strickland is excused and exits
17 the witness stand]

18 THE COURT: Now, Ms. Nickles, now that we have
19 this new information that I need to consider, happy
20 to hear from you.

21 MS. NICKLES: The State would call -- the State
22 calls Lisa Parker.

23 MR. SEATON: Your Honor, I would certainly
24 object.

25 According to the affiant, none of that --

Motion to Suppress
Examination by the Court

1 whatever she may testify to was used in the affidavit
2 for the search warrant, and so anything she has to
3 say is irrelevant for purposes of suppression of the
4 warrant because it was not used to seek the warrant.
5 And the judge was certainly not made aware of it.
6 And so anything she has to say would be irrelevant.

7 THE COURT: Ms. Nickles?

8 MS. NICKLES: Your Honor, they did mention her,
9 and her information was used. They just called her
10 complainant, rather than using her name.

11 I don't think the name of the caller makes
12 anything more probable or not. The knowledge that is
13 claimed that the complainant had in here in the
14 search warrant is sufficient and was confirmed by
15 officers, the presence of children's toys, I believe.
16 They corroborated a lot of information she gave them.

17 The fact that they didn't name her specifically
18 in the search warrant I think has no bearing
19 whatsoever on whether this was sufficient for
20 probable cause or not, because probable cause is
21 simply more likely than not that something will be
22 found.

23 So I believe that the officers were trying to
24 give a background as to why they responded. And then
25 once they responded, they had additional probable

Motion to Suppress
Examination by the Court

1 cause upon smelling the marijuana.

2 MR. SEATON: Your Honor --

3 THE COURT: Hold on, Mr. Seaton. I'm trying to
4 take --

5 MR. SEATON: Yes, ma'am.

6 THE COURT: I'm trying to take all this in.

7 MR. SEATON: Yes, ma'am.

8 THE COURT: All right. Anything else?

9 MS. NICKLES: Your Honor, I would just say that
10 this affidavit, on its face, is sufficient. It was
11 signed by a magistrate. He didn't request any
12 follow-up sworn testimony.

13 THE COURT: I don't know that that's where I
14 need to be focused on.

15 If I believe what I think Mr. Seaton's argument
16 is going to be, was that the affiant didn't give all
17 the information, and there was information that was
18 requested, and that it should be invalid on its face
19 because there was not information -- there was
20 information known, or incomplete information that was
21 not given to the magistrate.

22 A magistrate is not -- the purpose of the
23 affidavit is to provide the neutral and detached
24 magistrate, under our Constitution of the State of
25 South Carolina and the United States, that there is

Motion to Suppress
Examination by the Court

1 probable cause to exist. It is not the magistrate's
2 job to be a fact-finder. The affiant should -- it
3 should contain everything in there. And that is the
4 purpose of what we are doing now.

5 Mr. Seaton is going to stand up and say it
6 matters not because the -- your officer just
7 testified he didn't even know, and I gave him the
8 opportunity to tell me why he didn't know. So
9 whether he knew or not knew is not the question. And
10 whether or not the magistrate should have asked or
11 should have known to ask is not the question. It's
12 what was presented to the magistrate.

13 MS. NICKLES: Yes, Your Honor. I understand.

14 THE COURT: So what else do I need to know?

15 MS. NICKLES: I just think based on the smell
16 of the marijuana and them seeking -- the smell of the
17 marijuana alone is enough for probable cause for a
18 search warrant to be granted.

19 THE COURT: What if they weren't there legally?

20 MS. NICKLES: Your Honor, it's our contention
21 that they were.

22 THE COURT: And so I think that's the -- that's
23 your crux; right?

24 MR. SEATON: Yes, ma'am.

25 THE COURT: That they shouldn't have even been

Motion to Suppress
Examination by the Court

1 there because of the call? The only reason they're
2 there is the call, it was not contained -- and the
3 information was not given to the magistrate --

4 MR. SEATON: It is.

5 THE COURT: -- is that the crux of your issue?

6 MR. SEATON: And certainly if that -- if we got
7 past that one, then we have the second problem in
8 that once you cross the curtilege, then the plain
9 view -- I keep calling it plain view when it's really
10 plain smell -- is certainly not a function of what we
11 -- the Court should analyze, because at that point we
12 have now crossed over into a fourth amendment
13 argument that they should not have been there anyway,
14 which is a secondary argument to the first argument,
15 which is they shouldn't have been there under the
16 first step of what they told the -- Judge Lemon.

17 THE COURT: Anything further, Ms. Nickles?

18 MS. NICKLES: Your Honor, I would just point
19 out that they can leave -- this is not even like a
20 person's home. This is a hotel, and officers have
21 the right to patrol a hotel. They have the right to
22 go up to a door to knock. They have the right to --

23 THE COURT: But that's not what they were
24 doing. They were there based upon a confidential --
25 a complainant.

Motion to Suppress
Examination by the Court

1 MR. SEATON: Complainant.

2 MS. NICKLES: Your Honor, but the dispatcher --
3 they had all of the information. The fact that they
4 called her complainant rather than Lisa Parker I
5 don't think makes any of this more likely than not.

6 In the search warrant for the magistrate to
7 consider, I don't believe it would make any
8 difference whether this said Lisa Parker or whether
9 it said complainant, because the officers have a
10 right to respond. They have a duty, in fact, to
11 respond to calls. And to place a higher burden on
12 officers responding to calls, to ask officers to do
13 something in furtherance of an investigation when
14 they have -- it says officers were dispatched to room
15 119 at the Economy Inn in reference to a child-
16 welfare check, this is a very specific allegation.
17 It --

18 MR. SEATON: This --

19 MS. NICKLES: -- gives in the affidavit --

20 THE COURT: Hold on, Mr. Seaton.

21 MR. SEATON: I'm sorry, Judge. I couldn't help
22 it.

23 MS. NICKLES: -- in the affidavit alone gives
24 very specific information.

25 That is just a summary of what the officers

Motion to Suppress
Examination by the Court

1 had. And, again, whether this was true or not
2 ultimately did not have a bearing on whether they
3 were there properly.

4 The fact that they smelled marijuana
5 immediately upon opening up the door is sufficient
6 alone to request a search warrant, based on that
7 probable cause that they believe marijuana will be
8 found.

9 Your Honor, I believe that they gave ample
10 information to the magistrate, because they gave the
11 reason they were there and the allegations that the
12 complainant gave. I don't believe that the name of
13 the complainant has any bearing on probable cause.

14 MR. SEATON: Nobody is arguing --

15 THE COURT: Please let her finish, and then I'm
16 going to allow you --

17 MR. SEATON: Oh. I'm sorry --

18 THE COURT: -- to argue.

19 MR. SEATON: I thought she was, Judge.

20 MS. NICKLES: That's all, Your Honor.

21 MR. SEATON: Nobody is arguing that there
22 should have been her name. But there should have
23 been some way of checking. There should have been
24 some information given. And what you heard from the
25 officer -- God bless him for his absolute

Motion to Suppress
Examination by the Court

1 truthfulness from that stand, no matter what the
2 solicitor says about whether or not the truth matters
3 -- the truth does matter, and he told us what he had.
4 And he had nothing.

5 THE COURT: Do you have any witnesses?
6 Anything further?

7 MR. SEATON: No, Your Honor.

8 THE COURT: I don't know that I need to hear
9 from her based upon --

10 MS. NICKLES: Yes, Your Honor.

11 THE COURT: -- at this stage.

12 Do you plan to call her? Is she on your
13 witness list?

14 MS. NICKLES: Yes, Your Honor.

15 THE COURT: I don't remember. There were so
16 many, I don't remember --

17 MS. NICKLES: She's towards the end --

18 THE COURT: -- calling her specifically.

19 MS. NICKLES: -- and we had planned to call
20 her.

21 And I thought that this was just for the
22 information contained in the search warrant. We plan
23 to call her for a subsequent hearing. She's outside.

24 THE COURT: We have more hearings than this?

25 MS. NICKLES: If he's moving to suppress

Motion to Suppress
Examination by the Court

1 everything else.

2 THE COURT: What else are you moving to
3 suppress?

4 MR. SEATON: I don't know what else there is.

5 The second search warrant that talks about
6 computers, if they want to --

7 THE COURT: I thought that's what -- I thought
8 you said there wasn't anything found on them so --

9 MR. SEATON: There's not --

10 THE COURT: -- that was --

11 MR. SEATON: -- I mean, if they want to try him
12 on the pictures of his kids, I'm more than agreeable
13 to try that.

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Motion to Suppress
Court's Ruling

COURT'S RULING

1
2 THE COURT: Based upon the testimony that has
3 been presented, and my review of Court's Exhibit 1,
4 which is the search warrant, the affidavit and the
5 return, Exhibit A, I find that the affidavit sworn on
6 information and belief could be supplemented by oral
7 testimony under our case law and the laws of our
8 state; however, there was no indication that this
9 officer gave any additional oral testimony or that
10 the magistrate required it.

11 A probable cause affidavit in support of the
12 search warrant must state facts so closely related to
13 the time of the issuance of the warrant as to justify
14 a finding of probable cause.

15 The task of a magistrate is to determine, when
16 issuing a warrant, is to make a practical,
17 commonsense decision as to whether, under the
18 totality of the circumstances as set forth in the
19 affidavit, there's a fair probability that evidence
20 of a crime will be found in a particular place. This
21 includes the consideration of the voracity of the
22 person supplying the information, and the basis of
23 his or her knowledge.

24 Based upon the testimony and my review of the
25 search warrant, I deny your motion to suppress. I do

Motion to Suppress
Court's Ruling

1 find that based upon the totality of the
2 circumstances and the requirement that the officers
3 do have a duty to go, based upon a welfare check, and
4 it was distinguishable by any narcotics check or
5 anything of that nature, that there was probable
6 cause for the warrant to issue.

7 Note your exception to my ruling.

8 Based upon that, Mr. Seaton, do we have any
9 other pretrial motions or matters?

10 MR. SEATON: No, ma'am.

11 THE COURT: Does the State?

12 MS. NICKLES: Your Honor, I believe that that
13 concludes --

14 I believe we've fleshed out the defendant's
15 prior record earlier today, and that would be the
16 only other thing that the State would ask at this
17 time.

18 THE COURT: All right. Just for scheduling,
19 tomorrow we will begin at 9:30 so please be here at
20 9:15, just in case there's anything that arises over
21 the evening hour. We'll begin, I'll give my charge
22 at 9:30, you'll do openings, and then you'll have
23 your first witness. Plan to go -- we'll stop between
24 12:00 and 12:15 for lunch. We'll take an hour, an
25 hour and fifteen minutes. And then, depending, I may

Motion to Suppress
Court's Ruling

1 have an unrelated matter to this case, so I will know
2 earlier, so we may have to break and not take
3 testimony after lunch tomorrow. So I know you have
4 an out-of-state witness, so please plan that witness
5 accordingly, and then we will begin -- and then I
6 anticipate even with that break we would be done by
7 Thursday afternoon; is that correct?

8 MS. NICKLES: Yes, Your Honor. I can't see any
9 reason why we would go past then.

10 MR. SEATON: I would imagine that is correct,
11 Your Honor, but -- I would imagine that's correct.

12 THE COURT: All right. Because I have an
13 obligation in Charleston at noon on Friday, so I'm
14 just -- I need to know --

15 MR. SEATON: I can't imagine --

16 THE COURT: -- I will need to know, as we get
17 further, to go ahead and make arrangements to -- for
18 that obligation. All right?

19 MS. NICKLES: One final housekeeping matter.

20 THE COURT: Yes?

21 MR. SEATON: Mr. Seaton alleged that this is
22 the first time he heard of the recorded call.

23 If the Court is concerned at all, I do have e-
24 mail documentation and a signed form when I hand-
25 delivered that.

Motion to Suppress
Court's Ruling

1 THE COURT: If Mr. Seaton is concerned about it
2 and you anticipate it's going to be an issue, perhaps
3 Mr. Seaton should listen to it over the evening hour.

4 MR. SEATON: Let me promise and make sure I'm
5 clear about one thing.

6 I'm not alleging that there is any
7 documentation that they have that has not been
8 provided to me. That was not the allegation. The
9 allegation was other than a phone call, there was no
10 reports done. That was the allegation. I'm
11 certainly --

12 MS. NICKLES: Just wanted to be clear on that.

13 MR. SEATON: -- we've been straight -- yeah.
14 We've been straight with the discovery for a while.

15 THE COURT: All right. Thank you.

16 MS. NICKLES: Thank you.

17 THE COURT: Good luck to you, Mr. Umphlett.
18 I'll see you in the morning. Thank you.

19 [JURY TRIAL ADJOURNS AT 3:59 P.M.]
20
21
22
23
24
25

Motion to Suppress
Court's Ruling

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Monday, September 28, 2015.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 21st day of December, 2015.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

STATE OF SOUTH CAROLINA
VS.
JOSEPH UMPHLETT,
DEFENDANT.

VOLUME 2 OF 4

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Berkeley County Courthouse
Moncks Corner, south Carolina
on Tuesday, September 29th, 2015, Commencing at 9:33 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
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PROCEEDINGS

1
2 THE COURT: Anything before we bring in the
3 jury?

4 MS. NICKLES: No, Your Honor.

5 THE COURT: Where is your co-counsel? Can we
6 start without him?

7 MS. NICKLES: Your Honor, I believe he stepped
8 outside.

9 MR. SEATON: Your Honor, I have two matters
10 that I would like to address.

11 The first is just as a housekeeping issue. We
12 had questioned -- we were a little unclear yesterday
13 about this afternoon.

14 THE COURT: I am, as well. So I know we will
15 break for lunch at noon, and then by noon I will know
16 what time.

17 MR. SEATON: Well, here was -- the only reason
18 I asked, Your Honor, is simply because I have three
19 divorce cases that are scheduled this afternoon next
20 door, and if we were -- I need to let my office know,
21 and let everyone else know, if we need to continue
22 those or --

23 THE COURT: What time are they set?

24 Counsel, why don't we just approach so we can
25 talk about this.

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1 [Whereupon, an off-the-record bench conference
2 is held]

3 MR. SEATON: Your Honor, this other issue I
4 don't know if you want to take up before we bring the
5 jury in. But one of the witnesses, Lisa Parker and
6 the 911 call, I have some concerns but I would like
7 to address that prior to --

8 THE COURT: When do you anticipate calling her?

9 MS. NICKLES: Your Honor, she's second this
10 morning.

11 MR. SEATON: I just was concerned if we exclude
12 them and there's any mention of the 911 call or what
13 Ms. Parker may testify to, in opening argument, that
14 it would create a problem for us. That was the only
15 reason I asked to address it pretrial. But,
16 certainly --

17 THE COURT: Well, what do you anticipate would
18 be the problem? I'm sure --

19 Mr. McNeely, is this your opening?

20 MR. MCNEELY: I am opening.

21 And I'm doing Nicole Pia, the dispatcher who
22 received the call, and then Ms. Nickles is going to
23 question the lady that made the call.

24 THE COURT: So what do you anticipate would be
25 an issue?

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1 MR. SEATON: Well, if -- certainly, if you look
2 at what she allegedly said, it's hearsay upon
3 hearsay. It's saying that the children told their
4 father, who told her, who called dispatch. And so
5 anything that she says is hearsay from what the
6 children allegedly said.

7 Then she makes other statements that are
8 completely false, such as that her daughter had
9 pending charges. According to the rap sheet that
10 I've been provided, she did not have pending charges.

11 And so I'm concerned about any probative value
12 under Rule 401, probative versus prejudicial. Her
13 only point coming here is to say that my daughter has
14 pending charges, which is not correct; that she's a
15 drug user, which, again, has no probative value; and
16 that the children said something to their father who
17 said something to her.

18 So all of that is prejudice, at the very least.

19 THE COURT: Mr. McNeely, please limit your
20 opening, and to follow the rules, which I anticipate
21 that you will. If you do not anticipate that that
22 testimony would be admissible, do not discuss it.
23 All right? Thank you.

24 MR. SEATON: Thank you, Your Honor.

25 MR. MCNEELY: Your Honor?

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1 THE COURT: Yes?

2 MR. MCNEELY: In that case --

3 MS. NICKLES: We are fine.

4 MR. MCNEELY: -- that's fine with the opening.

5 But our first two witnesses --

6 THE COURT: We're only worried about the
7 opening, because you already indicated you needed a
8 break before she was called.

9 MS. NICKLES: Not for her. It was for a
10 different witness.

11 THE COURT: Just addressing the opening.
12 Trying to get the jury in. Thank you.

13 Please rise for the jury.

14 [Whereupon, the jury enters the courtroom at
15 9:38 a.m.]

16 THE COURT: Good morning.

17 If my jurors will remain standing. Everyone
18 else please be seated.

19 Madam Clerk, if you will please administer the
20 oath.

21 THE CLERK OF COURT: Ladies and gentlemen,
22 raise your right hand to be sworn.

23 [Whereupon, the jury is duly sworn by the clerk
24 of court as follows: you shall well and truly try
25 and true deliverance make between the State of South

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1 Carolina and the defendant at the bar, whom you shall
2 have in charge, and a true verdict render according
3 to the evidence, so help you God]

4 THE COURT: Thank you. Please be seated.

5 Ladies and gentlemen, was there any member of
6 the panel who could not take the oath? If so, please
7 stand.

8 [Whereupon, there is no response]

9 THE COURT: Thank you. All fourteen jurors
10 have taken the oath.

11 Good morning, ladies and gentlemen. I hope you
12 had a wonderful evening.

13 The question that I will always ask at the
14 beginning of the day, and after we take a break for
15 lunch, is did you comply with the Court's
16 instructions.

17 If you did not comply with my instructions,
18 please stand.

19 [Whereupon, there is no response]

20 THE COURT: Thank you. All fourteen jurors
21 have indicated that they have complied with the
22 Court's instructions over the evening hour.

23 Good morning, ladies and gentlemen. Once
24 again, the case that we are about to try is the case
25 of the State versus Joseph Russell Umphlett.

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1 Ladies and gentlemen, you have just been
2 administered an oath to try this case and so I'm
3 going to take this opportunity to explain to you the
4 process that we will be following, so that you'll be
5 able to understand what is happening before you here
6 today.

7 Most people don't have the chance to attend
8 trial, as you are doing, and most of us get our
9 information about court from watching television or
10 movies or reading books. Those trials are always
11 full of intense circumstances and riveting drama.
12 And please understand that this trial is not for your
13 entertainment. It is a fundamental part of our
14 democracy, a search for the truth, making sure that
15 justice is done. Please remember that sometimes
16 while we are ensuring that justice is done, it may be
17 slow, deliberate, and repetitive. This courtroom is
18 a place of honor. It is dedicated to the protection
19 and preservation of citizen's rights, through what
20 many have called the greatest justice system ever
21 created.

22 The attorneys that appear before you are
23 advocates for the parties that they represent but,
24 first and foremost, they are officers of this Court.
25 They are sworn to uphold the integrity and the

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1 fairness of our judicial system. You should expect
2 them to be professional, competent, and ethical in
3 the representation of their clients' interest.
4 Please remember you have just taken an oath and you
5 are also expected to be professional, reasonable, and
6 ethical.

7 Thank you again for accepting this most
8 important responsibility of jury service and for your
9 contribution to our justice system.

10 What I now say is intended to serve as an
11 overview of this case. This charge is not a remark
12 on the law. I will instruct you on the law
13 applicable to this case throughout the trial, as it
14 becomes necessary, and at the close of the trial
15 before you retire to consider your verdict.

16 Ladies and gentlemen, the defendant is charged
17 by an indictment filed in this Court with the charges
18 of trafficking methamphetamine, possession of a
19 weapon during commission of a violent crime, and
20 possession of a firearm by a convicted felon. I will
21 explain the elements of each of those indictments to
22 you at a later time.

23 As I indicated to you yesterday, the indictment
24 is simply the way the charge is brought into court.
25 It is not in any sense evidence of the allegations it

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1 contains. The defendant has pled not guilty to each
2 indictment. The State has the burden of proving each
3 of the elements of each indictment beyond a
4 reasonable doubt.

5 It is your duty, ladies and gentlemen, to
6 decide whether the State has met that burden. Your
7 purpose as jurors is to find and determine the facts.
8 You are the sole judges of the facts in this case.
9 That is why when you came in this morning the
10 attorneys involved in the case, the parties involved
11 in the case, and the members of the audience, were
12 standing. This is out of respect for your new
13 position as judges of the facts. So please come in
14 and take your seats, because everyone will remain
15 standing until all fourteen of you are seated.

16 You are to determine the facts from the
17 testimony you hear from the witness stand and any
18 other exhibits that are made part of the record in
19 this case. If there are exhibits that are entered
20 into evidence, they will go back with you in your
21 deliberation room when you retire to consider your
22 verdict. So if you do not have the opportunity to
23 view the evidence, please understand that you will be
24 given that evidence to go back with you when you
25 retire to consider your verdict.

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1 It is important that you perform your duty of
2 determining the facts diligently and conscientiously
3 because ordinarily there is no way to correct an
4 erroneous determination of the facts by the jury.

5 On the other hand, and with equal emphasis, the
6 same law that makes you the judges of the facts makes
7 me the judge of the law. The law as given by this
8 Court is the only law that you may consider. You
9 must accept it and follow it, even though you may
10 disagree with it. I cannot tell you what I think the
11 facts are, and you cannot disagree with me about what
12 the law is or what the law should be. Your job is to
13 take the facts as you find them, from the testimony
14 of the witnesses and other exhibits, and apply it to
15 the law as I give it to you and after doing that, you
16 will render your verdict, a true and just verdict,
17 under the solemn oath that you just took.

18 Ladies and gentlemen, as I indicated to you,
19 please remember all of my admonitions. You must not
20 read, watch, listen to, any news accounts regarding
21 this case should there be any. Please do not do any
22 independent investigation, either together or as a
23 group. And you may not discuss this case with anyone
24 in any form or fashion. You may not decide any issue
25 in this case until all of the evidence has been

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1 presented to you, you have heard closing arguments on
2 behalf of counsel in this case, and I have instructed
3 you on the law. It is important that you keep an
4 open mind and not decide any issue in this case until
5 all of the evidence has been presented, both of the
6 parties have made their closing argument, and you
7 have been instructed on the law applicable to this
8 case.

9 It is your solemn responsibility to determine
10 the guilt or innocence of the defendant and your
11 verdict must be based solely on the evidence as it is
12 presented to you during this trial, and on the law as
13 I instruct you throughout this trial and at the close
14 of the trial, before you retire to consider your
15 verdict.

16 In just a moment, the solicitor is going to
17 make what is called an opening statement in which he
18 will explain to you the issues in this case, or at
19 least what he thinks the issues will be. The
20 attorney for the defendant may also make an opening
21 statement, although he is not required to do so at
22 this time.

23 Please remember what the attorneys tell you in
24 their opening statements, as well as what they argue
25 in their closing argument, is not evidence in this

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1 case. It is merely their contention as to what the
2 evidence will show you or what has been shown to you.
3 The evidence in this case will be presented to you by
4 testimony of sworn witnesses from the witness stand
5 and as well as the exhibits that will be introduced
6 into evidence.

7 Ladies and gentlemen, from time to time you may
8 hear one of the attorneys state an objection or ask
9 to approach the bench, or I might find it necessary
10 to excuse you from the courtroom for a short while.
11 If I do have the attorneys approach the bench, please
12 do not try to read our lips or overhear us and please
13 do not think we are trying to hide anything from you.
14 The reason for this is sometimes I have to make a
15 comment regarding the facts in order to issue a
16 ruling on the law. As I indicated to you, you are
17 the sole judges of the facts in this case, so I might
18 find it necessary to excuse you from the courtroom so
19 that in no way anything I say or do throughout the
20 progress of this trial will influence you as to what
21 the true facts are.

22 In determining what the true facts are in this
23 case, you must decide whether or not the testimony
24 you hear is believable. It is my responsibility to
25 decide whether certain testimony is admissible but

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1 once it is admitted, whether or not you believe it is
2 solely up to you.

3 In deciding whether to believe a witness, you
4 have a right to consider the interest of the witness,
5 the bias of the witness, the prejudice of the
6 witness, the opportunity for the witness to have seen
7 the matters and things about which the witness
8 testifies, as well as the way the witness acts on the
9 witness stand. You have a right to consider anything
10 in the record that will help you evaluate the
11 testimony of the witnesses. That means it is your
12 duty to pay close attention. Please do not let your
13 thoughts wander so that at the end of the testimony,
14 after you have heard closing arguments and I have
15 instructed you on the law, you will be in a position
16 to determine what the true facts are, apply the law
17 to those facts, and render a true and just verdict.

18 Ladies and gentlemen, I have given you
19 notepads, so that indicates you may take notes
20 throughout the progress of this trial. I caution
21 jurors some of us are much better note-takers than
22 others. Please understand one juror's notes are no
23 more correct or accurate than another juror's notes.
24 You will be allowed to take those notes with you
25 during your deliberation. Please understand that if

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1 at any point during your deliberations you would need
2 to re-hear any testimony, we will bring you back into
3 the courtroom and replay that testimony for you. So
4 do not think that you have to write down word for
5 word what witnesses are saying.

6 I also caution jurors -- because I have a
7 tendency, when I'm writing, to look down. You may
8 actually miss something that is happening in the
9 courtroom if you have a tendency to do that, as well.

10 So with all those caveats, you will be allowed
11 to take notes. We will lock the notes up during
12 lunch breaks and at the end of the evening before you
13 retire for the day and then we will hand those back
14 out to you after the break so -- and no one will be
15 reading your notes. All right?

16 Ladies and gentlemen, please give your strict
17 attention.

18 Mr. McNeely?

19 MR. MCNEELY: Thank you, Your Honor.

20 - - -

21 - - -

22 - - -

State vs. Joseph Umphlett
Opening Statement by Mr. McNeely
August 29, 2015

OPENING STATEMENT

MR. MCNEELY: Good morning, ladies and gentlemen. I hope everyone is doing well today.

My name is Wilton McNeely. Along with Jessica Nickles, we represent the State of South Carolina with the ninth circuit solicitor's office and Solicitor Scarlett Wilson.

As she told you, I'm going to give you an opening statement here. All it is is a roadmap, sort of a preview, of what we're going to be doing over the course of the trial, what you're going to hear and see, and the charges against the defendant.

The judge is going to instruct you on the law at the end of the trial. Listen to her, defer to her. What she says about the law is what you have to do. But I'm going to tell you about the charges just so you know sort of what we're talking about over the course of the trial, you know where we're heading, and you know what to look for. Okay?

The first charge against the defendant is trafficking methamphetamine. When you hear that phrase, it sounds complicated. But it's really not. Trafficking methamphetamine is defined under the laws of South Carolina as knowingly possessing methamphetamine in an amount greater than ten grams.

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Opening Statement by Mr. McNeely
August 29, 2015

1 That's it. It's not a movie. It's not a TV show.
2 It's not a drug cartel from Mexico driving into South
3 Carolina. It's not a grand conspiracy to distribute
4 drugs.

5 All trafficking of methamphetamines means under
6 the laws of South Carolina is possession of
7 methamphetamine and the amount of methamphetamine the
8 defendant has is greater than ten grams. It's that
9 simple. All right?

10 The second charge against the defendant is
11 possession of a weapon during commission of a violent
12 crime. The first question there is what is a violent
13 crime. The legislature of South Carolina has defined
14 about forty crimes by statute as being violent
15 crimes. So what that means is that if an individual
16 commits a violent crime as defined by statute -- one
17 of those is trafficking methamphetamine -- if they're
18 shown to be guilty of that violent crime, trafficking
19 methamphetamine, and they have a firearm in their
20 possession during the commission of that violent
21 crime, then they are also guilty of the offense of
22 the possession of a weapon during commission of a
23 violent crime. That's in the present tense.

24 The third charge against the defendant is
25 possession of a weapon -- or firearm, excuse me --

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Opening Statement by Mr. McNeely
August 29, 2015

1 possession of a firearm or ammunition by a person who
2 has been convicted of a violent crime. This is the
3 past tense of the charge I just told you about. What
4 that means is that a person is shown to have
5 previously in the past been convicted of a
6 statutorily defined violent crime and they are
7 subsequently at a later date found to be in
8 possession of a firearm or ammunition. Once you're
9 convicted of a violent crime in South Carolina, you
10 are no longer allowed to have a firearm or ammunition
11 in your possession. You are strictly forbidden from
12 it by law.

13 So if you have a conviction for a violent crime
14 in the past, and at any time later you're found to be
15 in possession of a firearm or ammunition, you're
16 guilty of the offense possession of a firearm or
17 ammunition by a person convicted of a violent crime.

18 Those are the three charges against this
19 defendant. The evidence we're going to show you is
20 going to lead to points proving these three charges.
21 I just ask you to pay attention, listen to it,
22 understand sort of where we're headed for those
23 charges, and I think we'll all be on the same page
24 throughout this process.

25 I mentioned the evidence you're going to hear,

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August 29, 2015

1 so let's talk a little bit about this incident we're
2 here to try today. The incident occurred on May
3 11th, 2014. I'm going to give you a real brief
4 nutshell of the facts because you're going to hear
5 everything from that witness stand, you're going to
6 see photos, you may hear some recordings, you may
7 not, you're going to see physical evidence. Okay?

8 But what that's going to lead you to is on May
9 11th, 2014, a lady named Lisa Parker made a call to
10 the non-emergency line of the Summerville Police
11 Department to request a child-welfare check on her
12 grandchildren. Her grandchildren were not with her.
13 They are the children of her daughter, Kory Abdon.
14 She had some concerns about their safety so she asked
15 that the police send some officers to go check on her
16 grandchildren to make sure they were okay.

17 She told the non-emergency dispatchers that
18 those children were believed to be at a hotel in
19 Summerville off of Holiday Lane -- or, excuse me,
20 Holiday Drive, the Economy Inn, and she gave them the
21 location of the hotel that she believed it to be and
22 a descriptions of the vehicles that Kory Abdon and
23 this defendant, Joseph Umphlett, were driving.

24 Officers responded to the hotel. They met with
25 the desk clerk at the Economy Inn. You're going to

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Opening Statement by Mr. McNeely
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1 hear from him. He's going to tell you that they
2 asked him where these individuals were. He gave them
3 their room number and directed them to room 119.
4 They go to room 119. Knock, knock, knock. People
5 eventually come to the door, this defendant, Joseph
6 Umphlett, and Kory Abdon. They told them they were
7 there to check on the welfare of the children.
8 Eventually, the door is opened so they can confirm
9 whether there are children inside. When the door is
10 swung open, they are immediately smacked in the face
11 with an odor of raw marijuana.

12 At that point on, they asked the defendant
13 about the children, asked him if there were children
14 present, and then they asked him about the smell of
15 marijuana that they're smelling. Due to the smell,
16 they asked for consent to search the room and
17 ultimately that consent is denied.

18 At that point, they call metro narcotics to get
19 a search warrant for the room because they had
20 probable cause for a search based on the smell of
21 marijuana. Metro narcotics gets the search warrant
22 in the works.

23 While officers are standing on the scene
24 waiting for the search warrant to arrive, they talk
25 with the defendant and eventually find out that there

State vs. Joseph Umphlett
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1 is at least one weapon present in the room. Since
2 the defendant is unrestrained at the time, he's not
3 in handcuffs, he's sitting on a bed, they asked the
4 defendant if they could have permission to retrieve
5 the weapon for their safety. He grants them
6 permission and they open the night-stand drawer -- he
7 tells them where it is -- and they find two loaded
8 firearms in the night-stand drawer, a .38 revolver
9 and a .9mm semiautomatic pistol.

10 After that, the search warrant -- excuse me.
11 After that, metro narcotics detectives arrive. While
12 they're still waiting on the search warrant -- just
13 so you're clear on search warrants, when they ask for
14 one, they have to call in to draft it, they have to
15 get a judge to sign it. So it's not a five, fifteen-
16 minute process. It takes a while.

17 So metro narcotics arrive on scene while other
18 detectives are obtaining a search warrant. While
19 they are on scene waiting on the search warrant, one
20 of the detectives talks to the defendant and takes a
21 statement from him. You're going to hear about that
22 oral statement and you're also going to hear that
23 that statement was reduced to writing.

24 What that statement said by the defendant is
25 that: in the room you're going to find seven ounces

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1 of ice, methamphetamine, as well as at least one gun
2 and bullets, and they all belong to me. That's the
3 charges right there: trafficking methamphetamine,
4 possession of a weapon during the commission of a
5 violent crime, possession of a firearm or ammunition
6 by a person who's been convicted of a violent crime.

7 Subsequently, detectives arrive with the search
8 warrant. They go in the room and search. Amongst
9 other items, they find exactly those items described
10 by the defendant. It's that simple.

11 The evidence is going to be presented through
12 testimony of officers and other witnesses. You're
13 going to see some evidence. I told you you'll see
14 photos. You'll see physical evidence. I ask you to
15 pay close attention to it. It's not always exciting.
16 We wish it was. We wish it played like a movie, but
17 it doesn't.

18 We're going to present you everything we need
19 to present you to prove those charges against this
20 defendant. But please bear with us. Like I said,
21 it's not always going to be riveting, edge-of-your-
22 seat material, but it's something we need to show you
23 to make sure you have the best picture you can before
24 you're asked to make a decision.

25 You're going to hear from some SLED witnesses.

State vs. Joseph Umphlett
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August 29, 2015

1 And just as a preface, we'll let you know that people
2 may not be called in perfect chronological order.
3 You all know you have schedules and plans and things
4 you have to attend to. So do all these people. And
5 half of them don't even live in the area so they've
6 got to travel in and we're going to do our best to
7 accommodate their schedule, make them available when
8 we can. Just know that it's not going to be a
9 perfect chronological story, but that we're giving
10 you everything we need to prove the charges. So
11 don't be shocked if you hear something that doesn't
12 sound like it happened right after the thing before
13 it.

14 The State anticipates in this case that the
15 defense for this defendant is going to be, they
16 weren't my drugs and guns; I was in the room at the
17 time but these weren't mine; they belonged to the
18 other lady in the room.

19 Pay close attention to what I just told you:
20 the statement of the defendant and what they find
21 when they execute that search warrant. It is too
22 spot-on for them not to be the defendant's drugs and
23 guns.

24 Look and listen carefully. Like I said, we
25 appreciate your time and attention to this. I know

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Opening Statement by Mr. McNeely
August 29, 2015

1 it's not always pleasant, but without you, this
2 process doesn't take place. You're the key to the
3 whole system. I do want to thank you for your time.
4 I look forward to being with you here in the trial.
5 Thank you.

6 THE COURT: Mr. Seaton?

7 MR. SEATON: Thank you, Your Honor.

8 At this point, Mr. Umphlett would waive or
9 would reserve his right to opening until the close of
10 the State's case.

11 THE COURT: All right. Thank you.

12 Call your first witness.

13 MR. MCNEELY: The State calls Nicole Pia, Your
14 Honor.

15 May we approach?

16 THE COURT: You may

17 [Whereupon, an off-the-record bench conference
18 is held]

19 [Whereupon, Ms. Pia comes forward]

20 THE CLERK OF COURT: Place your left hand on
21 the Bible and raise your right hand.

22 [Whereupon, Ms. Pia is duly sworn by the clerk
23 of court as follows: do you solemnly swear or affirm
24 the testimony you shall give in this case shall be
25 the truth, the whole truth, and nothing but the

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Opening Statement by Mr. McNeely
August 29, 2015

1 truth, so help you God]

2 THE WITNESS: Yes, ma'am.

3 THE CLERK OF COURT: Thank you. If you'll have
4 a seat.

5 [Whereupon, Ms. Pia takes the witness stand]

6 THE CLERK OF COURT: State your full name for
7 the record, and spell your last name.

8 THE WITNESS: My name is Nicole Pia. My last
9 name is P-I-A.

10 MR. MCNEELY: Good morning, Ms. Pia. How are
11 you doing today?

12 THE WITNESS: Good. How are you, sir?

13 MR. MCNEELY: I'm doing well. Thank you.

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Nicole Pia
Direct Examination by Mr. McNeely
September 29, 2015

NICOLE PIA,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MCNEELY:

Q. Where are you currently employed?

A. At the Charleston County Aviation Authority.

Q. What is your position there and how long have
you been employed there?

A. I'm a dispatcher. I've been there for four
months.

Q. When you're a dispatcher, what do you do?

A. We answer emergency calls, non-emergency calls.
We take those calls for service, put them in our computer
system, and dispatch out the correct units.

Q. Where were you employed on May 11th, 2014?

A. The Summerville Police Department.

Q. And what was your position at that time, and
how long had you been there?

A. I was a dispatcher, and at that time I was
there for seven years.

Q. What were the duties of your position in
that --

A. I answered 911 calls; I answered non-emergency
calls.

Nicole Pia
Direct Examination by Mr. McNeely
September 29, 2015

1 We put the calls in for service, dispatched
2 police officers, ran information. Also dispatched out
3 the fire department.

4 Q. So just so I'm clear, you answered both
5 emergency and non-emergency calls?

6 A. Yes, sir.

7 Q. Those calls are placed -- 911 or a non-
8 emergency call, they come to the same dispatch center?

9 A. Yes, sir.

10 Q. Were records kept of all calls received by the
11 Summerville Police Department?

12 A. As far as I know they were automatically
13 recorded, as they were coming in, onto some system. I'm
14 not sure which one.

15 Q. Did that include both 911 emergency and non-
16 emergency calls?

17 A. Yes, sir.

18 Q. Did the records include, to your knowledge, a
19 recording of the actual call?

20 A. Yes, sir.

21 Q. Do you know where those -- were those records
22 kept as a regular practice or course of business?

23 A. As far as I know, it was an automatic part of
24 the computer system where anything that came in was
25 automatically recorded.

Nicole Pia
Direct Examination by Mr. McNeely
September 29, 2015

1 Q. So no question, every call made is
2 automatically recorded?

3 A. It's supposed to be, yes, sir.

4 Q. Do you recall receiving a call on May 11th,
5 2014, in the evening, about a child-welfare check?

6 A. Yes, sir.

7 Q. Do you recall who made that call to you?

8 A. I believe that was Lisa Parker.

9 Q. Do you recall what location she was requesting
10 the child-welfare check to be performed?

11 A. It was at a hotel on Holiday Drive. I'm not
12 quite sure which one at this time.

13 Q. Do you recall who the children were alleged to
14 be with?

15 A. They were with their mother and their mother's
16 boyfriend, I believe.

17 Q. Do you recall the names of those individuals?

18 A. Not at this time off the top of my head.

19 Q. If I showed you the CAD report, would that
20 refresh your memory?

21 A. Yes, sir.

22 MR. MCNEELY: May I approach, Your Honor?

23 THE COURT: You may.

24 [Whereupon, the witness reviews documents]

25 A. The mother I believe was Kory Abdon, and her

Nicole Pia
Direct Examination by Mr. McNeely
September 29, 2015

1 boyfriend was Joseph Umphlett.

2 Q. [Mr. McNeely] Do you recall the reason the
3 child-welfare check was requested?

4 A. Yes.

5 MR. SEATON: Objection, Your Honor.

6 THE COURT: Basis?

7 MR. SEATON: Hearsay.

8 THE COURT: Is there an exception?

9 MR. MCNEELY: We believe it's not hearsay, Your
10 Honor.

11 THE COURT: Approach.

12 [Whereupon, an off-the-record bench conference
13 is held]

14 THE COURT: We'll place this on the record.
15 Sustained.

16 MR. SEATON: Thank you, Your Honor.

17 Q. [Mr. McNeely] Just so I'm clear where we were
18 before that.

19 You recall that the reason officers were
20 requested out to the hotel was to perform a child-welfare
21 check; is that correct?

22 A. Yes, sir.

23 Q. Did you dispatch officers to the scene?

24 A. I don't believe I was the one that dispatched
25 officers to the scene, but officers were dispatched.

Nicole Pia
Direct Examination by Mr. McNeely
September 29, 2015

1 Q. Can you explain to the jury how that would
2 work?

3 A. I would have been the person taking the call.
4 The person sitting on our main police channel would have
5 dispatched the officers in that zone or any officer that
6 was available to go to that area that was on duty at that
7 time.

8 Q. So you wouldn't definitely be the person
9 dispatching the officers?

10 A. Not in this case.

11 Sometimes when we got over-inundated, the
12 person who was on the main police channel would also
13 receive phone calls. But in this case I was not the
14 person.

15 Q. Just so I and the jury are clear, how many
16 people are working in the dispatch center at one time?

17 A. Generally, we had had three. Occasionally
18 there would be two, if one person was on break, or four
19 if we had an extra person that day.

20 Q. So that can get pretty busy if a lot of calls
21 are coming in?

22 A. Yes, sir.

23 Q. And to the best of your knowledge, officers
24 were dispatched to the Economy Inn in response to this
25 welfare request?

Nicole Pia
Direct Examination by Mr. McNeely
September 29, 2015

1 A. Yes, sir.

2 MR. MCNEELY: No further questions at this
3 time, Your Honor.

4 THE COURT: Mr. Seaton?

5 MR. SEATON: Thank you, Your Honor.

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Nicole Pia
Cross-Examination by Mr. Seaton
September 29, 2015

CROSS-EXAMINATION

BY MR. SEATON:

Q. Are you aware that they were first dispatched to the Eco Lodge -- or the Econo Lodge, rather than the Economy Lodge?

A. I believe, according to the phone call, it was given to us as one hotel and then later in the call, from what I can tell, they wound up determining it was a different hotel.

Q. And are you also aware that there were no children in the room?

A. I was not there for the rest of the call. After the call was taken, my shift was over and I went home.

MR. SEATON: Thank you. Nothing further, Your Honor.

MR. MCNEELY: Nothing further from the State, Your Honor.

THE COURT: You may step down. Thank you.

MR. MCNEELY: Would you like me to get the CAD, Your Honor?

THE COURT: If she will just leave it. Have you marked it?

MR. MCNEELY: I have not, Your Honor. I'm not.

THE COURT: She can just leave it right there

Nicole Pia
Cross-Examination by Mr. Seaton
September 29, 2015

1 and you can retrieve it.

2 MR. MCNEELY: Thank you.

3 [Whereupon, Ms. Pia is excused and exits the
4 witness stand]

5 THE COURT: Call your next witness.

6 MS. NICKLES: The State calls Lisa Parker.

7 [Whereupon, Ms. Parker comes forward]

8 THE CLERK OF COURT: If you'll place your left
9 hand on the Bible, and raise your right.

10 [Whereupon, Ms. Parker is duly sworn by the
11 clerk of court as follows: do you solemnly swear or
12 affirm the testimony you shall give in this case
13 shall be the truth, the whole truth, and nothing but
14 the truth, so help you God]

15 THE WITNESS: I do.

16 THE CLERK OF COURT: Thank you. If you'll have
17 a seat.

18 [Whereupon, Ms. Parker takes the witness stand]

19 THE CLERK OF COURT: State your full name for
20 the record, and spell your last name.

21 THE WITNESS: My name is Lisa Parker, and it's
22 spelled P-A-R-K-E-R.

23 THE COURT: Ms. Nickles.

24 MS. NICKLES: Good morning, Ms. Parker.

25 THE WITNESS: Good morning.

Nicole Pia
Cross-Examination by Mr. Seaton
September 29, 2015

1 MS. NICKLES: How are you?

2 THE WITNESS: Fine. Nervous.

3 MS. NICKLES: A little nervous? Have you ever
4 testified in court before?

5 THE WITNESS: No.

6 MS. NICKLES: We'll start out simple.

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Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

LISA PARKER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. NICKLES:

Q. Can you tell the jury where you live?

A. I live at 109 Carey Lane in Summerville.

Q. And where are you employed?

A. Edward Jones.

Q. Do you have any children?

A. I do. I have two daughters.

Q. And what are their names?

A. Kory, who is twenty-four; and Dana, who is
twenty-seven.

Q. And what are their last names?

A. Abdon.

Q. Okay. So Kory Abdon is your daughter?

A. Uh-huh.

Q. Do you have any grandchildren?

A. I do. I have four. Two boys and two girls.

Q. And could you tell the jury which daughter has
which children?

A. Kory has a five-year-old son and a four-year-
old daughter, and my daughter Dana has a one-year-old
daughter and a six-year-old son.

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 Q. And do you remember the day of May 11, 2014?

2 A. Yes, I do.

3 Q. What day was that?

4 A. It was Mother's Day and it was a Sunday.

5 Q. Did you see any of your children on that day?

6 A. Yes.

7 I saw all of them, except for my youngest
8 granddaughter. She wasn't born yet.

9 Q. So you saw Kory with her two children?

10 A. I did.

11 Q. Was anyone else with them?

12 A. Joe and his two sons.

13 Q. And what was their relationship at that point?

14 A. It was fairly new. They had just started
15 dating earlier, a couple of months prior to that.

16 Q. And where were you on Mother's Day?

17 A. We were at their Aunt Sandy's, my daughters'
18 Aunt Sandy's house, for a Mother's Day dinner.

19 Q. Is Sandy your sister?

20 A. My ex sister-in-law, yeah.

21 Q. Okay. About how long were y'all together?

22 A. I had gotten there earlier in the day and they
23 had gotten there later, and so I was with Kory and her
24 children probably about thirty to forty-five minutes --

25 Q. And you said she --

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 A. -- and I left.

2 Q. -- was with a man named Joseph Umphlett?

3 A. Yes.

4 Q. Do you see him in the courtroom today?

5 A. Yes.

6 Q. Can you please point out where he's sitting?

7 A. Right there.

8 Q. What is he wearing?

9 A. A black shirt, I believe.

10 MS. NICKLES: Let the record reflect that the
11 witness has identified the defendant.

12 THE COURT: Could you speak loudly into the
13 microphone? One more time --

14 THE WITNESS: Oh. I'm sorry.

15 THE COURT: -- could you describe what he is
16 wearing?

17 THE WITNESS: A black shirt.

18 THE COURT: Any objection?

19 MS. NICKLES: I know you're nervous but --

20 MR. SEATON: No. No objection, Your Honor.

21 THE COURT: The record will reflect this
22 witness has identified the defendant.

23 MS. NICKLES: Thank you, Your Honor.

24 Q. [Ms. Nickles] So you said y'all were -- you
25 got there before them, and then they arrived, and then

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 they left prior to your leaving?

2 A. No. I left first.

3 Q. You left first?

4 A. Uh-huh.

5 Q. So approximately how long were y'all together?

6 A. About thirty, forty-five minutes, all together.

7 Q. How did your daughter appear to you that day?

8 A. Tired.

9 MR. SEATON: Objection, Your Honor. Relevance.

10 THE COURT: I'm going to allow it.

11 Q. [Ms. Nickles] Later that day, after you left
12 the Mother's Day gathering, did you have an occasion to
13 make a call to Summerville Fire and Police?

14 A. It was the same -- that evening, yes.

15 Q. I'm going to hand you what's been marked as
16 State's Exhibit 1.

17 MS. NICKLES: Your Honor, may I approach?

18 THE COURT: You may.

19 Q. [Ms. Nickles] Now, do you recognize this?

20 A. Yes.

21 This is the tape, the 911 tape, that I listened
22 to in your office.

23 Q. How do you know?

24 A. Because I initialed it with the date.

25 Q. And did you recognize your voice on that tape?

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 A. Yes.

2 Q. When you listened to that recording, was it
3 a -- did you believe that it had been altered --

4 MR. SEATON: Your Honor -- Your Honor, I'm
5 going to object.

6 May we approach?

7 THE COURT: You may.

8 [Whereupon, an off-the-record bench conference
9 is held]

10 Q. [Ms. Nickles] Ms. Parker, you just testified
11 that you did listen to that call. Can you describe your
12 demeanor during that call? How were you feeling when you
13 made that call?

14 A. Anxious. Worried for my grandchildren.

15 Q. Did you make that call as the immediate result
16 of receiving some information?

17 MR. SEATON: Objection, Your Honor. Leading.

18 THE COURT: Sustained.

19 Q. [Ms. Nickles] When did you make that call?

20 A. It was probably early evening. I'm going to
21 say probably about nine o'clock.

22 Q. When did you receive info that led you to make
23 this call?

24 A. Well, it was Mother's Day weekend and the
25 children had gone to their dad's on Mother's Day weekend.

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 And we were having a Mother's Day celebration at Aunt
2 Sandy's, a luncheon, and I went and got the kids and
3 brought them to Aunt Sandy's. And after I got home, I
4 received a phone call from Gauge's [phonetic] father --

5 MR. SEATON: Objection.

6 THE COURT: Basis?

7 MR. SEATON: Your Honor, I believe she was
8 about to tell us what someone said. So I --

9 THE COURT: Overruled on your --

10 MR. SEATON: -- to prevent from --

11 THE COURT: -- anticipatory objection.

12 MR. SEATON: Yes, ma'am.

13 THE COURT: Thank you.

14 Q. [Ms. Nickles] And without saying what he told
15 you, what actions did you take as a result of that
16 conversation?

17 A. I called the Summerville Police Department
18 non-emergency line to see what it would take to do a
19 wellness check for my grandchildren.

20 Q. As a result of that conversation, what was your
21 emotional state?

22 A. Very worried, very concerned.

23 Q. And did you hear that on the call when you --

24 A. Yeah.

25 Q. So prior to making this call, you received

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 information and you were still under the influence of the
2 emotions of that information --

3 MR. SEATON: Objection, Your Honor. First of
4 all --

5 THE COURT: Sustained. No speaking objections.
6 Sustained.

7 Q. [Ms. Nickles] Can you describe one more time
8 the emotions you were feeling and what led to those
9 emotions?

10 MR. SEATON: Objection --

11 THE COURT: Sustained.

12 MR. SEATON: -- asked and answered.

13 MS. NICKLES: Your Honor, at this time I would
14 offer State's Exhibit 1 into evidence.

15 THE COURT: Any objection?

16 MR. SEATON: Yes, Your Honor.

17 I have numerous objections that I think need to
18 be taken up outside --

19 THE COURT: And at this time I do not believe
20 you have laid the foundation. It is still hearsay.
21 You have not established that it is a present sense
22 impression or an excited utterance.

23 MS. NICKLES: Thank you, Your Honor.

24 Q. [Ms. Nickles] When you made that call, did --
25 was it answered?

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 A. Yes.

2 Q. And did you request -- what did you ask in that
3 call?

4 A. I told the --

5 Q. Without saying what anyone said.

6 A. No.

7 I told the operator that I was very concerned
8 for my grandchildren; they were at a motel, living in a
9 motel, that I did not -- me, myself, I don't find
10 appropriate; I would never want my grandchildren to be in
11 that environment; and I was afraid for them, especially
12 where the location was of the motel.

13 Q. Were you able to give the operator any
14 identifying information to help them find where the
15 children were?

16 A. I wasn't exactly sure what room they were in,
17 but I did give them the information about my daughter's
18 car and Joe's car at the time.

19 Q. Did you also provide their names?

20 A. Yes.

21 Q. Did you give them the names of your
22 grandchildren?

23 A. Yes.

24 Q. What led you to believe that your grandchildren
25 would be in that motel?

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 A. I had -- I received information that they were
2 staying at that motel. I had also, in the past week or
3 so, dropped them off or coordinated to pick up some
4 clothes from that motel with my daughter.

5 Q. So you had -- had you seen the children at the
6 motel?

7 A. [No response]

8 Q. Or their belongings?

9 A. Their belongings, yes. With me, the children
10 with me and my -- with my daughter, they stopped and got
11 something. Yes, I had seen them there.

12 Q. When you were giving this information to the
13 operator --

14 A. Uh-huh.

15 Q. -- did you believe it to be true?

16 A. Yes.

17 Q. Why did you make the call?

18 A. Because I was worried for my grandchildren.

19 MR. SEATON: Your Honor, that's been asked and
20 answered twice.

21 THE COURT: Overruled.

22 Q. [Ms. Nickles] And you say that you were very
23 emotional?

24 A. Yes.

25 Q. And as a result of this call, did you

Lisa Parker
Direct Examination by Ms. Nickles
September 29, 2015

1 eventually -- whose custody are the children in?

2 MR. SEATON: Objection, Your Honor.

3 THE COURT: Basis?

4 MR. SEATON: Hearsay, and Rule 401 -- excuse
5 me. Not hearsay, but certainly relevance.

6 MS. NICKLES: Your Honor --

7 MR. SEATON: And Rule 401, obviously.

8 THE COURT: Counsel approach.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Sustained as to relevance.

12 MR. SEATON: Thank you, Your Honor.

13 MS. NICKLES: Ms. Parker, a few last questions.

14 Q. [Ms. Nickles] When you originally called, did
15 you know the name of the hotel?

16 A. No.

17 Q. Did you give officers a physical location of
18 the hotel?

19 A. I sure did.

20 MS. NICKLES: I have no further questions.
21 Thank you.

22 THE COURT: Mr. Seaton?

23 MS. NICKLES: Please answer any questions
24 Mr. Seaton has.

25 MR. SEATON: Thank you, Your Honor.

Lisa Parker
Cross-Examination by Mr. Seaton
September 29, 2015

CROSS-EXAMINATION

BY MR. SEATON:

Q. You called and asked that you be anonymous;
correct?

A. Yes.

Q. And you talked with the police officers who
went to the scene?

A. [No response]

Q. Didn't one of the police officers call you
after they had been on the scene?

A. The only reason why he called me is because I
asked them to call me and tell me where my grandchildren
were.

Q. Now if you would answer the question I asked
you. And that was after being asked to be anonymous, you
talked with the police officer after he had been on the
scene; correct?

A. Yes.

Q. And he told you there were not children there?

A. Not until -- there was quite a few calls in
between, and not until four o'clock the next morning.

Q. All right. Would you agree with me, ma'am,
that no one ever told you anything except that no police
officer ever saw any children there? Would you agree
with that?

Lisa Parker
Cross-Examination by Mr. Seaton
September 29, 2015

1 A. Nobody told me that.

2 They didn't call me until four o'clock the next
3 morning. I had to wait from --

4 Q. And what did they tell you, ma'am?

5 A. -- 9:00 to four o'clock the next morning --

6 THE COURT: Please don't speak over each other.

7 A. I had to wait from nine o'clock, from my call,
8 to four o'clock the next morning before they contacted me
9 back and told me that my grandchildren were not there.

10 Q. So in answering the question that I actually
11 asked you, you would agree with me that no police officer
12 ever told you that the children were at the hotel;
13 correct?

14 A. [No response]

15 Q. Is that correct?

16 A. Rephrase that.

17 Q. Nobody ever told you the children were there;
18 correct?

19 A. Yes, they did, at four o'clock in the morning.

20 Q. They told you the children were not there.

21 A. Told me they were not there, at four o'clock in
22 the morning.

23 Q. And did they also tell you that from the minute
24 that they arrived after you called to make this welfare
25 check, until the minute they finally called you, at no

Lisa Parker
Cross-Examination by Mr. Seaton
September 29, 2015

1 time during any of that period were the children ever
2 there? Would you agree with that?

3 A. I didn't know until four o'clock because they
4 wouldn't give me any information.

5 MR. SEATON: Your Honor, would you instruct her
6 to please answer the question.

7 THE COURT: I believe she answered the
8 question.

9 Q. [Mr. Seaton] At no point; correct?

10 A. At no point did they tell me that they were
11 safe until four o'clock that morning.

12 Q. And at four o'clock in the morning, they told
13 you the children were never there?

14 A. Yes.

15 MR. SEATON: Thank you.

16 THE COURT: Ms. Nickles?

17 MS. NICKLES: Just a few follow-up questions.

18 THE COURT: Take your time.

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Lisa Parker
Redirect Examination by Ms. Nickles
September 29, 2015

REDIRECT EXAMINATION

BY MS. NICKLES:

Q. Ms. Parker, he asked you about asking to remain anonymous on this call. Did you ask to remain anonymous?

A. I did.

Q. And why did you do that?

A. With the limited information I knew about Joe, I didn't know how far his drug activity and his illegal activity took him. And, yes, I still fear for that. And I wanted to remain anonymous because I didn't want them to take any retaliation back on me.

Q. Did you eventually give your name? Even though you initially stated that you wanted to be anonymous --

A. Yes, I did.

Q. -- did you initially give your name?

A. Yes, I did, because it was -- I wanted them to call me back and tell me if my grandchildren were okay.

Q. And clearly you're not anonymous. You're here in court today.

A. That's true.

Q. Did you give any other identification information to the operator after asking to remain anonymous?

A. Other than the --

Q. Information about yourself, other than your

Lisa Parker
Redirect Examination by Ms. Nickles
September 29, 2015

1 name?

2 A. No.

3 Q. Did they call you back?

4 A. Oh. My phone number. Yes. I gave them my
5 phone number.

6 Q. So initially you wanted to remain anonymous but
7 when they asked you for your information, you complied?

8 A. Yes.

9 The initial call was just me finding out if it
10 was possible for them to do a welfare check on my
11 grandchildren. And that's why I wanted to remain
12 anonymous, because it was the initial conversation trying
13 to find out what I could do.

14 MS. NICKLES: I don't have any further
15 questions. Thank you, Ms. Parker.

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Lisa Parker
Recross-Examination by Mr. Seaton
September 29, 2015

RECROSS-EXAMINATION

BY MR. SEATON:

Q. And your information was not correct. Would you agree with that?

A. Which information is not --

Q. That when you called and said, I need you to do a welfare check, you didn't even know where the kids were. They weren't at the hotel.

A. The children had left with my daughter from their Aunt Sandy's house. I was under the impression, given it being Mother's Day, that she would stay -- that her children would stay with her.

Q. But they didn't, did they?

A. I had no idea until four o'clock that morning.

MR. SEATON: Thank you.

THE COURT: You may step down. Thank you.

[Whereupon, Ms. Parker is excused and exits the witness stand]

THE COURT: Call your next witness.

MS. NICKLES: Your Honor, may she be excused?

THE COURT: Any objection?

MR. SEATON: Without objection, Your Honor.

THE COURT: Ms. Parker, you are free to leave but you are also free to stay with us. Thank you.

MR. MCNEELY: The State calls Patrick Ogier.

Lisa Parker
Recross-Examination by Mr. Seaton
September 29, 2015

1 THE COURT: Sir, please come forward and be
2 sworn.

3 [Whereupon, Mr. Ogier comes forward]

4 THE CLERK OF COURT: Left hand on the Bible,
5 raise your right hand.

6 [Whereupon, Mr. Ogier is duly sworn by the
7 clerk of court as follows: do you solemnly swear or
8 affirm the testimony you shall give in this case
9 shall be the truth, the whole truth, and nothing but
10 the truth, so help you God]

11 THE WITNESS: I do.

12 THE CLERK OF COURT: If you'll have a seat.

13 [Whereupon, Mr. Ogier takes the witness stand]

14 THE CLERK OF COURT: State your full name for
15 the record, and spell your last name.

16 THE WITNESS: Okay. My name is Patrick Yon
17 Ogier. The last name is spelled O-G-I-E-R.

18 MR. MCNEELY: Good morning, Mr. Ogier. How are
19 you?

20 THE WITNESS: Doing fine.

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Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

PATRICK OGIER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MCNEELY:

Q. Where are you currently employed?

A. I'm part time up at Economy Inn.

Q. Do you have another job?

A. Yes.

Q. What's your other job?

A. My other job is a full-time job, supervisor,
data marketing.

Q. Okay. What's your part-time job at the Economy
Inn?

A. About two shifts a week.

Q. What do you do there?

A. Desk clerk.

Q. You work the front desk?

A. Yes.

Q. What does that entail?

A. Checking guests in and basically monitoring the
till.

Q. When you say till, you mean the cash register?

A. Right.

Q. How long have you worked there, again?

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 A. About a year and a half. Little over a year
2 and a half. February of 2014.

3 Q. So you were employed there on May 11th, 2014?

4 A. Yes.

5 Q. Was your position at the time as a desk clerk?

6 A. Yes.

7 Q. You've continuously held that position?

8 A. What's that?

9 Q. Have you continuously held that position?

10 A. Yes.

11 Q. When people came into the hotel and rented
12 rooms, did you keep a record of that?

13 A. Yes.

14 Q. What were the records called?

15 A. The registration cards.

16 Q. Was the registration written, or was it
17 electronic?

18 A. It's written.

19 Q. Were those records made at or near the time the
20 room was rented?

21 A. I'm sorry. What --

22 Q. Were the registration cards created at the time
23 the room was rented?

24 A. Yes.

25 Q. What information did the room registration card

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 contain?

2 A. Name, address, vehicle that they're driving or
3 a description of it, how many days they've stayed, the
4 initial check-in date. And then we add additional days
5 on top of that, whatever they pay for.

6 Q. Just a clarification. You said name --

7 A. Address.

8 Q. -- address. Is that for the person renting the
9 room?

10 A. Correct. Right.

11 Q. Who fills out the information on that
12 registration card? Is it you, or is it the person
13 renting the room?

14 A. The person renting usually fills out the main
15 address. And they sign at the bottom, as well.

16 Q. You mentioned some parts about payment and
17 dates. Do you fill that out, or does the person renting
18 the room fill that out?

19 A. We fill it out as we're paid.

20 Q. So both you and the person renting the room
21 write on the card?

22 A. Correct.

23 Q. Were these records kept for all rooms rented?

24 A. Were those kept for what?

25 Q. Were these records created for all rooms rented

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 at the hotel?

2 A. Yes. Yes. Every room.

3 Q. Were the records kept as a regular course of
4 business practice for the business?

5 A. Yes.

6 Q. Where are the records kept?

7 A. They're kept in the office, locked up in the
8 office.

9 THE COURT: Hold on one second.

10 MR. SEATON: Your Honor, if it would help move
11 things along, I'm not going to object to the Economy
12 Inn receipt that they want to introduce. We're more
13 than happy to stipulate to --

14 THE COURT: All right. Ladies and gentlemen,
15 what Mr. Seaton has indicated is --

16 A stipulation is simply an agreement, typically
17 prior to coming into court. It is an agreement.

18 So at this time, do you have the receipt
19 marked?

20 MR. MCNEELY: I do, Your Honor. Marked as
21 State's Exhibits 2 and 3.

22 THE COURT: All right. Do you want --

23 MR. MCNEELY: May I --

24 THE COURT: -- to approach and offer those into
25 evidence?

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 And there's no objection; is that correct?

2 MR. SEATON: No objection, Your Honor.

3 MS. NICKLES: Thank you, Your Honor.

4 Q. [Mr. McNeely] Were you working on the --

5 THE COURT: Do you want to go ahead and make
6 your motion?

7 MR. MCNEELY: I do, Your Honor.

8 The State moves that State's Exhibits 2 and 3
9 be admitted into evidence.

10 MR. SEATON: Without objection.

11 THE COURT: State's 2 and 3 into evidence
12 without objection.

13 [Whereupon, State's Exhibit Number 2 is
14 admitted into evidence by the Court]

15 [Whereupon, State's Exhibit Number 3 is
16 admitted into evidence by the Court]

17 THE COURT: You may publish, or whatever you
18 intend to do with those.

19 MR. MCNEELY: Thank you, Your Honor.

20 Q. [Mr. McNeely] Were you working on the evening
21 of May 11th, 2014?

22 A. Yes, I was.

23 Q. What was your shift that day?

24 A. 3:00 to 11:00.

25 Q. 3:00 to 11:00 in the afternoon --

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 A. 3:00 p.m. to 11:00 p.m. Sorry.

2 Q. Do you recall police officers arriving at the
3 hotel that evening?

4 A. Yes.

5 Q. Do you recall approximately what time they
6 arrived?

7 A. It was in -- later in the evening. Around
8 dusk, I guess.

9 Q. Do you recall why the police officers told you
10 they came to the hotel?

11 MR. SEATON: Objection, Your Honor.

12 A. They were looking for Kory Abdon --

13 THE COURT: Hold on one second.

14 Mr. Seaton isn't speaking loudly enough, but
15 when he stands up, if you could stop speaking.

16 Please, if you will, for this witness state
17 your objection loudly.

18 MR. SEATON: Yes, Your Honor. Hearsay.

19 THE COURT: Hearsay. Is there an exception?

20 MR. MCNEELY: I'll rephrase the question.

21 THE COURT: All right. Thank you.

22 Q. [Mr. McNeely] Do you recall the reason
23 officers came to the hotel?

24 A. Yes.

25 Q. Can you tell the jury?

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 A. They were asking for Kory Abdon --

2 MR. SEATON: Objection, Your Honor. Again,
3 it's hearsay.

4 THE COURT: Is there an exception?

5 MR. MCNEELY: Not that I'm aware of, Your
6 Honor.

7 THE COURT: Rephrase your question. Sustained
8 as to hearsay.

9 Q. [Mr. McNeely] Were officers there to perform a
10 child-welfare check?

11 A. Yes.

12 Q. Were they looking for an individual named Kory
13 Abdon?

14 A. Correct. Yes.

15 Q. Did they ask you for information on that
16 individual?

17 A. Yes. They asked me what room she was in --

18 MR. SEATON: Your Honor, again --

19 A. -- and I provided it.

20 THE COURT: Hold on one second.

21 He indicated he is hard of hearing. He's
22 having trouble hearing, so I need you to speak loudly
23 so he can stop speaking.

24 MR. SEATON: In twenty years, that's probably
25 the first time you've had to tell me that --

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 THE COURT: That is --

2 MR. SEATON: -- Your Honor. But I certainly
3 will --

4 THE COURT: I will say that this is the first
5 trial.

6 MR. SEATON: Again, objection to hearsay.

7 THE COURT: Is there an exception?

8 MR. MCNEELY: I don't believe it's hearsay,
9 Your Honor. I'm not asking exactly what the officer
10 said.

11 THE COURT: All right. I'm going to allow that
12 question.

13 You may answer. Do you need him to restate it?

14 A. Well, they were asking for Kory Abdon's --

15 MR. SEATON: Again, hearsay.

16 THE COURT: All right. I -- overruled --

17 MR. SEATON: Is that loud enough?

18 THE COURT: I overruled your objection. I just
19 allowed him to rephrase it so this witness could
20 answer that question. Thank you.

21 A. They asked what room Kory Abdon was residing
22 in.

23 Q. [Mr. McNeely] Did you provide them with a copy
24 of the room registration card for Kory Abdon?

25 A. Yes.

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 Q. Is that what you're holding in your hand?

2 A. Yes.

3 Q. Do you recall what room Kory Abdon was staying
4 in?

5 A. Room 119.

6 Q. Did you tell officers that information?

7 A. Yes.

8 Q. What other information is on that room receipt?

9 A. Additional days. Her initial check-in and then
10 additional days, which were on the back of an additional
11 copy.

12 Q. Did you just show the officers that card, or
13 did you provide them a copy of that card?

14 A. I showed them the card.

15 Q. Did you provide anybody a copy of that card?

16 A. No.

17 Well, I don't remember if I -- I don't recall
18 if I actually made a copy for them. But I showed them
19 to -- the information.

20 Q. And at that point, did -- after you told the
21 officers where Kory Abdon was staying, did they leave the
22 front desk?

23 A. Yes.

24 MR. MCNEELY: Your Honor, at this time I would
25 request to publish the rent receipt to the jury.

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 THE COURT: You may.

2 MR. MCNEELY: Thank you.

3 THE COURT: Ladies and gentlemen of the jury,
4 the attorney has been instructed that he is to stop
5 speaking while y'all review the material. So that's
6 what we're going to be doing now.

7 [Whereupon, the jury reviews documents]

8 MR. MCNEELY: Please hand it back to the
9 witness. Back to the witness, please. Thank you.

10 Mr. Ogier, I just have a couple of follow-up
11 questions so you can sort of explain to the jury what
12 they just looked at.

13 Q. [Mr. McNeely] Does that receipt list the dates
14 that the room was rented?

15 A. Yes, it was.

16 Q. Can you tell the jury what those were, the date
17 range?

18 A. Well, she checked in on April the 28th and then
19 right up until the incident on May the 11th of 2014.

20 Q. Was their room continuously rented in her name
21 at that time?

22 A. Yes.

23 Q. You notice in the upper right-hand corner of
24 Exhibit 2 that there's a room-number slot and one is
25 scratched out and then another one is written over it?

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 A. Yes.

2 Q. Why is that?

3 A. Because she changed rooms. And looking at the
4 prices, you can tell that she changed from a single to a
5 double on five -- it looks like 5/4.

6 Q. Okay. How many occupants are listed on the
7 room?

8 A. Got two.

9 Q. How many vehicles are listed?

10 A. Only one.

11 Q. Are you sure about that?

12 A. Sorry?

13 Q. Can you look at it closer? Exhibit 2.

14 A. Right. Dodge Avenger -- oh, yeah. There's
15 two. Yeah. There are two.

16 Q. What are those two vehicles?

17 A. A black Saturn Ion and a Dodge Avenger, a gray
18 Dodge Avenger.

19 MR. MCNEELY: You can set the document down.

20 Just one final question, or a couple of final
21 questions.

22 Q. [Mr. McNeely] I'm sure you see a lot of people
23 while you're working at the desk at the Economy Inn;
24 correct?

25 A. Yes.

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 Q. Do you recall Kory Abdon? Do you recall seeing
2 her?

3 A. Yes.

4 I met -- talked to her briefly a couple of
5 times at the desk, as well while -- while she comes in
6 to pay. You know, I only work a couple of shifts a week,
7 so --

8 Q. On the occasions you saw Kory Abdon, was anyone
9 with her? Or was she by herself?

10 A. At the time, mostly by herself.

11 Q. You don't recall seeing anyone with her?

12 A. Not while she was at the desk.

13 MR. MCNEELY: Okay. Thank you very -- well,
14 one follow-up.

15 Q. [Mr. McNeely] Do you recall seeing anyone with
16 her any other time?

17 A. Well, from what I understand, she had children,
18 as well. You know, two kids.

19 Q. So you saw her at the hotel on some occasion
20 with two children?

21 A. Yeah. On cameras, yeah.

22 The cameras don't provide a real clear picture,
23 but we have video footage and whatnot.

24 Q. Did you ever see her with any other adults?

25 A. No.

Patrick Ogier
Direct Examination by Mr. McNeely
September 29, 2015

1 Q. Not that you recall?

2 A. Not that I recall, no.

3 MR. MCNEELY: Please answer any questions
4 Mr. Seaton has. Thank you.

5 MR. SEATON: Mr. Ogier, I apologize if I
6 pronounce your name wrong.

7 Could I grab those two receipts from you?

8 [Whereupon, the witness proffers documents to
9 Mr. Seaton]

10 MR. SEATON: Thank you.

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Patrick Ogier
Cross-Examination by Mr. Seaton
September 29, 2015

CROSS-EXAMINATION

BY MR. SEATON:

Q. I just wanted to make sure that I was correct
in that this receipt that you have was for Kory Abdon.

A. Correct.

Q. It was not for Mr. Umphlett?

A. No.

Q. And nowhere on here does it list Mr. Umphlett,
does it?

A. No.

Q. Do you know whether the -- it does list that
there was two occupants?

A. Yes.

Q. Would that have been correct, or incorrect, or
do you know?

A. Well, if she had two children, then it would
have been slightly incorrect, yes.

Q. And it does list two different cars that are
allowed to park there; is that correct?

A. Correct.

Q. Do you know whether one of those two cars was
Mr. Umphlett's?

A. I wouldn't know.

Q. And do you recall whether or not there was
anybody staying next door to them?

Patrick Ogier
Cross-Examination by Mr. Seaton
September 29, 2015

1 A. No. I wouldn't know.

2 Q. You have a fairly busy hotel?

3 A. Yes.

4 On the weekends, more than likely it fills up
5 so it's hard to get --

6 Q. Do you recall anybody ever complaining about
7 anything going on in room 119, anyone smoking marijuana,
8 or anything like that? Do you recall any complaints from
9 anybody, whether it's staff, guests, people walking
10 through? Do you recall any complaints?

11 A. No.

12 MR. SEATON: Okay. Thank you.

13 THE COURT: Mr. McNeely?

14 MR. MCNEELY: No further questions from the
15 State, Your Honor.

16 THE COURT: You may step down. You are free to
17 go. Thank you.

18 MR. MCNEELY: May he be excused, Your Honor?

19 THE COURT: He's free to go.

20 MR. SEATON: Without objection.

21 [Whereupon, Mr. Ogier is excused and exits the
22 witness stand]

23 THE COURT: Call your next witness.

24 MS. NICKLES: The State calls Ryan Tanner.

25 THE COURT: Madam Foreperson, one of your

Patrick Ogier
Cross-Examination by Mr. Seaton
September 29, 2015

1 responsibilities is to let us know if anybody needs
2 any additional breaks or anything of that nature.

3 So this is your foreperson. She will always be
4 seated right there. So if you ever need -- if you
5 need anything, please let her know. She'll alert the
6 bailiff and we'll handle the matter immediately. All
7 right?

8 So now would be an appropriate time for a
9 break, or we can continue. Yes?

10 THE FOREPERSON: No. We will continue.

11 THE COURT: Okay. Thank you.

12 [Whereupon, Mr. Tanner comes forward]

13 THE CLERK OF COURT: Place your left hand on
14 the Bible, and raise your right hand.

15 [Whereupon, Mr. Tanner is duly sworn by the
16 clerk of court as follows: do you solemnly swear or
17 affirm the testimony you shall give in this case
18 shall be the truth, the whole truth, and nothing but
19 the truth, so help you God]

20 THE WITNESS: I do.

21 THE CLERK OF COURT: If you'll have a seat.

22 [Whereupon, Mr. Tanner takes the witness stand]

23 THE CLERK OF COURT: State your full name for
24 the record, and spell your last name.

25 THE WITNESS: My name is James Ryan Tanner, and

Patrick Ogier
Cross-Examination by Mr. Seaton
September 29, 2015

1 my last name is spelled T-A-N-N-E-R.

2 THE COURT: Ms. Nickles?

3 MS. NICKLES: Thank you, Your Honor.

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Ryan Tanner
Direct Examination by Ms. Nickles
September 29, 2015

RYAN TANNER,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. NICKLES:

Q. Where are you currently employed?

A. Summerville Police Department.

Q. And how long have you been employed there?

A. Since October of 2009.

Q. And what is your position?

A. Right now I'm currently assigned to the
narcotics division as a detective.

Q. And, Detective, were you so employed on May
11th, 2014?

A. Yes, ma'am.

Q. And as a narcotics officer, do you have many
roles or do you have one role?

A. Kind of a jack of all trade, master of none.

Q. Wear many hats?

A. Yes, ma'am.

Q. What is your training and education, as far as
being in narcotics?

A. I attended a two-week class, which was
narcotics under cover, basic narcotics under cover, in
Meridian, Mississippi, and then advanced narcotics under

Ryan Tanner
Direct Examination by Ms. Nickles
September 29, 2015

1 cover also in Meridian, Mississippi.

2 Completed some online classes with Saint
3 Petersburg College.

4 Q. Among some of your duties as a narcotics
5 detective, do you ever have the occasion to process
6 evidence?

7 A. Yes, ma'am.

8 Q. And can you explain to the jury exactly what
9 processing evidence means?

10 A. Simply if you're taking it from the scene, you
11 collect. We take it back to our office where we'll --
12 and when I say process it: if it is narcotics, we'll
13 field-test that, weigh it, photo wrap it, and then heat-
14 seal it and send it to whichever evidence room,
15 Summerville or Dorchester County. If it -- as well as
16 any other evidence, it's not drug evidence, it will be
17 photographed and also sent to the same evidence room.

18 Q. Is drug evidence treated a little differently
19 than any kind of other physical evidence that you may
20 receive?

21 A. Yes, ma'am.

22 Q. How so?

23 A. With drug evidence, we have to make sure that
24 we weigh it, we get a good photograph of the evidence,
25 and the field test, and that it's heat-sealed with our

Ryan Tanner
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1 initials and the date of when it was sealed.

2 And then, depending on whether it is tested
3 locally or sent to SLED, a best kit would be completed if
4 it needs to be sent to SLED, and then taken to that
5 appropriate agency and submitted into evidence.

6 Q. And you said a best kit. Can you explain to
7 the jury what a best kit is?

8 A. A best kit is the forms that are required by
9 SLED to -- that you have to fill out and place the sample
10 or specimen or narcotics, or whatever, into that bag and
11 seal it up.

12 So on top of a heat-sealed bag that we do, it's
13 another seal that is submitted and then it goes to SLED
14 for them to test it. And it has a separate chain of
15 custody, the whole nine.

16 Q. And when you say chain of custody, again, just
17 for the jury so they understand, what exactly is a chain
18 of custody?

19 A. A chain of custody is pretty much a written
20 form saying that it's coming from my hand, the sample of
21 narcotics, whatever, then it's going to the evidence
22 room. And so it'll go from me to the evidence room.

23 Q. So you keep a log, essentially, of everyone who
24 handles --

25 A. That evidence.

Ryan Tanner
Direct Examination by Ms. Nickles
September 29, 2015

1 Q. -- drug evidence?

2 A. Yes, sir.

3 Q. Can you explain where evidence is kept before
4 and after it's processed?

5 A. Prior to, depending on the situation, if it
6 allows, would come straight from whichever scene there is
7 and bring it to our office, process it, and take it to
8 whichever evidence locker it goes to.

9 Q. And these places that you keep the evidence,
10 I'm assuming they're a secure location?

11 A. Yes.

12 Q. And only limited, specific people have access
13 to those locations?

14 A. Yes.

15 Q. Let's fast forward a little bit to May 12th,
16 2014. Did you receive any evidence from officers, other
17 detectives with metro narcotics regarding this scene,
18 this cases, the State versus Joseph Umphlett?

19 A. I did.

20 Q. And where were you when you received that
21 evidence?

22 A. In our office.

23 Q. And can you tell me where that office is?

24 A. It's located within Summerville.

25 Q. How did you become involved in processing -- or

Ryan Tanner
Direct Examination by Ms. Nickles
September 29, 2015

1 in connection with this evidence?

2 A. On the 12th, I responded to work at the normal
3 time. And I knew that there had been a call-out the
4 previous night. So when I came to work I asked the
5 detectives that had been on the call-out, hey, do you
6 guys need any help with anything. And the case agent,
7 Detective Strickland, was working on the report.
8 Detective Hurshel Tanner was working on the search
9 warrant return. And they said that, yes, if you would
10 complete the evidence, you process the evidence. So at
11 that time I asked Sargent Thompson to open his safe, I
12 retrieved the drug evidence from that safe, processed it,
13 field-tested, the whole nine, and then it was submitted
14 for evidence.

15 Q. And, again, just to explain some of these
16 technical terms. When you say that Detective Tanner was
17 working on a return, what is a return?

18 A. A search warrant return is a written list of
19 anything that was removed during the execution of a
20 search warrant. Whether it be any kind of illegal drugs
21 or paraphernalia or anything like that, everything is
22 noted and written down as to what was removed from
23 whichever residence or -- during that search warrant.

24 Q. Does that essentially begin the chain of
25 custody?

Ryan Tanner
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1 A. Yes.

2 Q. So you have a log of everything that was
3 removed?

4 A. Yes.

5 Q. You have the person who removed it?

6 A. Yes, ma'am.

7 Q. And then they hand it off either to evidence or
8 to someone to process it or to another person to log it
9 into a secure location?

10 A. Yes, ma'am.

11 Q. And in this case do you know who Mr. Tanner,
12 who did the return, gave the evidence to?

13 A. The drug evidence was secured in Sargent
14 Thompson's safe.

15 Q. So from Tanner on scene, to Thompson --

16 MR. SEATON: Objection, Your Honor. Leading.

17 THE COURT: Watch your leading questions.

18 MS. NICKLES: Thank you.

19 THE COURT: Thank you.

20 Q. [Ms. Nickles] Who did it go -- who did the
21 drug evidence come from in this case?

22 A. The drug evidence went from Detective Hurshel
23 Tanner to Detective Sargent Frank Thompson. And then
24 from the next day, Sargent Frank Thompson to myself.

25 Q. And when you say the next day, where was the

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1 evidence stored in between?

2 A. It was in a safe that was secured on itself,
3 and then also in our office, which is secured.

4 Q. And which particular evidence was in the safe?

5 A. Just the drug evidence.

6 Q. And who had access to that safe?

7 A. Only Sargent Frank Thompson.

8 Q. And who opened that safe for you?

9 A. Sargent Frank Thompson.

10 Q. And then what did you do once you retrieved it?

11 A. Once I retrieved it I photographed it, weighed
12 it, did the field test on it, and then heat-sealed it and
13 submitted it for evidence.

14 MS. NICKLES: I beg the Court's indulgence.

15 THE COURT: Take your time.

16 MS. NICKLES: Your Honor, I'm showing defense
17 what has been marked State's Exhibits 61 through 110.

18 [Whereupon, Mr. Seaton reviews documents]

19 MS. NICKLES: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. [Ms. Nickles] Detective Tanner, I'm going to
23 hand you what's been marked as State's Exhibits 61
24 through 110. Will you take a look through those and tell
25 me if you recognize those?

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1 [Whereupon, the witness reviews documents]

2 A. Yes, ma'am.

3 Q. [Ms. Nickles] Make sure you recognize all of
4 them.

5 [Whereupon, the witness reviews documents]

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

7 Q. [Ms. Nickles] And what are those?

8 A. These are the photographs that I took of the
9 evidence from that search warrant.

10 Q. And that's a part of -- you took those as a
11 part of what?

12 A. Part of processing the evidence. Yes, ma'am.

13 MS. NICKLES: Your Honor, at this time, the
14 State --

15 Q. [Ms. Nickles] I'm sorry.

16 Do these pictures fairly and adequately depict
17 the way that everything appeared to you as you were
18 processing the evidence?

19 A. Yes, ma'am.

20 MS. NICKLES: Your Honor, at this time the
21 State would move to admit State's Exhibits 61 through
22 110.

23 THE COURT: Any objection?

24 MR. SEATON: I would object, Your Honor.

25 No proper foundation has been laid. We've

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1 already talked about the chain of -- the chain of
2 custody.

3 THE COURT: I understand.

4 State's 61 through 110 into evidence over your
5 objection, noting --

6 MR. SEATON: Your Honor, I would have --

7 THE COURT: -- my previous ruling.

8 MR. SEATON: -- a secondary objection and that
9 is --

10 THE COURT: All right. Then approach.

11 [Whereupon, an off-the-record bench conference
12 is held]

13 THE COURT: They're in evidence, noting his
14 objection.

15 MS. NICKLES: Thank you, Your Honor.

16 THE COURT: Thank you.

17 [Whereupon, State's Exhibit Numbers 61 through
18 110 are admitted into evidence by the Court]

19 MS. NICKLES: Your Honor, if I may have
20 permission to let the witness step down just so he
21 can display -- publish some of these to the jury --

22 THE COURT: Do you not have --

23 MS. NICKLES: -- not all of them.

24 THE COURT: What's going on?

25 MS. NICKLES: Your Honor, I was just going to

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1 have him show some of these pictures, if he may step
2 down.

3 MR. SEATON: Your Honor, I'm going to object if
4 he's going to stand over there and hand --

5 THE COURT: Mr. Seaton, we're trying to --

6 You know, we have the technology. What's going
7 on with the technology? What happened?

8 What's not working, Ms. Brown?

9 MS. BROWN: No, ma'am. I don't have any
10 pictures in --

11 THE COURT: You don't have them in your --

12 MS. NICKLES: We don't have them for that --
13 for this.

14 THE COURT: Okay.

15 MS. NICKLES: I just wanted him to show a few.

16 THE COURT: You may step down. Please speak
17 loudly.

18 [Whereupon, the witness exits the witness
19 stand]

20 THE COURT: And make sure, Ms. Nickles, that he
21 is noting for the record what picture he is looking
22 at.

23 MS. NICKLES: Right.

24 Q. [Ms. Nickles] And, Detective Tanner, if you
25 could just pick a few of those to show the jury what

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1 exactly you do when you process the evidence. And if you
2 would reference the picture by the number --

3 A. On the back?

4 Q. -- on the back.

5 A. Yes, ma'am.

6 The State's Exhibit 61, this is how the
7 evidence was received, how it was packaged, upon myself
8 taking custody of it.

9 This is State's Exhibit 62. This is one of the
10 bags being weighed out, which is a process of, as I would
11 say, processing the evidence.

12 MR. SEATON: Your Honor, I'm going to object to
13 the procedure here. I think he's --

14 THE COURT: It's noted for the record. He's
15 publishing the pictures --

16 MR. SEATON: -- well, then --

17 THE COURT: Mr. Seaton, it's noted for the
18 record. Thank you.

19 A. State's Exhibit 63, which is a second bag that
20 was processed.

21 State's Exhibit 66. This is what as we call
22 field test. It's an initial test, it's not a lab test,
23 that shows it presumptive of --

24 MR. SEATON: Objection, Your Honor.

25 THE COURT: All right. Please have a seat.

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1 [Whereupon, the witness re-takes the witness
2 stand]

3 THE COURT: Ladies and gentlemen, it's an
4 appropriate time for us to take our midmorning break.

5 Do not begin your deliberations. Do not
6 discuss this case amongst yourselves.

7 Take your notepads with you, or leave them in
8 your chair. Thank you.

9 Please rise for the jury. Detective, remain
10 seated. Thank you.

11 [Whereupon, the jury exits the courtroom at
12 11:02 a.m.]

13 THE COURT: Thank you. Please be seated.

14 All right. Ms. Nickles, I gave you wide
15 latitude, because I was just allowing him to walk up
16 and down. But he must respond to questions. So when
17 the jury comes back, you will pick the pictures and
18 you will ask the questions and then you can display
19 the --

20 MS. NICKLES: Yes, Your Honor.

21 THE COURT: -- photograph.

22 That is the procedure that we are going to be
23 using. All right?

24 MS. NICKLES: Thank you, Your Honor.

25 THE COURT: If you would just let Mr. Seaton

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1 know. We'll go ahead and take our break. If you
2 will let Mr. Seaton know which ones you plan to
3 inquire about. All right?

4 MS. NICKLES: Thank you.

5 MR. SEATON: Your Honor --

6 THE COURT: We're going to take our break. Do
7 not discuss your testimony with anyone. The rule of
8 sequestration has been invoked. Do you understand
9 what that means?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: What does that mean?

12 THE WITNESS: Do not talk to anybody about
13 anything I've testified to.

14 THE COURT: Or what you intend to testify to.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Thank you. You may step down.

17 MR. SEATON: Your Honor, I do have one issue we
18 need to take up either at the beginning or at the
19 end.

20 THE COURT: All right. Let me know.

21 MR. SEATON: Certainly, Judge.

22 I certainly would object to all of the pictures
23 that are field tests of the purported drugs.

24 I think under Title 44, all drugs are required
25 under Rule 6 to be proven to be a drug before it's

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1 admissible. So that would be an irrelevant picture
2 and certainly, under 401, would not be probative but
3 merely prejudicial.

4 If you're going to show a field test that is
5 not admissible in court as a photograph, I certainly
6 think at the very least that it's irrelevant but
7 certainly more prejudicial than probative.

8 THE COURT: The photographs are merely
9 documenting his procedure that he used.

10 Note your exception. It's noted for the
11 record.

12 MR. SEATON: Thank you.

13 THE COURT: Take about ten minutes. And if I
14 could see y'all just for scheduling.

15 MS. NICKLES: Thank you, Your Honor.

16 [Whereupon, a recess is taken from 11:05 a.m.
17 to 11:30 a.m.]

18 THE COURT: Thank you. Be seated.

19 Anything before we bring in the jury?

20 MS. NICKLES: Nothing from the State, Your
21 Honor.

22 MR. SEATON: No, Your Honor.

23 [Whereupon, the jury enters the courtroom at
24 11:31 a.m.]

25 THE COURT: Ms. Nickles, you may continue.

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1 MS. NICKLES: Thank you, Your Honor.

2 Your Honor, permission for the witness to step
3 down?

4 THE COURT: I'm going to have you publish the
5 photos. All right? Thank you.

6 Investigator Tanner, I'm just going to show you
7 a few more photos so we can understand the process.

8 Q. [Ms. Nickles] I'm going to show you what's
9 been marked State's Exhibit 110. What is that?

10 A. It's a Century Safe lockbox.

11 MS. NICKLES: Your Honor, if I may ask --
12 question him about a few pictures at once and then
13 publish them at one time?

14 THE COURT: I think that would be --

15 MS. NICKLES: Would that be appropriate?

16 THE COURT: -- the most efficient.

17 MS. NICKLES: Okay.

18 THE COURT: Thank you.

19 Q. [Ms. Nickles] And then I'm going to show you
20 State's Exhibit 69.

21 A. That is a handgun and sandwich bags inside that
22 Century safe.

23 Q. And then State's 71 and 72?

24 A. 71 is one side of the firearm showing the model
25 number of that firearm, and 72 is the other side showing

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1 the serial number.

2 Q. So your process in taking these pictures is
3 what?

4 A. To get as much detail and information off of
5 what evidence we have.

6 Q. So you start -- would it be fair to say you
7 start with the whole and then reduce it to each thing
8 inside?

9 A. Yes, ma'am.

10 Q. And I'll show you just a few more. I'm going
11 to show you State's 92. Can you identify that?

12 A. This is a shoe box which was seized during the
13 search warrant.

14 Q. Is there anything on that shoe box?

15 A. Yes, ma'am.

16 There is lettering, which was appeared to have
17 been printed on it, from the manufacturer, AFI XXX. It's
18 a Nike shoe box with the name Joe written on it.

19 Q. Show you State's 93.

20 A. This is the same shoe box with the contents,
21 which are -- from this picture is two plastic containers.

22 Q. And State's 94?

23 A. 94 is also those same -- same shoe box with the
24 same two containers removed out of it and opened up.

25 Q. And State's 107, lastly.

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1 A. 107 is a green plant material in a clear
2 plastic bag, and two partially burnt hand-rolled cigars.

3 And one cigar that was in the process of being
4 rolled. It's still not a full cigar.

5 Q. And you don't do any chemical tests on these.
6 You're just taking pictures; correct?

7 A. We take pictures, and we'll do a field test.

8 Q. Okay. But you don't actually do the analysis?
9 You just --

10 A. No, ma'am.

11 Q. -- process it and drop it?

12 A. Yes, ma'am.

13 MS. NICKLES: Your Honor, permission to publish
14 these?

15 THE COURT: You may.

16 Ladies and gentlemen, remember, again, that no
17 one will talk so that everyone will have the same
18 opportunity to view the pictures.

19 And there is no requirement that the stack
20 remain a stack, so if you wanted to view one and pass
21 it on.

22 [Whereupon, the jury reviews documents]

23 Q. [Ms. Nickles] Now that you've kind of shown us
24 your process, once you completed taking the pictures,
25 weighing, and everything that you do to process this

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1 evidence, what do you do with it?

2 A. It is taken and turned into evidence.

3 Q. And when you -- turned into evidence how?

4 A. If -- the drugs will be submitted into a drug
5 box. Which is kind of a put it into a manila envelope.
6 It's got a slot. If you rotate the slot, it falls down
7 into the lockbox.

8 And then the other evidence is submitted into a
9 locker itself.

10 Q. And when you say it's submitted into a manilla
11 envelope, that's after it's been heat-sealed and --

12 A. Yes, ma'am.

13 Q. -- packaged and your initials have --

14 A. Yes, ma'am.

15 Q. -- been placed on it?

16 Okay. Who has access to that box?

17 A. The evidence custodians.

18 Q. And who has access to the locker?

19 A. The evidence custodians.

20 Q. And do you remember, at this time back in May
21 of 2014, who the evidence custodian was?

22 A. Sargent Olsen.

23 Q. And to your knowledge, did Sargent Olsen
24 retrieve all of the evidence in this case from either the
25 lockbox or the safe?

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1 A. Yes.

2 MS. NICKLES: Just a few more questions and
3 then we'll let you go.

4 Q. [Ms. Nickles] Did you ever handle this
5 evidence again after turning it into the lockbox and the
6 drug box?

7 A. Only a pick-up to bring it here.

8 Q. So you retrieved it from where?

9 A. The evidence custodian.

10 Q. And the current evidence custodian is?

11 A. Detective Wade Rollings.

12 Q. And when you retrieved it from the evidence
13 room to bring it to the courtroom today, was it in your
14 custody and control the entire time?

15 A. Yes, ma'am.

16 Q. And that was every -- all of the evidence in
17 this case?

18 A. Yes, ma'am.

19 Q. And prior to you picking it up, it had been
20 either sent out for testing or remained in the evidence
21 room?

22 A. Yes, ma'am.

23 Q. And who has access to that evidence room?

24 A. Detective Rollings, and there's Detective --
25 trying to remember his name -- Peterson.

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1 Q. And that is a controlled, locked room?

2 A. Yes, ma'am.

3 Q. And it's where you store all the evidence in
4 your cases?

5 A. Yes, ma'am.

6 MS. NICKLES: I beg the Court's indulgence.

7 THE COURT: Take your time.

8 [Whereupon, Ms. Nickles and Mr. McNeely confer]

9 MS. NICKLES: That's all I have, Detective
10 Tanner. Please answer any questions that Mr. Seaton
11 has.

12 THE COURT: Mr. Seaton?

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Ryan Tanner
Cross-Examination by Mr. Seaton
August 29, 2015

CROSS-EXAMINATION

BY MR. SEATON:

Q. Detective, I just want to make sure that I'm clear.

Y'all have two Tanners in the Summerville Police Department?

A. Yes, sir.

Q. Your name is Brian Tanner?

A. Ryan Tanner.

Q. I'm sorry. Brian or Ryan?

A. Ryan. R-Y-A-N.

Q. I apologize. I thought it was Brian.

And the other Tanner starts with an H?

A. Yes, sir.

Q. What is his first name?

A. Hurshel.

Q. Hurshel Tanner.

And Hurshel Tanner, to your knowledge, actually did a little of bit of work in this case?

A. Yes, sir.

Q. You're aware that there is an incident report with Hurshel's name on it that has to do with this case?

A. Yes, sir.

Q. And is it fair to say that you're basically the middleman? You were not the one who collected the

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1 evidence, you did not test the evidence, you simply
2 received it from someone and passed it on to someone
3 else?

4 A. I photographed it and did our processing
5 procedures.

6 Q. Were you involved in -- for instance, the gun.
7 Did you do any investigation to determine that that was
8 registered to Kory Abdon?

9 A. I did not.

10 Q. You didn't do any investigative techniques,
11 other than what you've already testified to?

12 A. No, sir.

13 MR. SEATON: Okay. Thank you. Nothing
14 further, Your Honor.

15 THE COURT: Ms. Nickles?

16 MS. NICKLES: A few follow up.

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Ryan Tanner
Redirect Examination by Ms. Nickles
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REDIRECT EXAMINATION

BY MS. NICKLES:

Q. After process -- as a part of processing evidence, do you create an incident report?

A. No.

The incident report was generated upon the call being received.

Q. And you were never present at the scene?

A. No.

Q. How many guns were processed by you?

A. Three.

MS. NICKLES: Thank you.

MR. SEATON: No further questions, Your Honor.

THE COURT: You may step down. You are free to go. Thank you.

THE WITNESS: Thank you, Your Honor.

[Whereupon, Mr. Tanner is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. MCNEELY: The State calls Randy Olsen.

[Whereupon, Mr. Olsen comes forward]

THE CLERK OF COURT: Place your left hand on the Bible, raise your right.

[Whereupon, Mr. Olsen is duly sworn by the clerk of court as follows: do you solemnly swear or

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1 affirm the testimony you shall give in this case
2 shall be the truth, the whole truth, and nothing but
3 the truth, so help you God]

4 THE WITNESS: I do.

5 THE CLERK OF COURT: If you'll have a seat.

6 [Whereupon, Mr. Olsen takes the witness stand]

7 THE CLERK OF COURT: State your full name for
8 the record, and spell your last.

9 THE WITNESS: It will be Randal George Olsen.
10 O-L-S-E-N.

11 MR. MCNEELY: Good morning, Mr. Olsen. How are
12 you?

13 THE WITNESS: Good morning.
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Randal Olsen
Direct Examination by Mr. McNeely
August 29, 2015

RANDAL OLSEN,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MCNEELY:

Q. Where are you currently employed?

A. Nowhere right now. I'm retired.

Q. Happily retired?

A. Yes.

Q. Congratulations.

Where were you employed in May of 2014?

A. Summerville Police Department.

Q. What was your position there and how long had
you worked in that capacity?

A. I was the evidence custodian and crime scene
investigator and rank of sargent, and I had been working
with the Summerville Police Department for about twenty-
three years.

Q. I want to talk about your position as evidence
custodian. Was that your primary position, or was that a
secondary position?

A. It was primary.

Evidence and crime scene is all one job with
our department. We do -- it was one job combined.

Q. As the evidence custodian, what were the duties

Randal Olsen
Direct Examination by Mr. McNeely
August 29, 2015

1 of your position?

2 A. We would -- I would log in the evidence that
3 the officers dropped off into the boxes, evidence boxes,
4 that are provided for them. We log the evidence in, put
5 it in the evidence room and store it, and then transport
6 it for any testing that needed to be.

7 Q. So you've had occasion, as the evidence
8 custodian, to handle various types of evidence?

9 A. Yes.

10 Q. That's the primary purpose of your job; right?

11 A. Yes.

12 Q. Did that include drug evidence?

13 A. Yes.

14 Q. And did it also include non-drug and other
15 physical evidence?

16 A. Everything.

17 Q. We've heard a little bit about drug boxes --
18 or, excuse me -- evidence boxes. Are there separate --
19 was there a separate box in Summerville for drugs and
20 other types of evidence?

21 A. Yes.

22 We have a -- it's actually an old mailbox that
23 you open up and it's got the wheel inside. And when you
24 put it in, it drops it back down so that you can't get
25 access to it through the top. And it has a lock on the

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1 front of it. And the padlock that's on there is only --
2 the only one that has a key is the evidence room. So the
3 only -- once it's dropped in there, the only person that
4 can get it out is one of the evidence custodians.

5 Q. Is that the drug box you just described --

6 A. Yes --

7 Q. -- or that's --

8 A. -- that's the drug box.

9 Q. Can you describe the other locker for --

10 A. The other lockers are -- the one wall into
11 the -- in front of the evidence room, it's a cinder-block
12 wall and it has wood lockers. There's twenty-four
13 lockers across the front, that have different sizes.

14 And there's a key in that locker. The officer
15 puts it in, then he takes that out, puts it in -- logs
16 in, as evidence, what locker he put it in. He takes that
17 key and he drops it in the slot, and that box can't be
18 opened because that's the only key for it.

19 The other side of it has a master key that's in
20 the -- that's kept in the evidence room so that we can --
21 the evidence custodian will open it from the other side
22 to pull the evidence out.

23 Q. So in a nutshell, once an officer drops
24 evidence into either the drug box or the other lockers,
25 the only person that can get it out is the evidence

Randal Olsen
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1 custodian?

2 A. Yes.

3 Q. When officers dropped evidence into the drug
4 box, were they already sealed?

5 A. Yes.

6 They're already -- the drugs are sealed,
7 because they put that in a special -- because there's a
8 plastic bag they put them in, they seal them in.

9 Weapons and stuff like that that are put in the
10 other locker are not sealed up or anything, they're just
11 put in there.

12 Q. Is there a name for those plastic bags they put
13 the drugs in?

14 A. They're -- I'm trying to think what we used to
15 call -- they're evidence bags, I believe what they're --
16 I can't remember exactly what we call them.

17 But there's a piece of -- there's a glue on
18 them that once you pull that strip off and seal that
19 tube, you can't open it up without breaking that seal.
20 So you know if it's been opened or not.

21 Q. Would officers initial when they did that, when
22 they --

23 A. Yes.

24 Q. -- they sealed the bag?

25 A. Yes.

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1 They initial the bag and log it in, what they
2 had to put in there.

3 Q. Once the evidence was dropped into either the
4 drug box or the other locker, how did you process it into
5 the evidence room?

6 A. We would take it out of whichever type of
7 locker it was in, bring it into our main office. Well,
8 the wood lockers is right there in that office.

9 The drug box is actually kept in the booking
10 room where someone is processed when they're arrested.
11 And it's kept in there. So we have to go in there,
12 unlock it, take it out, and go back into our office where
13 the computer is and we check the case number, any
14 information or paperwork with it, and log it into the
15 computer so it can be tracked.

16 Q. Where would you store the evidence?

17 A. In the evidence room.

18 Q. On shelves?

19 A. Yes.

20 We have the shelves in the back of the evidence
21 room, because of with drug-type stuff, you would have to
22 take it to the lab for testing. So we would have a
23 basket that's marked for SLED or for our in-house for
24 marijuana testing and it would be put in that basket
25 until it was transported to the other agency.

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1 Q. For other types of evidence that don't require
2 testing, did you just set it on the shelf?

3 A. There are certain shelves and boxes that are
4 labeled, depending on what they are.

5 Q. Does that evidence remain there until somebody
6 checks it out?

7 A. Until somebody checks it out or it gets
8 destroyed.

9 Q. Going back to the drugs: did you have
10 occasion, in your duties as an evidence custodian, to
11 transport drugs for testing?

12 A. Yes.

13 Q. Where would you -- what types of drugs would
14 you have to transport out-of-house for testing?

15 A. Out-of-house for testing, anything other than
16 marijuana. Marijuana is the only thing we could test in-
17 house.

18 If it's the salts and the synthetic marijuana
19 stuff that they talk about, we can't test that actually
20 after we've done the lab chemically. And any other type
21 of drugs that might be narcotics are all taken to -- we
22 all -- we take all that stuff to the state lab at SLED.

23 Q. So the only drug that stays in-house for
24 testing is marijuana?

25 A. Is marijuana. Yes.

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1 Q. How does that get tested in-house?

2 A. It's kept in the evidence room in the basket,
3 and whichever officer -- at the time there was me,
4 Officer Rollings, and Officer Stone, would do -- were
5 certified for the time to do testing. And whichever one
6 of us would come in and do the testing would take it out
7 of the evidence room, walk up the hall about twenty-five
8 feet to where the actual lab is, the hoods and the
9 chemicals, and do the testing right there.

10 Q. After the testing was done, was a report made?

11 A. Yes.

12 You would have to -- you would bring the drugs
13 back into the evidence room and usually we would sit down
14 right then, type up the report saying what the results
15 were of the test.

16 Q. And the evidence would be placed back in the
17 evidence locker?

18 A. Yeah.

19 It would be back in the evidence room actually
20 before you did the report, because you didn't need it
21 anymore because you had the report sheet.

22 Q. And that's just marijuana?

23 A. That's just marijuana.

24 Q. With regard to other drugs, you would transport
25 them to SLED, you said?

Randal Olsen
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1 A. Take them straight to SLED.

2 Q. What was the process for transporting it to
3 SLED?

4 A. To take it to SLED, you have to do a pre-log on
5 their computer.

6 You would have to log on to the internet and
7 get into SLED. You have to have a password, which each
8 individual officer that does the evidence logs on. And
9 you pre-log by just telling them what you have, what
10 you're bringing, the person's name who is the suspect,
11 your name for delivering it. You log that in. You print
12 out that sheet.

13 We put all our cases together, usually about
14 fifteen to twenty cases at a time, put them in a basket,
15 carry them to the state lab, go inside, sit down with the
16 girls in the lab in the evidence room and they would log
17 it in there, and we were done with it, and they would put
18 it back in their evidence room.

19 Q. So once you dropped it at SLED, SLED kept it
20 for some time?

21 A. Yes.

22 Q. You may have said this, but what was the
23 purpose of transporting evidence to SLED?

24 A. Because they have the -- narcotics have to be
25 tested chemically and we don't have the facilities in

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1 town -- in the town to do that.

2 Q. So the State Law Enforcement Division will do
3 that?

4 A. Yes.

5 The State Law -- they do it for most everybody
6 right now.

7 Q. How often would you take drug evidence to SLED?

8 A. It would depend on how much -- all the evidence
9 I had when the time come.

10 The most we would take up was twenty-five cases
11 at a time. So usually about every other week I would
12 have about that many. So a lot of times every other
13 week, or every two to three weeks.

14 Q. When you transported evidence from SLED -- or
15 excuse me. When you transported evidence to SLED, did
16 the evidence ever leave your custody and control between
17 Summerville Police Department and logging it in at SLED?

18 A. No. It stays in the car with me as I drive up.

19 Q. Turning to this case: did you ever have the
20 opportunity to receive evidence related to this case as
21 an evidence custodian?

22 A. Yes.

23 Q. Do you recall what type of evidence received?

24 A. I received several plastic bags in a sealed bag
25 that contained a crystal substance and a powder

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1 substance.

2 Q. Did you receive any marijuana?

3 A. Yes. I'm sorry. There was some marijuana,
4 also.

5 Q. Did you receive any other physical evidence?

6 A. I can't remember right now offhand what the
7 other ones, without looking at the whole case file.

8 Q. But if you did receive other physical evidence,
9 it would have been placed in the physical evidence
10 locker?

11 A. Yes.

12 It would have been all logged in, because it
13 all comes in at one time and we log it in and put it away
14 in the room.

15 Q. Did you transport any evidence in this case to
16 SLED?

17 A. Yes. I transported some, the narcotics, to
18 SLED.

19 Q. You did not transport the marijuana to SLED?

20 A. No.

21 Q. That stayed in-house?

22 A. That stayed in-house.

23 Q. And you transported those narcotics to SLED for
24 testing?

25 A. Yes.

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1 Q. How did you deliver the items to SLED?

2 A. You go into the front of the building. They
3 let them know that you're there. As soon as they have
4 one of the clerks available in the evidence room, they
5 call you back and you sit down at a desk with them. They
6 scan your paperwork, make sure all your paperwork is done
7 correctly, and then they seal it up in their bags. Well,
8 actually, their best kits. And they bring it in, log it
9 in, set it in their basket, they take it back to their
10 evidence room for further what their process and
11 procedures are.

12 Q. And once it's delivered to SLED, it's out of
13 your hands?

14 A. It's out of my hands.

15 Q. Do you recall what date you delivered narcotic
16 evidence to SLED in this case?

17 A. No, I do not.

18 Q. If I showed you the SLED chain, would that
19 refresh your memory?

20 A. Yes.

21 [Whereupon, Mr. McNeely reviews documents]

22 MR. MCNEELY: May I approach, Your Honor?

23 THE COURT: Yes.

24 Q. [Ms. Nickles] I'm showing you what has been
25 pre-marked as State's Exhibits 54 and 55. Take a look

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1 at those.

2 [Whereupon, the witness reviews documents]

3 A. Okay. I'm trying to -- oh. There we go.

4 Okay.

5 Q. [Mr. McNeely] Do you know what day you
6 delivered drug evidence, related to this case, to SLED?

7 A. Be May 20, 2014.

8 Q. Does it say what time you delivered it?

9 A. At 11:31 and 11:34, depending on which one of
10 those.

11 Q. There were two separate packages you delivered?

12 A. Yes.

13 Q. And there's two separate chains?

14 A. Yes.

15 Q. What time did you say the time was?

16 A. 11:31 and 11:34.

17 Q. Did you sign anything at the time you released
18 the evidence to SLED?

19 A. Yes.

20 When they get done with their process logging
21 in, you have a little -- like you do for your credit
22 card. You sign on there and it does a digital signature
23 into the computer system.

24 Q. Did you ever receive this evidence back from
25 SLED?

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August 29, 2015

1 A. Yes. I transported it back when it was done.

2 Q. What time did you receive it back from SLED?

3 A. Oh, let's see. I'm not used to their sheets
4 here.

5 [Whereupon, the witness reviews documents]

6 A. Be June 24th, 2014, at 10:48. Both of them
7 were 10:48.

8 Q. [Mr. McNeely] And I may not have asked you
9 this initially. Who did you -- who is the person at SLED
10 that you delivered the evidence to initially?

11 A. Amy Stephens. She was the clerk that I sat
12 with that day to log stuff in.

13 Q. And who was the person at SLED that you
14 received the evidence back from?

15 A. Okay. Last page is -- I'm trying to see --

16 [Whereupon, the witness reviews documents]

17 A. I don't see where her name is on here.

18 It would be Doris. Doris Yarborough. Yeah.
19 There we go.

20 Q. [Mr. McNeely] Thank you.

21 A. Okay. I had to -- excuse me.

22 Q. How was the evidence packaged when you received
23 it back?

24 A. It's -- when it comes back from SLED, it's in
25 another -- the best kits that we put them in for them is

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August 29, 2015

1 in an envelope, and our -- the plastic bags inside, it's
2 all just for their routing and bar-code scanning. When
3 it comes back from them, the lab has sealed it in a
4 sealed plastic container and it's sealed on the top and
5 initialed and everything by them. And it comes back like
6 that with bar codes on the outside.

7 Q. So you get it sealed?

8 A. Yes.

9 Q. And if anybody breaks that seal, you can tell?

10 A. Yes.

11 Q. What did you do with it after you received it
12 back from SLED?

13 A. I transport it back to the police department.

14 And as soon as I get it back, I log it back
15 into my computer so it goes into ours. And after I log
16 it in, I put it back in the evidence room in the drug
17 box.

18 Q. And from that point, it stays in the evidence
19 room until somebody checks it out?

20 A. Yes.

21 It stays in there unless somebody -- the
22 attorneys will come to look at it.

23 Q. And that's --

24 A. Otherwise, it stays there.

25 Q. Sorry I cut you off.

Randal Olsen
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August 29, 2015

1 And that's what happened in this case?

2 A. Yes.

3 Q. We may have touched on this, but when did you
4 quit working as the evidence custodian?

5 A. June 20th I retired.

6 Q. Of this year or --

7 A. This year. Of this year.

8 Q. Who took over your position?

9 A. Corporal Wade Rollings. He was -- he started
10 working in there then and took over.

11 MR. MCNEELY: Thank you. Please answer any
12 questions Mr. Seaton has.

13 THE COURT: Mr. Seaton?

14 MR. SEATON: Sarg -- I'm going to call you
15 mister instead of sarg, now that you're retired --

16 THE WITNESS: That's fine.

17 MR. SEATON: -- if that's all right.

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Randal Olsen
Cross-Examination by Mr. Seaton
August 29, 2015

CROSS-EXAMINATION

BY MR. SEATON:

Q. Mr. Olsen, as I understood your testimony, you've got two different types of evidence lockers there in Summerville. You've got the old mailbox for the drug testing or the drug evidence that goes into the mailbox?

A. Yes.

Q. And it's got a separate key?

A. Yes.

Q. And you've got twenty-four wooden lockers that are on the wall in the booking room and each one of those has a key that's inside the locker so if it's empty, you open the locker, put the evidence in, you take the key and you lock it and then the officer who put the evidence in there has a key?

A. Yes.

Q. There's also a separate master key that I think you told us about that allows you, or whoever is working that day, to get into those lockers --

A. To the back of --

Q. -- is that correct?

A. -- to the back of the lockers.

Q. Okay. And I think what you told us was that keys to both of those lockers, the mailbox locker and the twenty-four wooden boxes, those keys are kept in the

Randal Olsen
Cross-Examination by Mr. Seaton
August 29, 2015

1 evidence room?

2 A. Yes.

3 Q. So it wasn't that you were the only one that
4 had access to those keys. It's whoever was working in
5 the evidence room; is that correct?

6 A. Well, the only ones that entered the evidence
7 was me and Corporal Rollings.

8 Q. I understand.

9 But you would agree with me that people come
10 and go in that evidence room?

11 A. No, they do not come and go from the evidence
12 room.

13 Q. Do you know whether or not I've been in that
14 evidence room --

15 A. I don't know if you have been from here --

16 Q. -- do you know whether or not this young lady
17 here has been in the evidence room?

18 A. If they go in the evidence room, they have to
19 log in on a log. There's a sign-in log and they have to
20 log in on that to step into the evidence room.

21 Q. Do you know whether or not I signed in?

22 A. I don't know if you've been in there or not
23 because I haven't been in there for several months.

24 Q. Well, is it --

25 A. I don't have the access --

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Cross-Examination by Mr. Seaton
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1 Q. -- is it --

2 A. -- right now to that log.

3 Q. So it's your testimony that there's never been
4 anybody in those rooms other than the evidence people or
5 people who've logged in?

6 A. That's right. Correct.

7 Q. But the keys themselves are kept in that room
8 rather than on your person?

9 A. Yes.

10 MR. SEATON: Thank you.

11 THE COURT: Redirect?

12 MR. MCNEELY: No, Your Honor.

13 THE COURT: You may step down. You are free to
14 go.

15 [Whereupon, Mr. Olsen is excused and exits the
16 witness stand]

17 THE COURT: Call your next witness.

18 MR. MCNEELY: Thank you, Your Honor. The State
19 calls Amy Stephens.

20 [Whereupon, Ms. Stephens comes forward]

21 THE CLERK OF COURT: Place your left hand on
22 the Bible, and raise your right.

23 [Whereupon, Ms. Stephens is duly sworn by the
24 clerk of court as follows: do you solemnly swear or
25 affirm the testimony you shall give in this case

Randal Olsen
Cross-Examination by Mr. Seaton
August 29, 2015

1 shall be the truth, the whole truth, and nothing but
2 the truth, so help you God]

3 THE WITNESS: I do.

4 THE CLERK OF COURT: If you'll have a seat.

5 [Whereupon, Ms. Stephens takes the witness
6 stand]

7 THE CLERK OF COURT: State your full name for
8 the record, and spell your last name.

9 THE WITNESS: Amy Stephens. S-T-E-P-H-E-N-S.

10 MR. MCNEELY: Hello, Ms. Stephens. How are
11 you?

12 THE WITNESS: Good. How are you?

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Amy Stephens
Direct Examination by Mr. McNeely
August 29, 3015

AMY STEPHENS,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. MCNEELY:

Q. Where are you currently employed?

A. I'm currently employed with the South Carolina
Law Enforcement Division, which is also known as SLED.

Q. What is your position there and how long have
you been employed there?

A. I'm a forensic technician within our evidence
control department.

Our daily responsibilities are to package,
transfer, evidence for forensic analysis. And I have
been employed within this division for approximately nine
and a half years.

Q. So the gist of your job, basically, is handling
evidence?

A. That's correct.

Q. You take it in from law enforcement agencies
from around the state?

A. Yes, we do.

Q. And you submit it for processing with other
individuals at SLED?

A. That's correct.

MIA PERRON, CVR-CM-M

-305-

Amy Stephens
Direct Examination by Mr. McNeely
August 29, 3015

1 Q. Were you employed with SLED on May of -- in May
2 of 2014?

3 A. Yes, I was.

4 Q. As a forensic technician?

5 A. Yes, I was.

6 Q. Are records kept whenever evidence is logged
7 into SLED?

8 A. Yes.

9 Every case and every piece of evidence that is
10 submitted to our laboratory will -- a unique lab number
11 is generated for that particular case and an item number
12 is generated for each item under that particular case.

13 And every case that comes into our laboratory
14 is maintained by an electronic chain of custody, which
15 tracks the movement of evidence from the time of its
16 arrival until it is returned to the agency.

17 Q. So long story short, everybody that touches
18 that evidence is logged onto that chain?

19 A. That's correct.

20 Q. And that produces a written document; correct?

21 A. Right. It's an electronic document within our
22 system.

23 Q. Are these records kept for all evidence logged
24 in to SLED?

25 A. Yes.

Amy Stephens
Direct Examination by Mr. McNeely
August 29, 3015

1 Q. As a regular practice or course of business
2 with SLED?

3 A. Yes.

4 Q. Did you ever receive evidence related to this
5 case, the State versus Joseph Umphlett out of Berkeley
6 County?

7 A. Yes, I did.

8 Q. On what date did you receive evidence related
9 to this case?

10 A. I received evidence related to this case on May
11 20th, 2014.

12 Q. Who did you receive evidence from?

13 A. Randal Olsen, of the Summerville Police
14 Department.

15 Q. What evidence did you receive?

16 A. The first evidence that I received was a box
17 containing drug evidence, and the second evidence that I
18 received was a best kit containing drug evidence.

19 Q. How did you receive the evidence from
20 Mr. Olsen? Was it in person?

21 A. Yes, it was.

22 Q. Was the evidence sealed when you received it?

23 A. Yes, it was.

24 Q. Did you open it?

25 A. No, I did not.

Amy Stephens
Direct Examination by Mr. McNeely
August 29, 3015

1 Q. What did you do with the evidence after you
2 received it?

3 A. Once I received it, we would enter the case
4 information into our computer system, at which time a
5 unique lab number is generated. I would have then
6 transferred that evidence to our evidence room until an
7 analyst retrieved the evidence for analysis.

8 Q. Was the evidence continuously in your custody
9 from the time you received it from Mr. Olsen until the
10 time you logged it into the evidence room?

11 A. Yes, it was.

12 Q. Did you ever get it back after you logged it
13 into the evidence room?

14 A. No, I did not.

15 MR. MCNEELY: No further questions from the
16 State.

17 THE COURT: Mr. Seaton?

18 MR. SEATON: No questions, Your Honor.

19 THE COURT: You may step down, and you are free
20 to go.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you.

23 [Whereupon, Ms. Stephens is excused and exits
24 the witness stand]

25 THE COURT: Call your next witness.

Amy Stephens
Direct Examination by Mr. McNeely
August 29, 3015

1 MR. MCNEELY: The State calls Doris Yarbrough.

2 [Whereupon, Ms. Yarbrough comes forward]

3 THE CLERK OF COURT: Place your left hand on
4 the Bible, raise your right.

5 [Whereupon, Ms. Yarbrough is duly sworn by the
6 clerk of court as follows: do you solemnly swear or
7 affirm the testimony you shall give in this case
8 shall be the truth, the whole truth, and nothing but
9 the truth, so help you God]

10 THE WITNESS: I do.

11 THE CLERK OF COURT: Please have a seat.

12 [Whereupon, Ms. Yarbrough takes the witness
13 stand]

14 THE CLERK OF COURT: State your full name for
15 the record, and spell your last name.

16 THE WITNESS: My name is Doris Yarbrough.

17 Y-A-R-B-R-O-U-G-H.

18 MR. MCNEELY: Good morning, Ms. Yarbrough.

19 THE WITNESS: Good morning.

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Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1

DORIS YARBROUGH,

2

Having Been First Duly Sworn,

3

was Examined and Testified as Follows:

4

DIRECT EXAMINATION

5

BY MR. MCNEELY:

6

Q. Where are you currently employed?

7

A. With the South Carolina Law Enforcement

8

Division, also known as SLED.

9

Q. What is your position there and how long have
you worked there?

10

11

A. I'm a forensic technician in the evidence
control department, and I've been over there for just
over seven years.

13

14

Q. What are your duties in that position?

15

A. We receive, package, and transfer evidence
within the laboratory.

16

17

Q. Is that for testing purposes?

18

A. That is for testing purposes.

19

Q. Can you please describe the process by which
you receive and then transfer the evidence?

20

21

A. Agencies from throughout the state of South
Carolina bring evidence in with paperwork. We compare
the paperwork with the evidence they're submitting. And
it's entered into our computer system and then it's given

23

24

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 an electronic bar code that's computer generated and each
2 piece of evidence is followed throughout the lab from the
3 time it's come in until it's returned to the agency.

4 Q. So everybody that touches the evidence is
5 logged into an electronic system that records the fact
6 that they touched the evidence?

7 A. That is correct.

8 Q. Did you have the occasion to receive evidence
9 related to this case, the State versus Joseph Umphlett in
10 Berkeley County?

11 A. I did.

12 Q. Do you know when you received that evidence?

13 A. On May 21st of 2014.

14 Q. What evidence did you receive?

15 A. It was what we consider a best kit evidence,
16 which is drugs.

17 Q. Is there another item that you received?

18 A. There was also a box.

19 Q. So there were two separate packages?

20 A. Correct.

21 Q. Were those packages sealed when you received
22 them?

23 A. They were.

24 Q. Who did you receive them from?

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 A. We receive an e-mail from the forensic
2 scientist that wants to perform analysis, requesting to
3 pick up evidence. The four technicians that work in my
4 office, whoever has the opportunity to go and pick up the
5 evidence will go to the secure evidence room and remove
6 it from the vault. They'll scan it -- we scan it to
7 ourselves -- and then when the forensic scientist comes
8 down to retrieve it, we scan it to them.

9 Q. So anybody that goes into the evidence room to
10 get the evidence out is logged into the system as having
11 received the evidence?

12 A. Not just anybody can enter that evidence room.
13 It's limited access.

14 Q. Who are the four people that can?

15 A. Amy Stephens, myself, Jennifer Aycock, and then
16 Jackie Davis, along with the major and the three captains
17 of our building.

18 Q. Are all of those people currently employed at
19 SLED?

20 A. They are.

21 Q. Were they all employed at SLED in May of 2014?

22 A. They were not.

23 Q. Who was employed at SLED in --

24 A. Amy Stephens, myself, and Jennifer Aycock.

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 Q. And any of those people that go in the evidence
2 room to touch the evidence, it's logged in that they made
3 contact with it; is that correct?

4 A. That's correct.

5 Q. What date did you receive the evidence in this
6 case?

7 A. I retrieved it from the evidence locker on May
8 21st of 2014.

9 Q. Is there a time listed?

10 A. It is. I received it, scanned it to myself, at
11 10:36 a.m. And then I transferred it to the forensic
12 scientist at 10:37 a.m.

13 Q. And correct me if I'm wrong. You received it
14 by going to the evidence room to retrieve it yourself?

15 A. That would be correct.

16 Q. Was the evidence sealed when you received it?

17 A. It was.

18 Q. Did you open it?

19 A. No, sir.

20 Q. What did you do with the evidence after you
21 received it?

22 A. I take it out to the receiving window that the
23 forensic scientist comes to, and when he comes I scan it
24 to myself and then I scan it to him and it's transferred

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 electronically to him at that time.

2 Q. Do you personally pass it to the forensic
3 scientist?

4 A. I do.

5 Q. Was the evidence in this case in your custody
6 and control from the point you received it up until you
7 passed it to the forensic scientist?

8 A. It was.

9 Q. Did you ever receive it back after that?

10 A. I did, actually.

11 I got it back from the same person I gave it to
12 and then put it back in -- it's still in secure storage,
13 but it's also placed in a separate area to be returned to
14 the agency.

15 Q. What date did you receive it back?

16 A. On 6/24 of 2014, that morning, at 8:50.

17 Q. Both packages?

18 A. Yes.

19 Q. Did you receive it back personally from the
20 forensic scientist?

21 A. I did.

22 Q. And you said the evidence was packaged for
23 redelivery to the agency when you received it back?

24 A. It's sealed -- when the forensic scientist is

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 through with his analysis, he reseals the containers or
2 the packages and they're returned to us, and then we
3 place them in what we call the evidence return storage.
4 But it's also a secure area because these are drugs.

5 Q. So when it came back to you from the forensic
6 scientist, it was sealed again?

7 A. Correct.

8 Q. Did you open it?

9 A. No, sir.

10 Q. And just so the jury is clear, what did you do
11 when you received it back from the forensic scientist?

12 A. I transferred it to the evidence-for-return
13 storage shelf.

14 Q. Did anyone in SLED pick it up after you?

15 A. Not to my knowledge.

16 Q. And then was it returned to the agency?

17 A. It was returned to the agency.

18 Q. On what date was it returned to the agency?

19 A. Actually, it was returned that same day later
20 on in the morning, and Jennifer Aycock is the one who
21 returned it to the agency.

22 Q. Out of that evidence room?

23 A. Correct.

24 Q. What time was that?

Doris Yarbrough
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August 29, 2015

1 A. I received it on 6/24/14 at 8:50 a.m. and it
2 was returned to them at 10:47 -- or 10:48 a.m. that same
3 day.

4 Q. Could you please provide the jury with the case
5 numbers for this evidence?

6 A. Yes.

7 For the best evidence pouch, it was L14-06326
8 and the box is -- lab number is L14-06327.

9 Q. And that's -- the entire time this evidence was
10 at SLED, it was in the custody of the forensic techs that
11 you listed and/or the forensic scientists; is that
12 correct?

13 A. It was in storage, and then it was transferred
14 electronically, by me, to the forensic scientist. And
15 then I actually took it, electronically, back from the
16 forensic scientist and placed it in evidence for return
17 storage.

18 MR. MCNEELY: Thank you very much. Please
19 answer any questions Mr. Seaton may have.

20 THE COURT: Mr. Seaton?

21 MR. SEATON: I don't have any questions, Your
22 Honor.

23 THE COURT: You may step down. You are free to
24 go. Thank you.

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 THE WITNESS: Thank you.

2 [Whereupon, Ms. Yarbrough is excused and exits
3 the witness stand]

4 THE COURT: Call your next witness.

5 MS. NICKLES: Your Honor, may we approach?

6 [Whereupon, an off-the-record bench conference
7 is held]

8 THE COURT: Ladies and gentlemen, I've been
9 informed that the next witness is fairly lengthy.
10 It's about 12:15, so lunch time, so we're going to go
11 ahead and break for lunch.

12 Please remember all of my admonitions. Do not
13 begin discussing this case. Do not begin your
14 deliberations. Do not read, watch, listen to any
15 news accounts regarding this case.

16 Please be back -- we'll begin at 1:20, at 1:20,
17 so please plan accordingly.

18 And take your notepads with you. We'll lock
19 them up over the lunch hour.

20 Please rise for the jury.

21 If you will report downstairs at 1:20 and then
22 we'll get started at 1:30.

23 [Whereupon, the jury exits the courtroom at
24 12:15 p.m.]

Doris Yarbrough
Direct Examination by Mr. McNeely
August 29, 2015

1 THE COURT: Thank you. Be seated.

2 Anything before we break for lunch?

3 MS. NICKLES: Nothing from the State.

4 THE COURT: Do we need to place anything on the
5 record?

6 MS. NICKLES: Not from the State, Your Honor.

7 MR. SEATON: No, Your Honor.

8 THE COURT: And so we will have -- you think
9 this witness will take us significantly through the
10 day, considering our breaks. Thank you.

11 MS. NICKLES: Yes, Your Honor.

12 [Whereupon, a recess is taken from 12:14 p.m.
13 to 1:24 p.m.]

14 THE COURT: Thank you. Be seated.

15 Is the State ready?

16 MS. NICKLES: Yes, Your Honor, I believe so.

17 MR. SEATON: Yes, Your Honor.

18 [Off the record momentarily]

19 THE BAILIFF: Jury coming in.

20 THE COURT: Thank you. Please rise.

21 [Whereupon, the jury enters the courtroom at
22 1:26 p.m.]

23 THE COURT: Thank you. Please be seated.

24 Did every member of the jury panel comply with

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1 my instructions over the lunch hour? If you did,
2 please raise your right hand.

3 [Whereupon, jurors comply]

4 THE COURT: Thank you. All fourteen jurors
5 have complied with the Court's instructions.

6 Please call your next witness.

7 MS. NICKLES: The State calls Hobie Williams.

8 [Off the record momentarily]

9 [Whereupon, Mr. Williams comes forward]

10 [Whereupon, Mr. Williams is duly sworn by the
11 clerk of court as follows: do you solemnly swear or
12 affirm the testimony you shall give in this case
13 shall be the truth, the whole truth, and nothing but
14 the truth, so help you God]

15 THE WITNESS: I do.

16 THE CLERK OF COURT: If you'll have a seat.

17 [Whereupon, Mr. Williams takes the witness
18 stand]

19 THE CLERK OF COURT: State your full name for
20 the record, and spell your last name.

21 THE WITNESS: My full name is Holbert Earl
22 Williams. The spelling of my last name is
23 W-I-L-L-I-A-M-S.

24 MS. NICKLES: Thank you, Mr. Williams.

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1 HOBIE WILLIAMS,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MS. NICKLES:

6 Q. And where are you currently employed?

7 A. I am -- me and my brother own a landscaping
8 business, and I work with him.

9 Q. I'm sorry?

10 A. And I work with him in it.

11 Q. How long have you been doing that?

12 A. Going on about a month now. Month and a half.

13 Q. Prior to that, where were you employed?

14 A. The Summerville Police Department.

15 Q. And how long were you employed there?

16 A. Right at ten years.

17 Q. And while you were there, what was your
18 position?

19 A. I was assigned to patrol, and then I went into
20 the K-9 unit and got reassigned to patrol to assist them
21 as a K-9 handler.

22 Q. And as far as your educational background, can
23 you just give the jury a little bit of information about
24 your background?

25 A. I have gone through basic police school or

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1 academy. Been certified. Certified Data Master Light R
2 [phonetic]. I've been in numerous trainings for
3 interdiction. So many trainings over ten years, it's
4 hard to remember. Certified K-9 handler through the
5 North American Police Work Dog Association. I think
6 that's the gist of them.

7 Q. And just for some contacts: when you talk
8 about Light R and Data Master, that relates not to
9 narcotics; right?

10 A. No.

11 That's basic speed and DUI detection, things
12 like that.

13 Q. And then some of the other training you
14 mentioned was specifically for narcotics work; correct?

15 A. Most of the interdiction conferences and
16 classes are going to be for narcotics or criminal
17 activity, in general.

18 Q. And when you say interdiction, can you describe
19 to the jury what interdiction is?

20 A. Interdiction is the ability to look at a group
21 of people or cars and then narrow it down. And you're
22 trying to intercept the flow of narcotics and trying to
23 hopefully put a dent in that problem.

24 Q. And then as far as your duties when you were
25 with Summerville P.D., can you give us a description of

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1 those?

2 A. Yes, ma'am.

3 As a K-9 handler, I was assigned to the patrol
4 division to assist with any in-progress calls -- major
5 crimes, basically -- and also to assist with the
6 interdiction of narcotics.

7 Q. So what types of calls would you respond to?

8 A. As far as the major crimes, shootings,
9 stabbings, any type of major incident.

10 As far as the drugs, any drug complaint that
11 comes in, if we're available we respond to it.

12 And when we're not doing that, we're out trying
13 to look for drugs.

14 Q. And in addition to those duties, you said you
15 did -- you did have the occasion to respond to dispatch.
16 Would you respond to both 911 and non-emergency calls?

17 A. If they were lacking manpower, we would
18 respond.

19 Q. Were you employed in that capacity back in May
20 of 2014?

21 A. Yes, ma'am.

22 Q. And specifically on the night of May 11, 2014?

23 A. Yes, ma'am.

24 Q. Did you have the occasion to be dispatched to
25 the Economy Inn in Summerville?

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1 A. Yes, ma'am.

2 Q. And can you describe how you were dispatched to
3 that?

4 A. I heard that call go out over the radio.
5 Patrolman Oswald I think is who they assigned. I advised
6 them I was also in the area and started heading that way
7 with him.

8 Q. And is that a typical way for officers in the
9 field, especially in a patrol division, to respond to
10 calls?

11 A. Yes, ma'am. With --

12 Q. Just -- go ahead.

13 A. With calls that could be -- could have an issue
14 or a problem, anything that might require an additional
15 officer to assist, then we usually go.

16 Q. And do you remember what time this call went
17 out, approximately?

18 A. Approximately 9:30 at night.

19 Q. Would that be -- would the time alone be
20 anything that would require assistance of additional
21 officers?

22 A. Nighttime adds a little bit to it.

23 And it was also being at the Economy Inn. The
24 Economy Inn has a higher call volume for some reason, so
25 they tend to have more issues out of that facility.

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1 Q. And what county is the Economy Inn located?

2 A. Berkeley County.

3 Q. So when you were dispatched, did dispatch give
4 you any information about this call?

5 A. They said they had a caller that wished to
6 remain anonymous, and that they had a -- they had two
7 children that were in a room that was -- let me get it
8 exact.

9 [Whereupon, the witness reviews documents]

10 Q. [Ms. Nickles] And you have your report in
11 front of you; correct?

12 A. Yes, ma'am.

13 Q. Do you need to look at that to refresh your
14 recollection?

15 [Whereupon, the witness reviews documents]

16 A. It was in reference to a welfare check on two
17 children that the caller was concerned that there might
18 be illegal drug activity going on inside the apartment or
19 hotel room and that the drugs might be meth, which is --

20 MR. SEATON: Objection, Your Honor. Hearsay.

21 THE COURT: Is there an exception?

22 MS. NICKLES: Your Honor, he's stating the
23 reason why they responded to the call. It's not
24 offered for the truth of the matter asserted. It's
25 offered to prove why he responded.

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1 THE COURT: Overruled.

2 Q. [Ms. Nickles] I'm sorry.

3 So when you -- you get this information from
4 dispatch. What other specifics did they give you
5 concerning location, anything you could look for, to
6 verify this call?

7 A. The caller also mentioned that the --

8 MR. SEATON: Your Honor --

9 THE COURT: Counsel approach.

10 [Whereupon, an off-the-record bench conference
11 is held]

12 THE COURT: Ms. Nickles, you probably should
13 ask your question again. It's been a few moments.

14 MS. NICKLES: I'll kind of narrow these down.

15 Q. [Ms. Nickles] Do they give you the names of
16 any people that might be present at the location where
17 you were dispatched?

18 A. Yes, ma'am.

19 They mentioned a female name by the Kory -- by
20 the name of Kory Abdon, Abdon, and a male subject by the
21 name of Joe.

22 Q. Did they give you any descriptions of vehicles,
23 that might be driven by either Ms. Abdon or this Joe,
24 that may be present at the location?

25 A. They gave the description of a black sedan with

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1 red rims and it would be parked in front of the room.

2 Q. When you -- as a result of getting this
3 information, did you, in fact, respond to the Economy
4 Inn?

5 A. Yes, ma'am. Myself and PFC Oswald responded to
6 it.

7 Q. Did anyone else respond?

8 A. Later Corporal Henderson would come.

9 But we got there first and we went in to speak
10 with the office or the hotel manager to --

11 Q. And do you remember his name?

12 A. I don't recall his name off the top of my head.

13 Q. Do you remember what his position was?

14 A. His -- he was the on-duty manager. Is it
15 Ogier? O-G-L-E-R. Don't know how to say it.

16 Q. Ogier?

17 A. Ogier.

18 Q. And so you and Officer Oswald responded and
19 spoke with him. Did you learn anything from him that
20 either confirmed or dispelled your suspicion that this
21 may -- that led you to believe that the basis for this
22 call may be accurate?

23 A. He explained -- when we were in there, we told
24 him what we were up to, you know, trying to find out if
25 anybody by the name of Kory Abdon was residing at his

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1 hotel. When he pulled up the name, he saw that that --
2 that room 119 was rented to a Kory Abdon. Abdon.

3 MS. NICKLES: Your Honor, may I approach?

4 THE COURT: You may.

5 Q. [Ms. Nickles] And I'm going to hand you what's
6 already been admitted as State's 2 and 3. Do you
7 recognize these?

8 A. Yes, ma'am.

9 Q. What is that?

10 A. It's going to be the check-in slip -- or I
11 don't know what the terminology would be, but it's what
12 they had on hand and they showed us where she had rented
13 a room.

14 Q. The room receipt?

15 A. Yes, ma'am.

16 Q. And you received a copy of that from Mr. Ogier?

17 A. Correct.

18 Q. What information was contained in there as far
19 as occupant?

20 A. It had Ms. Abdon, and it had a Dodge Avenger,
21 Gray -- and I think it was two occupants -- and two
22 occupants.

23 Q. Any other cars?

24 A. They had a -- I think a black Saturn Ion,
25 pardon me, was also registered or written in with the

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1 room.

2 Q. And when -- as a result of receiving this
3 information, what steps did you take next?

4 A. From then, when we went to exit that room, we
5 saw that Corporal Henderson had arrived on scene. We
6 decided to walk down to room 119 and see if there was a
7 black sedan with red rims. When we got down there, there
8 was a black sedan but it had black-colored rims that were
9 very thin or thin-spoked, and you could see through the
10 rims a red brake cover, is what it looked like, which
11 could easily be mistaken for red rims if the car was
12 moving.

13 Q. And the dispatch had given you information of a
14 black sedan with red rims?

15 A. Correct.

16 Q. So after observing this outside of room 119,
17 what actions did you take?

18 A. We decided that we should go ahead and knock
19 and see if we could make contact with any of the parties
20 inside.

21 Q. And why was this your course of action? Why
22 did you immediately respond and then knock on the door?

23 A. With a child-welfare check, we just want to
24 make sure that everything's okay with the children. It's
25 just the easiest way to do it: knock on the door, make

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1 contact with the occupants, see if everything is okay.

2 You can dispel the call and move on.

3 Q. And with these types of child-welfare checks,
4 do you have an option to respond?

5 A. No. You have to respond to them.

6 Q. Why is that?

7 A. With children, it has to be dispelled. If not,
8 I think there's a bit of liability there. With any other
9 call you have a less liability. You know, with children,
10 it's a pretty big one. You have to go to those.

11 Q. So with every child-welfare check, when it
12 involves a residence, let's say --

13 A. We'll go there.

14 Q. You'll go there?

15 A. Yes, ma'am.

16 Q. And what do you do?

17 A. We'll knock and try and make contact with the
18 occupants and see if we can dispel the rumor -- or the
19 call.

20 Q. And how do you do that? What procedure do you
21 use?

22 A. We just go in, we check on-scene, knock on the
23 door. If the occupants come to the door, we advise them
24 why we're there. Nine out of ten times, they'll allow us
25 to look in -- if someone's saying there's no food in the

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1 refrigerator, we'll come on in and look at the
2 refrigerator, it's got food, and then we dispel it, we go
3 on our way.

4 Q. So in the case of this child-welfare check,
5 what happened? You approached and you knocked, and then
6 what happened?

7 A. We heard a little bit of moving around inside
8 the room. And a male's voice came through that said,
9 what do you want. And we advised him that we were with
10 the police department and we're investigating this -- a
11 child-welfare check. They said there were no children
12 present.

13 At this point, the door hadn't opened. They
14 were just talking through the blinds or through the
15 curtains. We asked them to open the door so we could at
16 least make contact and see who's in there, and they
17 finally opened after a minute or so.

18 Q. And what -- at this point, based on your
19 training and experience, what does this kind of conduct
20 do? Does it --

21 A. It leaves me to believe that something else
22 might be going on.

23 That's -- it's not typical. Most people will
24 just go ahead and open the door. And I understand asking
25 who's there, because you want to know who's there, but

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1 after that the door usually opens pretty quick. In this
2 case it didn't, and I could still hear moving around in
3 there.

4 Q. But you said eventually, after a few minutes,
5 the door does open?

6 A. Yes, ma'am.

7 Q. Who opens the door?

8 A. A white male, which would later be identified
9 as Mr. Umphlett.

10 Q. And when the door opens, does it open it all
11 the way, does he open it -- crack it, does he open it
12 partially? How does he open the door?

13 A. About a crack about four or five inches.

14 Q. And what does that do to your -- based on your
15 training and experience, what does that -- does that --

16 A. Again, it --

17 Q. -- cause you to have any kind of reaction?

18 A. It shows that there's a little bit of --
19 normally, people don't do that. Normally people will
20 open the door, as a body gesture, to open up to show that
21 they have no issues going on.

22 When you crack a door just a little bit, it
23 makes me think something -- especially when the police
24 are knocking on it, nine out of ten times someone will
25 open the door and want to know what's going on.

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1 By Mr. Umphlett opening it just a little bit,
2 it appeared as though he didn't want us to look inside
3 any farther or get inside his hotel room. That's -- my
4 training and experience, that's what I see.

5 Q. And you said you had already announced your
6 presence as Summerville police; right?

7 A. Yes, ma'am.

8 Q. So he knew who you were when he cracked the
9 door?

10 A. Yes, sir. Yes, ma'am.

11 Q. When he cracked the door, did you make any
12 observations?

13 A. Immediately upon him opening the door, we were
14 overrun with a strong raw smell of marijuana. It's a
15 very pungent and distinct smell. It immediately
16 overwhelmed us. It was strong.

17 Q. And in your training and experience as a law
18 enforcement officer, have you had the occasion to come in
19 contact with marijuana?

20 A. Through just being a regular patrol officer,
21 yes. And as a K-9 handler, we work with marijuana with
22 the training of dogs.

23 Q. Approximately how many times in your ten-year
24 career do you estimate that you came in contact with
25 marijuana?

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1 A. Well over a hundred cases.

2 Q. And were -- in those cases, oftentimes would
3 that substance that you detected of marijuana confirm to
4 be marijuana?

5 A. Yes, ma'am.

6 Q. So you were pretty familiar with the smell?

7 A. Yes, ma'am.

8 Q. And you said that it was strong. What did you
9 -- what did you do in response to that?

10 A. Once we smelled that, that kind of changed the
11 game a little bit. We were there for a chile welfare and
12 now we have the added narcotics or drugs.

13 We asked if there was any marijuana inside the
14 room. It's a pretty strong smell. We figured we would
15 just go ahead and ask. And they said at first no, and
16 then subsequently it was a yes.

17 Q. And at this point is the door still cracked, or
18 has the door opened any wider?

19 A. It's opened up now. At this point, it's open
20 much wider.

21 Q. So you can see inside?

22 A. Yes, ma'am.

23 Q. Approximately how big was this room 119 at the
24 Economy Inn?

25 A. It might be as wide or -- as wide as one of the

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1 pews back there, and maybe from the first pew back to the
2 wall. We're not talking about a massive room.

3 Q. So you were able from your stance at the front
4 door to pretty much observe most of the room?

5 A. We could see the entire room, with the
6 exception of the bathroom.

7 Q. And once the door was open, what kind of
8 observations were you able to make inside of the room?

9 A. We were able to see a white female, which would
10 later be identified as Kory Abdon. We could see some
11 children's clothing and toys. That was about the gist of
12 it.

13 Q. Did you see anything -- you said you saw
14 children's clothing and toys?

15 A. Yes, ma'am.

16 Q. Was it a few things, or was it a lot?

17 A. It was a good bit. It was a good bit of stuff.

18 Q. Upon your initial contact, did you request
19 anything of the occupants as far as their movements or --

20 A. With -- anytime drugs are involved, we go ahead
21 and ask people not to put their hands in their pockets,
22 not to make any sudden movements, because there's a
23 connection between drugs and weapons at some portion.
24 But there's a nexus there. So we've asked that they not
25 put their hands in their pockets or make any quick

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1 movements, just kind of let us investigate what's going
2 on.

3 Q. So when you smell marijuana, the first thing
4 that goes to your mind is what?

5 A. That there could be something else going on.

6 Marijuana, there could be weapons. Someone
7 could be trying to do from a small joint all the way up
8 to trafficking. You just don't know.

9 Q. After that, after you, you know, asked your
10 initial questions, asked them to refrain from putting
11 their hands in their pockets, things that you would
12 traditionally do, did you take any steps to confirm or
13 dispel the notion that children were there, and the
14 identity of the occupants?

15 A. One of the -- this all happens very quickly,
16 but one of the first few questions is to ask are there
17 any kids in here. Right off the rip, we were told no,
18 there are no children there, that they were staying with
19 I believe Mr. Umphlett's mother.

20 Q. And then, based on that and your observations,
21 did you feel that you could leave at that time?

22 A. At that point what we did was we went ahead and
23 conducted a quick sweep of the room to make sure there
24 were no children, just one-hundred percent to dispel the
25 complaint that we initially had. There was no children

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1 when we did the quick sweep. From that point, the child-
2 welfare was okay. We weren't worried about that. We
3 shifted into the fact that we were smelling marijuana.

4 Q. And you said you did a quick sweep. Why was
5 that? There was a -- was there a portion of the room you
6 could not observe from behind --

7 A. The bathroom. The bathroom is -- we had no
8 clue what's going on. I believe the initial complaint
9 was that there was something being done in the bathroom,
10 so we had to make sure that the children weren't in the
11 bathroom.

12 Q. So you go ahead and confirm that the children
13 are not there. Are you still concerned with where they
14 may be?

15 A. Yes, ma'am.

16 Q. And what steps do you take as a result of that
17 concern?

18 A. I believe he was -- Mr. Umphlett was asked
19 exactly where they were. We obtained an address and all
20 information.

21 Q. Did you get the same information from both
22 occupants?

23 A. I believe so, yes, ma'am.

24 Q. And did you do anything to ensure that that
25 information you received would be reliable?

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1 A. I believe that the complainant was called back.
2 I'm not sure whether that was Corporal Henderson or
3 Sargent --

4 Q. You did not make any of those calls?

5 A. I did not make those calls.

6 Q. So you don't have any knowledge of what was
7 said?

8 A. No, ma'am.

9 Q. You were just on-team with him?

10 A. Yes, ma'am.

11 Q. So now that you know there are no children in
12 the room, you still remained because you smelled
13 marijuana?

14 A. Correct.

15 Q. So now the investigation switches from children
16 to what you observed. And what steps do you take next?

17 A. From there, we're -- we go ahead and get
18 identification from the people and we find out who they
19 are, then conduct record checks on them.

20 Mr. Umphlett was read his Miranda rights and we
21 went ahead and started asking about what's going on. We
22 were pretty much told at that point that it was just a
23 small cigar or a joint -- I don't remember the exact
24 wording -- as far as what was in the room.

25 Q. Let's back up a little bit.

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1 A. Okay.

2 Q. So you get their identifications and you said
3 you ran a record check?

4 A. Yes, ma'am.

5 Q. When you ran that record check, what
6 information was it based on? Did they provide you with
7 anything upon which you were able to run that check?

8 A. We got an ID or driver's license from Ms.
9 Abdon, and a name and date of birth from Mr. Umphlett.

10 Q. And upon running those record checks, you
11 confirmed that those were, in fact, the occupants of the
12 room? Kory Abdon and Joseph Umphlett.

13 A. Yes, ma'am.

14 Q. I am going to show you what's been marked as
15 State's 5 through 17.

16 MS. NICKLES: Show them to Mr. Seaton first.

17 [Whereupon, Mr. Seaton reviews documents]

18 MS. NICKLES: Your Honor, may I approach?

19 THE COURT: You may.

20 Q. [Ms. Nickles] I'm handing Mr. Williams what's
21 been marked as State's 5 through 17.

22 A. Okay.

23 Q. Can you take a look through those and tell me
24 if you recognize them?

25 [Whereupon, the witness reviews documents]

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1 A. Yes, ma'am. These appear to be room 119 at the
2 Economy Inn.

3 Q. [Ms. Nickles] Flip through them all and make
4 sure that you don't have any questions about any
5 specifics on them.

6 [Whereupon, the witness reviews documents]

7 A. Yes, ma'am, they're all from that room.

8 Q. [Ms. Nickles] And do those pictures fairly and
9 accurately represent the way the room appeared to you
10 that night?

11 A. Yes, ma'am.

12 MS. NICKLES: Your Honor, at this time the
13 State would move to admit State's 5 through 17.

14 MR. SEATON: Without objection, Your Honor.

15 THE COURT: State's 5 through 17 --

16 MS. NICKLES: Thank you, Your Honor.

17 THE COURT: -- into evidence without objection.

18 [Whereupon, State's Exhibit Numbers 5 through
19 17 are admitted into evidence by the Court]

20 MS. NICKLES: May I approach?

21 THE COURT: You may.

22 MS. NICKLES: Your Honor, may I have permission
23 to publish?

24 THE COURT: You may.

25 MS. NICKLES: And for this, we'll display these

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1 on the screen up here. If we could start with
2 State's Exhibit 5.

3 And, Mr. Williams, if you need to turn around,
4 you can.

5 Q. [Ms. Nickles] Can you tell me what this is?

6 A. That's going to be the outside of room 119,
7 which the door is straight ahead.

8 Q. And which one is room 119?

9 A. It's going to be the one on the right with the
10 black sedan in front of it.

11 Q. And is that the black sedan that you mentioned
12 earlier?

13 A. Yes, ma'am.

14 MS. NICKLES: And if we could publish State's
15 7.

16 Q. [Ms. Nickles] Can you tell me what that is?

17 A. Yes, ma'am.

18 Again, that's going to be the outside of room
19 119. It's with -- the door is open. And the black sedan
20 was out front with the red-in-color brake covers.

21 Q. And the brake covers are in the area where the
22 rims are, it's just not the actual rim?

23 A. Correct.

24 Q. So they're underneath the rim?

25 A. Yes, ma'am.

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1 Q. And we're just going to back up a little bit so
2 you can show what you saw.

3 A. Okay.

4 Q. You said from the front door of the room you
5 were able, because it's not that big, to get a pretty
6 good look inside once the door was fully opened. Now,
7 obviously you weren't this close, but State's Exhibit 10,
8 what does that appear to be to you?

9 A. That's going to be some children's clothing
10 hanging in the entryway into the bathroom.

11 It's hard to explain. You've got an open
12 bathroom area that goes into an actual bath -- bathroom,
13 bath and toilet area.

14 Q. And you were able to observe that from your
15 viewpoint at the front door?

16 A. You can see them hanging.

17 MS. NICKLES: And if we could go to State's
18 Exhibit 9.

19 Q. [Ms. Nickles] What does that appear to be to
20 you?

21 A. That's going to be the lower of that first
22 picture you just showed where the sink and everything's
23 above it.

24 And that's more children's -- it's a ball,
25 clothing, children's clothing. And it looks like adult

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1 clothing, too.

2 Q. Now, the entrance to this room, was it on the
3 left side of the room, the right side of the room, or the
4 middle? Is this in your --

5 A. If you were --

6 Q. -- direct line of vision?

7 A. -- looking through the door, you're looking
8 right at this.

9 Q. So you were able to see this?

10 A. Yes.

11 Q. And initially this is why, after smelling
12 marijuana, you continue to ask about the presence of
13 children?

14 A. Correct.

15 MS. NICKLES: And if we could go to State's
16 Exhibit 8.

17 Q. [Ms. Nickles] And, again, what is this?

18 A. This is going to be, if you're standing in the
19 doorway, to the immediate right.

20 If you're -- as you're looking at this picture,
21 your doorway is going to be over here on the right. And
22 that's going to be more children's stuff mixed with adult
23 stuff, too --

24 Q. So --

25 A. -- toys and things like that.

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1 Q. And then -- so it wasn't just one or two things
2 in the room that --

3 A. No, ma'am.

4 Q. -- led you to believe that children may be
5 present?

6 A. There was a good bit. No, ma'am, it --

7 Q. It was a lot of children's --

8 A. Just a lot of stuff.

9 Q. -- stuff?

10 A. Yes, ma'am.

11 Q. But you said you were able to confirm they were
12 not present.

13 And you didn't take these pictures, did you?

14 A. I did not, no.

15 Q. So let's go back to the smell of marijuana.
16 You said that after you got their IDs and then you
17 confirmed no children so you switched to the smell of
18 marijuana?

19 A. Correct.

20 Q. You asked -- do you ask any questions of the
21 occupants?

22 A. I asked where it is.

23 Q. Why did you ask where it was -- where it is?

24 A. Just so that we can go ahead and -- it might
25 just be -- if it is a little bit, we can go ahead and see

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1 where it's at and we can get done with this thing and
2 move on.

3 From there, it was -- I was told that it's in a
4 drawer, and Mr. Umphlett pointed at a drawer.

5 Q. Who told you it was in the drawer?

6 A. Mr. Umphlett.

7 Q. After he told you it was in the drawer, which
8 -- did he tell you which drawer?

9 A. I believe he said the top. Let me make sure,
10 though.

11 [Whereupon, the witness reviews documents]

12 A. Yes, ma'am. It was the -- located in the top
13 drawer.

14 Q. [Ms. Nickles] Based on that, did you ask any
15 other questions?

16 A. When I was speaking with him, I asked if there
17 was anything else in the room. He said no, but the way
18 that he said no was -- it just caught me off guard. It
19 wasn't an immediate no, it was he had to think about it.
20 And typically, the people I deal with at the simple
21 possession level, they don't have to think about it, they
22 know, okay, I've got a little bit of weed.

23 Q. And he had admitted to you that it --

24 A. Yeah.

25 Q. -- was in the room? But he --

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1 A. Right.

2 Q. Describe his demeanor for the jury, please.

3 A. When we first made contact with him, he had a
4 white -- not a white -- he had no shirt on whatsoever.
5 He appeared to be scared. I could tell that he was very
6 alert, very shocked. Usually that happens when the
7 police are at your door, but it usually goes down. Well,
8 at this point, his nervousness is -- it's still high.

9 He's still scared. Typically, once you admit
10 to simple possession of marijuana, it starts to go down a
11 little bit because you've admitted it and you're done.
12 But with Mr. Umphlett, it didn't. It stayed up.

13 I could tell that his hands were still shaking,
14 he didn't want to make eye contact. Typically, that
15 means that something else is going on. It may not be
16 drugs, it may be something else, but usually it means
17 something else is going on.

18 Q. Did you ask Mr. Umphlett if you could do
19 anything as a result of smelling weed and witnessing his
20 demeanor and his response to your presence?

21 A. Based on his demeanor and his response, we
22 thought something else might be going on. The obvious
23 choice is to start with the possibility that there's
24 drugs, more drugs. I asked for consent to search the
25 room.

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1 Q. And why did you do that?

2 A. That's the easiest way to resolve the
3 complaint. Consent, search the room. If it's a just a
4 little bit of marijuana, a simple thing, you're out the
5 door, you're done.

6 But Mr. Umphlett allowed us -- consented to us
7 retrieving the marijuana but nothing else.

8 Q. So he gave you consent to go in and get the
9 marijuana but --

10 A. Right.

11 Q. -- nothing else?

12 A. Correct.

13 Q. What does that do to your suspicion at that
14 point?

15 A. That, again, is not a normal response to
16 someone who's just admitted there's marijuana inside the
17 room. Because if you've admitted that, and that's all
18 you have, most people are like, yeah, sure, get done,
19 help me out, we're done, over.

20 By saying only get the marijuana leads me to
21 believe that there might be something else going on. Or
22 I should say it reaffirms that there might be something
23 else going on.

24 Q. And during this time that you're interacting,
25 other things are going on, but we're not going to go

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1 through your interaction with him verbatim because that
2 would take forever. But this is kind of essentially an
3 overview of everything --

4 A. Yes, ma'am.

5 Q. -- you've done?

6 Did you ask anyone else for a consent to search
7 the room?

8 A. We asked Ms. Abdon to -- Abdon, Kory, and her
9 initial response was, all of this for marijuana. And
10 when we asked again for clarification, a yes or a no, we
11 were told no.

12 Q. And you have to have an affirmative or -- you
13 have to have a certain answer when you're asking for
14 consent to search; right?

15 A. Yes, ma'am.

16 It needs to be clear. There needs to be no
17 guesswork.

18 Q. Did you make any threats or use any forms of
19 coercion or trickery or anything when you're asking for
20 consent -- or when you were dealing with Mr. Umphlett and
21 Ms. Abdon?

22 A. No, ma'am.

23 Q. Once you were denied consent, what did you do?

24 A. At that point, I advised the corporal -- or
25 it's Corporal Henderson and requested that maybe we could

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1 contact metro narcotics. Metro narcotics is a little
2 more specialized and equipped to handle narcotics-related
3 issues, especially in the area of search warrants and
4 things like that. Corporal --

5 Q. And you stated that you and the others who
6 responded were on essentially patrol duty; right?

7 A. Correct.

8 PFC Oswald and Corporal Henderson were on the
9 patrol team, and I was put to augment them.

10 Q. So when you contacted metro narcotics, you did
11 that why?

12 A. With contacting metro narcotics, there's more
13 resources there.

14 They're better equipped. They're better
15 writers, so they're able to articulate what's going on,
16 and they can also tell us if there's any additional
17 things that we need to do or things that they don't want
18 us to do. Because as an investigator, they kind of like
19 it done a certain way.

20 Q. So at that point, you've not gotten consent.
21 You kind of step away from the situation. You call in
22 another team to handle this?

23 A. First, Corporal Henderson called the
24 lieutenant.

25 Q. I'm sorry.

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1 Okay. So it's Corporal Henderson contacts
2 metro to come in and handle this situation?

3 A. Correct.

4 Q. Now, at that point do you leave?

5 A. We stand by for them. We wait for them.

6 Q. And why is that?

7 A. With that scene and the evidence that's inside
8 the room, we can't leave it unattended. It could be
9 destroyed or harmed. Not to mention you have two
10 occupants there. So we have to wait until they get
11 there.

12 Q. And in your training and experience, when you
13 leave after -- if you were to leave after informing
14 someone that a search warrant is -- someone's in the
15 process of getting a search warrant, what would you
16 believe to be the result of that?

17 MR. SEATON: Objection, Your Honor. It calls
18 for speculation in this case or --

19 THE COURT: Sustained.

20 Q. [Ms. Nickles] So you stayed on scene. While
21 you're on scene, are you continuing to have conversation
22 with these people --

23 A. Yes, ma'am.

24 Q. -- these occupants?

25 When you -- did you at some point, or any other

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1 officer on the scene, advise the occupants that you were
2 contacting metro narcotics and a search warrant would be
3 requested and then executed if given?

4 A. Yes, ma'am.

5 At that point, we've got these people, we're
6 pretty much holding them where they're at, so we kind of
7 owe them an explanation as to what's going on. We
8 informed them that the narcotics unit would be responding
9 out to assess the situation and possibly obtain a
10 warrant.

11 Q. And did the defendant make any statements as a
12 result of that?

13 A. Let me make sure I get it right.

14 [Whereupon, the witness reviews documents]

15 A. At that point, it was more or less that it's
16 just marijuana, it's just a little bit. I didn't go much
17 past that.

18 Q. [Ms. Nickles] And let's kind of back up just a
19 little bit.

20 While you were there, you said one of the
21 things you did was ask for consent. When you as an
22 officer ask for consent, do you have to specifically use
23 the words may I have consent?

24 A. Yes.

25 That is the best way because it's the clearest

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1 way. Because, again, you're -- our whole point here is
2 to be clear. They have to understand what they're doing,
3 and I want them to understand what I'm asking.

4 Q. So, again, you're not trying to force them to
5 consent, you're not trying to --

6 A. Correct.

7 Q. -- trick them into it, you're not trying to
8 coerce?

9 A. Correct.

10 Q. And when he said no, you called in another
11 team?

12 A. Right.

13 Q. While you're waiting for them to respond, do
14 you ask any additional questions based on the information
15 you have up to this point?

16 A. Again, with the connection of drugs and
17 weapons, we tend to find one with the other so we asked
18 if there was any firearms in the room and we were advised
19 that there was.

20 Q. Who advised you of that?

21 A. Mr. Umphlett.

22 Q. What did he say?

23 A. That there was a firearm in the room and
24 that -- at first he didn't give me the exact location of
25 it. I believe -- I'll give you the exact --

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[Whereupon, the witness reviews documents]

A. They said that there was a gun in the room. Ms. Abdon didn't know exactly where it was. However, Mr. Umphlett was able to advise that it's in the top drawer of the night stand, and pointed there, also.

Q. [Ms. Nickles] Did he make any other statements, about this weapon, as to ownership?

A. Eventually, he'll say that it belonged to him, that it was his weapon.

Q. Initially, when you asked him -- I think we're fast-forwarding a little bit.

A. I'm sorry.

Q. When you asked him if there were any weapons in the room, did he -- he advised that there was. But did he make any other statements initially?

A. [No response]

Q. About the registration or ownership?

MR. SEATON: Your Honor --

A. He --

THE WITNESS: I'm sorry.

MR. SEATON: -- I object to leading.

THE COURT: Overruled.

THE WITNESS: I'm sorry.

A. He at first said that it was a registered firearm to Ms. Abdon.

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1 Q. [Ms. Nickles] And based --

2 A. That was the first statement. That was --

3 Q. And based --

4 A. -- the first --

5 Q. -- on that --

6 I'm sorry. I don't mean to keep cutting you
7 off. What were you going to say?

8 A. That was the first thing that he had said, that
9 it was registered.

10 Q. So as a result of that, did you ask Ms. Abdon
11 about the gun?

12 A. Correct.

13 Again, she wasn't a hundred percent sure where
14 it was. She gave us several locations in the room. And
15 we asked if we could check, to secure the weapons, since
16 neither subject is handcuffed at this point. They're
17 able to move, so --

18 Q. That was my next question.

19 A. I'm sorry.

20 Q. Where were these occupants located in the room
21 at this time?

22 A. At this time you have Mr. Umphlett is sitting
23 on the bed closest to the door. He's sitting at the end
24 of the bed so he's literally within three or so feet,
25 four feet, from the doorway. Ms. Abdon is standing just

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1 outside the doorway in front of the windows.

2 MS. NICKLES: Can we go -- let's pull up
3 State's Exhibit 8.

4 Q. [Ms. Nickles] If you wouldn't mind turning
5 around and looking at that.

6 Do you see any part of what you just described
7 in that picture?

8 A. The very lower corner where the foot is, that's
9 exactly where he's sitting. You see the light switch in
10 the very corner? The door is right next to that.

11 Q. So the defendant was unrestrained, no
12 handcuffs, no --

13 A. Correct.

14 Q. -- restraints whatsoever?

15 A. No, no restraints.

16 Q. Free to move about the room, sitting on that
17 bed?

18 A. Correct.

19 Q. And Ms. Abdon was where?

20 A. She's standing right outside. If you look
21 right through those windows, she's standing right there.

22 Q. When he ultimately tells you where the gun is
23 located, does that give you any reason for concern?

24 A. We asked to secure it, because obviously it's a
25 firearm and we don't like to have those in the mix.

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1 Q. And where did he tell you the firearm was
2 located?

3 A. He pointed over to the night stand and to the
4 upper shelf --

5 Q. And who was --

6 A. -- or door.

7 Q. -- closest to this weapon that he's admitted is
8 in the room?

9 A. Mr. Umphlett.

10 Q. And per your training and experience, does that
11 give you any reason for concern?

12 A. Yes, ma'am.

13 The ability for him to get there before one of
14 us could get to him, he's probably going to be there
15 faster and we're not going to be able to get him that
16 fast.

17 Q. And so at that point, you can go retrieve the
18 gun --

19 A. Right.

20 Q. -- for officer safety?

21 A. [Indicates affirmatively]

22 Q. But you asked for consent and were given -- he
23 said -- and Ms. Abdon, or just the defendant told --

24 A. Both of them said that's fine to retrieve -- we
25 told them we're just going to -- safekeeping, we're not

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1 taking them permanently.

2 MS. NICKLES: If we could pull up State's 13.

3 Q. [Ms. Nickles] Were you the officer who went
4 inside to get the gun, or was it one of the other
5 officers on the scene?

6 A. It was one of the other ones. I believe it was
7 Oswald.

8 Q. And when Officer Oswald went to get the gun --

9 MS. NICKLES: If we could pull up State's 14.

10 Q. [Ms. Nickles] -- was it just as the defendant
11 described, or was there a little more?

12 A. The officer looked at me and advised that
13 there's two guns.

14 MR. SEATON: Objection. Hearsay.

15 THE COURT: Overruled.

16 Q. [Ms. Nickles] Did Mr. Umphlett tell you that
17 there were two guns or that there was one gun?

18 A. One gun.

19 Q. And he said there's one legally registered to
20 Kory Abdon?

21 A. Right.

22 Q. He failed to mention the second weapon?

23 A. Correct.

24 Q. Based on your observations of the scene, do you
25 recall if these weapons were loaded?

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1 A. I do not recall. I don't know that.

2 Q. Because you weren't the one who actually went
3 and retrieved them?

4 A. Correct.

5 Q. But officers did at that time go in --

6 And that's when I believe these pictures were
7 taken?

8 A. I believe they secured a camera and then took
9 photos and recovered the -- or secured the weapons.

10 Q. What's the purpose for taking photos?

11 A. It shows it exactly how it is: no damage,
12 damage, whatever is going on. It's a full image of what
13 we found so if something happens, the gun doesn't work,
14 it's messed up, we can show that we have taken
15 photographs and this is how we found it.

16 Q. So you're needing to document --

17 A. Yes, ma'am.

18 Q. -- the stuff that you've taken?

19 A. [No response]

20 MS. NICKLES: I'm sorry. Please pull up
21 State's 14 one more time.

22 Q. [Ms. Nickles] You said that prior to this,
23 Mr. Umphlett had admitted there was marijuana in a
24 drawer. Do you see that in this picture?

25 A. Yes, ma'am.

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1 When you look at the lower part of the drawer
2 right here, it's up against the -- I believe it's like
3 a -- or a flashlight or something like that. It's right
4 there, the green plant-like material.

5 Q. And this was just the marijuana he admitted to?

6 A. Correct. That's what he had pointed out.

7 Q. And did you, or any of the other officers
8 originally on scene, do anything with this marijuana? Or
9 do you know if they just got the guns?

10 A. I don't know for sure. I wasn't -- I didn't
11 collect any of that.

12 Q. So you didn't take anything --

13 A. No.

14 Q. -- from this drawer?

15 A. No.

16 Q. But you were on scene when these guns were
17 recovered?

18 A. Yes, ma'am.

19 Q. The one he admitted and the one he did not?

20 A. Correct.

21 Q. At that point, where is your level of
22 suspicion?

23 A. It's pretty high. It's pretty at the top of
24 its game.

25 We've got the initial way he was acting. Now

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1 we've got an additional gun. It's pretty much at the
2 top. We're just standing by, at this point, for
3 narcotics to come out.

4 Q. And at that point, the search warrant had
5 already been requested?

6 A. Correct.

7 Q. Did you take any additional measures, at some
8 point after retrieving these guns, as far as -- were the
9 occupants allowed to remain unsecured in the room?

10 A. No. Shortly after that, they were placed in
11 handcuffs.

12 Q. Why is that?

13 A. With all that we had at that point, we thought
14 that we had something serious going on and we needed to
15 detain them for flight or anything of that sort.

16 Q. And that's common practice when you're waiting
17 on a search warrant?

18 A. Yes, ma'am.

19 Q. You continue to speak to the defendant after
20 this?

21 A. Yes, ma'am.

22 Q. And you said he had been Mirandized; correct?

23 A. Correct.

24 Q. Did he indicate to you that he understood those
25 rights?

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1 A. He did.

2 Q. And when you Mirandize someone or when you used
3 to Mirandize someone -- I assume you don't anymore -- how
4 did you go about doing that?

5 A. I find common practice for me is to use a card
6 because it's easiest so you don't mess it up. So I use a
7 departmental card that they gave us a while back and I
8 use that to read my Miranda rights.

9 Q. And did you use that with the defendant?

10 A. Yes, ma'am.

11 Q. And in response to that, did the defendant
12 indicate that he wanted you to leave, that he didn't want
13 to talk to you, that he wanted to end this interaction at
14 all?

15 A. No. He indicated that he wanted to talk.

16 Q. He told you he wanted to talk to you?

17 A. Yes, ma'am.

18 Q. And what statements did he make after
19 indicating that he wanted to talk?

20 A. While speaking with him, he indicated that
21 everything in the room was his. He didn't explain -- I
22 tried to expound, you know, tried to get an explanation
23 as to what everything is. He just kept saying,
24 everything in the room is mine.

25 Q. So we go from marijuana in a drawer, to a gun

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1 registered to Kory Abdon, to two guns in a drawer --

2 A. Right.

3 Q. -- to everything's mine?

4 A. Correct.

5 MR. SEATON: I'm going to object. That is a
6 leading question. She is testifying.

7 THE COURT: Sustained as to leading.

8 Q. [Ms. Nickles] After that point, you said you
9 restrained him?

10 A. Correct.

11 Q. And did you continue an inquiry into all the --
12 the statement of it's all mine?

13 A. I tried to get him to explain what all of mine
14 entailed. I was unsuccessful. He didn't go into any --
15 any further into that.

16 Q. Did he give you any little -- he wouldn't
17 confirm it, but did he make any further statements after
18 saying it's all mine?

19 A. I couldn't get what it was, so I tried to go at
20 the angle of, well, how much is it. And all I could get
21 from him was --

22 Give you the exact --

23 [Whereupon, the witness reviews documents]

24 A. He said, it was enough.

25 Q. [Ms. Nickles] Did he say anything else?

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1 A. He described "it" as being approximately seven
2 ounces.

3 Q. And that's -- seven ounces. Do you know about
4 how many grams that would be?

5 A. I'm not good at math. I wouldn't try that.
6 That's --

7 Q. Would it be more than a hundred?

8 A. Yes.

9 Q. So now you know it, something in the room, is
10 all his and it's about seven ounces.

11 After that, this process of getting a search
12 warrant, about how long does that take?

13 A. I'm not a hundred percent sure but --

14 Q. Approximately.

15 A. Approximately between thirty minutes and an
16 hour, depending on what judge you're getting ahold of and
17 where he's at.

18 Q. And this was -- you said you responded at
19 night. The process --

20 A. Yes, ma'am.

21 Q. -- of getting a search warrant involves what?

22 A. Well, they're going to have to put together a
23 search warrant -- the application for it, I should say.
24 They're going to have to wake a judge up and go to a
25 judges house and have him sign it.

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1 Q. Okay. So that takes a little while?

2 A. It takes a little bit.

3 Q. So you're just remaining on scene at this point
4 with -- are both of the occupants of the room, the
5 defendant, as well as Ms. Abdon, detained at this point?

6 A. At this point, yes.

7 Q. Eventually, narcotics, metro narcotics
8 detectives, arrive on scene?

9 A. Yes, ma'am.

10 Q. And did they kind of take over?

11 A. From there, they came in. They required a
12 brief. Provided them with a brief, and they took over.

13 Q. Do you recall speaking with Detective Thompson
14 on scene?

15 A. Yes, ma'am.

16 Q. And what, if anything, did you tell him
17 regarding the defendant's Miranda rights?

18 A. That they had been advised, verbally only; I
19 had done no written, but I had advised him verbally that
20 they had been Mirandized --

21 Q. And that's a --

22 A. -- or that Mr. Umphlett had been Mirandized.

23 Q. You're not required to get a written --

24 A. Correct.

25 Q. -- waiver? Reading and a verbal acknowledgment

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1 is enough?

2 A. Yes, ma'am.

3 Q. So then you passed them off to metro narcotics
4 and then you remain on scene?

5 A. Correct.

6 Q. So by the time they respond, you've been on
7 scene for quite a bit of time; right?

8 A. Yes, ma'am.

9 Q. I don't believe I asked you this earlier. You
10 said that you were able to confirm the identities of the
11 occupants. Do you see any of those occupants in the
12 courtroom today?

13 A. Yes, ma'am. Mr. Umphlett.

14 Q. And what is he wearing?

15 A. A black button-up shirt.

16 Q. And where is he seated?

17 A. Next to Mr. Seaton.

18 MS. NICKLES: Your Honor, may the record
19 reflect that Mr. Williams has identified the
20 defendant.

21 THE COURT: It will.

22 MS. NICKLES: Thank you.

23 Q. [Ms. Nickles] Now, let me ask you a few
24 background questions. Before this day, did you know
25 Mr. Umphlett?

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1 A. I had not seen him, at least that I recall,
2 before that day.

3 Q. And in statements not related to the guns, just
4 -- you know, you're there a long time. In talking to
5 him, does he make any statements to you that threw you
6 off a bit?

7 A. While speaking with him, he advised that he was
8 married to the cousin of a Summerville police K-9
9 handler.

10 Q. What else did he say about that?

11 A. Well, me being the K-9 handler, I had to ask
12 who. He advised me that he was married to a Danielle.
13 Well, I have a cousin named Danielle. So as I turned to
14 the supervisor to say, well, this is probably going to be
15 my cousin, he asked if I was Hobie Williams and I said I
16 am Hobie Williams and that is my cousin. So it turns out
17 that he is married to my cousin.

18 Q. And did that come to a surprise -- come as a
19 surprise to you?

20 A. Yes, ma'am.

21 Q. So you didn't recognize him initially upon --

22 A. No, ma'am.

23 Q. -- did he recognize you or --

24 A. I don't think he --

25 MR. SEATON: Objection, Your Honor. Leading.

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1 THE COURT: Overruled.

2 A. He -- I don't think he recognized me until he
3 saw me stop talking and turned and started talking to my
4 supervisor about the fact that he was married to a
5 Danielle. And then I think it started to click that I'm
6 a Williams, he knows a Hobie Williams, and that's what I
7 think led to it.

8 Q. [Ms. Nickles] So he said he knew a Hobie
9 Williams?

10 A. He said he knew a Hobie Williams.

11 Q. But you're Hobie Williams.

12 A. I'm Hobie Williams. The only Hobie Williams in
13 Summerville P.D.

14 Q. There are no other K-9 --

15 A. No other Hobie Williamses, no other K-9 Hobies.
16 None of those.

17 Q. On this night you were driving your patrol car;
18 correct?

19 A. Yes, ma'am.

20 Q. And was that car equipped with a video-
21 recording system?

22 A. Yes, ma'am.

23 Q. And to your knowledge, on that night was that
24 system working --

25 A. Yes, ma'am.

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1 Q. -- accurately?

2 After an encounter like this, do you take any
3 steps to preserve anything that may have been recorded on
4 that camera?

5 A. We go ahead and pull the DVD and turn it into
6 evidence.

7 Q. When you pulled this DVD, what did you find?

8 A. I didn't listen to it. But upon meeting with
9 the solicitor's office, the DVD was not -- the audio
10 quality was horrible. I couldn't understand anything on
11 it.

12 Q. So there appeared to be some kind of problem?

13 A. Yes, ma'am.

14 Q. You were not aware of that that night?

15 A. No, ma'am.

16 Q. So that's the reason there isn't a video from
17 your car?

18 A. Correct.

19 Q. It just doesn't work?

20 A. Right.

21 I turned the DVD in, but for some reason the
22 DVD will not play.

23 Q. And are you able to go back and try to retrieve
24 that information after a certain amount of time, or is
25 that --

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 A. My car is -- or at that time my car was one of
2 the oldest in the fleet and that camera system only holds
3 video for I think it's like twenty or so days -- don't
4 hold me to the exact number -- so by the time we realized
5 that the audio quality was bad, that had already cleared
6 out.

7 [Whereupon, Ms. Nickles reviews documents]

8 MS. NICKLES: I apologize. I just want to make
9 sure we get through everything.

10 THE WITNESS: Yes, ma'am.

11 Q. [Ms. Nickles] In this case, at the end of it
12 obviously the defendant was arrested and charged. Did
13 you have anything to do with making those charges?

14 A. No, ma'am. That was --

15 Q. Who --

16 A. -- metro narcotics came in and took over.
17 That's their investigation.

18 Q. So your role in this is as an initial
19 responder?

20 A. Yes, ma'am.

21 Q. As well as the other Summerville Police
22 Department --

23 A. Right.

24 Q. -- responders?

25 A. Yes, ma'am.

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 Q. Once narcotics, metro narcotics, is there --

2 A. Once they're briefed, they -- we stay there for
3 their security, but other than that they're running it.

4 Q. And you created a report, a --

5 A. Yes, ma'am.

6 Q. -- written report?

7 Were you dealing with everyone on scene, or had
8 y'all kind of -- because there were three of you, did you
9 kind of split up roles?

10 A. We tried to stay where we could still see each
11 other, but we did split up.

12 I stayed more with Mr. Umphlett. Oswald stayed
13 more with Ms. Abdon. And the corporal, or sargent now,
14 stayed towards the middle so he could supervise both of
15 us.

16 Q. And when you say corporal, his role is what?

17 A. He was the supervisor on duty that night.

18 Q. So when he responds, who -- is he more in
19 control, or are you and Officer Oswald more in control of
20 the situation --

21 A. Corporal --

22 Q. -- what are the roles?

23 A. Corporal Henderson is more of a quality
24 control. He stays back, he keeps an eye to make sure
25 that everything is being done correctly. But he is in

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 control, but he allows us to do what we have to do.

2 MR. SEATON: Your Honor, may we approach?

3 THE COURT: Yes.

4 [Whereupon, an off-the-record bench conference
5 is held]

6 THE COURT: Unrelated to this case, ladies and
7 gentlemen.

8 Ms. Nickles, I apologize.

9 MS. NICKLES: No problem.

10 I'm going to try to get through this. We have
11 scheduling issues.

12 Q. [Ms. Nickles] With your continued interaction
13 with Mr. Umphlett, over the entire length of this -- of
14 your encounter with him, what did his -- what happened to
15 his demeanor? I know you stated initially what happened,
16 but over the entire course of this.

17 A. About the point where he had -- he said it's
18 all mine, his demeanor had changed to more of an
19 accepting demeanor. He seemed like he was being truly
20 heartfelt remorseful that everything was his and became
21 much more I guess personable would be the word for it.

22 It seemed like his guard was down and he wanted
23 to talk. He wanted to explain what was going on. More
24 honest is the only way I could put it.

25 Q. I want to talk about your demeanor first. When

Hobie Williams
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August 29, 2015

1 you respond to a situation like this when you suspect
2 narcotics and then you know of weapons, what is your
3 demeanor like? Are you speaking like you're speaking
4 now, or are you speaking in slightly different terms?

5 A. A little bit more affirmative tone or a little
6 more firm tone, I should say, because with the
7 possibility of what could happen, you want to make sure
8 that everything you're saying is understood and that they
9 understand that it's a serious matter.

10 Q. Did you observe any male belongings in the
11 room?

12 A. Not that I recall.

13 Q. Would it refresh your recollection to see
14 State's Exhibit 12?

15 A. Yes, please.

16 [Whereupon, the witness reviews documents]

17 A. Yes, ma'am. Those are -- they're all the
18 shoes. Lots of shoes.

19 Q. [Ms. Nickles] And do those appear to be male
20 or female shoes?

21 A. They appear to be male.

22 Q. And State's Exhibit 13. Anything else?

23 A. That appears to be a male shoe down there, too.

24 Q. Did the defendant make any statements to you
25 regarding how -- if he was -- if he was, in fact, an

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 occupant of this room, or was he just there? Did he just
2 happen to be there when y'all came by?

3 A. He said that they had been staying there I
4 believe for --

5 [Whereupon, the witness reviews documents]

6 A. -- a few days. Or let me get you the exact.

7 [Whereupon, the witness reviews documents]

8 A. A week, is what he mentioned. Just one week.
9 They were building a house or something like that. He
10 was building a house.

11 Q. [Ms. Nickles] Did he make any statements
12 regarding the car outside?

13 A. It's his brother's car. I believe he may have
14 mentioned that it was his brother's car.

15 Q. So he was in control of that car?

16 A. Correct.

17 Q. Was his brother there?

18 A. No. No other -- just the two adults that was
19 there.

20 MS. NICKLES: We're almost done. Beg the
21 Court's indulgence.

22 THE COURT: Take your time.

23 [Whereupon, Ms. Nickles and Mr. McNeely confer]

24 Q. [Ms. Nickles] You mentioned that originally
25 the defendant said something about a gun belonging to

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 Ms. Abdon. Did he make any statements regarding the
2 second gun?

3 A. Let me check. I'm not sure on that.

4 [Whereupon, the witness reviews documents]

5 A. Not that I can recall.

6 Q. [Ms. Nickles] Not to you?

7 A. No, ma'am.

8 Q. Would it refresh your recollection if I showed
9 you your report and then spend a little bit of time --

10 MR. SEATON: Your Honor, I'm going to object.

11 He's already answered the question. Now she
12 didn't like it, so she's going to ask -- try again.

13 THE COURT: Let's see where she's going. Hold
14 on.

15 Q. [Ms. Nickles] Do you have all of this
16 memorized that was in your report?

17 A. No.

18 Q. Has it been a little bit of time since this
19 happened?

20 A. Over a year.

21 Q. When did you make this statement? This
22 recording?

23 A. It would have been that night.

24 Q. So would it be fair to say that this is a better
25 record of what you were remembering at the time --

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 A. Yes, ma'am.

2 Q. -- now? And why do you make these reports?

3 A. In case the case goes a year later, so I can
4 remember.

5 Q. So you can remember what happened?

6 A. Yes, ma'am.

7 Q. I'll give you some time to look over it.

8 MS. NICKLES: Your Honor, may I approach?

9 THE COURT: You may.

10 Q. [Ms. Nickles] If I can direct your attention to
11 page 7.

12 [Whereupon, the witness reviews documents]

13 A. Right. That was the original statement that he
14 had made that -- that it's all mine.

15 Q. [Ms. Nickles] Okay.

16 A. That's what I had said earlier. That's why --
17 that was his original statement when I was talking with
18 him after the guns had been found, that he claimed
19 ownership of everything. He said, it's all mine.

20 Q. Okay. So it's all mine?

21 A. Yes, ma'am.

22 MS. NICKLES: All right. Mr. Williams, I don't
23 have any other questions at this time. I appreciate
24 your patience.

25 THE WITNESS: No problem.

Hobie Williams
Direct Examination by Ms. Nickles
August 29, 2015

1 MS. NICKLES: Thank you.

2 THE COURT: Ladies and gentlemen, as I indicated
3 to you, this is not like television. Sometimes it
4 doesn't flow from commercial break to commercial
5 break.

6 There are some matters that I must take up
7 outside of your presence unrelated to this case. And
8 as I indicated to you earlier, I really do try to
9 minimize your inconvenience. So instead of having
10 you sit around, I'm going to go ahead and release you
11 for the day.

12 Please remember all of my admonitions. Please
13 take your notepads with you.

14 Report back at 9:30 in the morning. We'll
15 report back -- we're going to begin at 9:30 like we
16 did this morning.

17 Please rise for the jury.

18 [Whereupon, the jury exits the courtroom at
19 2:34 p.m.]

20 THE COURT: Thank you. Please be seated.

21 Anything before we break for the day?

22 MS. NICKLES: Not from the State.

23 MR. SEATON: Nothing, Your Honor. I just want
24 to thank you for your accommodation.

25 THE COURT: Thank you.

Hobie Williams
Direct Examination by Ms. Nickles
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1 We put you in an unenviable position. You may
2 not discuss this case with anyone. The rule of
3 sequestration has been invoked. And I apologize.
4 Just some scheduling issues have arisen. I will see
5 you in the morning.

6 THE WITNESS: No problem, Your Honor. Thank
7 you.

8 THE COURT: Thank you.

9 THE WITNESS: Yes, ma'am.

10 [Whereupon, Mr. Williams is excused and exits
11 the witness stand]

12 THE COURT: I will be around so if there's
13 anything that arises, please let me know. I'll be
14 around.

15 MR. SEATON: Yes, ma'am.

16 THE COURT: Thank you.

17 MR. SEATON: What time do you want us here?

18 THE COURT: 9:15.

19 MR. SEATON: Yes, ma'am.

20 THE COURT: If anything arises over the evening
21 hour, let me know so that we can come a little bit
22 early. Okay?

23 MS. NICKLES: Okay. Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 Because if you don't tell me something has

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Direct Examination by Ms. Nickles
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1 arisen, I just assume I can take the bench at 9:30.
2 Okay? Thank you.

3 MS. NICKLES: Thank you.

4 [JURY TRIAL ADJOURNS AT 2:35 P.M.]
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State vs. Joseph Umphlett
Certificate of Court Reporter

C E R T I F I C A T E

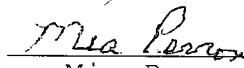
STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Tuesday, August 29, 2015.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 21st day of December, 2015.


Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

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STATE OF SOUTH CAROLINA
VS.
JOSEPH UMPHLETT,
DEFENDANT.

VOLUME 3 OF 4

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Berkeley County Courthouse
Moncks Corner, South Carolina
on Wednesday, September 30, 2015, Commencing at 9:28 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
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PROCEEDINGS

[REPLACEMENT OF JUROR NUMBER 73]

[Whereupon, an off-the-record bench conference is held]

THE CLERK OF COURT: 164.

THE COURT: 164, Ms. Tobin, which was the first alternate chosen, will replace Juror 73.

[Off the record momentarily]

THE COURT: If you will let Ms. Tobin know that she is now part of the twelve. All right?

Ms. Nickles, Mr. Seaton, we received a phone call from Juror 73 indicating he had been in a car accident and that he was going to have to go back to his home in Huguee and in order to make it to court -- I made the decision, based upon my conversations with you both at the bench, to replace Juror 73.

We put both alternates' names in a cup and selected the first alternate that was selected. Ms. Tobin will be now part of the twelve.

Anything additional concerning that matter?
Ms. Nickles?

MS. NICKLES: Not from the State.

THE COURT: Mr. Seaton?

MR. SEATON: Your Honor, I think just for the record that we would ask that the Court consider

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1 waiting on him.

2 It's been my personal experience that while two
3 alternates usually is sufficient, I've certainly been
4 involved in situations where it wasn't. I anticipate
5 this trial is going to take at least through sometime
6 tomorrow, so I'm a little concerned about losing one of
7 the jurors. There's the possibility of quite a bit of
8 testimony left.

9 THE COURT: And I made a decision based upon the
10 timing and my observation of the other jurors so we
11 will go forward as I indicated, using Ms. Tobin as the
12 twelve.

13 Anything further, Mr. Seaton, regarding --

14 MR. SEATON: No, Your Honor.

15 THE COURT: -- that matter?

16 MS. NICKLES: No, Your Honor.

17 THE COURT: Anything before we bring in the jury?

18 MS. NICKLES: Not from the State.

19 MR. SEATON: No, Your Honor.

20 THE COURT: They are placing their lunch orders so
21 we can go ahead and take just a comfort break, if
22 that's what you wish. All right? We'll be at ease
23 until they are ready.

24 Please have your next witness in the courtroom,
25 Ms. Nickles.

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1 [Whereupon, a recess is taken from 9:31 a.m. to
2 9:49 a.m.]

3 THE COURT: Do you wish to stipulate in front of
4 the jury? Do you want to go ahead and -- they're
5 ready. We are ready to go forward.

6 MS. NICKLES: Yes, Your Honor, we can do that.

7 THE COURT: Okay.

8 MR. SEATON: That's fine, Your Honor.

9 THE COURT: We're okay without Mr. McNeely?

10 MS. NICKLES: Yes, Your Honor.

11 THE COURT: All right. Let's bring in the jury.

12 [Off the record momentarily]

13 THE BAILIFF: Jurors coming in.

14 [Whereupon, the jury enters the courtroom at
15 9:51 a.m.]

16 THE COURT: Thank you. Please be seated.

17 Ladies and gentlemen, did every member of the jury
18 panel comply with my instructions over the evening
19 hour? If you complied, please raise your right hand.

20 [Whereupon, jurors comply]

21 THE COURT: Thank you. All thirteen jurors have
22 complied with the Court's instructions.

23 Ladies and gentlemen, one of your fellow jury
24 members was in an automobile accident. He is fine, but
25 due to that, I have excused him from the trial of this

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1 case. And that is exactly why we have alternates.

2 Ms. Tobin, you have been selected to be part of
3 the first twelve.

4 Ms. Rutledge, that means that you are the
5 remaining alternate. All right? So now you have the
6 option of either one of those seats. So whichever one
7 you're comfortable. You can be in either that seat or
8 the seat in front of you.

9 And, again, you have that assigned seat, Madam
10 Foreperson.

11 Please give your strict attention.

12 Call your next witness.

13 MS. NICKLES: The State calls Hobie Williams.

14 THE COURT: And I believe you had a stipulation?

15 MS. NICKLES: Yes.

16 THE COURT: Do you wish to go ahead and do that at
17 this time?

18 MS. NICKLES: Your Honor, the State would move to
19 enter into evidence State's Exhibit 4, which is a
20 recording, a dash-cam video-recording, from Officer
21 Oswald's car. And we have agreed -- I'll let Mr.
22 Seaton --

23 MR. SEATON: Yes, Your Honor. I've had an
24 opportunity to review it, and we would agree to enter
25 that without objection.

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1 THE COURT: State's 4 into evidence without
2 objection. You may publish at the appropriate time.

3 [Whereupon, State's Exhibit Number 4 is admitted
4 into evidence by the Court]

5 THE COURT: Please come forward and be sworn.

6 THE CLERK OF COURT: Do you want him sworn again?

7 THE COURT: Yes.

8 [Whereupon, Mr. Williams comes forward]

9 [Whereupon, Mr. Williams is duly sworn by the
10 clerk of court as follows: do you solemnly swear or
11 affirm the testimony you shall give in this case shall
12 be the truth, the whole truth, and nothing but the
13 truth, so help you God]

14 THE WITNESS: I do.

15 THE CLERK OF COURT: Have a seat.

16 [Whereupon, Mr. Williams takes the witness stand]

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

19 THE WITNESS: Hobert Earl Williams, and the
20 spelling of my last name is W-I-L-L-I-A-M-S.

21 THE COURT: Mr. Williams, if you could pull the
22 microphone down towards you. Thank you.

23 THE WITNESS: Yes, ma'am.

24 MR. SEATON: Thank you, Your Honor. May it please
25 the Court.

Hobie Williams
Cross-Examination by Mr. Seaton
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1 HOBIE WILLIAMS,

2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 CROSS-EXAMINATION

5 BY MR. SEATON:

6 Q. Mr. Williams, I think we established yesterday
7 that you're no longer with the Summerville Police Department
8 but you're in landscaping?

9 A. Yes, sir.

10 Q. Do you mind if I call you Mr. Williams instead of
11 officer or --

12 A. Absolutely, sir. That's fine.

13 Q. Okay. You told us a few things yesterday: that
14 when you were with the Summerville Police Department, your
15 job was I believe interdiction of major case -- major
16 crimes?

17 A. Major incidents.

18 Anything that would respond to additional
19 officers.

20 Q. And drug cases?

21 A. Any type of drug complaint. Yes, sir.

22 Q. And you would agree with me when this call came
23 out, it was none of those?

24 A. It started off with a child-welfare check.

25 Q. Right.

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Hobie Williams
Cross-Examination by Mr. Seaton
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1 A. And as I said before, I'll back up any officer who
2 needs to be backed up with manpower issues.

3 Q. I understand.

4 But you would agree that this case wouldn't have
5 fallen under any of those categories that typically would be
6 your call?

7 A. I believe it was a drug complaint, also, in the
8 original complaint. It was a --

9 Q. All right. Let's talk about --

10 A. -- two-fold complaint.

11 Q. -- the original complaint.

12 First of all, we found out yesterday that you were
13 related to Mr. Umphlett's wife; is that correct?

14 A. Correct.

15 Q. That's your cousin?

16 A. Yes, sir.

17 Q. And nowhere in any of the -- of your incident
18 report do you say anything about the fact that you are
19 related to his estranged wife?

20 A. Correct, sir.

21 Q. And yesterday you -- the prosecutor asked you
22 about it. But weren't there times where your children and
23 his children have gone trick-or-treating together?

24 A. I have no clue, sir. I've never gone trick-or-
25 treating with him.

Hobie Williams
Cross-Examination by Mr. Seaton
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1 Q. Wasn't there times where y'all have all been at
2 your grandmother's house?

3 A. I'm a hundred percent sure I have not seen him
4 before. I don't know.

5 Q. Well, you certainly have done things with your
6 cousin, haven't you?

7 A. Occasionally I do, yes.

8 Q. All right, sir. And you are aware that your
9 cousin and he are no longer together, even though they're
10 still married?

11 A. After that night I was aware.

12 Q. So you go out to this call voluntarily, even
13 though it's not the type of work that you typically do, and
14 you just decide that you're going to go out on this call;
15 correct?

16 A. I believe the call was concerning a drug
17 complaint, and we do respond to drug complaints.

18 Q. And I think your testimony yesterday was that the
19 names of the people was Kory Abdon and Joe; is that correct?

20 A. In the original complaint, yes.

21 Q. Let me -- let's look at the radio logs and see.
22 What time did this call come in, that you're aware of?

23 A. I have around twenty -- or 9:36 in the evening.

24 Q. And are you sure it didn't say that the
25 complainant stated the five-year-old told his dad that Kory

Hobie Williams
Cross-Examination by Mr. Seaton
September 30, 2015

1 Abdon and her boyfriend, Joe Umphlett? Sure it wasn't --
2 the boyfriend Joe, you're sure it wasn't Joe Umphlett rather
3 than just Joe?

4 A. I'm not sure, sir. It may have been Joe Umphlett.

5 Q. So your testimony yesterday when you said Kory
6 Abdon and Joe, now it's really Kory Abdon and Joe or Joe
7 Umphlett but you're not so sure today now that we've got the
8 radio logs?

9 A. Sir, if you have the radio logs, it would probably
10 be more accurate.

11 Q. And, in fact, I think that's one of the things you
12 told us yesterday was that these records are more accurate
13 than your recollection of the events because it was about a
14 year ago?

15 A. Correct.

16 Q. Look at your -- you've got a -- I believe an
17 eight-page incident report?

18 A. Yes, sir.

19 Q. Would you agree with me nowhere in that incident
20 report do you have all the things you testified to about
21 yesterday about the emotional state of Mr. Umphlett when you
22 talked with him?

23 A. Correct.

24 Q. Nowhere does it say that he was relieved when he
25 finally told you and you said: according to my training, I

Hobie Williams
Cross-Examination by Mr. Seaton
September 30, 2015

1 now understand that because he's relieved; I take him at his
2 word; I believe him because he's the way he acted.

3 Nowhere in your incident report does it say that,
4 does it?

5 A. It does not say that in the incident report.

6 Q. And all this other time -- talk about the
7 solicitor got you to tell the ladies and gentlemen yesterday
8 about how when you first came in contact with him he was
9 nervous, and when he talked -- when he wouldn't cooperate
10 with you, that he became more nervous. You agree with me
11 none of that is in there, either, is it?

12 A. Also, sir, I agree with you.

13 Q. So when you tell us you -- that what was in your
14 incident report was about the gun and him saying everything
15 here is mine, it took the solicitor a couple of times to get
16 you to remember that. But you did remember it because it's
17 in your incident report; correct?

18 A. It is in the incident report, yes, sir.

19 Q. But you have personal knowledge of the things that
20 aren't in the incident report, that you told us about, about
21 the mental condition of Mr. Umphlett?

22 A. I have a lot of memories, yes, sir.

23 Q. Is there anything else you want to tell us about,
24 that you've now suddenly remembered a year later, that's not
25 in your incident report?

Hobie Williams
Cross-Examination by Mr. Seaton
September 30, 2015

1 A. If you have a specific question, I can answer
2 that. I don't --

3 Q. Well, I don't know what to ask you because it's
4 not in your report, so I'm asking you.

5 A. Okay.

6 Q. You tell me what it is that -- what present or
7 past sense that you have of Mr. Umphlett, that also isn't in
8 your report, that you want to tell the jury.

9 A. Nothing else springs to mind.

10 Q. So when you get there, you tell us that they
11 didn't want to open the door?

12 A. It seemed that way. It appeared that way.

13 Q. And I think you also testified that this was an
14 area of town where y'all get a lot of phone calls?

15 A. There tends to be a lot of phone calls coming out
16 of that area.

17 Q. Do you think a reasonable person would be hesitant
18 to open the door?

19 A. As far as for what?

20 Q. Well, just because you knock on the door and say
21 you're the police doesn't necessarily mean you're the
22 police, does it?

23 A. Correct.

24 Q. And you would agree with me that everybody in
25 this country has a right not to open the door if they don't

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1 want to?

2 A. Absolutely.

3 Q. And so because someone doesn't want to open the
4 door doesn't mean they're doing something wrong, does it?

5 A. Not in just that context. Correct.

6 Q. And then you told us that, well, when he did open
7 the door, he only cracked it a little bit?

8 A. Correct.

9 Q. Nothing wrong with that, is there?

10 A. No. No, sir.

11 Q. Does that really lead us to some belief that a
12 crime is being committed?

13 A. That in its single self, no, sir, you're correct.

14 Q. Well, that was your testimony yesterday, wasn't
15 it, that if he wasn't committing a crime, that he would have
16 swung the door open and said come on in and see that there's
17 no kids?

18 A. Yes, as far as cracking the door open and seeing
19 that there's a uniformed police officer standing outside.

20 Q. Let me ask you this. You told us that if there is
21 a phone call concerning children, that y'all have to go out
22 and investigate it?

23 A. If it's within our jurisdiction, yes, sir.

24 Q. And if someone makes a phone call knowing that
25 there's no kids --

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1 But you certainly wouldn't have any idea whether
2 there's any kids there or not, would you?

3 A. Not until we get there and check it, sir.

4 Q. So if someone simply picks up the phone and calls
5 911 and says, my next-door neighbor's children, I'm worried
6 about them because of the way they've been acting over
7 there, you have a duty to go out and investigate?

8 A. Correct, sir.

9 Q. What would happen if Mr. Umphlett didn't open the
10 door?

11 A. We would have tried calling him. We would have
12 tried calling the mother to find out if there's another spot
13 that we should look. We would have exhausted everything we
14 could have before giving up, basically.

15 Q. So in other words, you do not have the right to
16 make him open that door, do you?

17 A. No. No one can force him to open the door.

18 Q. So it was only by your persuasion, or Mr.
19 Umphlett's volunteering to open the door, that's the only
20 reason the door was opened?

21 A. Yes, sir.

22 Q. And you didn't force the door open, did you?

23 A. No, sir.

24 Q. So Mr. Umphlett voluntarily opened it?

25 A. Correct, sir.

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1 Q. And is that the actions of a guilty party, to open
2 the door?

3 A. Looking at just that one spot, no, but you have to
4 look at the totality of the entire incident.

5 Q. Let's talk about the totality.

6 You get there and you find out that the reason you
7 were there was this welfare check; correct?

8 A. Correct, sir.

9 Q. And there's no children there?

10 A. Correct, sir.

11 Q. And when you -- when Mr. Umphlett opens the door
12 and there's no children there, didn't you turn to the other
13 officers and say, I smell marijuana, do you guys smell
14 marijuana?

15 A. I went right into asking the occupants about the
16 marijuana.

17 Q. You didn't tell your cohorts there that, hey, we
18 smell marijuana?

19 A. I didn't make it like it was a let's get together
20 and decide.

21 Q. All right. Well, let's talk about what rights you
22 have as an officer when you smell marijuana. You told us a
23 little bit about it yesterday. I think it's what's called
24 the plain smell test; is that correct?

25 A. I'm not sure of the exact wording.

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1 MS. NICKLES: Objection. Your Honor --

2 THE COURT: What's the basis?

3 MS. NICKLES: He's asking the officer about a
4 conclusion of law, not --

5 THE COURT: Overruled.

6 You may answer if you know.

7 Q. [Mr. Seaton] Well, remember what you testified
8 yesterday? You told us a lot about what I call the plain
9 smell and I think the Supreme Courts call plain smell. Tell
10 us what you told us yesterday, at least. Didn't you say
11 that that gives you probable cause when you smell marijuana?

12 A. To obtain a search warrant, yes.

13 Q. So by your merely saying I smell marijuana, that
14 gives other officers the right to go and get a search
15 warrant, doesn't it?

16 A. To apply for one, yes, sir.

17 Q. I think you talked about the overwhelming smell of
18 marijuana in this case.

19 A. Yes, sir.

20 Q. How much marijuana did y'all actually find?

21 A. I don't have the exact number, sir.

22 Q. Would -- isn't it in your report?

23 A. I didn't inventory the room, sir. I don't think I
24 have that.

25 Q. Wasn't it, in total, about eight grams?

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1 A. It was a small quantity, yes, sir.

2 Q. When you say small quantity, it's about the
3 equivalent of what they call two joints?

4 A. If that's what you want to call it, sir. I --

5 Q. So this overwhelming smell that you smelled from
6 outside -- because at this point you hadn't gone inside, had
7 you?

8 A. No, sir. We're still standing at the doorway.

9 Q. And you find one joint in the -- from the front
10 door --

11 I'll use the same thing. This is the front door.
12 When you walk in, first you've got a table and two chairs;
13 correct?

14 A. Right there on the right. Yes, sir.

15 Q. And then next you've got a double bed; is that
16 correct?

17 A. I believe it's double, yes, sir.

18 Q. And then in between that, over here is where you
19 have the night stand?

20 A. Correct.

21 Q. And in the night stand is where one joint was?

22 A. Yes, sir.

23 Q. All right. And the other little bit of marijuana
24 that was found was tucked underneath a mattress; is that
25 correct?

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1 A. I'm not sure of the exact location of the second,
2 but --

3 Q. And that's the overwhelming smell that you guys,
4 who are there on a welfare check -- that's the overwhelming
5 smell was those two joints?

6 A. Yes, sir.

7 Q. And you would agree with me that you went into the
8 room before you had a search warrant?

9 A. Yes, sir.

10 Q. You went into the room and stayed in the room?

11 A. We stood right in the room, yes, sir.

12 Q. You talked about Mr. Umphlett being free to move
13 about the room. But you certainly wouldn't have let him get
14 to a drawer, would you?

15 A. We asked him to sit down, and he complied.

16 Q. Well, if he hadn't complied, you would have taken
17 further steps, wouldn't you?

18 A. We might have asked him to step outside.

19 Q. You wouldn't have let him get up and leave,
20 though, would you?

21 A. At that point, we would still be investigating. I
22 don't think that I would let him leave but I don't know,
23 because it didn't happen that way.

24 Q. So when you talk about his freedom, he really
25 didn't have any freedom at that point?

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1 A. He could still talk and all that. He could ask
2 for an attorney if he wanted one.

3 Q. Were you involved at all in the -- did you talk to
4 Officer Strickland, Detective Strickland, and give him any
5 information when y'all went and got a search warrant?

6 A. Yes, sir.

7 Q. Did you tell him that: we were there on a welfare
8 check and we didn't find any children?

9 A. I'm not sure if I told him that or not. I would
10 imagine that I would have told him that.

11 Q. You do know that's not in the search warrant?

12 A. I didn't know, sir. I didn't see the search
13 warrant.

14 Q. Do you think it would have been fair if y'all had
15 told the judge, we went there on a welfare --

16 MS. NICKLES: Objection.

17 THE COURT: What's the basis?

18 MS. NICKLES: We have a matter of law.

19 THE COURT: All right. Thank you. You may
20 approach.

21 [Whereupon, an off-the-record bench conference is
22 held]

23 THE COURT: Sustained.

24 Q. [Mr. Seaton] In your job as a detective, do you
25 think it's your job to provide all of the information to

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1 other authorities?

2 A. I never got into the detective division, sir.

3 Q. Excuse me. You're right.

4 In your position, whatever it was that you held as
5 a sworn officer to uphold the law, was it your job to be
6 fair in stating facts?

7 A. Yes, sir. I would say that.

8 Q. And do you think the fact that there were no
9 children in that room was important?

10 A. No, sir. Not at that point.

11 Q. Once you got into the room, you did what you call
12 a sweep of the room?

13 A. Yes, sir.

14 Q. And that would have been almost from the very
15 beginning; correct?

16 A. Very close to the beginning. Yes, sir.

17 Q. You go into their room, when you're there, for a
18 child welfare. You find out there's no children there?

19 A. Well, at that point, sir, he told us there was
20 no children, but we couldn't see the bathroom so we moved
21 away.

22 Q. I understand.

23 A. Okay.

24 Q. But he voluntarily said, I'll allow you to come
25 in?

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1 A. I believe so.

2 Q. And I think your testimony yesterday was that
3 everything that he did, every step along the way, was
4 further proof that there was some other crime being
5 committed?

6 A. Correct.

7 Q. And his letting you into the room to see that
8 there was no children there is proof that he was committing
9 a crime?

10 A. Part of it.

11 The way he said it, he said that we could -- we
12 could look for kids. Usually, when someone gives you a
13 specific target, it's -- might be, just taking it by itself,
14 nothing. But when you put it with the other things, it's
15 possible.

16 Q. You would agree with me that, once again, he
17 didn't have to let you in?

18 A. Correct, sir.

19 Q. And you would agree with me that you don't want
20 people coming over to your house and poking through your
21 stuff, do you?

22 A. Correct.

23 Q. You wouldn't want other people come and look at
24 your wife's underwear drawer or anything like that, would
25 you?

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1 A. Sure.

2 Q. So is there anything unreasonable in saying, you
3 can look for kids but I don't want you doing anything else?

4 A. In itself, no, sir. But when you look at the
5 whole situation.

6 Q. So let me back up for one second and let's talk
7 about when you first got to the hotel.

8 A. Yes, sir.

9 Q. You knocked on the door. I think you testified
10 that it was a few minutes before they opened the door,
11 wasn't it?

12 A. I believe so, sir, yes, sir.

13 Q. And I think you testified you heard some movement
14 in the room before they opened the door?

15 A. Yes, sir.

16 Q. Do you know what was going on in there?

17 A. I couldn't tell, sir. I could just hear --

18 Q. Do you --

19 A. -- a lot of moving around.

20 Q. Do you have any discussion what they were -- any
21 idea what they were talking about while -- before they came
22 to the door?

23 A. No, sir.

24 Q. Did you ever Mirandize or question Kory Abdon?

25 A. I do not believe so.

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1 Q. To your knowledge, was she ever Mirandized by
2 anyone or questioned about what was going on?

3 A. I believe Lieutenant Williams Mirandized her, but
4 I'm not positive.

5 Q. Have you read the case file?

6 A. I have.

7 Q. You don't know what's in his incident report, do
8 you?

9 A. Her incident report? No. I didn't see the one
10 that was produced.

11 Q. I'm sorry. Which officer were you talking about?

12 A. Lieutenant Williams.

13 Q. And if I told you that she was never Mirandized,
14 would you have any reason to dispute that?

15 A. I don't know, sir.

16 Q. To your knowledge, no one ever got her version of
17 what was going on in her room; correct?

18 A. To my knowledge, yes, sir.

19 Q. Y'all were there for her children; correct?

20 A. Correct.

21 Q. You were there for -- it was her -- registered to
22 her, that room was, wasn't it?

23 A. Yes, sir.

24 Q. The clothing you saw there was her children's --
25 or children's clothing; correct?

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1 A. Children's clothing, yes, sir.

2 Q. I think there were pictures shown that there was
3 all of her clothes there and some of Mr. Umphlett's shoes.
4 Did you see other clothing there?

5 A. Various pieces of clothing. I couldn't tell you
6 if it -- whose it was.

7 Q. I understand.

8 Do you know whether or not Ms. Abdon said that:
9 they're after me and my kids; I need you to take this
10 charge?

11 A. Say it again.

12 Q. Do you know whether or not, while they wouldn't
13 answer the door, that Ms. Abdon said, they're after me and
14 the kids, I need you to take this charge?

15 A. I have no clue what they said in there before we
16 got in.

17 Q. How close were y'all listening in? I'm assuming
18 you were right beside the door.

19 A. Yes, sir.

20 We could hear moving. We didn't hear any
21 conversations.

22 Q. Did you have your ear on the glass or anything
23 like that?

24 A. No, sir.

25 Q. Okay. And once they eventually opened the door,

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1 you separate the two, I think was your testimony.

2 A. Shortly after making contact we did.

3 Q. And at any point was -- did anybody ask Ms. Abdon,
4 is this your stuff, or is this Joe's stuff, or what do you
5 know about this?

6 A. About the stuff?

7 Q. About the stuff.

8 A. I have no clue, sir. I don't think that was done.

9 Q. And the lockbox where they found the drugs, or
10 you found the drugs, or whoever in your team that was in
11 there --

12 You certainly appear to say that y'all found
13 drugs; correct?

14 A. The narcotics division served the warrant, so they
15 would -- they would have to help you there.

16 Q. You were there when the room was searched?

17 A. I was there, but only for security. I wasn't
18 paying attention to what they were searching for.

19 Q. You weren't paying any attention?

20 A. I was watching their backs, sir, not their fronts.

21 Q. You would agree that you said all of those things
22 in your incident report, though, didn't you?

23 A. That items were found, yes, sir.

24 Q. You mentioned the drugs. You mentioned everything
25 that I just asked you about. It's in your incident report,

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1 isn't it?

2 [Whereupon, the witness reviews documents]

3 A. It talks about the items, but no amounts, so I
4 would imagine that they informed me that items were
5 recovered. I don't have amounts on mine.

6 Q. [Mr. Seaton] I didn't ask you the specifics about
7 amounts. I'm just asking you about --

8 A. But you asked me --

9 Q. -- the drugs that were found.

10 A. -- about locations. I don't -- I don't know
11 locations.

12 Q. The key to unlock that lockbox, was that on Kory
13 Abdon's car keys or was that on Mr. Umphlett's car keys?

14 A. I have no clue, sir.

15 Q. Do you know whether any fingerprints showed that
16 Mr. Umphlett had ever touched the guns that were registered
17 to Kory Abdon?

18 A. I have no knowledge of that, sir.

19 Q. You're not aware of any proof that he had
20 possession or ownership of those guns, are you?

21 A. Only the fact he stated everything in the room was
22 his.

23 Q. The fact that he was in the room?

24 A. The fact that he stated, everything in the room is
25 mine.

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1 Q. And that's what he did. He said, look, everything
2 is mine; correct?

3 A. Correct.

4 Q. I think that's in your report.

5 A. Yes, sir.

6 Q. You certainly would agree with me at no point did
7 you see Mr. Umphlett with a gun on him?

8 A. Correct, sir.

9 Q. And did y'all do any sort of pat-down? When you
10 gained access to the room, did you --

11 A. Not at the --

12 Q. -- pat him down?

13 A. -- beginning, sir.

14 Towards -- I would say closer to the end, it was
15 discovered that Ms. Abdon had an incident involving a
16 firearm so we figured we would ask if there's any guns
17 inside the room.

18 Q. But at no point did y'all find any gun in his
19 actual --

20 A. On his person?

21 Q. -- on his person.

22 A. No, sir.

23 Q. All right. Your dash cam wasn't working that
24 night?

25 A. It was working. I dropped the DVD.

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1 When I got to the solicitor's office, we played it
2 and it doesn't play correctly. It's an older Watch-Car
3 System, so I don't know what the deal is.

4 Q. All right. You would have been wearing a
5 microphone?

6 A. It's part of that Watch-Car System.

7 Q. The way it works is you've got two microphones,
8 actually, don't you?

9 A. I think --

10 Q. You've got an in-car microphone and --

11 A. Right. I think it's three. I think there's a
12 rear --

13 At that point I had a K-9 car, so it would have
14 been, yeah, two mikes.

15 Q. So you've got a camera that's mounted inside your
16 car on your dashboard or by the mirror?

17 A. Right, sir. By the mirror.

18 Q. Right.

19 People call it a dash-cam, but really it's an
20 under-the-mirror cam?

21 A. Correct, sir.

22 Q. And you would be wearing on your lapel or your tie
23 a microphone that is connected to you --

24 A. I think it's the belt, sir. It's a belt-contained
25 system.

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1 Q. And that goes back to your car so that when you
2 get out of your car, it still picks up your voice?

3 A. As far as getting out of the car?

4 Q. Yes.

5 A. If you activate it inside the car, yes. But if
6 you activate it as you're walking up, then it's not going to
7 catch anything inside the car.

8 Q. It's not going to catch anything inside the car,
9 but it's going to catch you. When you get out of the --

10 A. Correct.

11 Q. -- car and you start --

12 A. Correct.

13 Q. -- walking, that's how it's recorded?

14 A. Yes, sir.

15 Q. And did you report any problems with your camera
16 or your audio?

17 A. Not that I know of, sir. I don't have --

18 Q. There's actually a form or an affidavit that you
19 can file that says, I had some problems. Did you ever fill
20 one of those out?

21 A. No, sir.

22 Q. Did you ever take your equipment in to be fixed?

23 A. Not that I know of, sir.

24 Q. So that was the only problem you had was this
25 night when your cousin's wife -- or your cousin's husband,

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1 when you were having all this long discussion with him,
2 that's the only time it didn't work?

3 A. I have no clue the exact dates that I had issues
4 with the system. I can't --

5 Q. Was anybody else complaining about problems? Were
6 you aware of any other problem, other than --

7 A. Yes, sir.

8 Q. -- this particular one where your cousin's wife --
9 cousin -- I keep saying wife -- cousin's husband where --
10 you testified about all the things that he said and did. Is
11 this the only time that anybody said you had a problem with
12 your camera and your audio?

13 A. There's been numerous issues with the older
14 systems.

15 Q. I understand. But if you would answer the
16 question that I'm asking you.

17 Are you aware of any time that anyone said there's
18 a problem that you had with your camera or your audio, other
19 than when your cousin's husband was being arrested?

20 A. None that I know of, no, sir.

21 MR. SEATON: Okay. Thank you, Officer.

22 MS. NICKLES: Just a few follow ups, Your Honor.

23 THE COURT: Take your time.

24 MS. NICKLES: All right. Let's go through a few
25 things that he touched on.

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REDIRECT EXAMINATION

BY MS. NICKLES:

Q. Regarding responding to the call and you stating that you thought it involved a Joe, were you the officer who actually was communicating with dispatch and who followed up with Ms. Parker regarding the welfare-check call?

A. No, ma'am.

Q. And, again, we touched on your incident report yesterday. Have you ever, in your entire career in law enforcement, written a report that is a verbatim copy of what happened on scene?

A. No, ma'am.

Q. What is the purpose of writing your report?

A. It's designed to give you the guidelines of what happened, to help your memory and help you get everything --

Q. Are you --

A. -- correct and accurate.

Q. Do you take your computer on scene and type your report as you're speaking to people?

A. No, ma'am. Later that night it will be typed up.

Q. What is the purpose of your responding to a call?

A. To handle the incident and to help the people that are there.

Q. So you're not running back and forth from the incident to your computer, from the incident to your

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1 computer, typing --

2 MR. SEATON: Objection, Your Honor --

3 Q. [Ms. Nickles] -- every single thing?

4 MR. SEATON: -- leading.

5 A. Correct.

6 THE COURT: Hold on one second. What's --

7 MR. SEATON: Leading.

8 THE COURT: Rephrase your question. Sustained as
9 to leading.

10 Q. [Ms. Nickles] What is the purpose of the incident
11 report being written?

12 A. It's designed to give you the guidelines or the
13 basics of what happened, the probable cause in the incident.

14 Q. And did you do that in this case?

15 A. Yes, ma'am.

16 Q. And he questioned you about not writing the
17 emotional state, leaving him after being relieved. Is that
18 part of anything that you normally include in an incident
19 report or, again, is it just a summary?

20 MR. SEATON: Objection. Leading.

21 THE COURT: You may answer.

22 A. It's a summary of what happened.

23 Q. [Ms. Nickles] And while you don't recall
24 everything perfectly, do you have some memories from this
25 incident?

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1 A. As with anything, there's certain things that
2 stick out with -- not just police work but with anything,
3 just stick out. And, yes, I do.

4 Q. And what were some of the things from this case?

5 A. The demeanor.

6 His demeanor tends to stick with me the way he
7 acted.

8 Q. In your training as an officer, is that one of the
9 things -- are you trained to look for that?

10 A. Yes.

11 Q. Why?

12 A. It helps us in the investigation process. It
13 helps us to understand what people might be concealing,
14 hiding, feeling. It's a big part.

15 Q. Is it also a part of officer safety?

16 A. You can kind of see what someone might be wanting
17 to do or -- yes.

18 MS. NICKLES: Bear with me while I look over my
19 notes.

20 THE COURT: Take your time.

21 [Whereupon, Ms. Nickles reviews documents]

22 Q. [Ms. Nickles] He asked you about the defendant's
23 personal knowledge about some of these guns. Who was it who
24 pointed you to the location of Kory Abdon's firearm?

25 A. Mr. Umphlett.

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1 Q. And what did you find when you -- when officers
2 went to retrieve that firearm?

3 A. When Officer Oswald opened the drawer, he looked
4 at me and told me he had two guns in there.

5 Q. And who claimed ownership of the second one?

6 A. Everything was claimed by Mr. Umphlett.

7 Q. He asked you about a reasonable person being
8 hesitant to open a door. In your experience and training,
9 when do people normally open the door? If somebody knocks
10 on my door, I'm not going to open it right away. But when
11 do people normally open the door and --

12 MR. SEATON: Objection --

13 Q. [Ms. Nickles] -- say, okay, come in?

14 MR. SEATON: -- Your Honor. That's overly broad,
15 at the very least, and certainly it's not conducive to
16 relevance.

17 THE COURT: Sustained.

18 A. With --

19 THE COURT: Please don't answer.

20 Q. [Ms. Nickles] I'm sorry. Don't answer that.

21 THE COURT: Thank you.

22 Q. [Ms. Nickles] How long did it take the defendant
23 and Ms. Abdon to open the door?

24 A. It took a few minutes.

25 Q. Now, he asked you about your duty to investigate

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1 these kind of calls. If you were to respond to one of these
2 calls and found no children and found no evidence of any
3 other kind, what would you do?

4 A. We would apologize for the inconvenience and
5 leave.

6 Q. If you were to go to any kind of call and the
7 topic of that call was not found to be at the scene but you
8 found evidence of another crime, what would you do?

9 A. We would investigate the other crime.

10 Q. Any crime?

11 A. Any crime that's in our presence.

12 Q. Anything that would lead you to believe that a
13 crime was being committed?

14 A. Correct.

15 Q. And in this case, was there anything like that
16 present after you determined there were no children there?

17 A. Yes, ma'am. The smell of marijuana.

18 Q. He asked you about the marijuana retrieved. And I
19 understand that you were not part of the search warrant
20 executing the search warrant or retrieving anything from the
21 room?

22 A. Correct.

23 Q. But are you aware -- you are obviously aware,
24 because you testified that they did retrieve marijuana.

25 A. Yes, ma'am.

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1 Q. He asked you about going into the room before the
2 search warrant. You said -- did you have consent to do
3 that?

4 A. We were allowed entry, yes.

5 Q. But what kind of consent?

6 A. Only to look for children.

7 Q. And who gave you that consent, the limited?

8 A. Mr. Umphlett --

9 Q. Only to look for children?

10 A. Right.

11 Q. And he pointed out very clearly Mr. Umphlett did
12 not have to open the door?

13 A. Correct.

14 Q. He did not have to let you in?

15 A. Correct.

16 Q. But in this case he voluntarily opened the door,
17 as Mr. Seaton said?

18 A. That's correct.

19 Q. He voluntarily let you look for children?

20 A. Yes, ma'am.

21 Q. He asked you a lot of questions about Kory Abdon
22 and whether she was Mirandized and whether she was
23 investigated. Went on for a while about that. Do you know
24 everything that happened on the scene?

25 A. No, ma'am. I was more with Mr. Umphlett at that

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1 point.

2 Q. Are you ever aware of every officer's actions on
3 scene?

4 A. No, ma'am.

5 Q. Were there a lot of officers on scene?

6 A. There were a good bit.

7 Q. Kory Abdon made some statements to you, too. What
8 did she ask you regarding your presence there? Did she
9 indicate that she was afraid?

10 A. Give me a second.

11 Q. Or that you were after her?

12 A. She never indicated that. That never came up.

13 Q. What was your purpose of responding to the call?

14 A. For the child welfare.

15 Q. Were you after Kory Abdon and her children?

16 A. No, ma'am.

17 Q. Did you know Kory Abdon?

18 A. No.

19 Q. You touched on you not paying attention to the
20 search. Again, tell us what -- which law enforcement
21 division are you employed by or -- I'm sorry -- were you
22 employed by.

23 A. The patrol division.

24 Q. And which division was responsible for the search,
25 execution, and retrieval of items from the room?

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1 A. The Summerville metro narcotics unit.

2 Q. And you were just there for their safety?

3 A. Yes, ma'am.

4 Q. Did you really care what they found?

5 A. No, ma'am.

6 Q. You were just doing your job?

7 A. Correct.

8 Q. Were you invested in this case? Were you looking
9 over their shoulders to see if they found anything?

10 A. No.

11 Q. He asked you about fingerprints, evidence of
12 ownership. Again, as a patrol officer, do you ever test for
13 fingerprints or do CSI work?

14 A. We might recover them from some cases, but we
15 never do any type of fingerprint testing or whatever you
16 want to call it.

17 Q. Who does that?

18 A. It's going to be evidence custodian or evidence
19 division.

20 Q. So a totally different division?

21 A. Correct.

22 Q. So if you went in there and looked for
23 fingerprints, that would be totally out of the scope of your
24 employment?

25 A. If it was a case that was a lower-level crime, we

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1 would dust for prints, as most people refer to it, but I'm
2 not going to compare them to other fingerprints or anything
3 like that.

4 Q. And in this case another agency was on scene to
5 handle everything in the room?

6 A. Yes, ma'am.

7 Once a detective division comes out there, they
8 handle all of it.

9 Q. So you just stepped away?

10 A. And provide security.

11 Q. He asked you about a frisk. Could you have
12 frisked Mr. Umphlett?

13 A. Yes, easily, because he's unrestrained and he is,
14 to a point, allowed to move. He can move around.

15 Q. But at that point you're still investigating?

16 A. Correct.

17 Q. So did you even go to the lengths that you could
18 have with your initial contact?

19 A. No, ma'am.

20 We could have detained everybody right away at the
21 smell of marijuana, but we thought we would investigate to
22 see what's going on.

23 Q. So why was the reason you didn't detain them
24 immediately like you could have?

25 A. The strong smell of marijuana doesn't necessarily

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1 pertain to the weight, so it could have been just a small
2 joint. But if it's something small, usually we discretion
3 [phonetic] to try and help out as best we can.

4 Q. Is it fair to say you were giving him the benefit
5 of the doubt?

6 A. Yes, ma'am.

7 Q. Now, he touched on your recording device. Let me
8 ask you this. You said you're not aware of any other
9 problems with your recording -- video or audio system from
10 your car. Do you watch every video and listen to every
11 audio --

12 A. No, ma'am.

13 Q. -- in every case?

14 A. No, ma'am.

15 Usually, at the end of a case we'll pull them
16 and drop them, and that goes into the detectives or the
17 custodian section and they house it for us.

18 Q. And then eventually where does that go? Does it
19 end up in another office?

20 A. It'll stay there and if it -- a solicitor calls up
21 the case, or anything like that, they'll give the evidence
22 to the solicitor's office and then we'll get to hear it.

23 Q. And other than that, you don't -- part of your job
24 is not reviewing tape --

25 A. Correct.

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1 Q. -- right?

2 A. Correct.

3 Q. Your duty is to retrieve it and put it in
4 evidence?

5 A. Correct.

6 Q. How many of your cases have ended with you needing
7 to watch the video?

8 A. Very few of them, and that was only because the
9 incident may have had something very specific that my
10 supervisor wanted to know and I'll go back and review for
11 that specific point.

12 Q. Okay. And he asked you about the microphone that
13 you would have been wearing. If your video in your car does
14 not work, is that -- is the video and the audio, is that all
15 one component?

16 A. No, ma'am.

17 It's usually two separate components. You'll get
18 a video and an audio. So you'll have a video file, audio
19 file, and they play together.

20 Q. They play together?

21 A. Yes.

22 Q. So in this case, when we reviewed the disk from
23 this case, what was the problem with the disk?

24 A. The audio quality was horrible.

25 MS. NICKLES: You're --

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1 THE COURT: Keep going. Thank you.

2 MS. NICKLES: Your Honor, may I approach?

3 THE COURT: You may.

4 Q. [Ms. Nickles] I'm going to hand you what's been
5 marked as State's Exhibit 122.

6 A. Yes.

7 Q. Do you recognize that?

8 A. Yes, ma'am.

9 Q. Is that -- what is that?

10 A. This is the in-car video, from my vehicle, for
11 this case.

12 Q. And do you remember -- have you ever reviewed that
13 before today?

14 A. Yes, ma'am.

15 Q. And did you recognize it to be the video and audio
16 from your --

17 A. Yes, ma'am.

18 I could catch bits and pieces of me, but nothing
19 that was really together.

20 MS. NICKLES: Your Honor, at this point the State
21 would move to admit State's Exhibit 122.

22 THE COURT: Any objection?

23 MR. SEATON: Never admitted nothing before, but
24 sure.

25 THE COURT: All right. I'm not sure what that

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1 was, Mr. Seaton.

2 MR. SEATON: I mean not sure what it is, either.

3 THE COURT: No, no, no. I don't know --

4 MS. NICKLES: -- this is the --

5 THE COURT: -- what your comment was. We don't
6 need to have the comments.

7 State's 122 into evidence without objection.

8 [Whereupon, State's Exhibit Number 122 is admitted
9 into evidence by the Court]

10 Q. [Ms. Nickles] He asked you about the audio on
11 this and I just want to play --

12 THE COURT: Please stop. We need to --

13 OFFICER: We have a fire alarm.

14 THE COURT: Ladies and gentlemen, please remember
15 all of my admonitions. Please leave your notepads
16 where you are. Please follow the instructions of the
17 deputies.

18 Do not speak to anyone involved in this case.

19 Madam Foreperson, it is your responsibility to
20 make sure your members abide by -- thank you.

21 [Whereupon, a recess is taken from 10:36 a.m. to
22 11:16 a.m.]

23 THE COURT: All right. Please place Miss Teresa
24 under oath.

25 THE CLERK OF COURT: Please raise your right hand.

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1 [Whereupon, Ms. Teresa Manigault, the bailiff, is
2 duly sworn by the clerk of court as follows: do you
3 solemnly swear or affirm the testimony you shall give
4 in this case will be the truth, the whole truth, and
5 nothing but the truth, so help you God]

6 MS. MANIGAULT: So help me God.

7 THE COURT: Please state your full name for the
8 record, and spell your last name.

9 MS. MANIGAULT: Teresa Elaine Manigault.
10 M-A-N-I-G-A-U-L-T.

11 THE COURT: Ms. Manigault, what is your
12 occupation?

13 MS. MANIGAULT: I'm a bailiff.

14 THE COURT: And we just had a fire alarm. Were
15 you with the jury the entire time?

16 MS. MANIGAULT: Yes, ma'am.

17 THE COURT: And you maintained visual contact on
18 all thirteen jurors the entire time?

19 MS. MANIGAULT: Yes, ma'am.

20 THE COURT: Were you the only bailiff there?

21 MS. MANIGAULT: No. There were two more bailiffs
22 with me.

23 THE COURT: And did anyone approach any of the
24 jurors or say anything? Was there any interaction with
25 anyone other than the bailiffs?

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1 MS. MANIGAULT: No, ma'am, no one approached.

2 THE COURT: Based upon -- are there any other
3 questions or concerns? Ms. Nickles?

4 MS. NICKLES: Not from the State.

5 MR. SEATON: No, Your Honor.

6 THE COURT: All right. Thank you.

7 Thank you, Ms. Manigault.

8 [Whereupon, Ms. Manigault is excused and exits the
9 witness stand]

10 THE COURT: All right. And Mr. Williams --

11 THE WITNESS: Yes, ma'am.

12 THE COURT: -- we're going to get through your
13 testimony at some point, I'm sure.

14 THE WITNESS: Yes, ma'am.

15 MS. NICKLES: Your Honor, for the record, I would
16 like to say that I did speak to Mr. Williams outside
17 just to remind him that he was still sworn and under --

18 THE COURT: And thank you for doing that, but you
19 would --

20 THE WITNESS: Yes, ma'am.

21 -- you would have -- even had she not said that to
22 you, you understand that you were --

23 THE WITNESS: Yes, ma'am.

24 THE COURT: -- under the rule of sequestration?

25 THE WITNESS: Yes, ma'am.

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1 THE COURT: Did you comply with the Court's
2 instructions?

3 THE WITNESS: I did, ma'am.

4 THE COURT: I will remind you that you will still
5 be under oath when we bring the jury back in. Any
6 concerns or questions about that?

7 THE WITNESS: No questions, ma'am.

8 THE COURT: Mr. Williams, I'm going to need you to
9 speak loudly. All right?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: You are very soft-spoken.

12 THE WITNESS: Sorry, ma'am.

13 THE COURT: Anything before we bring in the jury?

14 MS. NICKLES: No, Your Honor.

15 MR. SEATON: No, Your Honor.

16 THE COURT: All right.

17 [Whereupon, the jury enters the courtroom at
18 11:19 a.m.]

19 THE COURT: Thank you. Please be seated.

20 Madam Foreperson, before we recessed due to the
21 fire alarm, I indicated that you would be in charge of
22 making sure that no one violated the Court's
23 instructions. Were you with the entire panel the
24 entire time?

25 THE FOREPERSON: Yes, ma'am.

Hobie Williams
Redirect Examination by Ms. Nickles
September 30, 2015

1 THE COURT: And did anyone -- did you observe
2 anyone violating the Court's instructions?

3 THE FOREPERSON: No, ma'am.

4 THE COURT: All right. Thank you.

5 You may continue, Ms. Nickles.

6 MS. NICKLES: Thank you, Your Honor.

7 I believe -- I'm not exactly sure where I was, but
8 State's 122 was admitted?

9 THE COURT: It was admitted, yes.

10 MS. NICKLES: Okay.

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Hobie Williams
Continued Redirect Examination by Ms. Nickles
September 30, 2015

CONTINUED REDIRECT EXAMINATION

BY MS. NICKLES:

Q. Mr. Williams, I'm just going to play a small portion of this.

[Off the record momentarily]

MS. NICKLES: We're going to fast forward it until --

Q. [Ms. Nickles] At this point the audio wasn't turned on yet; correct?

A. Correct. It's usually a minute.

MS. NICKLES: If we could fast-forward to a minute or after.

[Whereupon, State's Exhibit Number 122, dash-cam video, is played for the jury, with questions from Ms. Nickles.]

[Whereupon, State's Exhibit Number 122 is not transcribed by the court reporter]

Q. [Ms. Nickles] Does this appear to be your recording --

A. Yes, ma'am.

Q. -- from your car? And audio?

A. Yes, ma'am.

Q. And does that sound remain for the entirety of the video?

A. Yes, ma'am.

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Continued Redirect Examination by Ms. Nickles
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1 MS. NICKLES: Thank you.

2 [Whereupon, State's Exhibit Number 122, dash-cam
3 video, concludes]

4 Q. [Ms. Nickles] Did you do anything to cause that
5 to happen?

6 A. No, ma'am.

7 Q. Did you have any idea that your system was not
8 operating properly on that night?

9 A. No, ma'am.

10 Q. To your knowledge, it was working?

11 A. Yes, ma'am.

12 Q. But you said you had -- what was the car you were
13 driving at this time?

14 A. It's an older Ford Crown Victoria, and it was the
15 oldest K-9 car, and the K-9 cars are considered to be the
16 older cars in the fleet.

17 Q. And you said that this system that was in your car
18 had -- other officers had experienced problems with their
19 systems, as well?

20 A. Yes, ma'am. Those --

21 MR. SEATON: Objection, Your Honor.

22 There is no foundation for testifying about
23 what --

24 THE COURT: I'm going to give her --

25 MR. SEATON: -- problems other people have.

Hobie Williams
Continued Redirect Examination by Ms. Nickles
September 30, 2015

1 THE COURT: Overruled. You may answer.

2 A. Yes, ma'am, other officers have had issues with
3 them.

4 Q. [Ms. Nickles] And just a few more questions and
5 then we'll be done.

6 He asked you about an affidavit that you could
7 fill out regarding your system not working. And in your
8 testimony yesterday, you said that you had some training and
9 experience with driving-under-the-influence cases?

10 A. Yes, ma'am.

11 Q. And are those affidavits -- in what types of cases
12 are those affidavits usually filled out?

13 A. In DUI cases.

14 Q. Thank you.

15 He mentioned some things about trick-or-treating
16 and things -- trying to infer that you knew the defendant,
17 or you knew the defendant's children, or your children knew
18 his children. Did you know the defendant personally prior
19 to this interaction?

20 A. No, ma'am.

21 Q. The cousin that your -- that the defendant is
22 still married to, do you have a lot of interaction with her?

23 A. Not many, no, ma'am.

24 Q. You see her approximately how many times a year?

25 A. Maybe four or five times. Just don't hang out

Hobie Williams
Continued Redirect Examination by Ms. Nickles
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1 very much.

2 Q. Do you hang out like in a one-on-one setting? Or
3 when you see her is it when --

4 A. It's our entire family.

5 Q. How big is your family?

6 A. Probably twenty-five, thirty people.

7 Q. So it's possible that you could have at one time
8 been in the same place as the defendant?

9 A. It's possible.

10 I don't recall anything. I didn't go to their
11 wedding or any of that stuff.

12 MS. NICKLES: No further questions.

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Hobie Williams
Recross-Examination by Mr. Seaton
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RECROSS-EXAMINATION

BY MR. SEATON:

Q. Nobody doubts that the video is not working.
That's easy to see.

You had standard operating procedures when you
were with the City of Summerville?

A. Yes, sir.

Q. When you get in your cruiser every day, were you
supposed to check your equipment?

A. Yes, sir.

Q. Calibrate your equipment?

A. Radars. Yes, sir.

Q. And would you have checked your audio and video?

A. Yes, sir.

Q. And had you had any problems before that day?

A. No, sir.

Q. So it's only this one time that you're aware of?

A. That I'm aware of, yes, sir.

Q. And when it comes to the incident report, you also
told us that the purpose of the incident report, or you told
the solicitor the purpose of the incident report, is to
capture the most important or the major facts when it comes
to the whatever you're doing, not writing down every single
thing that gets said?

A. Correct, sir.

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Recross-Examination by Mr. Seaton
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1 Q. And also so that a year later, like we are now, or
2 a year and a half or however long, that it helps to refresh
3 your memory?

4 A. Yes, sir.

5 Q. And all of the things that you testified at great
6 length to yesterday and today about your present sense or
7 your interpretation of his emotional state, don't you think
8 that those were important?

9 A. I didn't at the time, no, sir.

10 Q. Well, if you didn't think that they were important
11 at the time, then why did you tell us that they were helping
12 you with all of these clues, that it would lead you from
13 welfare check to the marijuana to the concern about guns, to
14 these other things -- why did you tell us that if --

15 A. I was just telling --

16 Q. -- if that wasn't important at the time?

17 A. I was just giving you the feelings I had and
18 everything that was going on that led me to those decisions.

19 Q. Well, but, again, isn't that -- doesn't that make
20 it important? If that's what you testified to, that this
21 was important, that his sense -- his emotional state at the
22 time was important, shouldn't that be a major factor that
23 you wrote -- write down in the incident report?

24 A. I put more of the solid facts.

25 Q. So you're saying that this -- there's nothing

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1 solid about what -- all the things that you testified to
2 about his emotional state?

3 A. What I'm saying is the way that I perceive it is
4 not what I'm going to put in the report. But that's how I
5 perceived it.

6 Q. So your perception of how you perceived his
7 things, the way he acted that day a year and a half ago, is
8 only important when you testify a year and a half later? It
9 wasn't important the day you made that incident report, it's
10 only important now that you're here testifying and this is
11 the first time anybody has ever heard about it, that's when
12 it's important?

13 A. That's what I was asked, and I answered the
14 questions I was asked.

15 MR. SEATON: Okay. Thank you. Nothing further.

16 THE COURT: You may step down, Mr. Williams.

17 THE WITNESS: Thank you, ma'am.

18 THE COURT: Thank you.

19 MS. NICKLES: Your Honor, may Mr. Williams be
20 excused?

21 THE COURT: Any objection?

22 MR. SEATON: Without objection, Your Honor.

23 THE COURT: Thank you.

24 THE WITNESS: Thank you.

25 THE COURT: Feel free to stay with us.

Hobie Williams
Recross-Examination by Mr. Seaton
September 30, 2015

1 THE WITNESS: Thank you.

2 [Whereupon, Mr. Williams is excused and exits the
3 witness stand]

4 THE COURT: Call your next witness.

5 MS. NICKLES: The State calls Thomas Oswald.

6 [Whereupon, Mr. Oswald comes forward]

7 THE CLERK OF COURT: Please place your left hand
8 on the Bible and raise your right.

9 [Whereupon, Mr. Oswald is duly sworn by the clerk
10 of court as follows: do you solemnly swear or affirm
11 the testimony you shall give in this case shall be the
12 truth, the whole truth, and nothing but the truth, so
13 help you God]

14 THE WITNESS: Yes, ma'am, I do.

15 THE CLERK OF COURT: Have a seat.

16 [Whereupon, Mr. Oswald takes the witness stand]

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

19 THE WITNESS: My name is Thomas Epworth [phonetic]
20 Oswald. The last name is O-S-W-A-L-D.

21 MS. NICKLES: May it please the Court?

22 THE COURT: Yes.

23 - - -

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Thomas Oswald
Direct Examination by Ms. Nickles
September 30, 2015

THOMAS OSWALD,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. NICKLES:

Q. Officer Oswald, where are you employed?

A. Summerville Police Department.

Q. How long have you been with them?

A. A little under two and a half years.

Q. What did you do before that?

A. I graduated from the Citadel in 2013.

Q. All right. What are your present duties with
Summerville P.D.?

A. I'm on day-shift patrol, answering anything. I'm
not in a specialized unit so --

Q. Okay. So you potentially respond to whatever
comes in?

A. Anything that comes out. Yes, ma'am.

Q. Were you employed in that same manner back in May
of 2014?

A. Yes, ma'am.

I was just on night shift. That's the only
difference.

Q. So now you work days?

A. Yes, ma'am.

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September 30, 2015

1 Q. Back then did you have any kind of specialization,
2 or were you still kind of responding to everything?

3 A. No, ma'am. I was just general.

4 Q. And what -- when you say just general, what types
5 of calls do you typically respond to?

6 A. It can be collisions, domestic violence,
7 larcenies, burglaries, or anything like that. It can be
8 anything.

9 Q. But you're not an investigator?

10 A. No, ma'am.

11 Q. So you just respond to the initial call and then
12 if further action is needed, you contact the appropriate
13 division?

14 A. Yes, ma'am.

15 Q. On May 11th, 2014, were you dispatched to a hotel
16 in Summerville?

17 A. Yes, ma'am.

18 Q. And how did that happen?

19 A. Dispatch advised that there was a welfare check
20 that needed to happen at the Economy Inn. She didn't know
21 what room it was or anything like that. She just said that
22 there were some kids that were in a room, that were
23 allegedly in a room, and the mother and the boyfriend were
24 doing things in the bathroom and she wanted us to check it
25 out.

Thomas Oswald
Direct Examination by Ms. Nickles
September 30, 2015

1 Q. And after receiving that information, did you take
2 any additional measures?

3 A. Yes, ma'am. I called the complainant back and --

4 Q. And how did you do that?

5 A. I called through dispatch and they patched me
6 through, on a recorded line, to the complainant.

7 Q. And what kind of information did you ask for?

8 A. I asked where it was -- because she didn't know a
9 room or anything, so I asked her what side of the Holiday
10 Inn is it on. She said it's on the left side if you're
11 looking at it. And so then we figured out it was the
12 Economy Inn.

13 I asked her specific details and she said that
14 there was --

15 MR. SEATON: Your Honor, may we approach?

16 THE COURT: You may.

17 [Whereupon, an off-the-record bench conference is
18 held]

19 THE COURT: Ms. Nickles, you may continue.

20 MS. NICKLES: Thank you.

21 Q. [Ms. Nickles] So you were establishing the
22 location?

23 A. Yes, ma'am.

24 Q. And did she initially give you -- you said you
25 responded to the Economy Inn?

Thomas Oswald
Direct Examination by Ms. Nickles
September 30, 2015

1 A. Uh-huh.

2 Q. What's on the other side of the Holiday Inn?

3 A. The Econo Lodge, which -- and she was kind of
4 confused on the both -- both names kind of sound the same.

5 Q. But she gave you the physical location?

6 A. Yes, ma'am.

7 Q. And what county is the Economy Inn located?

8 A. Berkeley County. It's off Holiday Inn -- Holiday
9 Drive.

10 Q. And what was -- do you recall the address?

11 A. No, ma'am, I don't.

12 Q. But it's on Holiday Inn Drive?

13 A. Yes, ma'am. Right off of U.S. 17A.

14 Q. And who was the person that you spoke with when
15 dispatch patched you back through to the original caller?

16 A. It was Kory Abdon's mom. I'm not sure of her
17 name. It was -- oh. Lisa Parker.

18 Q. Okay.

19 A. Yes, ma'am. Sorry.

20 Q. So after you obtained that information and
21 established the physical location, did -- you responded to
22 the Economy Inn?

23 A. Yes, ma'am.

24 Q. And did anyone else respond with you?

25 A. Yes, ma'am.

Thomas Oswald
Direct Examination by Ms. Nickles
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1 I called Corporal Henderson at the time. He's
2 sargent now. But Corporal Henderson. And then I don't
3 recall asking Officer Williams to come. I think he just
4 checked in route and came with us.

5 Q. And by checked in route, can you explain to the
6 jury what it means when someone checks in route?

7 A. Yes, ma'am.

8 You just basically come across the radio and say,
9 I'm in route so -- and that's what Officer Williams did.

10 Q. So when dispatch gives a call, do they give it to
11 particular officers or does it just go out over the radio?

12 A. It goes out over the radio. Everybody hears it.

13 Q. And then how is it determined who exactly
14 responds?

15 A. The city is split up into four different quadrants
16 and each officer has its own quadrant. That happened to be
17 my zone that night that I was working. And that's how that
18 was dispatched. And it was just -- I was the only one that
19 was primarily dispatched to it.

20 Q. Okay. And then is it common for other officers to
21 check in route?

22 A. A lot of times, yeah, multiple officers will check
23 in.

24 Q. Okay. When you arrived at the Economy Inn, what
25 did you do?

Thomas Oswald
Direct Examination by Ms. Nickles
September 30, 2015

1 A. Lisa, over the phone, had said that there was a
2 black car with red rims.

3 So Corporal Tunnelston -- I'm sorry -- Corporal
4 Henderson rode around the parking lot and looked for it. He
5 couldn't find a car with red rims, a black -- I can't
6 remember exactly what kind of car it was. It was a small
7 sedan with red rims, and there was no red rims to be found.

8 So Officer Williams and I went to the front-desk
9 clerk and asked is there anybody that had checked in, check
10 the hotel room for those names, and Kory Abdon had her name
11 checked at room 119.

12 Q. And who did you speak with to get that
13 information?

14 A. The front-desk clerk. I'm not sure of the name.

15 Q. If I told you it was Patrick Ogier, does that --

16 A. Yes, ma'am.

17 Q. -- ring a bell?

18 A. Yes, ma'am.

19 Q. So he was able to tell you -- and I'll hand you
20 what's already been admitted as State's 2 and 3.

21 MS. NICKLES: May I approach?

22 THE COURT: You may.

23 Q. [Ms. Nickles] Does that look familiar?

24 [Whereupon, the witness reviews documents]

25 A. Yes, ma'am.

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1 That's what he showed us then, Kory Abdon was the
2 one that had rented the room.

3 Q. [Ms. Nickles] Okay. And from that, were you able
4 to determine which vehicle should be associated with that
5 room?

6 A. I don't remember that.

7 I remember we ended up finding the red brake
8 calipers and that's -- it was parked right in front of room
9 119. It was a black -- small black sedan and it had the red
10 brake calipers. So one could be confused with that. But we
11 figured it out.

12 Q. So somebody who's not very --

13 A. Yes, ma'am.

14 Q. -- familiar with car terms --

15 A. Yes, ma'am.

16 Q. -- could confuse red brake calipers with --

17 A. Of course. Yes, ma'am.

18 Q. -- a rim?

19 A. Because you associate a red brake caliper, so --
20 then we figured it out.

21 Q. So you verified the room number. And on that
22 receipt, did it list a number of occupants of the room?

23 [Whereupon, the witness reviews documents]

24 A. Yes, ma'am. It says two. It says number in
25 party, two.

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1 Q. [Ms. Nickles] And that was the information you
2 had received from dispatch, as well?

3 A. Yes, ma'am.

4 Q. After getting the room number, what did you do?

5 A. At that point, we told Sargent -- or Corporal
6 Henderson at that time, what room it was and we all went
7 down. I moved my car around so it was closer so the body
8 mike could pick up easier. And at that point, we just
9 basically went and knocked on the door to see if anybody was
10 in the room.

11 And Officer Williams knocked on the door. They
12 replied through the door, said, who is it. We advised them
13 it was Summerville Police Department. And they were kind of
14 hesitant to open the door at first. And --

15 Q. Go ahead.

16 A. So they were kind of hesitant to open the door and
17 they finally -- we said, we're here to check on the kids,
18 because that's what we were there to do is check on the
19 welfare of the kids.

20 So he finally opened the door after twenty seconds
21 or so and a strong odor of marijuana came out of the door of
22 the room. And at that point, we could see that there was a
23 bunch of kid's stuff in there, a bunch of kid's clothing and
24 toys and stuff, and we asked are there any kids here and
25 they said there's no kids. And they was kind of confused as

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1 to what was going on.

2 And at that point we did a protective sweep of the
3 residence. We weren't searching or anything. We weren't
4 opening drawers. We just wanted to make sure the kids
5 weren't there. And at that point, if I remember right, we
6 just held -- waited for narcs to come. We called narcs to
7 do a search warrant.

8 Q. Okay. Let's back up just a little bit --

9 A. Okay.

10 Q. -- and kind of go through this.

11 So you knock on the door, it takes them a little
12 bit of time to answer. When they do answer you said -- did
13 you smell marijuana?

14 A. I think we all three smelled it. It was -- but,
15 yes, ma'am, I did.

16 Q. Did anybody indicate to you -- did you smell it on
17 your own?

18 A. Yes, ma'am.

19 Q. And in your experience as a law enforcement
20 officer, what kind of specific training have you had
21 pertaining to law enforcement?

22 A. In general?

23 Q. Yes.

24 A. Collision reconstruction; I've got basic law
25 enforcement; the academy, I did twelve weeks up there. A

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1 lot.

2 Q. And you also graduated from the Citadel?

3 A. Yes, ma'am.

4 Q. In your time as a law enforcement officer, have
5 you had the occasion to come into contact with marijuana?

6 A. Yes, ma'am.

7 Q. And you're familiar with the smell of marijuana?

8 A. Yes, ma'am.

9 Q. And what you smelled that night you recognized --

10 A. Was marijuana.

11 Q. -- to be what?

12 A. Marijuana.

13 Q. Okay. After you did the protective sweep, what
14 was your conclusion about the presence of children in the
15 room?

16 A. There were no children in the room. Mr. Umphlett
17 said that: there are kids that stay here but they're not
18 here right now. They said that the kids were at his
19 parents' house or his mother's house.

20 Q. And at that point, why didn't y'all leave?

21 A. At that point, because of the odor of marijuana,
22 we wanted to get something checked out and the safest way to
23 do that is to get a search warrant, so we held what we had.

24 Q. And I'm going to show you a few things that have
25 been previously admitted.

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1 MS. NICKLES: Beg the Court's indulgence.

2 [Whereupon, Ms. Nickles reviews documents]

3 Q. [Ms. Nickles] Show you State's Exhibit 5. Can
4 you tell me if you recognize that?

5 [Whereupon, the witness reviews documents]

6 A. Yes, ma'am.

7 That's the room that we were in, 119, Economy Inn.
8 And then the vehicle outside was the black small sedan.

9 Q. [Ms. Nickles] On that night when you responded,
10 were you driving your patrol vehicle?

11 A. Yes, ma'am. It was a marked unit.

12 Q. And was that vehicle equipped with any kind of
13 recording system or device?

14 A. Yes, ma'am.

15 It was with an in-car camera. It was car
16 197.

17 Q. And with that, you mentioned that you moved your
18 car closer because you wanted your mike to be able to work.
19 Can you explain a little bit about that to the jury?

20 A. Basically, when you -- whenever we initiate our
21 lights, turn them on, or if we record when we get out with
22 somebody -- the old cameras in the Crown Vics were kind of
23 iffy on the range and how far you could go, so we liked to
24 have our vehicles as close as we could to us so that we can
25 make sure that we get all the audio in. And I don't think

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1 there was any good video of it because I was just sitting
2 behind a tractor trailer, but the audio picked up pretty
3 well from where we were.

4 Q. And how does that audio work? Do you have a mike?

5 A. Yes, ma'am.

6 We have a -- it's just like this [indicates]. And
7 that picks up any sound coming from it, and then the video
8 records everything.

9 Q. So the video from your car, the audio from that
10 would be wherever your person was?

11 A. Yes, ma'am. Of course.

12 Q. So it's physically attached to you?

13 A. Yes, ma'am.

14 And our old ones didn't have the clip, so it was
15 actually in my left pocket and that's why you hear the
16 swishing a lot from -- on my camera.

17 Q. And I'm going to show you what's previously been
18 admitted State's 4.

19 MS. NICKLES: May I approach, Your Honor?

20 THE COURT: You may.

21 Q. [Ms. Nickles] Do you recognize this?

22 A. Yes, ma'am. That's my in-car video.

23 Q. And how do you know?

24 A. Because of my initials and --

25 Q. And you --

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1 A. -- that's what we -- the DVD Plus R is what we
2 record ours on.

3 MS. NICKLES: Your Honor, request to publish?

4 THE COURT: You may.

5 Q. [Ms. Nickles] I'll show you some of that and have
6 you explain to the jury some of that --

7 A. Okay.

8 Q. -- in a minute.

9 And you had that on you the entire time?

10 A. Yes, ma'am.

11 Q. So anyone around you --

12 A. It would pick up any sound that comes out around
13 me. It's pretty good at what it does, so it'll pick up
14 pretty far.

15 Q. And you can hear other officers speaking on --

16 A. Yes, ma'am.

17 Q. -- that, as well?

18 And you mentioned -- who were you with again? You
19 were with Officer who?

20 A. Corporal Henderson and Officer Williams.

21 Q. And that's Hobie Williams?

22 A. Yes, ma'am. Hobie Williams, K-9 officer.

23 Q. Do you remember after you smelled the search of --
24 I mean, smelled the smell of marijuana, did you request, or
25 any other officers request, consent to search the room?

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1 A. Yes, ma'am. And --

2 Q. And what was the response?

3 A. Both denied.

4 Q. Did they fully deny, or did they give you limited
5 consent?

6 A. They -- I'm trying to think. Can I read my report
7 real quick?

8 Q. Sure.

9 [Whereupon, the witness reviews documents]

10 Q. [Ms. Nickles] And maybe I wasn't specific enough
11 about which time I'm talking about. With the -- based on
12 the smell of marijuana, when you requested consent to
13 search, did they give you permission to get anything?

14 A. Yes, ma'am.

15 He said that we can go get the marijuana that
16 was -- he said there was one, I think it was a cigar is what
17 he said, that was in the night stand by the table -- or by
18 the beds.

19 Q. But did he give you consent to get anything else
20 or search anything else at that point?

21 A. No, ma'am.

22 Q. And did you go in and retrieve that marijuana?

23 A. No, ma'am.

24 I -- the gun -- I'm sorry. There was a gun that
25 was also there. And we asked if there was weapons and he

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1 did say that there was a weapon. If I remember right, there
2 was some confusion as to where it was, and they said it was
3 in the night stand, and that's why we wanted to make the
4 situation safe and --

5 Q. Okay. That was a little bit -- we're fast-
6 forwarding a little bit now from the time of the limited
7 consent to get the marijuana. When he gave you that
8 consent, did you go in and get the marijuana, or did you
9 remain at the front of the door?

10 A. Remained.

11 Q. Okay. And why is that?

12 A. Because we weren't there for that. At that point,
13 we were still doing the welfare check, looking for the kids.

14 Q. And then you said sometime later there was a
15 question about weapons?

16 A. Yes, ma'am.

17 Q. And what did -- what was the response to that?

18 A. That there was a pistol in the night stand.

19 And obviously want to make those safe so the
20 situation doesn't get any worse. And he said that we can go
21 in and retrieve that, but he didn't want us to search
22 anywhere else.

23 Q. And he admitted to you that there was one pistol
24 in the night stand?

25 A. Yes, ma'am.

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1 Q. When you -- and did you go in with another officer
2 to --

3 A. Yes, ma'am.

4 Q. -- retrieve that?

5 A. Corporal Henderson is the one that actually
6 retrieved it, and I photographed where it initially was in
7 the night stand with the marijuana right next to it. And --

8 Q. And why did you photograph it?

9 A. That's standard procedure to photograph them that
10 way, get the serial number and everything like that so we
11 can match it.

12 Q. Is it also to show where it --

13 A. Yes, ma'am. Because --

14 Q. -- where it was?

15 A. -- we had -- I actually took several different
16 photographs. I think one was on the bed. We initially took
17 the pictures of it in the night stand next to the marijuana.

18 MS. NICKLES: Your Honor, may I approach?

19 THE COURT: You may.

20 Q. [Ms. Nickles] Do you recognize State's 14?

21 A. Yes, ma'am. These are the --

22 Q. What is that?

23 A. It's the Cigarillo that was split open, with the
24 marijuana in it, and the pistols that were in there.

25 Q. Okay. And did you take that picture?

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

2 Q. And were you surprised by the contents of the
3 drawer when you actually found out what was inside?

4 A. Yeah.

5 He initially said there was one pistol, and it
6 ended up being two pistols. And the marijuana was how he
7 described it.

8 MS. NICKLES: Your Honor, if we could publish --
9 I'm sorry. If you could tell me the number on the
10 back of that.

11 THE WITNESS: This is 14.

12 MS. NICKLES: -- State's 14.

13 And just so we're sure, I'm going to use this to
14 point, and you can turn around and look.

15 Q. [Ms. Nickles] So there's -- this is one of the
16 guns?

17 A. Yes, ma'am.

18 Q. And then this is the second gun?

19 A. Yes, ma'am.

20 Q. And then this is the marijuana that he admitted?

21 A. Yes, ma'am.

22 Q. Okay. And what did you retrieve out of this
23 drawer?

24 A. Just the guns.

25 Q. So you left the marijuana --

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1 A. Yes, ma'am. We left the --

2 Q. -- and everything else we see in here?

3 A. Yes, ma'am.

4 We just wanted to get the guns out so that we had
5 the only guns in the room.

6 Q. And when you're on a scene like this where you
7 suspect that there may be drugs in the room and now you've
8 found weapons, why do you retrieve the weapons?

9 A. To make them safe so the situation --

10 I mean, Mr. Umphlett was standing just over the
11 bed that he very well could have just jumped across and got
12 them. So we like to make them safe and get them out of the
13 situation.

14 Q. And once you did that, Corporal -- did Corporal
15 Henderson remove them, or did you?

16 A. Corporal Henderson removed them and I just
17 photographed.

18 MS. NICKLES: And at this time, Your Honor, I
19 would like to publish the video.

20 We do need to set up the equipment. The fire
21 alarm, I forgot to set up this equipment. If we may
22 have a minute? I'm sorry.

23 THE COURT: Okay. Take a minute.

24 MS. NICKLES: I apologize.

25 THE COURT: Take your time.

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1 [Off the record momentarily]

2 MS. NICKLES: Your Honor, may we approach real
3 quick before we play this?

4 THE COURT: Yes.

5 [Whereupon, an off-the-record bench conference is
6 held]

7 Q. [Ms. Nickles] Officer Oswald, I'm going to show
8 you a video, and tell me if you recognize this.

9 [Whereupon, State's Exhibit Number 4, in-car
10 video, is played for the jury, with questions from
11 Ms. Nickles]

12 [Whereupon, State's Exhibit Number 4 is not
13 transcribed by the court reporter]

14 Q. [Ms. Nickles] And, now, we don't hear anything
15 right now. Why is that?

16 A. This is my in-car video from the night of the
17 incident. And our cameras, as soon as we activate them,
18 they prerecord thirty seconds. I think the old ones are
19 actually forty-five seconds.

20 This is me pulling up to the Economy Inn right
21 after I had talked to Ms. Parker.

22 THE COURT REPORTER: I can't hear both.

23 A. This is the front of the hotel where the clerk's
24 office is --

25 Q. [Ms. Nickles] So y'all all were out about the

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1 same time?

2 A. Yes, ma'am.

3 Q. Is that you?

4 A. Yes, ma'am. That's me and Officer Williams.

5 Q. You're walking out of the front --

6 A. Yes, ma'am.

7 At this point, we don't know which room it is so
8 we have to go get their names.

9 MR. SEATON: The video is actually playing and
10 narrating along as we go. I think there should be some
11 specific questions asked, rather than just giving him
12 running --

13 THE COURT: I think she did.

14 But my issue is I can't hear her over that, so
15 we're going to need to make sure that everybody is
16 speaking up or that you just indicate --

17 MS. NICKLES: Your Honor, after this --

18 THE COURT: -- that you stop --

19 MS. NICKLES: -- I was going to pause it and then
20 ask.

21 THE COURT: All right. Thank you.

22 MS. NICKLES: This was just the initial.

23 THE COURT: All right. Thank you.

24 THE WITNESS: I'll be quiet. Sorry.

25 MR. MCNEELY: Continue to play?

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1 THE COURT: Yes.

2 [Whereupon, State's Exhibit Number 4 continues]

3 [Whereupon, State's Exhibit Number 4 is paused]

4 Q. [Ms. Nickles] Who are you speaking to at this
5 point?

6 A. Officer Williams and I are talking to the front-
7 desk clerk at --

8 Q. Mr. Ogier?

9 A. Yes, ma'am.

10 Q. Okay. And you were asking him about --

11 A. A couple -- if he remembers a couple that's been
12 staying there for several weeks and if they have the kids.
13 And at first he wasn't sure.

14 [Whereupon, State's Exhibit Number 4 continues]

15 [Whereupon, State's Exhibit Number 4 is paused]

16 Q. [Ms. Nickles] And at that point, why are you
17 asking about cars?

18 A. To match the vehicle that Lisa Parker had
19 described to us, and we get the tag, and to see if those are
20 the vehicles that are in front of the room.

21 [Whereupon, State's Exhibit Number 4 continues]

22 [Whereupon, State's Exhibit Number 4 is paused]

23 Q. [Ms. Nickles] So at this point --

24 THE COURT: Can you indicate for the record what
25 time you stopped this?

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1 MS. NICKLES: Yes, Your Honor. At 5:25.

2 Q. [Ms. Nickles] -- what has happened and where are
3 you going?

4 A. At this time we had found out the name, that she
5 used her real name, and that she was in room 119, and found
6 out the vehicle. So at this point we were moving up to go
7 speak with them to do the welfare check. And I was getting
8 in my car right here to pull the car around.

9 Q. So that was you --

10 A. Yes, ma'am, that was me --

11 Q. -- walking --

12 A. -- walking back towards the vehicle.

13 [Whereupon, State's Exhibit Number 4 continues]

14 [Whereupon, State's Exhibit Number 4 is paused]

15 Q. [Ms. Nickles] And at this point, Officer Oswald,
16 what are you doing?

17 A. At this point the room 119 is kind of right beside
18 me and we're getting ready to go knock on the door.

19 Q. And, again, that -- who's with you? Still the
20 same --

21 A. Yes, ma'am.

22 Q. -- people are with you?

23 A. It's Corporal Henderson and Officer Williams.

24 [Whereupon, State's Exhibit Number 4 continues]

25 [Whereupon, State's Exhibit Number 4 is paused]

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1 Q. [Ms. Nickles] And Officer Oswald --

2 MS. NICKLES: Just for the record, it's 7:09.

3 Q. [Ms. Nickles] Officer Oswald, who's voice is that
4 that we hear?

5 A. That's Officer Williams.

6 Q. And he said, we're here to check on the children,
7 please --

8 A. Yes, ma'am.

9 Q. -- open the door?

10 A. Yes, ma'am.

11 Q. Okay. So that is Officer Williams' voice?

12 A. Yes, ma'am. That was what you heard.

13 Q. And your mike picked that up --

14 A. Yes, ma'am.

15 Q. -- because y'all are in --

16 A. Uh-huh.

17 Q. -- close proximity?

18 [Whereupon, State's Exhibit Number 4 continues]

19 [Whereupon, State's Exhibit Number 4 is paused]

20 Q. [Ms. Nickles] Officer Oswald, that's the second
21 time y'all knocked?

22 A. Yes, ma'am.

23 Q. So after the first knock, the communication we
24 heard, was that with the door open or closed?

25 A. It was still closed.

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1 MS. NICKLES: And that was 7:33.

2 [Whereupon, State's Exhibit Number 4 continues]

3 [Whereupon, State's Exhibit Number 4 is paused]

4 MS. NICKLES: And I stopped at 8:26.

5 Q. [Ms. Nickles] And Officer Umphlett -- I mean,
6 Officer Oswald, who are those -- the voices that we hear
7 responding?

8 A. Mr. Umphlett and Kory Abdon.

9 Q. And do you see Mr. Umphlett present in the
10 courtroom today?

11 A. Yes, ma'am. He's right there in the black shirt.

12 MS. NICKLES: Your Honor, can the record reflect
13 that he has pointed out the defendant?

14 THE COURT: It will.

15 MS. NICKLES: Thank you.

16 Q. [Ms. Nickles] So those are the two voices we hear
17 responding to the questions that you and -- or at this
18 point, Officer Williams is asking?

19 A. Yes, ma'am.

20 MR. SEATON: Your Honor, I think we have a matter
21 of law we need to take up.

22 THE COURT: All right. Please approach.

23 [Whereupon, an off-the-record bench conference is
24 held]

25 THE COURT: You may continue. We will place that

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1 objection on the record --

2 MS. NICKLES: Thank you.

3 THE COURT: -- outside the presence of the jury.

4 Thank you.

5 MS. NICKLES: And I'm going to continue this.

6 [Whereupon, State's Exhibit Number 4 continues]

7 [Whereupon, State's Exhibit Number 4 is paused]

8 MS. NICKLES: And I stopped the video at 10:04.

9 Q. [Ms. Nickles] At this point, what are you -- what
10 are you, as a group, doing?

11 A. Right now we're just trying to figure out --
12 trying to run them both to see if there's any warrants,
13 anything like that, and investigate more into the -- we're
14 pretty sure at this point the kids aren't there, but we
15 smelled the marijuana at this point so --

16 Q. And at this point they've told you their names,
17 but have you confirmed that yet?

18 A. No, ma'am.

19 It takes a process of several minutes to run
20 somebody through our dispatch system.

21 Q. So what are you asking for in order to confirm the
22 identity?

23 A. Names. Their full name, their date of birth, if
24 they have a driver's license on them. Even if they don't
25 have a driver's license, you can still run them with just a

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1 name and date of birth.

2 [Whereupon, State's Exhibit Number 4 continues]

3 [Whereupon, State's Exhibit Number 4 is paused]

4 MS. NICKLES: I stopped it at 10:32.

5 Q. [Ms. Nickles] And somebody is saying, can I open
6 this up. At that point, what -- were you still trying to
7 confirm the identity?

8 A. Yes, ma'am.

9 Q. And had Kory Abdon given you consent to get her
10 wallet --

11 A. I was not -- I was not the one that --

12 MR. SEATON: Objection, Your Honor. That's
13 leading. She's now --

14 THE COURT: Sustained.

15 MR. SEATON: -- testifying.

16 THE COURT: Sustained.

17 Q. [Ms. Nickles] Do you remember what someone was
18 requesting to open up?

19 A. Yes, ma'am. It was Kory Abdon's purse.

20 Q. Okay. So nothing inside of the room?

21 A. No, ma'am. It was just a purse.

22 [Whereupon, State's Exhibit Number 4 continues]

23 [Whereupon, State's Exhibit Number 4 is paused]

24 Q. [Ms. Nickles] Who was that just speaking about
25 children being present some of the time?

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1 A. Mr. Umphlett.

2 That was a conversation between Officer Williams
3 and Mr. Umphlett.

4 Q. And why were you -- why did y'all think that there
5 were kids there some of the time?

6 A. Because there was a bunch of kid's clothing there
7 and kid's toys scattered around the room. I think right
8 when you walked in, right at the front door, there was a
9 bunch of kid's toys.

10 Q. And could you see straight in front of you?

11 A. Yes, ma'am.

12 Q. And could you see -- in your direct line of sight,
13 was the bathroom area -- or not the bathroom. I'm sorry --
14 the sink area --

15 MR. SEATON: I'm going to object to relevance.

16 We've already determined --

17 THE COURT: Sustained.

18 MR. SEATON: -- there's no children.

19 THE COURT: Let's move on. Thank you.

20 [Whereupon, State's Exhibit Number 4 continues]

21 [Whereupon, State's Exhibit Number 4 is paused]

22 MS. NICKLES: And I stopped it at 1442.

23 Q. [Ms. Nickles] Whose voice is that?

24 A. That's my voice.

25 Q. And what are you asking questions about?

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1 A. Where the kids are. He said they left them at his
2 mother's house.

3 MR. SEATON: Your Honor, again, I'm going to
4 object to relevance.

5 THE COURT: Overruled.

6 [Whereupon, State's Exhibit Number 4 continues]

7 [Whereupon, State's Exhibit Number 4 is paused]

8 MS. NICKLES: And I stopped at 1647.

9 Q. [Ms. Nickles] So what are you doing at this
10 point?

11 A. At this point we're -- Corporal Henderson had just
12 ran both of their names. And at this point I'm just talking
13 to him, talking to Mr. Umphlett.

14 Q. And on this video are there periods of long
15 silences? This is a little over three hours long.

16 A. Yes, ma'am.

17 MS. NICKLES: Your Honor, if I could fast-forward
18 through some. There's a long period of silence coming
19 up.

20 THE COURT: All right.

21 MS. NICKLES: I'm going to fast-forward to 1750,
22 or 51.

23 [Whereupon, State's Exhibit Number 4 continues]

24 [Whereupon, State's Exhibit Number 4 is paused]

25 Q. [Ms. Nickles] And, again, whose voice is that,

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1 Officer Oswald?

2 A. That was my voice asking Mr. Umphlett how long
3 they've been staying here and he --

4 Q. And what did he say?

5 A. He responded one week.

6 Q. So what we're hearing now is a conversation
7 between you and the defendant?

8 A. Yes, ma'am.

9 [Whereupon, State's Exhibit Number 4 continues]

10 [Whereupon, State's Exhibit Number 4 is paused]

11 MS. NICKLES: And I'm stopping it at 1948.

12 Q. [Ms. Nickles] Now, we hear some conversation
13 right there. And I'm referring to the point, did she give
14 it to you, not yet. What is that in reference to?

15 A. That wasn't -- I wasn't in that conversation.

16 Q. You were not?

17 A. No, ma'am.

18 That was with Corporal Henderson and Officer
19 Williams.

20 [Whereupon, State's Exhibit Number 4 continues]

21 [Whereupon, State's Exhibit Number 4 is paused]

22 Q. [Ms. Nickles] And is this the point where y'all
23 are requesting consent?

24 A. Yes, ma'am.

25 [Whereupon, State's Exhibit Number 4 continues]

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1 [Whereupon, State's Exhibit Number 4 is paused]

2 MS. NICKLES: I'm going to pause it at 2035.

3 Q. [Ms. Nickles] Officer Oswald, up to this point,
4 did you or any of the other officers on scene threaten the
5 defendant?

6 A. No, ma'am.

7 Q. Coerce the defendant?

8 A. Not at all.

9 Q. Give him any promises in exchange for anything?

10 A. No, ma'am. Not at all.

11 Q. Did he ask you to leave?

12 A. No, ma'am.

13 Q. Did he tell you he didn't want to talk to you?

14 A. No, ma'am.

15 Q. Did he indicate to you in any way whatsoever that
16 he wanted to end this?

17 A. Not at all.

18 MS. NICKLES: I'm going to resume play at 2035.

19 [Whereupon, State's Exhibit Number 4 continues]

20 [Whereupon, State's Exhibit Number 4 is paused]

21 MS. NICKLES: And I'm stopping at 2125.

22 Q. [Ms. Nickles] At that point, when -- is that the
23 defendant saying, both our names are on it?

24 A. Yes, ma'am.

25 Q. What's he referring to?

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1 A. The lease or the rental.

2 Q. The rental of the room?

3 A. Yes, ma'am, of the room.

4 Q. And why would you be concerned with whose name was
5 on it when asking for a consent?

6 A. Because --

7 MR. SEATON: Your Honor, I'm going to object.
8 That calls for a legal conclusion.

9 THE COURT: If he knows, he can answer.

10 A. Who can give consent to the room and all the
11 property in the room.

12 Q. [Ms. Nickles] So you're trying to make sure you
13 have the right person?

14 A. Yes, ma'am.

15 Q. Have you threatened, coerced --

16 A. No, ma'am --

17 Q. -- tricked?

18 A. -- not at all.

19 [Whereupon, State's Exhibit Number 4 continues]

20 [Whereupon, State's Exhibit Number 4 is paused]

21 MS. NICKLES: Your Honor, I'm going to pause it at
22 2215 and try to --

23 Okay. Sorry. I'm going to try to resume --

24 Q. [Ms. Nickles] And so we don't have to play all
25 three and a half hours of this -- it's been admitted, with

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1 the exception of the little part -- what are you doing after
2 that, after they deny -- or give limited consent?

3 A. At this point I believe Corporal Henderson is on
4 the phone with the metro narcotics unit advising them of the
5 situation and typing up a search warrant and getting them to
6 type up a search warrant for the room.

7 MS. NICKLES: There are just a few more parts that
8 I want to play.

9 Q. [Ms. Nickles] At any time, again, on this video
10 do you threaten, coerce --

11 A. No, ma'am.

12 Q. -- anything?

13 A. Not at all.

14 MS. NICKLES: I'm going to fast-forward to 32.
15 I'm going to mute it to ensure that the part we've
16 consented to will not be played, will not accidentally be
17 played.

18 MR. SEATON: Your Honor, may we approach the
19 bench?

20 THE COURT: Ladies and gentlemen, let's go ahead
21 and take a short break.

22 Please do not begin your deliberations. Don't
23 discuss this case amongst yourselves. Take your
24 notepads or leave them right where they are.

25 Please rise for the jury.

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1 [Whereupon, the jury exits the courtroom at
2 12:30 p.m.]

3 [Whereupon, an off-the-record bench conference is
4 held]

5 THE COURT: Please be seated.

6 Officer, we're going to take a little recess, and
7 lunch may arrive, so I remind you that you're under the
8 rule of sequestration.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: And do you understand what that means?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Could you explain that to me?

13 THE WITNESS: I'm not allowed to talk about
14 anything we've talked about or talk about the case at
15 all to anybody.

16 THE COURT: Correct.

17 And that includes the solicitor or the defense
18 attorney, with the exception of just scheduling. So if
19 we should break for lunch --

20 THE WITNESS: Yes, ma'am.

21 THE COURT: -- he or she may tell you when to come
22 back.

23 Just step down and go ahead and take your comfort
24 break. And make sure you're just around the courtroom.
25 Feel free to come back in and you can have a seat,

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1 though. All right? Thank you.

2 [Whereupon, Mr. Oswald is excused and exits the
3 witness stand]

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Motion for a Mistrial
By Mr. Seaton
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MOTION FOR A MISTRIAL

THE COURT: All right.

MR. SEATON: Thank you, Your Honor.

At this point, Mr. Umphlett would move for a mistrial. The solicitor just took it upon herself to make sure that the jury heard her remarks, which were specifically that: I'm going to make sure that the jury doesn't hear the part we're not going to let them hear. Which leaves the only possible conclusion that you could make from that is that we are specifically telling them that there are parts of this tape that we are not going to allow you to hear.

The whole purpose of redacting and not playing it is so that they are not aware that there are things that they're not allowed to hear, and I think that the only conclusion that they can draw from that is that we are intentionally trying to keep them from hearing important facts.

For those reasons, I believe that that is misconduct on the part of the solicitor's office and I believe that he is entitled to a mistrial based on the fact the comments that the jury clearly heard.

THE COURT: Mr. Seaton, just so I understand. Did you consent? Was it consented to to redact portions?

MR. SEATON: Absolutely.

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1 THE COURT: It was?

2 MR. SEATON: Yes, ma'am.

3 THE COURT: And what was consented to? What has
4 been redacted?

5 MR. SEATON: Well, what -- we use the term
6 redacted I think in a very loose sense, because if it
7 were truly redacted --

8 THE COURT: What did you consent to? How about
9 that?

10 MR. SEATON: What we consented to was that the
11 jury would not hear anything about Mr. Umphlett stating
12 that he was on parole, or anything along those lines.

13 There was also some question I had about when the
14 officer runs and says that the gun was stolen, and we
15 agreed that there was not going to be any mention of
16 the idea that a gun was stolen.

17 But, specifically, I believe the portion that's
18 coming up has to do with statements that Mr. Umphlett
19 made that we agreed are outside the purview of the
20 jury, Your Honor.

21 THE COURT: All right. As you are aware --

22 I don't need to hear from you, Ms. Nickles. You
23 may have a seat.

24 As you are aware, the granting of a mistrial is
25 only when absolute necessity would require that the

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1 defendant's fundamental constitutional rights have been
2 violated. While I am not quite sure why Ms. Nickles
3 made the comments that she made, I do not believe that
4 they rise to the necessary requirement for me to grant
5 a mistrial.

6 I will admonish the jury that they are not to
7 consider what may or may not have been included in
8 there, so the two of you come up with an appropriate
9 admonition for the jury.

10 We'll take a short break. Hopefully, the lunch
11 will be here soon.

12 MR. SEATON: Yes, ma'am.

13 THE COURT: Thank you. About ten minutes.

14 [Whereupon, a recess is taken from 12:34 p.m. to
15 1:46 p.m.]

16 THE COURT: Anything before we bring in the jury?

17 MR. SEATON: No, Your Honor.

18 I think we had a brief discussion about what we
19 would ask you to charge.

20 THE COURT: Do you just want me to indicate just
21 generally what we had discussed?

22 MR. SEATON: Yes, ma'am.

23 THE COURT: Okay. Anything --

24 MR. SEATON: I think that's --

25 MS. NICKLES: Would you like to play the twenty-

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1 seven minutes to the twenty-seven seconds on the
2 record?

3 MR. SEATON: Sure. Yeah. That's a good idea.

4 MS. NICKLES: Your Honor, the portion of the video
5 that we have agreed to redact from the twenty-seven
6 minute marker to the twenty-seven-minute, twenty-seven-
7 seconds marker.

8 THE COURT: Okay.

9 MR. SEATON: And, Your Honor, one more thing.

10 I just want this on the record, as well; and that
11 is, a true redaction in my mind really should be that
12 we don't make it a part -- that that portion is never
13 made a part of the record.

14 For purposes of making it easy so no one has to do
15 any video-editing or anything like that, we have agreed
16 that the entire video is made a portion of the
17 evidence. But we're specifically not agreeing that
18 that is evidence in terms of the -- either the Court or
19 the jury getting to --

20 THE COURT: All right. Well, that's two different
21 things.

22 MR. SEATON: Yes, ma'am.

23 THE COURT: So if the entire -- are you indicating
24 that the entire video is evidence?

25 MR. SEATON: No, ma'am.

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1 Well, what -- physically, we're placing the entire
2 disk into evidence. So I just wanted to make sure that
3 the Court was clear that we're not giving up our right,
4 we're not saying that it's okay, for that portion
5 between twenty-seven and 2727 at 27 seconds --

6 THE COURT: I thought that's what we've been
7 discussing ad nauseam for two hours, was that there is
8 no way -- or the State has not provided a start-to-
9 finish copy that can be played to the jury from start
10 to finish, that she is manually redacting it, but the
11 only way that it will go -- and that it will never be
12 played to the jury, but for bringing them in and her
13 again manually playing start and stopping. Is that --

14 MR. SEATON: I agree, Your Honor.

15 I guess the better analogy would be is if we had a
16 piece of paper and we took that blank ink marker and
17 marked through something --

18 THE COURT: That's not the same --

19 MR. SEATON: -- we don't --

20 THE COURT: -- analogy.

21 I think we're all saying the same thing, and I
22 just don't understand why we're spending so much time
23 on the same issue. All right?

24 There is no way that even if that physical disk
25 goes back, that the jury can listen to it. They don't

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1 have the capability to do it. So if they want to hear
2 the disk again, we bring them back out and Ms. Nickles
3 will do the same thing that she's doing and play them
4 and start it and stop it. That's why it's on -- we're
5 being very particular about the start times and the
6 stop times.

7 MR. SEATON: Yes, ma'am.

8 I was just speaking more in terms of if this case
9 was appealed, then I wanted to make it clear that we
10 were not agreeing that that portion that we believe
11 should not be made evidence is not made evidence.

12 THE COURT: I thought that's what we have said
13 from the very moment that it was entered into evidence.
14 All right?

15 Let's bring in the jury.

16 You are still under oath. Did you comply with my
17 instructions?

18 THE WITNESS: Yes, ma'am, I did.

19 THE COURT: Thank you.

20 [Whereupon, the jury enters the courtroom at
21 1:50 p.m.]

22 THE COURT: Thank you. Please be seated.

23 Ladies and gentlemen of the jury, as I indicated
24 to you in my initial address to you in what I call my
25 opening, remember that there are certain -- that I am

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1 the judge of the law and sometimes it's necessary for
2 me to make certain rulings. And as I indicated to you,
3 you are not to speculate or guess or think that we're
4 hiding anything from you if there is anything that is
5 redacted or removed or not played for you. So please
6 do understand that there's just certain rules of law
7 that must be followed. We're not trying to hide or
8 keep anything from you.

9 Ms. Nickles?

10 MS. NICKLES: Thank you, Your Honor.

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Thomas Oswald
Continued Direct Examination by Ms. Nickles
September 30, 2015

CONTINUED DIRECT EXAMINATION

BY MS. NICKLES:

Q. Okay. Let me play just a few more sections of it.

MS. NICKLES: And I'm sorry. I'm starting on 30,
Your Honor.

[Whereupon, State's Exhibit Number 4 continues]

[Whereupon, State's Exhibit Number 4 is paused]

Q. [Ms. Nickles] Officer Oswald, what is this
portion of the video? What are you looking for when this
conversation is going on?

A. Right now we're talking to Kory trying to find out
where the guns are located. There's some confusion where
they are.

Q. Okay. And who directs you to where the gun is, or
guns are?

A. I don't recall which one, who exactly did it.
They're both kind of giving us places to look.

[Whereupon, State's Exhibit Number 4 continues]

[Whereupon, State's Exhibit Number 4 is paused]

Q. [Ms. Nickles] Okay. So at that point talking
about the camera and I got them, what is that in reference
to?

A. We found the weapons in the night stand between
the two beds.

MS. NICKLES: I'm going to back up a little bit.

Thomas Oswald
Continued Direct Examination by Ms. Nickles
September 30, 2015

1 I missed one part.

2 This is beginning at 3031.

3 [Whereupon, State's Exhibit Number 4 continues]

4 [Whereupon, State's Exhibit Number 4 is paused]

5 MS. NICKLES: I'm going to pause at 3132. That's
6 just prior to where we started.

7 Q. [Ms. Nickles] And who is that responding --
8 talking about the registered gun?

9 A. That was Officer Williams.

10 Q. And who was responding to the question?

11 A. Kory Abdon.

12 Q. And anyone else?

13 A. And then --

14 Q. The portion I just played --

15 A. Oh. That --

16 Q. -- not the one earlier.

17 A. -- Mr. Umphlett was, too.

18 MS. NICKLES: 3133.

19 [Whereupon, State's Exhibit Number 4 continues]

20 [Whereupon, State's Exhibit Number 4 is paused]

21 MS. NICKLES: So we've already heard that part.
22 And we'll go to -- I'm going to fast-forward again to
23 one hour and thirty-one minutes or thirty --
24 Q. [Ms. Nickles] How long -- how long did it take
25 for the search warrant to arrive?

Thomas Oswald
Continued Direct Examination by Ms. Nickles
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1 A. Honestly, I'm not sure. I can't remember. I can
2 look at my report.

3 Q. You can look.

4 [Whereupon, the witness reviews documents]

5 A. It appears about a little over an hour.

6 Q. [Ms. Nickles] And during that time after you
7 found the guns, where is the defendant?

8 A. He is -- I don't remember exactly, at that point.
9 At some point I took him to my car to write a statement and
10 he was in the back of my patrol car.

11 Q. So once he's detained, you take him to your patrol
12 car?

13 A. Yes, ma'am.

14 Q. I'm at thirty and thirty-seven seconds.

15 [Whereupon, State's Exhibit Number 4 continues]

16 [Whereupon, State's Exhibit Number 4 is paused]

17 MS. NICKLES: Pause it at 1:32:39.

18 Q. [Ms. Nickles] And that that we just heard, who
19 are we talking to? Was that you --

20 A. Yeah.

21 Q. -- your voice?

22 A. I was talking to Mr. Umphlett.

23 Q. And what were you talking about?

24 A. He was in the back of my patrol car and I was
25 asking him -- he looked cold, so I asked him if he wanted a

Thomas Oswald
Continued Direct Examination by Ms. Nickles
September 30, 2015

1 blanket or anything like that.

2 Q. And did you, in fact, give him a blanket?

3 A. Yes, ma'am.

4 Q. And, again, we fast-forwarded some but we're now
5 at, you know, an hour and thirty-one minutes into this since
6 your -- since then, was there any time that you threatened,
7 coerced --

8 A. Not at all.

9 Q. -- did anything to intimidate the defendant?

10 A. No, ma'am.

11 Q. Again, by this point was there any point where he
12 said, I don't want to talk to you, anything to indicate that
13 he wanted to revoke his waiver?

14 MR. SEATON: Your Honor, I'm going to object to
15 leading.

16 THE COURT: Rephrase your leading question.

17 Q. [Ms. Nickles] Had you done any of that at this
18 time?

19 A. No, ma'am.

20 Q. Did the defendant make any statement regarding not
21 wanting to speak to you?

22 A. No, ma'am. Not at all.

23 Q. And, in fact, at that point, why did you go back
24 to the car?

25 A. Whenever a prisoner is in our custody in a car, we

Thomas Oswald
Continued Direct Examination by Ms. Nickles
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1 check on them pretty often.

2 Q. And was it cold that night?

3 A. It was a little chilly, yes, ma'am.

4 Q. Did he make any other requests for anything that
5 you can remember?

6 A. Not that I can recall, no, ma'am.

7 Q. At some point do you remember Sargent Thompson,
8 with metro narcotics, arriving on scene?

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

10 Q. And were you around him at the approximate time
11 when he arrived on scene?

12 A. Sargent Thompson or?

13 Q. Sargent Thompson. Were you ever around him?

14 A. I believe so, yes, ma'am.

15 Q. So your mike would have picked up?

16 A. Yes, ma'am.

17 MS. NICKLES: And I am going to fast-forward to
18 one minute and forty-four seconds.

19 Q. [Ms. Nickles] And, again, during this whole
20 period, what are you -- what are y'all doing there? Are you
21 investigating any further, are you --

22 A. No, ma'am.

23 We're just holding, waiting for metro narcotics to
24 show up.

25 MS. NICKLES: This is 1:43:58.

Thomas Oswald
Continued Direct Examination by Ms. Nickles
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1 [Whereupon, State's Exhibit Number 4 continues]

2 [Whereupon, State's Exhibit Number 4 is paused]

3 MR. SEATON: Your Honor --

4 THE COURT: Please approach.

5 [Whereupon, an off-the-record bench conference is
6 held]

7 Q. [Ms. Nickles] And once Sargent Thompson arrived
8 on scene, again, with metro narcotics, what was your role at
9 that point?

10 A. Once metro narcotics showed up, we just basically
11 hang around and watch the prisoners. Our job is pretty much
12 done. We're just there.

13 Q. You stay present on the scene?

14 A. Yes, ma'am.

15 We were still there. I tended to Mr. Umphlett and
16 everything.

17 Q. You don't have anything to do with the searching
18 of --

19 A. No, ma'am.

20 Q. -- the room or any of the -- any of the retrieving
21 of any evidence?

22 A. The -- we did retrieve the pistols once narcotics
23 -- because we put those into evidence. Yes, ma'am.

24 Q. So you took the pistols that you had retrieved and
25 gave them to narcotics? Or are you talking about the

Thomas Oswald
Continued Direct Examination by Ms. Nickles
September 30, 2015

1 previous retrieval?

2 A. The previous, when we took the pictures?

3 Q. Yes.

4 A. Okay.

5 Q. Once metro was on scene, did you get anything out
6 of the room?

7 A. I don't recall. I don't think so.

8 Q. You didn't help metro execute their search
9 warrant?

10 A. I can't recall.

11 Q. So you said y'all just stay on scene for purposes
12 of security?

13 A. For the most part. Yes, ma'am.

14 I did not -- I did not search the room. I can't
15 remember --

16 Q. That's --

17 A. -- I may have taken the pistols for metro to the
18 station for evidence. I can't remember if I did that or
19 not. But I did not search anything in the room, no.

20 Q. Once this whole process is over with, once metro
21 has responded, the search has been conducted, all evidence
22 has been retrieved, did you have anymore interaction with
23 Mr. Umphlett?

24 A. Yes, ma'am. I transported him to the station.

25 Q. And was that the end of your involvement in this?

Thomas Oswald
Continued Direct Examination by Ms. Nickles
September 30, 2015

1 A. Yes, ma'am.

2 Metro -- normally, metro narcotics will talk to
3 them once we get to the station. They'll do the booking and
4 everything, so --

5 MS. NICKLES: Beg the Court's indulgence.

6 One more portion of this video. For the record,
7 I'm going to 4740.

8 [Whereupon, the witness reviews documents]

9 A. And the weapons were given to metro narcotics.
10 Sorry. I read the report.

11 MS. NICKLES: All right. 4740.

12 [Whereupon, State's Exhibit Number 4 continues]

13 [Whereupon, State's Exhibit Number 4 is paused]

14 Q. [Ms. Nickles] Did you hear that?

15 A. No, ma'am.

16 MS. NICKLES: Go back to 4740.

17 Q. [Ms. Nickles] If you could tell me who's
18 speaking. If you could listen closely and tell me if you
19 recognize that voice and who it is.

20 [Whereupon, State's Exhibit Number 4 continues]

21 [Whereupon, State's Exhibit Number 4 is paused]

22 Q. [Ms. Nickles] Do you recognize that voice?

23 A. Yes, ma'am.

24 That was Officer Williams talking to Mr. Umphlett.

25 Q. And what did Mr. Umphlett say?

Thomas Oswald
Continued Direct Examination by Ms. Nickles
September 30, 2015

1 A. He said he's claiming ownership of everything in
2 the room.

3 [Whereupon, State's Exhibit Number 4 concludes]

4 Q. [Ms. Nickles] After this incident was completed,
5 did you follow up with -- did you call anyone back --

6 A. Yes, ma'am.

7 Q. -- speak with anyone?

8 A. I called -- I told Ms. Parker I would call her
9 back after we did the welfare check, and so I called her
10 back and advised her what was happening.

11 Q. And you informed her that you did not locate the
12 children?

13 A. Yes, ma'am.

14 I told her that the kids were with his parents and
15 advised her what's going on, what had taken place.

16 MS. NICKLES: I don't have any further questions.
17 Thank you. Please answer any questions that Mr. Seaton
18 has.

19 THE COURT: Mr. Seaton?

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Thomas Oswald
Cross-Examination by Mr. Seaton
September 30, 2014

CROSS-EXAMINATION

BY MR. SEATON:

Q. Officer Oswald, I think you told us that you -- your job was to control a specific quadrant of the city of Summerville?

A. Yes, sir.

Q. What quadrant would this have been?

A. It's the northeast quadrant.

It runs all the way from the railroad tracks east and west, to 17A, east of 17A.

Q. And you are what -- and tell me if this is the wrong language to use. But would you sort of be the first responder? If something happens in your quadrant, you would be -- you would realize that's your quadrant and you would be the first one to go on scene?

A. Yes, sir. Dispatch dispatches us to whatever call it is.

Q. All right. And I think you also told us that you're the one -- you get this call. You're told that there are two children and that you were given the specifics about Kory Abdon and Joseph Umphlett; is that correct?

A. Yes, sir.

Q. And shortly after that, I think you told us that Officer Williams volunteered to come there to the hotel with you?

Thomas Oswald
Cross-Examination by Mr. Seaton
September 30, 2014

1 A. Yes, sir.

2 I didn't know he was coming until he checked in
3 in-route.

4 Q. So he -- this is your call. He decides to come
5 along.

6 And would you agree with me that when you get to
7 the room, the first person, the person who's talking to
8 Mr. Umphlett, is Mr. Williams rather than you?

9 A. Yes, sir.

10 Q. Did it seem like he kind of took over the scene
11 when you got there? If this is your call, y'all knock on
12 the door and all we hear is the conversations between
13 Mr. Umphlett and Mr. Williams, would that be a fair
14 statement of what we heard on this video?

15 A. Yes, sir.

16 But that has nothing to -- it has no effect. He's
17 just the one that knocked on the door and started talking.

18 Q. I understand.

19 A. Just because I was dispatched doesn't mean I was
20 going to be the primary officer on it.

21 Q. And if this is Kory's mom that's called and you've
22 talked to, why was there never any mention of Kory's car?
23 Why were we only talking about Mr. Umphlett's car, rather
24 than Kory's car that was also there at the hotel?

25 A. That's just the information that was given to us.

Thomas Oswald
Cross-Examination by Mr. Seaton
September 30, 2014

1 Q. Wouldn't it be reasonable to think that what
2 they should have been concerned about is -- if it's her
3 grandchildren and her daughter, that the first thing they
4 would have done is describe her car rather than
5 Mr. Umphlett's?

6 A. That didn't really cross my mind, no, sir. I
7 didn't even know she had a car.

8 Q. I understand.

9 You were just given information?

10 A. Yes. We were just going on what we had.

11 Q. I understand.

12 And if we look at the radio logs about when you
13 called Ms. Parker and told her that the children weren't
14 there, do you think it would have been about 12:00, 12:30 at
15 night?

16 A. [No response]

17 Q. Let me hand you the radio logs.

18 A. Okay.

19 Q. I'm certainly not trying to trick you.

20 A. Yes, sir.

21 [Whereupon, Mr. Seaton proffers documents to the
22 witness.

23 A. Thank you.

24 Q. [Mr. Seaton] Do you want to take a look and see
25 if you can see what time it was that dispatch patched you

Thomas Oswald
Cross-Examination by Mr. Seaton
September 30, 2014

1 through to Ms. Parker to let her know that the grandchildren
2 were not there?

3 [Whereupon, the witness reviews documents]

4 A. Yes, sir. It was 12:35.

5 Q. [Mr. Seaton] Okay. It wasn't 4:30 in the
6 morning, was it --

7 A. No, sir.

8 Q. -- according to the radio logs? Okay.

9 A. I'm sorry. Where did you get 4:30 from?

10 Q. Just a number. Just --

11 A. Okay. I got you.

12 Q. Your unit, or the car that you drive, was also --
13 we see that you have a camera in your car?

14 A. Yes, sir.

15 Q. And that you also had a microphone that's mounted
16 on your body somehow. I think you said yours was --

17 A. Was in my pocket.

18 Q. -- was in your pocket. But it picks up on your
19 camera?

20 A. Yes, sir.

21 Q. And is that equipment that -- when you come on
22 duty, do you check your equipment every day?

23 A. Yes, sir.

24 Q. Would you check to make sure it's working?

25 A. Yes, sir.

Thomas Oswald
Cross-Examination by Mr. Seaton
September 30, 2014

1 Q. When you arrived on scene at the Econo Lodge -- or
2 Economy Lodge --

3 I, just like the caller, I get the two confused.

4 A. Yes, sir.

5 Q. -- you positioned your car -- it really wasn't the
6 best of places for catching anything as far as video goes;
7 is that correct?

8 A. When I initially got there?

9 Q. Or when you repositioned your car, hoping it would
10 be closer to the room -- I'm assuming that's what you were
11 doing, was getting closer to the room?

12 A. Yes, sir.

13 Q. But you still weren't in the best of places. It
14 looks like you were across the way from --

15 A. That's the only way.

16 It would have been parked all the way across the
17 parking lot, and I couldn't do that at a pretty busy
18 hotel.

19 Q. So you weren't in an optimal spot, in terms of
20 where your car was placed, with where the things were going
21 on?

22 A. My car had to be in the parking lot.

23 Q. And the video that's been submitted, that has the
24 audio on it, is approximately three hours long --

25 A. Okay.

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1 Q. -- is that --

2 A. Yes, sir.

3 Q. -- correct?

4 And the solicitor asking you about putting
5 Mr. Umphlett into your car, that was at about the hour and a
6 half mark; is that correct?

7 A. [No response]

8 Q. And I'm certainly not trying to trick you here.

9 A. Yes, sir.

10 Q. If you need anything to help you with your
11 recollection --

12 A. That's a year and a half ago. I'm just trying to
13 figure out --

14 Q. I understand.

15 A. I want to tell the right thing.

16 [Whereupon, the witness reviews documents]

17 Q. [Mr. Seaton] What you have in front of you would
18 have been -- is that your report that --

19 A. Yes, sir.

20 Q. -- that you're looking at?

21 A. This is my report, and this is a printout of
22 what --

23 Q. That's an actual transcript that the solicitor's
24 officer prepared?

25 A. Yes, sir.

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1 Q. All right. Look and see was it about an hour and
2 a half after you arrived on the scene when you put him in
3 the car?

4 [Whereupon, the witness reviews documents]

5 A. Yes, sir.

6 Q. [Mr. Seaton] Up to that point when he was put in
7 the car, was he Mirandized?

8 A. I am not sure at that point. I did not Mirandize
9 him.

10 Q. In your recollection of the video, did you -- have
11 you re-watched your video?

12 A. Yes, sir.

13 Q. Did you see at any point where -- or hear is a
14 better description --

15 A. Yes, sir.

16 Q. -- where he was Mirandized within that first hour
17 and a half?

18 A. I don't recall.

19 Q. If he had been Mirandized in that first hour and a
20 half, where he had already told you about the marijuana and
21 the guns being in the room, you would agree that those
22 discussions had already taken place?

23 A. I'm not sure when he was Mirandized.

24 Q. Well, maybe that's not -- you didn't quite
25 understand my question.

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1 A. Okay.

2 Q. Up to the point where he as placed in your car --

3 A. Yes, sir.

4 Q. -- when he was placed in your car he had already
5 discussed the guns being in the drawer, and the marijuana?

6 A. Yes, sir.

7 Q. And it's fair to say we don't have any Miranda --
8 MS. NICKLES: Objection. We have a matter of law.

9 [Whereupon, an off-the-record bench conference is
10 held]

11 Q. [Mr. Seaton] In your transcript, or on the video
12 for the first hour and a half, you never heard or we never
13 heard Mr. Umphlett being Mirandized; is that correct?

14 A. Not to my knowledge.

15 Q. So if that had happened, would it be fair to say
16 that there were discussions that took place outside of your
17 report?

18 A. Yes, sir, because there were several -- I had to
19 go get my camera at one point.

20 Q. I guess the point I'm trying to make is while
21 we've got almost three hours of video and audio, it does not
22 capture everything that was said either to Mr. Umphlett or
23 by anyone else on the scene, does it?

24 A. There could be some gaps, yes, sir.

25 Q. So when you testify that Mr. Umphlett was not

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1 threatened or made any promises or intimidated or enticed in
2 any fashion, you really don't -- you can't say anything
3 about that other than your personal observation?

4 A. Yes, sir. I said not to my knowledge.

5 Q. And so we can't simply say that this recording
6 tells us everything we need to know about what was said and
7 done either by Mr. Umphlett or by anyone else at the scene.
8 Would you agree with that?

9 A. When I was not present. Yes, sir.

10 Q. You testified about a strong odor of alcohol smell
11 -- let me try that again -- strong odor of marijuana. And
12 you allegedly smelled that as soon as the door was opened;
13 is that correct?

14 A. Yes, sir.

15 Q. All right. And you looked in the drawer where the
16 guns were; is that correct?

17 A. Yes, sir.

18 Q. And you saw what's sometimes described as a joint,
19 sometimes described as a blunt, or I think in this case it's
20 even been described as a cigar.

21 A. Uh-huh.

22 Q. It's a thin cigar that's been cut open and they
23 take all the insides out and put marijuana in it; is that
24 correct?

25 A. Yes, sir.

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1 Q. And that was inside the drawer when y'all arrived
2 -- or I'm assuming from the time that he opened to door
3 until y'all retrieved it, it was in the drawer?

4 A. Yes, sir.

5 Q. And the drawer was shut?

6 A. Yes, sir.

7 Q. And do you have any idea if that makes up the vast
8 majority that was found at the scene?

9 A. I haven't talked to metro narcotics since. I'm
10 not sure what all they found.

11 Q. When you look at that joint or blunt, or whatever
12 you want to describe it, do you know how many --
13 approximately how many grams of marijuana it would be?

14 A. It could be anything, how much they wanted to put
15 in it.

16 Q. Well, you testified about your experience with
17 marijuana, and as a police officer I'm just curious. Did
18 that appear to you to be two, three, four, five grams of
19 marijuana, or anything like that?

20 A. It's probably anywhere from a gram to two grams.

21 Q. If I told you it was a little more, would that
22 surprise you?

23 A. No, sir.

24 Q. And it's your testimony today that when you opened
25 the door to a hotel room, that you can smell a joint in a

1 drawer?

2 A. Yes, sir.

3 Q. How far away from -- assuming that you're standing
4 at the front door, how far away from that -- from the front
5 door would this drawer have been?

6 A. About me to you.

7 Q. And there was a double bed in between?

8 A. Some type of bed, yes, sir. I'm not sure of the
9 size.

10 Q. And was there also, before you get to the front
11 door, a table with chairs?

12 A. It was off to the side.

13 Q. But I'm just trying to help make sure we're sort
14 of in --

15 A. Uh-huh.

16 Q. -- in agreement about how far away you would have
17 been when you opened the door.

18 And you're aware that there was a plastic bag that
19 had an even smaller amount of marijuana that was found under
20 the mattress?

21 A. I did not know that.

22 Q. If we had the marijuana here today, is it your
23 testimony that from this distance that you could smell it?

24 A. Yes, sir.

25 Q. You also report -- put in your report that that

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1 was what's called raw marijuana?

2 A. Yes, sir.

3 Q. The difference being raw marijuana means it has
4 not been smoked?

5 A. Has not been burned. Yes, sir.

6 Q. So if anything has been smoked, you're not saying,
7 I smell burnt marijuana, I smell that somebody has been
8 smoking marijuana, I smell what hasn't been burned?

9 A. Yes, sir.

10 Q. Did you ever see Mr. Umphlett with a gun in his
11 possession?

12 A. No, sir, I did not.

13 Q. Did you ever see him with drugs in his possession?

14 A. No, sir, I did not.

15 Q. Are you aware that the lockbox where the drug was,
16 the key to it was on Ms. Abdon's chain -- key chain?

17 A. No, sir, I did not know that.

18 Q. Are you aware of Mr. Umphlett ever being
19 Mirandized on your tapes?

20 A. I don't recall.

21 Q. Let me ask you this, too. You have what's called
22 standard operating procedures, as all police departments do;
23 is that --

24 A. Yes, sir.

25 Q. -- correct?

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1 Is one of your standard operating procedures that
2 when you have someone in custody, that you take your camera
3 and you turn it around and face them?

4 A. No, sir.

5 We have a rear camera. Those -- I can't remember
6 if that one has it or not, that old Locks-Card System or
7 not, but it has a built-in rear camera.

8 Q. If it doesn't have a rear camera, isn't it your
9 standard operating procedure to turn the camera around?

10 A. I've never had a camera like that, so I'm not
11 sure.

12 Q. And you certainly didn't turn the camera around,
13 did you?

14 A. No, sir.

15 I wouldn't have done that because we have a rear
16 and a front.

17 Q. We don't' -- we don't have any rear-camera
18 footage, do we?

19 A. I'm unsure of that.

20 Q. Well, when you say you're unsure of that, did
21 you -- do you think -- is this the same car you're driving
22 today?

23 A. No, sir.

24 Q. How long did you drive this car?

25 A. Just a couple of months.