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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT ALLEN HENDERSON, JR.,

APPELLANT.

APPELLATE CASE NO. 2024-001211

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

**DEFENDANT’S EXHIBIT 1 (THUMB DRIVE)
(CHANGED TO STATE’S EXHIBIT NO. 6. OFFICER BRADLEY’S BODY-WORN
CAMERA VIDEO, R. 141, ll. 2-12.)**

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) 2022-GS-39-0748
 COUNTY OF)
)
)
)
 STATE OF SOUTH CAROLINA)
) PLAINTIFF)
 vs.) TRANSCRIPT OF RECORD
)
 ROBERT ALLEN HENDERSON, JR.)
) DEFENDANT)
 _____)

July 8-9, 2024
 Pickens, South Carolina

B E F O R E :

THE HONORABLE PATRICK CLEBURNE FANT, III, Judge;
 and a jury.

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

ADAM NORRIS, ESQ.
 JAKE HOFFERTH, ESQ.
 Attorneys for the State

KATELYN WILLIAMS, ESQ.
 JEFFERY ZUSCHKE, ESQ.

APRIL HERRON
 Official Court Reporter

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STATE EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Chain of custody	93	141
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5	Drugs	123	124
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DEFENDANT EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Thumb drive	45	120

COURT EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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All exhibits were retained by
Pickens County Clerk of Court's
Office.

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July 8, 2024

THE COURT: All right, any objection to the voir dire?

MR. NORRIS: No objection to The Defense's requests.

THE COURT: Okay.

I think, Ms. Williams, I think that I cover -- the only ones that I'm going to do, and I'll ask y'all at the end if you need anything, but number one and number four, I don't, technically, cover so I will ask those. Number one and number four. Do you need to put this on the record?

MRS. WILLIAMS: Yeah, probably.

THE COURT: Okay.

MRS. WILLIAMS: Just--

THE COURT: That's fine. Do you want to mark your voir dire questions?

MRS. WILLIAMS: Yes, I will.

(WHEREUPON, Court's Exhibit No.1 was marked for identification only.)

THE COURT: All right, State vs. Robert Allen Henderson, Jr. And I will hear from Mrs. Williams regarding your questions, your eight questions submitted to me for voir dire.

MRS. WILLIAMS: Yes, Your Honor, we would just

1 ask that these additional eight questions be asked
2 during the voir dire session of the jury selection.

3 THE COURT: All right.

4 I understand The State does not have any
5 objection to those?

6 MR. NORRIS: No objection.

7 THE COURT: All right. And I just wanted to let
8 y'all know that I adequately covered questions two,
9 three and five through eight in the voir dire that I
10 have. I will ask questions one and four. And at the
11 end, if there is some cleanup that you need, y'all
12 just let me know and I'll try to remember to ask you
13 that, okay?

14 MRS. WILLIAMS: Absolutely.

15 MR. NORRIS: Sounds great, Judge, thank you.

16 THE COURT: All right.

17 Okay, before we let this jury in, counsel, I've
18 been notified that in the jury pool, there's a number
19 38, Mr. Cassell. And apparently, back in 2010 --

20 Lauren, he's not worked there since 2010?

21 THE CLERK: He spoke with Pat about it and Pat
22 said he previously worked there in 2010.

23 THE COURT: Okay.

24 There's somebody that previously worked, it
25 looks like in 2010, that worked for the department of

1 corrections at Perry. In qualifying, we always ask
2 whether or not they work -- let me find my question.

3 Question number six in jury qualification asks,
4 Is there any member of the jury panel who is employed
5 with the department of corrections?

6 So it's my understanding, if they wish to and
7 would like to be exempted they can. But I just
8 wanted that on the record, okay. So number 38 is
9 still in the pool. They were not -- they would not
10 be excluded. And again, just for the record, that's
11 an exemption, okay. So.

12 Yes, thank you.

13 THE BAILIFF: Yes, sir.

14 (WHEREUPON, the jury venire entered open court
15 at approximately 11:05 a.m.)

16 THE COURT: Got everybody? Okay.

17 Well, good morning ladies and gentlemen of the
18 jury, y'all have already been qualified. And now,
19 what we're moving into is the case of The State of
20 South Carolina vs. Robert Allen Henderson, Jr. And
21 what we're going to be doing is called voir dire.
22 And I'm going to read the indictment to you and then
23 we're going to proceed with some questions, okay.
24 All right. The State vs. Robert Allen Henderson, Jr.
25 Mr. Henderson has been indicted for possession of

1 methamphetamine with intent to distribute. And this
 2 alleges that Robert Henderson did in Pickens County
 3 on or about the sixth day of January, 2022, possess
 4 with intent to distribute or aide, abet or conspire
 5 to possess with the intent to distribute a quantity
 6 of methamphetamine, a controlled substance, such
 7 possession not having been authorized by law. And
 8 this in violation of South Carolina law.

9 What this is called, ladies and gentlemen, is an
 10 indictment. An indictment is merely a formal charge.
 11 It is not in any way evidence or to be considered as
 12 evidence. The Defendant in this matter is presumed
 13 innocent. I would like for The State or The
 14 Government, is what I will refer to the prosecution,
 15 and The Defense.

16 But first, I would like for The State to please
 17 stand and introduce yourselves.

18 MR. NORRIS: My name is Adam Norris, this is
 19 Jake Hofferth, we're assistant solicitors with the
 20 13th Circuit Solicitor's Office, who work for your
 21 elected Solicitor, Walt Wilkins.

22 THE COURT: Defense.

23 MRS. WILLIAMS: My name is Katelyn Williams, I'm
 24 a defense attorney and I will be representing
 25 Mr. Robert Henderson today, who is with me. And

1 then, also, from my Cocounsel, Jeff Zuschke, also, in
2 my office.

3 THE COURT: Thank you.

4 Okay, listen to the questions that I'm going to
5 have. And if you do have a response, I would ask
6 that you would stand and then I will recognize you,
7 okay. First, has anyone ever been related by blood
8 or marriage to The Defendant, Robert Allen Henderson,
9 Jr.? If so, please stand.

10 No response.

11 Has anyone ever had a close personal or social
12 relationship with The Defendant, Robert Allen
13 Henderson, Jr.? If so, please stand.

14 No response.

15 The following is a list of possible witnesses in
16 this case. Deputy Terry Christopher Bradley,
17 Anderson County Sheriff's Office; Deputy Devin Daw,
18 Pickens County Sheriff's Office; Corey Cassell,
19 Pickens County Sheriff's Office; Deputy John T.
20 Albrecht, Pickens County Sheriff's Office; Brian
21 Langston, Pickens County Sheriff's Office; Deputy
22 Taylor Cook, Pickens County Sheriff's Office;
23 Lawrence Zivkoivch --

24 Did I correctly pronounce that?

25 -- SLED; Justin Pressley, SLED; Rachel Noelle

1 Johnson, SLED; Christine Dadabo, SLED; Hannah
2 Jefferson, SLED; Madison Willis, SLED; Robert Allen
3 Henderson, Jr.; and Kimberly Mann.

4 Has anyone ever been related by blood or
5 marriage to any of the people that I've just listed
6 or has anyone ever had a close, personal or social
7 relationship with any of the people that I just
8 listed? If so, please stand.

9 No response.

10 As indicated, Mr. Norris is representing the
11 solicitor's office and Katelyn Williams is
12 representing the public defender's office -- or here
13 on with the defendant on behalf of the public
14 defender's office. Has any member of the jury panel
15 ever been represented by any of the attorneys
16 involved in this case? First, the solicitor's office
17 or Adam Norris? If so, please stand.

18 (There was no response.)

19 The public defender's office or Katelyn
20 Williams? If you've ever been involved with them,
21 please stand.

22 There's been no response to either one of those
23 questions.

24 Has anyone ever been related by blood or
25 marriage to or have you ever had a close, personal or

1 social relationship with any of the attorneys
2 involved in this case or their staff from the
3 solicitor's office or the public defender's office?

4 If so, please stand.

5 (There was no response.)

6 Has anyone ever been related by blood or
7 marriage to or have you ever had a close, personal or
8 social relationship with the -- with anyone from the
9 Pickens City Police Department? If so, please stand.

10 No response.

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

14 No response.

15 Is any member of the jury panel aware of any
16 bias or prejudice towards The State or The Defendant
17 in this case? If so, please stand.

18 No response.

19 Is there any member of the jury panel that was a
20 member of the grand jury which issued the indictment
21 in this case? If so, please stand.

22 No response.

23 Is any member of the jury panel a former law
24 enforcement officer or have a family member who is a
25 law enforcement officer or a former law enforcement

1 officer? If so, please stand.

2 PROSPECTIVE JUROR: Do they have to be local?

3 THE COURT: That's fine. Local, whatever.

4 PROSPECTIVE JUROR: They're not local.

5 THE COURT: Okay, any law enforcement at all.

6 Okay, ma'am, I'm going to ask you to give me your
7 number?

8 PROSPECTIVE JUROR: 123.

9 THE COURT: Okay. And what is your relationship
10 with law enforcement officer?

11 PROSPECTIVE JUROR: My brother-in-law is a
12 deputy sheriff, retired, of Edgecomb County.

13 THE COURT: All right. And would that, ma'am,
14 in any way, prevent you from being fair and impartial
15 in the trial of this case?

16 PROSPECTIVE JUROR: I don't think so.

17 THE COURT: Okay. Thank you.

18 Ma'am, your number?

19 PROSPECTIVE JUROR: Juror number four. My
20 son-in-law's dad works for the Pickens County
21 Sheriff's Office.

22 THE COURT: And would that in any way prevent
23 you from being fair and impartial in the trial of
24 this case, ma'am?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Okay, you may be seated.

2 Sir?

3 PROSPECTIVE JUROR: My nephew is a retired state
4 police officer in New York State.

5 THE COURT: What number are you, sir?

6 PROSPECTIVE JUROR: 134.

7 THE COURT: Okay. Would that in any way prevent
8 you from being fair and impartial in the trial of
9 this case?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Okay. Ma'am.

12 We're going to get you, I promise, okay.

13 PROSPECTIVE JUROR: I'm fine.

14 THE COURT: Yes, ma'am?

15 PROSPECTIVE JUROR: I have a cousin --

16 THE COURT: Your number?

17 PROSPECTIVE JUROR: I'm number 124.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR: And I have a cousin that he
20 was a former, maybe state trooper.

21 THE COURT: Would that in any way impact your
22 ability to be fair and impartial in the trial of this
23 case?

24 PROSPECTIVE JUROR: No.

25 THE COURT: You may be seated.

1 All right, sir, what's your number?

2 PROSPECTIVE JUROR: Juror 38.

3 THE COURT: What's your relationship?

4 PROSPECTIVE JUROR: My wife works for Easley
5 City Police Department in dispatch. And I am a
6 former corrections officer.

7 THE COURT: Okay. And would that in any way
8 impact your ability to be fair and impartial in the
9 trial of this case, sir?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: Okay, you may be dismissed. Number
12 38.

13 I don't know whether you're going to need --
14 sir. Sir, that is -- you probably need to go back to
15 the jury room.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: I'm not dismissing you for the week,
18 even though I think that is most likely.

19 PROSPECTIVE JUROR: Okay.

20 THE COURT: You can call the number after
21 6:00 p.m. tonight, sir.

22 PROSPECTIVE JUROR: Okay. Do I need to stay
23 here?

24 THE COURT: No, you may leave.

25 PROSPECTIVE JUROR: Okay, thank you.

1 THE COURT: Thank you, sir. I'm sorry, I had to
2 get clarification from Ms. Pilgrim.

3 PROSPECTIVE JUROR: Yes, sir, thank you.

4 THE COURT: She always keeps me straight.
5 Sir?

6 PROSPECTIVE JUROR: Number 157. My brother is
7 in the CIA.

8 THE COURT: Would that in any way impact your
9 ability to be fair and impartial in the trial of this
10 case?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Okay. You may be excused.
13 Did you get that?

14 All right. You need to call back at 6:00
15 tonight, sir.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: Thank you, sir.

18 Any other responses to that last question?

19 (There was no response.)

20 All right, have any of you heard, seen or read
21 anything about this matter? If so, please
22 stand.

23 No response.

24 Because this case involves allegations of drug
25 possession, does any member of the jury panel have

1 any political or religious beliefs that would prevent
2 you from holding the government to its burden to
3 prove these crimes beyond a reasonable doubt? If so,
4 please stand.

5 No response.

6 All right. Have you, a member of your family or
7 a close personal friend ever been the victim of a
8 crime where drugs were, allegedly, involved,
9 including but not limited to an overdose? If so,
10 please stand.

11 Yes, sir, what's your number?

12 PROSPECTIVE JUROR: Seventy-three. My wife and
13 I were in a head-on collision with a guy that was
14 high on cocaine.

15 THE COURT: Sir, would that in any way impact
16 your ability to be fair and impartial in the trial of
17 this case?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay, thank you, sir. You may be
20 seated.

21 Anyone else? And sometimes this may be a very
22 similar question, but I still need you to stand.
23 Have you or any of your close relatives or personal
24 friends been a victim of a crime or a witness to a
25 crime? If so, please stand.

1 Have you or any member --

2 There was no response to the last question.

3 All right, have you or any member of your family
4 or personal friend been accused of a violent
5 crime? If so, please stand.

6 No response--

7 Yes, ma'am, what number?

8 PROSPECTIVE JUROR: I am juror 136.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR: And my niece's father is,
11 actually, committed for murder, life. For doing
12 murder.

13 THE COURT: Okay. Ma'am, would that in any way
14 impact your ability to be fair and impartial in the
15 trial of this case?

16 PROSPECTIVE JUROR: I'm, actually, not sure. I
17 want to say no.

18 THE COURT: Okay. Thank you.

19 All right, sir, what number are you?

20 PROSPECTIVE JUROR: 243.

21 THE COURT: 240?

22 PROSPECTIVE JUROR: Three.

23 THE COURT: Three. All right, sir.

24 PROSPECTIVE JUROR: My brother's in jail for
25 attempted murder.

1 THE COURT: All right, would that in any way
2 impact your ability to be fair and impartial in the
3 trial of this case?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Okay, you may be seated. Thank you.
6 Anyone else?

7 Is there any member of the jury panel who is a
8 member of or contributor to any group which has its
9 primary concern, the promotion of law enforcement or
10 victims rights? And these groups would include but
11 certainly not be limited to MADD, SADD, S-A-D-D or
12 CAVE, Citizens Against Violent Crime or the sheriff's
13 office? If so, please stand.

14 No response.

15 Does any member of the jury panel know of any
16 reason whatsoever why you should not serve as a juror
17 in this case, with particular inferences being placed
18 on your ability to be fair and impartial to both The
19 State and The Defendant in this matter? If so,
20 please stand.

21 PROSPECTIVE JUROR: Juror No. 73.

22 THE COURT: Yes, sir.

23 PROSPECTIVE JUROR: My son was, actually,
24 convicted of a drug crime. He's currently on
25 probation.

1 THE COURT: And would that in any way impact
2 your ability to be fair and impartial in the trial of
3 this case?

4 PROSPECTIVE JUROR: No, sir, it would not.

5 THE COURT: You may be seated.

6 PROSPECTIVE JUROR: Thank you, Your Honor.

7 THE COURT: Does anyone have any personal
8 political or religious beliefs --

9 Oh, I'm sorry.

10 PROSPECTIVE JUROR: Sorry, I stood up too late.

11 THE COURT: Listen, that's okay. What's your
12 number, sir?

13 MR. NORRIS: 113.

14 THE COURT: 113, sir. And please expound.

15 PROSPECTIVE JUROR: I, actually, had a question
16 about one thing that you said a few statements back.

17 THE COURT: Yes, sir.

18 PROSPECTIVE JUROR: I wanted clarification in
19 regards to the religious beliefs. Would you mind
20 repeating that statement just so I'm clear as to what
21 the question was?

22 THE COURT: Well, this is probably going to
23 cover it but does anyone have any personal, political
24 or religious beliefs or conviction that would make it
25 difficult for you to sit in judgment of another

1 person? If so, please stand.

2 Would that be you?

3 PROSPECTIVE JUROR: I wouldn't think so. Are
4 you saying your religion would prevent you from
5 wanting to pass judgment on someone?

6 THE COURT: Yes, sir.

7 PROSPECTIVE JUROR: Okay, that doesn't apply to
8 me.

9 THE COURT: Okay. And then I will, just for
10 completeness, I will go back over the question -- I
11 think it's question number one, let's see. Because
12 the case involves allegations of drug possession,
13 does any member of the jury panel have any political
14 or religious beliefs that would prevent you from
15 holding the government to its burden of proving these
16 crimes beyond a reasonable doubt? If so, please
17 stand.

18 Is that the question, sir?

19 PROSPECTIVE JUROR: No, it was the religious
20 one. Religious question is what I was concerned
21 about.

22 THE COURT: Okay.

23 Does The State have any additional questions it
24 would like to have asked of this jury panel?

25 MR. NORRIS: No, Your Honor.

1 THE COURT: Does The Defense have any additional
2 questions that you would like to have asked from this
3 jury panel?

4 MRS. WILLIAMS: No, Your Honor.

5 THE COURT: All right, do you feel I adequately
6 covered what you needed?

7 MRS. WILLIAMS: Yes, Your Honor.

8 MR. NORRIS: Yes, Your Honor.

9 THE COURT: All right.

10 Got five and five. All right, five and five,
11 then we will do two alternates. Thank you.

12 THE CLERK: When I call your juror number and
13 name, please stand.

14 Juror number 176, Lori Pietramala.

15 (Lori Pietramala, a white female, stood.)

16 What says The State?

17 MR. NORRIS: Please present the juror.

18 THE CLERK: And The Defense?

19 MRS. WILLIAMS: Please seat this juror.

20 THE CLERK: Please come up, have a seat in the
21 jury box.

22 Juror number 99, Paul Hartwell the third.

23 (Paul Hartwell, a white male, stood.)

24 What says The State?

25 MR. NORRIS: Please excuse the juror.

1 THE CLERK: Please have a seat.

2 Juror number 209, Terri Slattery.

3 (Terri Slattery, a white female, stood.)

4 What says The State?

5 MR. NORRIS: Please present the juror.

6 THE CLERK: And The Defense?

7 MRS. WILLIAMS: Please seat this juror.

8 THE CLERK: Please come up, have a seat in the
9 jury box.

10 Juror number 185, Dana Puig.

11 (Dana Puig, a white female, stood.)

12 What says The State?

13 MR. NORRIS: Please present the juror.

14 THE CLERK: And The Defense?

15 MRS. WILLIAMS: Please seat the juror.

16 THE CLERK: Please come up, have a seat in the
17 jury box.

18 Juror number 62, Deborah Driscoll.

19 (Deborah Driscoll, a white female, stood.)

20 What says The State?

21 MR. NORRIS: Please excuse the juror.

22 THE CLERK: Please have a seat.

23 Juror number 127, Dustin Jones.

24 (Dustin Jones, a white male, stood.)

25 What says The State?

1 MR. NORRIS: Please present the juror.

2 THE CLERK: And The Defense?

3 MRS. WILLIAMS: Please seat this juror.

4 THE CLERK: Please come up, have a seat in the
5 jury box.

6 Juror number 101, Robert Henderson.

7 (Robert Henderson, a white male, stood.)

8 What says The State?

9 MR. NORRIS: Please present the juror.

10 THE CLERK: And The Defense?

11 MRS. WILLIAMS: Please seat the juror.

12 THE CLERK: Please come up, have a seat in the
13 jury box.

14 Juror number 177, Connor Pilgrim.

15 (Connor Pilgrim, a white male, stood.)

16 What says The State?

17 MR. NORRIS: Please present the juror.

18 THE CLERK: And The Defense?

19 MRS. WILLIAMS: Please seat the juror.

20 THE CLERK: Please come up, have a seat in the
21 jury box.

22 Juror number 223, Emily Taylor.

23 (Emily Taylor, a white female, stood.)

24 What says The State?

25 MR. NORRIS: Please excuse the juror.

1 THE CLERK: Please have a seat.

2 Juror number 113, Joseph Hood.

3 (Joseph Hood, a white male, stood.)

4 What says The State?

5 MR. NORRIS: Please present the juror.

6 THE CLERK: And The Defense?

7 MRS. WILLIAMS: Please excuse this juror.

8 THE CLERK: Please have a seat.

9 Juror number 136, Shaquita Lambert.

10 (Shaquita Lambert, a black female, stood.)

11 What says The State?

12 MR. NORRIS: Please excuse the juror.

13 THE CLERK: Please have a seat.

14 Juror number 48, Lisa Crisp.

15 (Lisa Crisp, a white female, stood.)

16 What says The State?

17 MR. NORRIS: Please present the juror.

18 THE CLERK: And The Defense?

19 MRS. WILLIAMS: Please seat this juror.

20 THE CLERK: Please come up, have a seat in the
21 jury box.

22 Juror number 77, Patrick Frost.

23 (Patrick Frost, a white male, stood.)

24 What says The State?

25 MR. NORRIS: Please present the juror.

1 THE CLERK: And The Defense?

2 MRS. WILLIAMS: Please excuse this juror.

3 THE CLERK: Please have a seat.

4 Juror number four, Cynthia Alexander.

5 (Cynthia Alexander, a white female, stood.)

6 What says The State?

7 MR. NORRIS: Please present the juror.

8 THE CLERK: The Defense?

9 MRS. WILLIAMS: Please excuse this juror.

10 THE CLERK: Please have a seat.

11 Juror number 23, Hannah Bingham.

12 (Hannah Bingham, a white female, stood.)

13 What says The State?

14 THE COURT: Please present this juror.

15 THE CLERK: And Defense?

16 MRS. WILLIAMS: Seat the juror.

17 THE CLERK: Please come up, have a seat in the
18 jury box.

19 Juror number nine, Sue Anderson.

20 (Sue Anderson, a white female, stood.)

21 What says The State?

22 MR. NORRIS: Please present the juror.

23 THE CLERK: The Defense?

24 MRS. WILLIAMS: Please excuse this juror.

25 THE CLERK: Please have a seat.

1 Juror number 124, Gwendolyn Johnson.

2 (Gwendolyn Johnson, a black female, stood.)

3 What says The State?

4 MR. NORRIS: Please present this juror.

5 THE CLERK: And The Defense?

6 MRS. WILLIAMS: Please seat this juror.

7 THE CLERK: Please come up, have a seat in the
8 jury box.

9 Juror number 83, James Gilmer the third.

10 (James Gilmer, a white male, stood.)

11 What says The State?

12 MR. NORRIS: Please present the juror.

13 THE CLERK: And The Defense?

14 MRS. WILLIAMS: Please seat this juror.

15 THE CLERK: Please come up, have a seat in the
16 jury box.

17 Juror number 134, Joseph Krausz.

18 (Joseph Krausz, a white male, stood.)

19 What says The State?

20 MR. NORRIS: Please present the juror.

21 THE CLERK: And The Defense?

22 MRS. WILLIAMS: Please excuse this juror.

23 THE CLERK: Please have a seat.

24 Juror number 73, Chaffin Foster.

25 (Chaffin Foster, a white male, stood.)

1 What says The State?

2 MR. NORRIS: Please present the juror.

3 THE CLERK: And The Defense?

4 MRS. WILLIAMS: Please seat this juror.

5 THE CLERK: Please come up, have a seat in the
6 jury box.

7 Juror number 233, Ronald Van Sciver.

8 (Ronald Van Sciver, a white male, stood.)

9 What says The State?

10 MR. NORRIS: Please present this juror.

11 THE CLERK: And The Defense?

12 MRS. WILLIAMS: Please seat the juror.

13 THE CLERK: Please come up, have a seat in the
14 jury box.

15 And now for our first alternate.

16 Juror number 28, Hunter Boyles.

17 (Hunter Boyles, a white male, stood.)

18 What says The State?

19 MR. NORRIS: Please present this juror.

20 THE CLERK: And The Defense?

21 MRS. WILLIAMS: Please seat this juror.

22 THE CLERK: Please come up, have a seat in the
23 jury box.

24 For the second alternate.

25 Juror number 123, Susan Joh.

1 (Susan Joh, a white female, stood.)

2 What says The State?

3 MR. NORRIS: Please present this juror.

4 THE CLERK: And The Defense?

5 MRS. WILLIAMS: Excuse this juror.

6 THE CLERK: Please have a seat.

7 Juror number 55, Jennifer Dean.

8 (Jennifer Dean, a white female, stood.)

9 What says The State?

10 MR. NORRIS: Please present this juror.

11 THE CLERK: And The Defense?

12 MRS. WILLIAMS: Please seat this juror.

13 THE CLERK: Please come up, have a seat in the
14 jury box.

15 THE COURT: All right, I am going to be speaking
16 with y'all in just a minute.

17 But to the rest of y'all, you can be dismissed
18 for now. I do ask that you call back in after 6:00
19 to find out about further service this week, okay.
20 You may be excused at this time.

21 (WHEREUPON, the jury venire was excused at
22 approximately 11:32 a.m.)

23 THE COURT: Can I have counsel up here, please?

24 (WHEREUPON, an off-the-record bench conference
25 was held in the presence of the jury but out of

1 the hearing of the jury.)

2 THE COURT: Okay, ladies and gentlemen, y'all
3 have been selected as the jury in this case and I'm
4 going to be the Judge that's going to be presiding.
5 My name is Patrick Fant and I look forward to serving
6 y'all and working with you in this matter. I am
7 going to sound like a broken record sometimes but
8 they're certain things that I need to just tell you.
9 At no time can you discuss this case amongst
10 yourselves until I tell you to begin deliberations.
11 You're not to do any kind of research on this. And
12 again, just do not look this thing up and do not
13 begin talking about it and calling any friends and
14 saying, hey, I'm on this trial, okay. So that's one
15 thing.

16 I am going to ask that y'all come back at 2:30.
17 But first, before you break, I do need you to go and
18 meet back in the jury room and select someone to be
19 the foreperson for your jury. Unfortunately,
20 alternates, you cannot be that person, okay. But I
21 would like for y'all to do that and then you can
22 break. Again, I do not think that this is going to
23 be -- there's going to be any kind of television
24 coverage or anything on this, but you need to do
25 everything you can to not watch news coverage. And

1 again, not any kind of researches. And lastly, no
2 discussion amongst yourselves of the case until I
3 tell you you can begin deliberating. So I will see
4 y'all back --

5 Where will they report?

6 THE BAILIFF: At the elevator.

7 THE COURT: At the elevator?

8 THE BAILIFF: Yes, sir.

9 THE COURT: Okay, at 2:30, okay, thank you.

10 (WHEREUPON, the jury left open court at
11 approximately 1:36 p.m.)

12 THE COURT: I do need to ask, are there any
13 motions concerning the jury selection? I probably
14 should have done that earlier but I mean. . .

15 MR. NORRIS: Nothing from The State, Your Honor.

16 MRS. WILLIAMS: Nothing from The Defense.

17 THE COURT: Okay. I understand that we have one
18 motion or?

19 MR. NORRIS: No motions from The State.

20 THE COURT: No motions from The State.

21 MRS. WILLIAMS: It's kind of multilayered.

22 THE COURT: We like multilayered. Nothing was
23 filed, was there a motion filed?

24 MR. NORRIS: Judge, there was a order of
25 stipulation filed last week. Defense stipulated to

1 some of the drug stuff.

2 THE COURT: Yeah, I do remember y'all discussing
3 that. But other than that, was there like any--

4 MRS. WILLIAMS: No, Your Honor, I didn't file a
5 formal motion.

6 THE COURT: That's fine. What is the -- I know
7 you said it's multi?

8 MRS. WILLIAMS: The basis is just Fourth
9 Amendment violations.

10 THE COURT: Motion to suppress?

11 MRS. WILLIAMS: Yes, sir.

12 THE COURT: Okay. Are you prepared to go
13 forward?

14 MRS. WILLIAMS: I am, Your Honor.

15 THE COURT: All right.

16 MRS. WILLIAMS: Are we ready to begin?

17 THE COURT: I am, as soon as you are. You just
18 let me know.

19 MRS. WILLIAMS: Your Honor, my name is Katelyn
20 Williams, I'm here on behalf of Mr. Henderson. And
21 The Defense has a motion to suppress based on lack of
22 reasonable suspicion to make a traffic stop, as well
23 as a Forth Amendment violation, also, covered in
24 Article I Section 10 of the South Carolina
25 Constitution. It's kind of the overarching theme is

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 the Fourth Amendment. We've got some more specific
2 arguments we'd make later on, depending on The
3 Court's ruling.

4 But, Your Honor, the Defense is arguing that the
5 stop was unlawful due to lack of reasonable
6 suspicion. And then it led to an unlawful seizure
7 and thus an unlawful search of Mr. Henderson's person
8 and the vehicle, making all discovery of narcotics
9 fruit of the poisonous tree. Your Honor, it's the
10 Defense's position that it's The State's burden to
11 prove reasonable suspicion for a stop. And/or
12 reasonable suspicion for probable cause for a search.
13 And so we will turn it over to The State to call
14 their witness.

15 THE COURT: Okay.

16 MR. NORRIS: Thank you, Your Honor, The State
17 calls Deputy Bradley.

18 DEPUTY BRADLEY, after being duly
19 sworn{,} testified as follows:{F}

20 THE CLERK: Thank you, please have a seat and
21 state your name for the record.

22 THE WITNESS: Deputy Terry Bradley.

23 DIRECT EXAMINATION

24 BY MR. NORRIS:

25 Q Deputy Bradley, where do you work?

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 A I currently work at Anderson County Sheriff's
2 Office.

3 Q Okay. And where were you employed in January of
4 2022?

5 A With the Pickens County Sheriff's Office.

6 Q What was your role there?

7 A I was a deputy assigned to the uniform patrol
8 division, which covers routine patrol of an assigned area.

9 Q Okay. And were you involved in the
10 investigation that led to Mr. Henderson being charged with
11 PWID meth on January 6 of 2202?

12 A Yes, sir.

13 Q Tell us about that.

14 A Yes, sir. So on January 6, 2022, at
15 approximately 10:30, 11 o'clock at night, I was patrolling
16 the area of Highway 123 and the Sun Inn when I observed a
17 white in colored Toyota Corolla pull out of the Sun Inn
18 parking lot. And I observed it had no working tag lights.
19 I immediately turned around and got behind it. When I got
20 behind the vehicle, it was pulling up to the red light on
21 123 heading towards Easley. It then made a right-hand
22 turn off of 123 onto Kay Drive, that's when I initiated my
23 blue lights and conducted a traffic stop of the vehicle at
24 Kay Drive, just past Cross School Road. I ran the tag
25 number--

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 Q Why were you patrolling the Sun Inn?

2 A So I had been told by numerous deputies, when I
3 got assigned to that area, that the Sun Inn was a known
4 high crime drug area. So I was, you know, patrolling that
5 area to mitigate crime and deter it.

6 I ran the tag on the vehicle that was
7 displayed on it, which was [REDACTED].
8 Dispatch informed me that it came back to a
9 [indiscernible] man. I made contact with the driver of
10 the vehicle, the sole occupant of the vehicle, which is
11 Robert Allen Henderson, Jr. While speaking with
12 Mr. Henderson I asked him for -- advised him the reason
13 for the stop. I asked him for all documentation driver's
14 license, registration, proof of insurance.

15 While he was getting me the proof of
16 insurance, I could see that he was nervous, due to his
17 hands shaking. And the fact that he handed me the wrong
18 documentation. Instead of handing me the registration, he
19 handed me a DMV record. I advised him that it was not the
20 correct documentation. He then handed me the
21 registration. Due that suspicion, it led me to think that
22 he could possibly be under the influence of alcohol or
23 narcotics due to my training of when I went through the
24 academy and they told me about indicators of people
25 handing me wrong documentation.

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 So then that led me to further ask
2 questions of if there was anything that he needed to let
3 me know about. If there were any guns, drugs, knives or
4 hand grenades, stuff of that sort.

5 He said, No.

6 I asked Mr. Henderson if he had a issue of
7 me searching the vehicle? He stated, No, he did not, that
8 I could. I had him step out of the vehicle. I walked him
9 back towards my patrol vehicle. When did I, I asked
10 Mr. Henderson, due to safety precautions, if he had any
11 issue with me searching him?

12 He said, No.

13 Before I even searched him I asked
14 Mr. Henderson if he had an issue with me going inside his
15 pockets? He said, No, I could. When I did that, he
16 became very much rigid and nervous and stated, I have a
17 pocket knife in there. I immediately went into his jacket
18 pocket on the right side. And when I did, I pulled out a
19 clear plastic baggie with a white crystal-like substance
20 in it. Once I did that, I immediately placed
21 Mr. Henderson in handcuffs. I advised him that he was
22 under arrest and if he understood that?

23 And he said, Yes.

24 After that I read his rights. To which he
25 stated he understood and he did not want to answer any

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 questions. I continued, due to the fact that
2 Mr. Henderson was under arrest, I continued to search him.
3 Where I located a subsequent amount of money,
4 approximately, \$700 worth.

5 Q Okay. Why did you ask Mr. Henderson to step out
6 of the car?

7 A Due to the nervous behavior and the fact when I
8 asked him for the documentation he provided the wrong
9 documentation. His nervous behavior and hand shaking led
10 me to believe that there was something more to the -- more
11 to it than what he was letting on.

12 Q Was he doing anything else suspicious before you
13 asked him to step out of the car?

14 A Not to my knowledge, other than just handed me
15 the wrong documentation, the shaking of the hands and
16 smoking a cigarette.

17 Q He was smoking a cigarette?

18 A Yes, sir.

19 Q And you said it was late at night?

20 A Yes, sir. It was, roughly, 10:30, 11 o'clock at
21 night.

22 Q Okay. And this similar, hypothetical stop,
23 would you ask somebody to step out of their car late at
24 night?

25 A Yes, sir.

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 Q Due to the totality of the circumstances?

2 A Yes, sir.

3 Q Are their safety concerns that would lead you to
4 do that?

5 A Yeah. I -- one, I didn't know if he was under
6 the influence of something. And when people are under the
7 influence, it tends to make them not think clearly. So
8 that led me to want to go further with that. And then
9 once he came out of the vehicle, due to safety concerns, I
10 asked for consent to search him. To which he granted.

11 Q So you were concerned that he might have a
12 weapon or something of that sort?

13 A Correct.

14 Q At some point, did you have Mr. Henderson place
15 his hands on the patrol vehicle or his vehicle, one or the
16 two?

17 A I never asked him to, he did it himself.

18 Q Was that before or after you asked him
19 permission to search his person?

20 A He placed his hands on there after I asked for
21 consent to search him.

22 Q Okay. Did you check to see if Mr. Henderson had
23 a driver's license?

24 A That is correct, I ran his driver's license
25 through dispatch, who advised me that his driver's license

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 was, in fact, suspended.

2 Q Okay. And did you ask him for proof of
3 insurance?

4 A I did. To which he, to my knowledge, he did not
5 provide at that time. But I do remember getting a
6 registration. I do remember him telling me that he would
7 have to contact somebody and get the insurance.

8 Q Okay. And from the time you pulled
9 Mr. Henderson over to the time that you found the
10 methamphetamine on his person, how much time passed?

11 A No more than a couple of minutes, to my
12 knowledge.

13 Q Okay. Now, you said you asked consent to search
14 twice?

15 A That's correct.

16 Q Was there any hesitation?

17 A Yes. So the second time when I asked for
18 consent and it was, Do you mind if I go in your pockets?
19 He moved from his hands being placed on the trunk of the
20 vehicle he was driving and kind of turned towards me in a
21 rigid manner, to indicate that there was something that
22 had popped in his mind that he did not want me to find.

23 And then when he stated, I may have a
24 pocket knife on me.

25 I said, I'm not worried about that.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 He said, Okay, put his hands back on the
2 trunk of the vehicle.

3 And that's when I went in the right side
4 pocket of his jacket.

5 Q Okay. You said you found some cash, too, where
6 did you find that?

7 A In the left side pocket of his pants, I believe.

8 Q Okay.

9 Please answer any questions the Defense has
10 for you.

11 THE WITNESS: Yes, sir.

12 CROSS-EXAMINATION

13 BY MRS. WILLIAMS:

14 Q Deputy Bradley, so the stop was for no tag
15 light?

16 A That's correct.

17 Q But the tag was good?

18 A Yes, ma'am, to my knowledge.

19 Q You told Mr. Norris that you suspected him to be
20 under the influence?

21 A That's correct.

22 Q Did you observe any reckless driving?

23 A No, ma'am.

24 Q Any improper turns?

25 A Not that I can remember.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 Q He stopped properly at the red light?

2 A Yes, ma'am, I believe so.

3 Q You asked him for his credentials and he
4 provided you his license and what he thought was the
5 registration?

6 A Yes, ma'am.

7 Q But it was just a DMV receipt?

8 A Yes, ma'am.

9 Q Could it be easily confused with a registration?

10 A No, ma'am. Not -- not the paper he handed me,
11 it was not a small piece of paper like a registration
12 would be. It was, actually, a large regular printed piece
13 of paper that the DMV would give you.

14 Q When you get your registration it's from the
15 DMV; is that correct?

16 A Yes, ma'am.

17 Q Did he end up giving you his registration?

18 A Yes, ma'am, after I informed him that the
19 paperwork he handed me was not the correct paperwork. And
20 continued to dig in the glove box.

21 Q So you watched him open the glove box?

22 A Yes, ma'am.

23 Q Did you see any weapons in there?

24 A No, ma'am.

25 Q While he was digging in the glove box, you

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 flashed your light in the backseat?

2 A Uh-huh.

3 Q Did you see any weapons back there?

4 A No, ma'am, not to my knowledge.

5 Q Did you see any knives?

6 A Not in plain view, no, ma'am.

7 Q No guns?

8 A No, ma'am.

9 Q No gun cases?

10 A No to my knowledge, no, ma'am.

11 Q No ammunition?

12 A No, ma'am.

13 Q And did you have any safety concerns about him
14 going to the glove box to get his registration?

15 A No, ma'am.

16 Q Reaching around freely in the car was fine?

17 A It did raise suspicion but no concern.

18 Q Raise suspicion how?

19 A For my safety. When -- typically, when people
20 are digging around, I'm always on edge because I don't
21 know what is in their vehicle. So it possess a safety
22 risk for me and puts me on heightened alert, so to speak.

23 Q So in response to you asking for his
24 registration, him going to the glove box and searching for
25 it was suspicious?

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 A Not that it was suspicious, it raises my alert
2 level.

3 Q But you weren't suspicious that he was going for
4 a weapon?

5 A No, ma'am.

6 Q Okay. Did you have -- see any paraphernalia,
7 drug paraphernalia, in plain view?

8 A No, not to my knowledge, no, ma'am.

9 Q Did you smell any marijuana?

10 A No, ma'am.

11 Q Any alcohol?

12 A No, ma'am.

13 Q So no pipes?

14 A Not to my knowledge.

15 Q No oil?

16 A No, ma'am.

17 Q No foil?

18 A No, ma'am.

19 Q No needles?

20 A No, ma'am.

21 Q No caps?

22 A Not to my knowledge.

23 Q No spoons?

24 A No, ma'am.

25 Q You asked Mr. Henderson to step out of the car?

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 A Yes, ma'am.

2 Q Did you see anything protruding from his
3 waistband? Did you see anything from protruding from his
4 waistband that you could tell he had a weapon?

5 A Not that I could tell, he had a big heavy jacket
6 on.

7 Q Did you see anything protruding from his jacket?

8 A Again, it was a big, big jacket, I couldn't
9 tell.

10 Q No bulges, though, he wasn't reaching for
11 anything, no erratic behavior?

12 A No, ma'am.

13 Q So Mr. Henderson consented to getting out of the
14 car for you?

15 A Yes, ma'am.

16 Q Did he hesitate to give that consent?

17 A No, ma'am.

18 Q You asked him if he had any guns, knives, hand
19 grenades, etcetera in the car?

20 A Yes, ma'am.

21 Q And his response was no?

22 A Correct.

23 Q Did he hesitate in giving that answer?

24 A No, ma'am.

25 Q And he didn't have a problem with you checking

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 the vehicle?

2 A No, ma'am.

3 Q Would you have been able to check the vehicle
4 had he not given consent?

5 A No, ma'am.

6 Q So you have nothing in plan view?

7 A No, ma'am.

8 Q The original stop was for no tag light?

9 A That's correct.

10 Q Did you take any pictures of that tag light?

11 A No, ma'am.

12 Q Did you submit any dash camera footage showing a
13 bad tag light from your stop?

14 A I labeled -- I labeled it but I don't know if it
15 got to y'all or not.

16 Q So it existed?

17 A Well, actually, let me back up. The vehicle I
18 was in, if I remember correctly, did not have a working
19 dash camera. So I apologize on that.

20 Q But you didn't take pictures and you don't have
21 video?

22 A That's correct.

23 Q When your body camera cuts on, it cuts right at
24 his driver's window, have you reviewed it?

25 A Yes, ma'am.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 Q And you acknowledge that it cuts on right when
2 you're at his window?

3 A That's correct.

4 Q When you told Mr. Henderson your reason for the
5 stop, what was his response?

6 A When I told him the reason for the stop, he
7 didn't really give me a response, to my knowledge, that I
8 remember.

9 Q He didn't explain to you his attempt to fix the
10 tag lights and tuck them underneath?

11 A I can't give an accurate answer to that, no,
12 ma'am.

13 Q Have you reviewed your body camera?

14 A Yes, ma'am.

15 Q If I played it would that help?

16 A Yes, ma'am.

17 (WHEREUPON, Defendant's Exhibit No. 1 was marked
18 for identification only.)

19 MRS. WILLIAMS: Your Honor, I'm playing, at this
20 time, Defendant's Exhibit 1 that's been premarked.

21 THE COURT: Okay.

22 (WHEREUPON, Defendant's Exhibit No. 1 was
23 published.)

24 BY MRS. WILLIAMS:

25 Q So Mr. Henderson told you that he tucked the

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 lights under because they fell through but he tucked them
2 under?

3 A Yes, ma'am.

4 Q So were the lights there?

5 A I could not see them.

6 Q You didn't take a picture of it?

7 A No, ma'am.

8 Q You called in the tag?

9 A Yes, ma'am.

10 Q Did you mess up any of the digits on the tag?

11 A No, ma'am.

12 Q So you called it in perfectly?

13 A Yes, ma'am.

14 Q So you were able to see the tag?

15 A Yes, due to my headlights.

16 Q You went to the academy?

17 A That's correct.

18 Q And you were trained on writing reports?

19 A That is correct.

20 Q What is the purpose of an incident report?

21 A It, basically, states everything that happened
22 that day.

23 Q When do you write a incident report?

24 A Whenever I effect an arrest or whenever a call
25 for service deems it necessary that I write a report.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 Q How closely to the incident do you write the
2 report?

3 A That same day.

4 Q And why you do that?

5 A That way there's no lapse in memory or break in
6 anything and there's no forgetting anything.

7 Q So the purpose of it is to put everything in
8 there?

9 A That's correct?

10 Q So you don't forgot anything?

11 A That's correct.

12 Q Because sometimes it can be a while before these
13 cases come to trial?

14 A That's correct.

15 Q Do you want it to be complete, accurate?

16 A Yes, ma'am.

17 Q Thorough?

18 A Yes, ma'am.

19 Q You testified earlier that you suspected
20 Mr. Henderson of being under the influence?

21 A That's correct.

22 Q Did you write that in your report?

23 A No, ma'am.

24 Q You testified earlier that Mr. Henderson's
25 driver's license was suspended?

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 A Yes, ma'am.

2 Q Did you put that in your report?

3 A No, ma'am.

4 Q Did you mention it in the video?

5 A Yes, ma'am.

6 Q When did you mention it?

7 A If you play the video a little bit longer,
8 dispatch notifies me that his driver's license was
9 suspended.

10 (WHEREUPON, Defendant's Exhibit No. 1 was
11 published.)

12 BY MRS. WILLIAMS:

13 Q Was that dispatcher communication?

14 A Yes, ma'am.

15 Q And she didn't say it was suspended?

16 A ID only. So what that translates to me is
17 either he's never, one, possessed a driver's license or,
18 two, it's been suspended, so ID only.

19 Q But she didn't say it was suspended?

20 A That is correct.

21 Q And you didn't know it was suspended?

22 A No but ID only translates to me that it was
23 suspended.

24 Q You knew he didn't have a driver's license?

25 A That's correct.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 Q But you didn't know it was suspended?

2 A No.

3 Q But you testified that it was suspended?

4 A Correct. I could presume that it was suspended
5 due to the ID only status.

6 Q Did you provide any DMV records to prove the
7 suspension or the no driver's license?

8 A No because he wasn't charged with that.

9 Q When you ran this tag, you realized that it
10 wasn't his car?

11 A That's correct.

12 Q You found \$700-ish in his pocket; right?

13 A That's correct.

14 Q Did he tell you what that was from?

15 A He did not. And I didn't ask.

16 Q Did you collect it as evidence?

17 A No, I -- again, I don't remember. I want to say
18 it went with him to the jail. Again, I can't state for
19 fact--

20 Q If I showed you your property and evidence
21 sheet, would that clarify?

22 A Yes, ma'am. Yes, ma'am, so I did not seize the
23 money.

24 Q Would you have seized that money if you thought
25 it was related to drug activity?

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 A Can you repeat the question again, please?

2 Q At the point that you had found the money.

3 A Yes, ma'am.

4 Q You had already discovered the methamphetamine?

5 A That is correct.

6 Q And you didn't seize that money?

7 A That is correct.

8 Q And it's a large sum of money?

9 A That is correct.

10 Q So it is safe to assume that if you thought it

11 was related to drug activity, you would have seized it?

12 A Yes, ma'am, given the quantity, you can say

13 that, yes, ma'am.

14 Q But you didn't seize it?

15 A No, ma'am.

16 Q Did you run any field sobriety test on him?

17 A No, ma'am.

18 Q You testified earlier that he placed his hands

19 on that car by himself?

20 A Yes, ma'am.

21 Q Did you watch?

22 A Yes, ma'am, yes, ma'am.

23 Q Did you ask him to place his hands--

24 A Yes, ma'am.

25 Q The only suspicious behavior you had was

TERRY BRADLEY-REDIRECT BY MR. NORRIS

1 nervousness?

2 A And his hands shaking, yes, ma'am.

3 Q That's the same thing?

4 A Yes, ma'am.

5 Q Without his consent, you would have had no
6 reason to search the vehicle?

7 A Yes, ma'am, I've already answered that.

8 Q Without his consent you would have had no reason
9 to search his person?

10 A I've already answered that, yes, ma'am.

11 MRS. WILLIAMS: No further questions.

12 For record purposes, Your Honor, I stopped the
13 video with 23 seconds left. The timestamp is nine
14 minutes, 11 seconds.

15 MR. ZUSCHKE: It's nine minutes, 31 seconds.

16 MRS. WILLIAMS: Nine minutes, 31 seconds. I
17 haven't had eyes checked, Your Honor.

18 THE COURT: Anything from The State? I'm sorry,
19 I guess you were waiting on me.

20 MR. NORRIS: No problem.

21 REDIRECT EXAMINATION

22 BY MR. NORRIS:

23 Q From the time you pulled him over, to the time
24 you stepped out the car, he provided you with the wrong
25 paperwork; is that correct?

TERRY BRADLEY-REDIRECT BY MR. NORRIS

1 A Yes, sir.

2 Q And you were able to tell that he did not have a
3 driver's license?

4 A That is correct.

5 Q And you're waiting to hear back from that; is
6 that right?

7 A Yes, sir.

8 Q Then you asked him twice for consent to search
9 his person; is that correct?

10 A That is correct.

11 MR. NORRIS: Okay, nothing further.

12 MRS. WILLIAMS: Nothing further for the witness,
13 Your Honor.

14 THE COURT: You may step down for now.

15 MRS. WILLIAMS: Your Honor, the exhibit, just
16 for matter of record keeping, it was marked as
17 Defendant's Exhibit 1. It may need to be changed for
18 Court's Exhibit 1, for purposes of just the pre-trial
19 motions.

20 THE COURT: That's fine.

21 No?

22 MRS. WILLIAMS: No?

23 THE COURT REPORTER: It's can be Defendant's
24 Exhibit 1 for ID only.

25 THE COURT: Thank you for making that clear for

ROBERT HENDERSON-DIRECT BY MRS. WILLIAMS

1 the record.

2 MRS. WILLIAMS: Yes, thank you.

3 THE COURT: Any further questions?

4 MRS. WILLIAMS: I just have a witness to call
5 myself, Your Honor. The Defense would call Robert
6 Allen Henderson, Jr.

7 THE CLERK: Please raise your right hand.

8 ROBERT HENDERSON, after being duly

9 sworn{,}testified as follows:{F}

10 THE CLERK: Thank you, please have a seat, state
11 your name for the record.

12 THE WITNESS: Robert Henderson, Jr.

13 DIRECT EXAMINATION

14 BY MRS. WILLIAMS:

15 Q Mr. Henderson, you were driving Ms. Mann's
16 vehicle on January 6, 2022; correct?

17 A Yes, ma'am.

18 Q And you were aware that the tag lights have
19 fallen down?

20 A I fixed them.

21 Q How did you fix them?

22 A They just slide. They reset into bumper and you
23 just -- one of them fell down and I got brand new bulbs, I
24 just put the bulb in and you slide it and pop it back into
25 place.

ROBERT HENDERSON-CROSS BY MR HOFFERTH

1 Q So you now for sure that these lights were
2 working?

3 A Yes, ma'am.

4 Q And they were illuminating that license plate?

5 A Yes, ma'am.

6 MRS. WILLIAMS: All right, answer any questions
7 that The State has, okay.

8 CROSS-EXAMINATION

9 BY MR. HOFFERTH:

10 Q Mr. Henderson, as you mark or as you state on
11 the body camera video, you acknowledge the fact that the
12 tag lights had, at least, fallen down; correct?

13 A No, I said I fixed them.

14 Q You want to hear it again?

15 A Yeah. I said I pushed them back up, that means
16 I fixed them. I'm talking about three days prior to this.

17 (WHEREUPON, Defendant's Exhibit No. 1 was
18 published.)

19 BY MR. HOFFERTH:

20 Q You'd agree with me that on pretty much every
21 car you drive, the tag light, when it's installed
22 correctly, is above the license plate; right?

23 A Yes, sir.

24 Q But as you say here --

25 A I said I tucked them underneath.

ROBERT HENDERSON-CROSS BY MR HOFFERTH

1 Q Let me finish. As you say here, the lights had
2 fallen down, something that effect?

3 A Yes.

4 Q Come out of place?

5 A Yes.

6 Q So you, best of your knowledge, best of your
7 ability, say you fixed them?

8 A Yeah.

9 Q Right. But not in the place they were installed
10 in the vehicle; correct?

11 A No. They are in place when they -- where they
12 are above the light; right? I mean, above the tag.
13 They're above the tag.

14 Q You tell me.

15 A They above the tag and when I told him they fell
16 down. And I told him I pushed it back up in there.
17 Because I tucked underneath but that didn't work. So I
18 put them up where they needed to be.

19 Q Okay. Well, in any case, they had fallen at
20 some point?

21 A Yes, sir.

22 Q And you did some sort of self correction to your
23 abilities in trying to correct it?

24 A Yeah, I pushed it down underneath it and I
25 bought a tag light. And once I bought a tag light, I put

ROBERT HENDERSON-REDIRECT BY MRS. WILLIAMS

1 it back where it was supposed to went.

2 Q After you did this DIY operation to the car, did
3 you go out at night and walk 50 feet behind your car--

4 A Of course, not.

5 Q -- to make sure -- you didn't do that?

6 A No.

7 MR. HOFFERTH: Okay, I have no further questions
8 for you.

9 MRS. WILLIAMS: Just one brief followup
10 question.

11 REDIRECT EXAMINATION

12 BY MRS. WILLIAMS:

13 Q But the lights were illuminating the tag?

14 A Yes, ma'am.

15 MRS. WILLIAMS: No further questions.

16 THE COURT: Anything from The State?

17 MR. NORRIS: Nothing further.

18 MR. HOFFERTH: Nothing from The State.

19 MRS. WILLIAMS: We're done.

20 THE COURT: All right, you may step down, sir.

21 MRS. WILLIAMS: Your Honor, I'm going to pass up
22 a copy of South Carolina Code Section 56-5-4530.
23 Your Honor, in reading this code section, the code
24 section requires that the lamp be so constructed and
25 placed as to illuminate with a white light the rear

1 registration license plate and render it clearly
2 legible from a distance of 50 feet to the rear. Any
3 tail lamps or tail lamps, together with any separate
4 lamp for illuminating the rear registration plate,
5 shall be so wired as to be lighted whenever the head
6 lamps or auxiliary driving lamps are lighted.

7 Your Honor, it's The Defense's position that
8 there was no reasonable suspicion for this stop.
9 This code section says nothing about where the lamp
10 should be. Only that they be illuminating the rear
11 registration plate. And render it clearly legible
12 from a distance of 50 feet. The officer testified
13 that he was able to see it. Mr. Henderson has
14 testified that they were working and they were
15 illuminating the plate. The tag light was not
16 broken, it was illuminated. It was pushed so that it
17 was illuminated, as The State could put it, as a DYI
18 fix, but a fix nonetheless. There's no dash camera.
19 There's no pictures. And the body camera doesn't
20 start until the deputy is at the window. Any
21 opportunity to see that plate is worthless because of
22 the headlamps from the deputy's vehicle shining on
23 it.

24 The burden on The State is to prove reasonable
25 suspicion for this traffic stop. The Defendant's

1 position is they haven't met their burden. Because
2 they haven't met their burden, we would ask all
3 evidence gathered from this stop to be suppressed as
4 fruit of the poisonous tree. I would, also, point
5 out, Your Honor, that there is a bill pending, and
6 it's not passed, we acknowledge that it has not
7 passed. But I think it shows the legislation's state
8 of mind. And I'll past this up too.

9 Where they're adding a code section to this
10 statute or attempting to. And the additional code
11 section would read, A law enforcement officer may not
12 stop a driver of a vehicle whose tail lamp or
13 separate lamp is inoperable, in the absence of a
14 violation of another motor vehicle law. We
15 acknowledge this is not law but I think it goes to
16 the point, Your Honor.

17 THE COURT: But it goes to the point that it is
18 okay to stop now.

19 MRS. WILLIAMS: Yes, it is currently okay to
20 stop for--

21 THE COURT: Without violation of another vehicle
22 law.

23 MRS. WILLIAMS: Correct.

24 THE COURT: You would agree with that?

25 MRS. WILLIAMS: I would agree, Your Honor. And

1 just passing this up to show what legislation's
2 mindset is behind this statute. And that it by
3 itself shouldn't be enough to make a traffic stop.
4 Your Honor, in the officer's own testimony, he didn't
5 take pictures, he doesn't have his dash camera.
6 There's nothing to prove that this taillight was
7 actually inoperable or not shining on his plate. And
8 it's The Defendant's position that The State has not
9 met their burden.

10 THE COURT: All right, State?

11 MR. NORRIS: Your Honor, Officer Bradley's
12 testimony is evidence that there was a reason for the
13 stop. You heard Officer Bradley testify that he
14 could not see the license plate illuminated and that
15 was the reason for the stop. And then you heard The
16 Defendant testify that there was something going on
17 with his tag light that required him to attempt to
18 fix it. And you heard him say that he didn't check
19 to see if that was clearly visible from 50 feet away.
20 So The State contends that that is a legal traffic
21 stop for violating a traffic law.

22 As far as reasonable suspicion, you heard
23 Officer Bradley testifying about The Defendant
24 handing up the wrong paperwork when asked. Totality
25 of the circumstances, it being late at night, him

1 coming from a known drug trading location at the Sun
2 Inn in Easley. He was smoking a cigarette, acting
3 nervous. These are all perfectly valid reasons to
4 ask a Defendant to step of his vehicle. And then
5 after that you heard Officer Bradley, both in the
6 video, then by his testimony claim that he did obtain
7 consent from The Defendant multiple times to have his
8 person searched. And he had legitimate reasons for
9 searching him due to safety concerns when viewing the
10 totality of the circumstances.

11 So The State would contend that there was, in
12 fact, reasonable suspicion that criminal activity was
13 afoot. You even heard Officer Bradley -- Deputy
14 Bradley testified that even appeared to be under the
15 influence, which is another potential crime afoot
16 that he was investigating. So for all these reasons,
17 The State contends there was suspicion, reasonable
18 suspicion. And then Your Honor heard The Defendant
19 consent to his person being searched. We'd ask you
20 to deny The Defendant's motion to suppress.

21 THE COURT: Thank you.

22 Anything further from The Defense?

23 MRS. WILLIAMS: Your Honor, The State points out
24 that the officer testified he couldn't see the plate.
25 I believe his testimony was that he could see the

1 plate and he didn't misidentify any of the
2 characters. I believe I asked him, specifically, if
3 he could see the plate. Yes, Your Honor, my client
4 admitted that he did not check from 50 feet whether
5 the lights were working. Not sure how common it is
6 to do that any way. But nonetheless, it is his
7 responsibility to make sure they're working. And he
8 has testifies that they were working after he did his
9 fix on the lights.

10 Your Honor, The State has made arguments that I
11 think go toward my next motion. None of which have
12 to do with reasonable suspicion for the stop. The
13 only suspicion he had for the stop was the no tag
14 lights. The officer testified there was no reckless
15 driving, no speeding, no improper turns, no bad
16 stopping. Nothing else other to justify his traffic
17 stop on Mr. Henderson. No tag lights was the basis
18 of his stop. And, Your Honor, I don't think The
19 State has provided enough to justify reasonable
20 suspicion in that traffic stop. But I do have
21 further motions upon your findings on this motion.

22 THE COURT: Anything in response?

23 MR. NORRIS: Just briefly to the issue of
24 whether Deputy Bradley could see the license plate.
25 He testified that he could see the numbers on the

1 digits of the license plate due to his own cruiser's
2 headlights, once he got close enough to illuminate
3 that rear of the other vehicle. That's just a
4 correction I wanted to make. Nothing further from
5 The State.

6 MRS. WILLIAMS: I have nothing further, Your
7 Honor.

8 THE COURT: Okay. Okay. I will be back in a
9 moment.

10 MRS. WILLIAMS: Thank you, Your Honor.

11 THE COURT: Patiently await.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: All right, I have heard the
14 excellent arguments by both sides, both parties. I
15 do find that the traffic stop was legal. And so The
16 State as cured its burden with regards to that.

17 And now I will hear, I guess, additional
18 motions. I know y'all kind of already gotten into
19 that somewhat but.

20 Number two.

21 MRS. WILLIAMS: Number two, Your Honor. And I
22 do have some case law, I'll pass it up as I reference
23 it. Your Honor, we have an additional suppression
24 motion. We're moving to suppress all evidence
25 obtained in this case as fruit of the poisonous tree.

1 We're arguing that the evidence gathered by Deputy
2 Bradley was done in furtherance of an unlawful
3 detention, thus violating Mr. Henderson's Fourth
4 Amendment right under the Constitution, as well as
5 Article I Section 10 of the South Carolina
6 Constitution.

7 The State would likely argue that The Defendant
8 consented to all searches, however, The Defense
9 contends that any consent given by The Defendant was
10 done so during an unlawful detention and is thus, as
11 matter of law, invalid. Deputy Bradley had the
12 authority to lawfully ask The Defendant out of the
13 car. And The Defense concedes this point under
14 Pennsylvania v. Mimms.

15 However, The Defense contends that there was
16 clearly a secondary detention beginning when the
17 officer asked about the contents of the, or in the
18 alternative, when the officer asked Mr. Henderson if
19 he could Terry frisk him and thus search him.

20 And I'm passing up a copy of Pennsylvania v.
21 Mimms, Supreme Court case from December 5, 1977. In
22 Pennsylvania v. Mimms The Court held that there is a
23 balance between interest of officers safety and The
24 Defendant's Fourth Amendment rights. The Court held
25 that while the intrusion of asking The Defendant out

1 of the car was de minimis, the subsequent pat down
2 search was only supported by the officers observation
3 of a large bulge in The Defendant's coat pocket.

4 We see that notion echoed in a New York Court of
5 Appeals case of People v. Rivera, which is a
6 persuasive case. But The Court held similarly that
7 there's a fair balance to be struck between the
8 competing interest of officer safety and The
9 Defendant's Fourth Amendment right. People v. Rivera
10 pose a question that is more specifically targeted to
11 the issue we have here at hand. Did the officer have
12 a right to touch the person being questioned? They
13 stated that it's only unreasonable searches, not all
14 searches that are restricted, in determining what is
15 reasonable is where the balancing of interest comes
16 into play.

17 The Defense acknowledges that any traffic stop
18 has safety concerns. Any officer going up to the
19 window is on edge. But as Deputy Bradley testified,
20 he observed no weapons, he observed no weapon cases,
21 he observed no ammunition. There was nothing in
22 plain view in that vehicle to give rise to any pat
23 down. Any additional seizure. And furthermore, what
24 more could he have found in his investigation into no
25 tag lights within the vehicle? Deputy Bradley --

1 Deputy Bradley asked him to step out of the car,
2 which he had the right to do. And Mr. Henderson
3 complied. The problem with this stop is that Deputy
4 Bradley keeps pushing and pushing and pushing the
5 boundaries of what he can find. Because, ultimately,
6 he wants to know what is in the backpack in the
7 backseat of Mr. Henderson's car. He admits so on the
8 body camera.

9 Your Honor, at this time, I'm going to play
10 a section of the body camera when he's searching -- when
11 Deputy Bradley is searching the vehicle. The time mark is
12 five minutes and nine seconds, if my eyes are correct.

13 (WHEREUPON, a body cam video was published.)

14 MRS. WILLIAMS: Your Honor, from the five minute
15 mark to the five minute and 35 second mark, you hear
16 Deputy Bradley talking to the other officers. This
17 is what I wanted. This is the thing I wanted to see.
18 In reference to the backpack in the backseat of
19 Mr. Henderson's vehicle. You, also, hear him talking
20 about watching the Sun Inn. He was watching the
21 place where Mr. Henderson lives, where he works. He
22 watched Mr. Henderson with his backpack get into his
23 vehicle and pull out of the Sun Inn. He wanted to
24 know what was in the backseat of that vehicle and he
25 made a stop that he knew he couldn't support. And so

1 he gathered Mr. Henderson's consent to search. He
2 kept pushing and pushing to get to what he really
3 wanted.

4 Going back to the origin of this encounter. The
5 Court has deemed that this traffic stop is lawful.
6 Deputy Bradley approaches and asks for license,
7 registration and proof of insurance. The original
8 encounter, as mentioned, was for no tag lights only.
9 No reckless driving. No bad driving. Nothing
10 further. Deputy Bradley asks if there's anything
11 illegal in the car? The Defendant responds, No.
12 Further, he asked if there was any weapons in the
13 car? And The Defendant says, No. Deputy Bradley
14 testified that there was nothing in plain view. He
15 saw no weapons, he had no concerns that The Defendant
16 was reaching for a weapon. He even allowed him to
17 freely move within the vehicle to find the
18 registration out of the glove box.

19 I'd like to turn The Court's attention to
20 Rodriguez v. United States 575 U.S. 348 2015. The
21 court in Rodriguez held that a seizure for a traffic
22 violation justifies a police investigation of that
23 violation. Rodriguez goes on to say that that says
24 that a seizure for a traffic violation is more
25 similar to that of a Terry stop than a formal arrest.

1 Like a Terry stop, the tolerable -- what's tolerable
2 during the inquiry of the stop are determined by the
3 stop's mission to address the traffic violation,
4 which warranted the stop in the first place. Because
5 that is the purpose of the stop, it may last no
6 longer than is necessary to effectuate the purpose.

7 The ordinary inquires incident to a traffic
8 stop including checking a driver's license, running a
9 warrants check, inspecting registration and proof of
10 insurance. These checks serve the same objective as
11 enforcing a traffic code. Ensuring that vehicles on the
12 road are operating safely and responsibly. On scene
13 investigation into other crimes detours from that original
14 mission.

15 Here, it is so clear from the officer's
16 incident report, testimony and body camera footage that
17 the purpose or mission of the original traffic stop
18 investigating no tag lights, it was abandoned. Or it
19 wasn't even the main purpose of his investigation. He
20 asked if anything illegal was in the car? The Defendant
21 responds, No. Any weapons? No. He asked if he can
22 search? The Defendant complies. The reason for the stop,
23 no tag lights. The deputy is asking what's in the car,
24 which is nothing relevant due to his investigation of no
25 tag lights. What reason did he have to ask what was in

1 the car, other than safety concerns, to which The
2 Defendant response of no should have been sufficient.

3 I'm now going to turn The Court's attention
4 to State vs. Williams, 351 S.C. 591 2002. State vs.
5 Williams, we have a valid traffic stop transmuted into a
6 unlawful detention. The Court of Appeals cited a case
7 from the Fourth Circuit, State v. Sullivan, 138 F.3d 126
8 from the Fourth Circuit in 1998. Which held that a
9 routine stop constitutes a seizure under the Fourth
10 Amendment. When the purpose justifying that stop is
11 exceeded, the detention becomes illegal unless reasonable
12 suspicion of another crime exists.

13 We don't have reasonable suspicion of
14 another crime. We have Deputy Bradley fishing for
15 whatever he could get his hands on.

16 State v. Wallace, I'll pass that up as
17 well, Your Honor. Shows were Oconee County Sheriff's
18 Office deputy made a traffic stop for a driving
19 infraction. During the stop he made 14 separate
20 observations that led him to suspect that Wallace was
21 engaged in serious criminal activity. He issued a traffic
22 ticket but continued to question the defendant. He asked
23 if anything was illegal in the car and sought consent.
24 The only difference between Wallace and this case at hand
25 is that Wallace didn't answer and refused consent.

1 The South Carolina Supreme Court held that
2 so called reasonable suspicion is based on information
3 available to the deputy at the time. After the conclusion
4 of a valid traffic stop, an officer cannot detain a
5 suspect unless the officer has reasonable suspicion of a
6 serious crime. The Court must consider the totality of
7 circumstances.

8 In State v. Wallace the Deputy had 14
9 observations. And The Court said under the totality of
10 the circumstances that is enough. Here, we don't have any
11 of that. We have nervousness, hands shaking. And the
12 fact that it was a known drug area. That alone doesn't
13 eliminate enough for an innocent traveler to justify
14 reasonable suspicion.

15 THE COURT: Counsel, I think there's a case that
16 says nervousness alone is not sufficient.

17 MRS. WILLIAMS: Correct.

18 THE COURT: You would agree that when you start
19 adding to nervousness that that gets you over the
20 threshold?

21 MRS. WILLIAMS: I would say it was depending
22 upon what the additions are.

23 THE COURT: Okay.

24 MRS. WILLIAMS: I have the case that kind of
25 goes into that.

1 THE COURT: Thank you, I just. . .

2 MRS. WILLIAMS: Of course.

3 State v. Moore, this is 415 S.C. 245 from 2016.

4 This one is very similar to Wallace in the fact that
5 it shows the deputy -- this was from Spartanburg
6 County. But that deputy could site to 12 different
7 observations of why he had reasonable suspicion.

8 The State here as offered no such reasonable
9 suspicious of another crime to justify the secondary
10 detention for investigation into something other than
11 no tag lights. The officer's incident report and his
12 testimony today, indicate that he noticed that The
13 Defendant was nervous. His hands were shaking. And
14 he had to pad his testimony today to indicate that he
15 thought he was driving under the influence. None of
16 which was ever indicated in the body camera on scene
17 or this incident report that he wrote directly after
18 the incident, as testified. Nothing indicates that
19 he observed a weapon in plain view to suspect that he
20 a -- that he was in possession of a weapon that he
21 shouldn't have. No other reasonable suspicion
22 existed to extend this stop and pull him from the
23 car. The factors that Deputy Bradley did give don't
24 eliminate a substantial portion of innocent
25 travelers.

1 United States v. Williams is 808 F.3d 238 from
2 2015. In this case, the Fourth Circuit Court of
3 Appeals cited another case, United States v. Foster
4 634 F.3d 243 from 2011. It says, To support a
5 finding of reasonable suspicion it required a
6 detaining officer to either articulate why a behavior
7 is suspicious or logically demonstrate, giving the
8 surrounding circumstances, that the behavior is
9 likely to be indicative of a more sinister activity
10 than what may appear at first glance. Each fact on
11 its own need not eliminate every innocent traveler.
12 They must look at the totality of circumstances to
13 see whether the detaining officers had a
14 particularized or objective basis for suspecting
15 legal wrongdoing.

16 The officer testified today that nothing other
17 than no tag lights was suspected during this traffic
18 stop. He was nervous.

19 United States v. Powell, 66 -- 666 F.3d 180,
20 this is from 2011. States, That the government
21 specifically must do more than simply label behavior
22 suspicious to make it so. The government must also
23 be able to articulate why a particular behavior is
24 suspicious or logically demonstrate, giving the
25 surrounding circumstances, that the behavior is

1 likely to be indicative of more sinister crime than
2 may appear at first glance.

3 Officer Bradley abandoned the investigation of
4 no tag lights. As I mentioned before, he didn't even
5 take pictures of it. The Defense concedes that
6 Mr. Henderson hadn't had time to be able to provide
7 his insurance. And so, technically, the stop was not
8 over. However, pulling him from the car is one
9 thing, but searching his person with no reason is
10 another. And The Defense argues that the questions
11 asked to gain consent is where the secondary
12 detention or additional investigation began.

13 Deputy Bradley initiated the stop for a traffic
14 violation, which he so clearly abandoned in
15 furtherance of another wrongdoing, that he suspected
16 but could not provide reasonable articulable
17 suspicion to obtain. So he had to get consent.
18 Deputy Bradley testified today that without
19 Mr. Henderson's consent, he had nothing to get him in
20 that vehicle or in his pockets. Or on his person.
21 Deputy Bradley, in the body camera, stated that he
22 was watching the Sun Inn. He knew what was in that
23 backseat or he thought he knew. And he had to
24 concoct a way to get there. All Deputy Bradley had
25 was a case of curiosity. And he violated

1 Mr. Henderson's Fourth Amendment rights to get the
2 answers he needed by abandoning the traffic violation
3 investigation and starting one of his own. Because
4 Mr. Henderson was unlawfully detained, his consent
5 was invalid as a matter of law.

6 Florida v. Royer, 460 U.S. 491 from 1983.

7 Florida v. Royer, you see where Royer was a subject
8 of unlawful detention and The Court found that
9 consent to search was, therefore, invalid because it
10 was tainted by the unlawful confinement. Florida v.
11 Royer, also, placed the burden of proving consent was
12 voluntary on The State. If The Court finds the
13 detention here was unlawful, then Mr. Henderson's
14 consent is invalid as matter of law. Furthermore,
15 The State has offered no evidence proving that
16 Mr. Henderson's consent was voluntary.

17 THE COURT: In Florida v. Royer, what were the
18 circumstances there?

19 MRS. WILLIAMS: Your Honor, in Florida v.
20 Royer --

21 THE COURT: -- airport.

22 MRS. WILLIAMS: -- Mr. Royer was a traveler in a
23 airport and the police suspected him of trafficking
24 drugs so they pulled him aside for questioning. And
25 then the questioning turned into come to the side

1 room. And they pulled his bags and that's when they
2 gained consent. When they already had the bags and
3 in a separate area.

4 THE COURT: Aren't those circumstances a little
5 bit different than what we've got before us today, in
6 this case?

7 MRS. WILLIAMS: Your Honor, I think the
8 circumstances here are Mr. Henderson is being removed
9 from his car. The only authority the officer had to
10 do that was for safety concerns. He didn't have the
11 authority to frisk him, he didn't have the authority
12 to search him, other than the consent given. It's
13 clearly in furtherance of a secondary investigation,
14 for which Deputy Bradley didn't have reasonable
15 suspicion. And--

16 THE COURT: But you -- go ahead, I'm sorry.

17 MRS. WILLIAMS: Because of that, I would say it
18 is similar to Florida v. Royer because it is a
19 confinement, it's a seizure that's unlawful because
20 there's no reasonable suspicion to justify it. And
21 therefore, his consent given is not -- it's not
22 voluntary. He's being confined by law enforcement as
23 you can see in the body camera. He is surrounded by
24 three deputies from Pickens County Sheriff's Office,
25 two of which are on the Community Action Team, which

1 is the local narcotics unit here in Pickens County.

2 He -- and I'm going into voluntariness, I guess,
3 a little later of his consent, too, but he had no
4 option. The officer asked him to put his hands on
5 the vehicle, as he testified, as well as we observed
6 in the body camera. He was not free to go. I think
7 in Florida v. Royer he was free to go until he gave
8 his consent. But by moving him to that confined
9 space, with the detectives and with his luggage, they
10 held that his consent was not valid because that
11 detention was unlawful. So it's similar but it's not
12 the exact, obviously, facts that we have here in
13 front of us. But just goes to show that the unlawful
14 confinement itself, the unlawful detention is what
15 makes the consent invalid.

16 Mr. Henderson's consent is invalid due to the
17 unlawful detention, all evidence obtained from this
18 unlawful search conducted by Deputy Bradley, Cassell
19 and Daw, must be suppressed.

20 And, Your Honor, I have a copy of -- I only
21 have one copy but I can get you one, Adam.

22 MR. NORRIS: That's okay.

23 MRS. WILLIAMS: It's like a cheat sheet that I
24 made of all my cases with the factual backgrounds and
25 holdings, if you'd like a copy. I know I handed up a

1 lot of cases, so I was going to try to make it
2 easier.

3 THE COURT: That's okay, I appreciate you
4 educating me. You made excellent arguments.

5 But Florida v. Royer is what you would rely on
6 as far as the consent; right?

7 MRS. WILLIAMS: Yes.

8 THE COURT: Being invalid?

9 MRS. WILLIAMS: Being invalid and the detention
10 is unlawful.

11 THE COURT: Okay. And you said that you had
12 additional argument?

13 MRS. WILLIAMS: Yes. But that would be
14 depending upon your ruling on that motion.

15 THE COURT: Putting it back on The Court.

16 MRS. WILLIAMS: I'm sorry, Your Honor.

17 THE COURT: Just kidding.

18 All right, I'll hear from The State.

19 MR. HOFFERTH: Thank you, Your Honor. I know
20 there are lot of cases handed up but I think the
21 analysis of, at least, through the fruit of the
22 poisonous tree aspect of this, is far more simplistic
23 than it's been made out to be. And, I guess, kind of
24 diluted here. But what we need to draw our attention
25 back to is the fact that in this entire exchange from

1 stop to finding this methamphetamine is three and a
2 half minutes. In all of these cases, in, at least, I
3 know the South Carolina cases that Mrs. Williams
4 cited, the court makes some reference to the amount
5 of time that the traffic stop was. And I know in
6 Williams they make note that it was 25 to 40 minutes
7 they found that not to be unusually long for a normal
8 traffic stop.

9 The Court in State v. Morris finds that 13
10 minutes is certainly within the realm of a normal
11 traffic stop. And whenever we're talking about
12 exceeding the scope of that normal traffic stop, to
13 where you violate the Fourth Amendment by detaining
14 an individual past that timeframe, we need to make
15 sure that we're being clear in understanding what
16 timeframe is that normal traffic stop, and when does
17 that end?

18 The Court in State v. Williams, which I think is
19 the most apt case to refer to in this particular set
20 of circumstances. But again, it's reiterated time
21 and time again. And even by Ms. Williams when, you
22 know, we're bringing up the subject of exceeding the
23 scope of a traffic stop. But The Court says,
24 specifically, in State v. Williams, that once a
25 vehicle is detained lawfully for a traffic violation,

1 which The Court has already found that the tag light
 2 was sufficient in this instance, that the -- in
 3 carrying out the stop, an officer may request a
 4 driver's license and vehicle registration, run a
 5 computer check and issue a citation if it should call
 6 for that. However, a further detention for
 7 questioning is beyond the scope of the stop and
 8 therefore illegal.

9 What do we have in this case? We have the stop
 10 being made and he reaching out to dispatch with The
 11 Defendant's information for them to return that
 12 information. And keep in mind, this entire time,
 13 they don't have valid insurance. Officer Bradley
 14 doesn't have valid insurance. So I say that alone
 15 justifies the stop. Certainly, for three and a half
 16 minutes, but I'd argue longer. But mind you, that's
 17 not all. It's the fact that he hasn't completed the
 18 computer check on the status of The Defendant's
 19 license. And Mrs. Williams brought it to light when
 20 it comes up about nine minutes into the video when he
 21 finally hears back that The Defendant's license is
 22 suspended.

23 So just on those grounds, The State would offer
 24 that there was no extension of that original traffic
 25 stop. Courts time and time again reiterate the

1 notion that officers can ask to search an
2 individual's person or an individual's car at any
3 time. That -- then it becomes a question of
4 volition, which I believe we'll approach next. But
5 in this case, we are within, well within, the course
6 of the initial traffic stop. And we have to consider
7 whether we are, A, within the course of that original
8 traffic stop? And The State would offer that we are.
9 Then there is no Fourth Amendment violation as to
10 asking for consent to search, for asking him lawfully
11 to get out of his car. And then getting that second
12 consent to search his person.

13 Again, I think it's simplistic in that aspect in
14 that there is no extension that goes past the realm
15 of what would be considered a normal traffic stop.
16 And that would go past the due diligence that Officer
17 Bradley would do in any other situation, where he's
18 running the license on a individual, where he does
19 not have a valid insurance from that individual and
20 where he's waiting to hear back from that. Which he
21 does nine minutes into this exchange. After The
22 Defendant is already placed under arrest for that
23 methamphetamine.

24 There was a lot of reference to Officer
25 Bradley's potential subjective motivations in

1 carrying out the course of this particular stop and
2 ultimate search. The subjective intentions of
3 officers do not matter where they follow the proper
4 protocol as it relates to the Fourth Amendment, as it
5 relates to getting a voluntary consent to search a
6 car, which he does, I believe, 30 seconds into this
7 exchange. We're exceeding the, I guess, the -- we're
8 exceeding the ultimate issue here as it relates to
9 the fruit of the poisonous tree when we try to
10 extract what his potential -- what his subjective
11 intentions were. He does state, you know, after the
12 arrest, after they are searching the car, that he had
13 a interest in the book bag in the backseat. Which
14 is -- I don't think is even consideration that we get
15 to when we're determining this issue.

16 So The State would offer that the search is
17 within guidelines -- or within the parameters of this
18 initial traffic stop. And therefore, it couldn't be
19 unduly exceeded, it couldn't be extended, there could
20 be an unlawful detention for this separated drug
21 search, where you're still within the realm of that
22 initial traffic stop.

23 THE COURT: Okay, counsel, so when he approaches
24 he indicated --

25 I'm going to come back to you, I promise.

1 Does he not get past, I guess, safety concerns
2 at the window? I mean, when he. . .

3 MR. HOFFERTH: Your Honor, I would argue, you
4 don't get past safety concerns until an individual's,
5 ultimately, placed under arrest or a traffic stop
6 ends. I think Officer Bradley put it well that, you
7 know, his, I guess, I don't want to misstate what he
8 said, but, basically, his antenna went up a little
9 bit more when he was going through the glove box.
10 But again, you know, we're talking about the
11 questions that he asks everybody on every traffic
12 stop. Anything illegal in the car? X, Y and Z, any
13 guns, hand grenades, drugs, whatever it may be.

14 And then, immediately afterwards he asked, you
15 know, would it be all right if I search your car? He
16 immediately says, sure or yes or whatever it may be
17 but he gave his consent to search the vehicle. So,
18 you know, at that increment, if Officer Bradley were
19 to go and search his vehicle, I argue that he would
20 be within the bounds of the consent that was given by
21 The Defendant. But again, when you're talking about
22 the timer that these courts reference with regard to
23 how long these traffic stops are--

24 THE COURT: Three and a half minutes.

25 MR. HOFFERTH: -- it is three and a half

1 minutes. And it is before he, ultimately, hears back
2 on the status of his license. Which is what The
3 Court in State v. Williams notes, that in every
4 traffic stop, for just a traffic stop, before it
5 becomes a drug search, before you get to exceed in
6 the scope of the Fourth Amendment, officers have the
7 right to collect the driver's license, to check on
8 insurance and to run a computer check on that
9 individual. And that's what he did. And he's
10 waiting to hear back on the status of that. Which he
11 hears back after he's placed under arrest. So you
12 can't exceed the scope of a traffic stop when it
13 hasn't been completed and he's placed under arrest
14 before he hears back on one of those tenants that The
15 Court states you can do on every traffic stop.

16 THE COURT: Okay. Thank you.

17 MRS. WILLIAMS: I guess my response would be
18 that his question in asking is there anything illegal
19 or any weapons in car? And then The Defendant
20 response of no should have been enough. And I would
21 even pose to The Court that had it been you or I,
22 Judge, that would have been enough.

23 THE COURT: The Defendant's response of no would
24 be sufficient?

25 MRS. WILLIAMS: It would have been sufficient

1 for any other traffic stop for no tag lights. If
2 that were a standard question that the officer were
3 to ask, any weapons in the car I need to know about?
4 If we'd have said no, that would have been enough.

5 And The State wants to talk about time, Your
6 Honor, I would point, specifically, to U.S. v.
7 Rodriguez. Where the government, specifically,
8 argued the same thing. Which the case says, in
9 effect is, the argument is, that by completing a
10 traffic related task--

11 THE COURT: What was that, State vs. Rodriguez?

12 MRS. WILLIAMS: Yes, U.S. v. Rodriguez.

13 THE COURT: Okay, I'm sorry.

14 MRS. WILLIAMS: That's fine.

15 The government's argument, in effect, is that by
16 completing all traffic related tasks expeditiously,
17 an officer can earn bonus time and pursue an
18 unrelated criminal investigation. And in that case,
19 The Court held that that alone was not reasonable
20 suspicion into another crime. You can't investigate
21 into another crime while you're investigating the
22 reason for the stop. And I think just common sense
23 dictates, what more was the officer going to find in
24 that vehicle that helped his investigation into no
25 tag lights?

1 THE COURT: But correct me, but it was more than
2 just that. I mean, there was --

3 Well, I'll let y'all respond.

4 MR. HOFFERTH: Well, again, State v. Rodriguez
5 points out exactly what I was relaying to The Court.
6 That you have to distinguish this between the time of
7 the traffic stop and the time -- if it was -- when we
8 get to the potential Fourth Amendment violation, was
9 it extended past that? Rodriguez, essentially,
10 rejects the notion that if I make the stop of a
11 individual, I run their information, I get all the
12 information back from dispatch, you know, just say
13 hypothetically, three minutes and I have all the
14 answers I would have during the course of a normal
15 traffic stop, then I would, you know, earn myself an
16 additional seven minutes, an additional ten minutes,
17 to conduct an arbitrary investigation into, you know,
18 drugs, whatever it may be. That not what's happening
19 here. That's not what's happening here.

20 Because he hasn't heard back on the status of
21 all the things that he checks, routinely, for traffic
22 stops until nine minutes. Officers can have
23 conversations with individuals, officers can ask for
24 consent to search a person, consent to search car --
25 their car, at any time. Then we get into the

1 question of volition. Which is separate than the
2 issue before The Court right now. The issue before
3 The Court right now is did Officer Bradley exceed the
4 scope of the traffic stop and then conduct, you know,
5 a drug search outside the scope of that traffic stop
6 without reasonable suspicion, to get him to ask those
7 questions?

8 It's The State's position, we never left the
9 scope of the traffic stop. It is a three minute and
10 30 second exchange from start to finish. He didn't
11 have time to hear back on the status of the driver's
12 license, he never had valid insurance. Therefore,
13 you can't exceed the scope of why he originally
14 stopped him. So there would be no Fourth Amendment
15 violation and The State would ask that you deny The
16 Defendant's motion.

17 THE COURT: Anything, counsel?

18 MRS. WILLIAMS: Your Honor, I think it honestly
19 just goes to reasonableness of what's happening. I
20 understand The State's argument that the timing of
21 this, yes, it doesn't take that long. But just
22 because it doesn't take long, does that allow the
23 police officer to keep pushing and prodding and
24 getting into where Mr. Henderson has a right to
25 privacy, within his car, because the officer has no

1 reasonable suspicion to get into that car without his
2 consent. He -- the initial purpose of this stop is
3 no tag lights. And no driver's license, okay, that
4 would have come up later. But we didn't even get to
5 that point because we're already pulling him from the
6 car for what? To search the car and to search his
7 person. That has nothing to do with investigating no
8 tag lights and/or writing a citation, and/or
9 writing -- checking his warrant or checking his
10 driver's license, that has nothing to do with
11 anything in this stop.

12 And I think it is so clear that Deputy Bradley
13 abandoned his initial reason for the stop, you know,
14 in an attempt to investigate an additional crime for
15 which he had no reasonable suspicion. And, Your
16 Honor, I think that this is an unlawful secondary
17 detention and we would ask that you suppress the
18 evidence found from it.

19 THE COURT: Anything from The State?

20 MR. HOFFERTH: Nothing further from The State,
21 Your Honor. I will be happy to answer any questions
22 but I believe we made our position clear.

23 THE COURT: Okay.

24 MRS. WILLIAMS: Would you like me to go ahead
25 and make my voluntariness argument so you can. . .

1 THE COURT: Do it all at one time?

2 MRS. WILLIAMS: Do it all at one time.

3 THE COURT: You can.

4 MRS. WILLIAMS: Okay.

5 THE COURT: Assuming that I find you did not
6 exceed the scope of this traffic stop.

7 MRS. WILLIAMS: Exactly.

8 Your Honor, it's, also, The Defendant's position
9 that if The Court were to find that the detention was
10 lawful, Mr. Henderson's consent was not freely and
11 voluntarily given, when analyzed under the Williams
12 factors. Which is from Withrow v. Williams case, 507
13 U.S. 680 1993. I do not have a copy of that case and
14 I apologize.

15 The requirement that only voluntary statements
16 be admitted is based on the Fifth Amendment's right
17 against self-incrimination. And was incorporated and
18 made applicable to state the 14th Amendment. The
19 Williams factors are nonexclusive lists that are to
20 be considered by The Court to determine whether the
21 defendant's statement was voluntary.

22 Just addressing some of these and putting some
23 of the facts of this case to it, Your Honor, the
24 encounter was initiated by police, was a traffic stop
25 for no tag lights, as we have said many times now.

1 He didn't have the freedom to terminate this
2 encounter without further consequence. If he had, he
3 would have been charged additional crimes. The
4 expressed purpose of this encounter was to
5 investigate a traffic violation. And The Defense
6 contends that Deputy Bradley was, also, investigating
7 potential drug activity, for which he had no
8 reasonable suspicion.

9 Mr. Henderson was stopped on the side of the
10 road in the middle of the night. It was dark and it
11 was January, it was cold. He was detained, not free
12 to leave, but he was not under arrest. It was
13 clearly investigation. He was not informed that he
14 could remain in his vehicle. He was not informed
15 that he could deny the search. He was not informed
16 that he could deny the frisk, an eventual search of
17 his person. Mr. Henderson could not terminate the
18 encounter until the traffic citation was issued and
19 his documents were returned. He was not handcuffed
20 but he was asked to exit his vehicle and stand at the
21 front of the deputy's vehicle while the officer ran
22 the check. He was asked to put his hands on his
23 vehicle.

24 Mr. Henderson was surrounded by three uniform
25 patrol officers with emergency lights activated.

1 While the encounter was brief, things did escalate
2 quickly. As previously mentioned, there were three
3 total uniform officers, two of which who were of the
4 Community Action Team. Deputy Cassell and Deputy Daw
5 for the Pickens County Sheriff's Office. The
6 encounter was dominated by deputy action. The
7 deputies pulled him -- or the deputy pulled him from
8 the car, two other deputies showed up. Deputy
9 Bradley searched him. Deputy Cassell and Daw and
10 Bradley searched the car. Mr. Henderson was,
11 ultimately, arrested at the end of this encounter.

12 Your Honor, it's The Defense's position that
13 because of all these factors, which are the majority
14 of these Williams factors, that The Defendant's
15 consent given was not voluntary. He was under the
16 pressure of law enforcement. He felt like he
17 couldn't leave and he felt like he had no other
18 option but to comply with the officers.

19 I would, also, argue, just briefly, an equal
20 protection argument. Mr. Henderson, due to his
21 financial standing, was living at the Sun Inn, he was
22 working as a maintenance man there. He was doing
23 what he could to have a roof over his head and have
24 money to eat. This was not a brand new car that were
25 nice, newer functioning and he wasn't at the Sun Inn

1 and this traffic stop was made, I don't think it
2 would have escalated how quickly it escalated, in
3 this situation. That's all.

4 THE COURT: All right.

5 State.

6 MR. NORRIS: Your Honor, as Mr. Hofferth
7 elaborated on a good bit, this stop never deviated
8 from the standard way a stop would quote, unquote, go
9 down in this situation. The officer testified that
10 he had valid safety concerns. Which was the reason
11 that he asked The Defendant to get out of the car.
12 Mrs. Williams said that The Defendant was asked to
13 put his hands on the hood. But that was only after
14 he gave consent to his person being searched. At the
15 time that The Defendant gave consent to his person
16 being searched, he was not in handcuffs, he was not
17 being restrained in any sort of way, he'd just simply
18 been asked to step out of his car due to safety
19 concerns, as the officer testified to.

20 So The State's position is there's no reason why
21 The Defendant's consent to search would be invalid,
22 at this point. It was totally voluntary. And we'd
23 ask that The Court deny The Defendant's motion to
24 suppress.

25 THE COURT: And as far as the equal protection

1 argument?

2 MR. NORRIS: Oh, Your Honor, Mr. Henderson, was
3 found in possession of \$700. That's definitely more
4 than I carry around. So I don't think that there's a
5 issue with him being discriminated against due to him
6 being insolvent.

7 MRS. WILLIAMS: May I address that, Your Honor?
8 My client is indigent. Hence, his representation by
9 the public defender's office. Mr. Henderson does not
10 have a bank account, those were -- that's his
11 personal money. He had gotten a title loan, he was
12 going to purchase a truck in the near future, which
13 is why he had that sum of money. He, also, had just
14 got paid from his job. As I mentioned, he doesn't
15 have a bank account. Which is a common theme among
16 our clients at the public defender's office. Which
17 goes to the amount of money he had on his person.
18 Which \$700 nowadays might get you groceries for a
19 couple of weeks.

20 But beside the point, he was in bad part of town
21 because that's all he could afford. He was in a bad
22 place because that's all he could find. He was
23 driving a car that wasn't the nicest, newest car and
24 he was targeted for that. He was watched, as the
25 deputy said. I was watching the Sun Inn. This is

1 what I wanted to see.

2 And as far as The State's argument about this is
3 how normal traffic stops go. Your Honor, I'm not
4 sure of a traffic stop for no tag lights, where it's
5 common for the officer just to pull someone out of
6 the car. And I would just pose that question to The
7 Court.

8 THE COURT: State.

9 MR. NORRIS: Judge, the reason for this stop was
10 that Mr. Henderson violated a traffic offense.
11 That's was the sole reason for the stop. There's no
12 evidence that he was targeted because of his means or
13 anything like that. In fact, this wasn't even his
14 car that he was driving, it was a friend's car. And,
15 Judge, the fact that the officer asked Mr. Henderson
16 to get out of the car, that was a lawful command,
17 especially, under the circumstances. The State's
18 position is that law enforcement can legally ask
19 people that have been pulled over to get out of the
20 car, basically, any time they wish.

21 THE COURT: Okay, anything else?

22 MRS. WILLIAMS: Nothing further, Your Honor.

23 MR. NORRIS: Nothing from The State.

24 THE COURT: All right, let's see, it's 1:20.

25 It's a little bit more than a hour. Very thorough.

1 MRS. WILLIAMS: I apologize.

2 THE COURT: Hey, listen, there's nothing wrong
3 with taking as much time as you need. Okay, I will
4 take this under advisement and then I will, I guess,
5 meet y'all back here at 2:30.

6 MRS. WILLIAMS: Sounds good.

7 MR. NORRIS: Sounds great.

8 THE COURT: Good.

9 MR. NORRIS: Thank you, Judge.

10 THE COURT: Thank y'all.

11 (WHEREUPON, a lunch break was taken.)

12 (WHEREUPON, State's Exhibits Nos. 1-4 were
13 marked for identification only.)

14 THE COURT: Mrs. Williams, thank for you
15 thorough argument.

16 The State, thank you for your thorough
17 arguments.

18 Okay. I've already made a finding on the record
19 that it was a legal traffic stop. Not -- because he
20 was in violation of South Carolina law, I've already
21 made that previous, I guess, decision. And, I mean,
22 I have listened and you did make extremely thorough
23 arguments but I do not find that Officer Bradley
24 exceeded the scope of the traffic stop and so I am
25 finding that there is no unlawful secondary detention

1 and no Fourth Amendment violation. And then I find
2 that The Defendant's consent was voluntary and not
3 under a unlawful detention.

4 As far as your equal protection argument, I
5 don't really -- how is he -- I'm denying it but how
6 would you be arguing that he is some kind of
7 protected class? I just want to make sure that I
8 wasn't missing something.

9 MRS. WILLIAMS: I was just arguing due to his
10 financial status and where he was having to live,
11 that he was--

12 THE COURT: And how would he even know his
13 financial status?

14 MRS. WILLIAMS: Because of where he was living.
15 I don't think anyone would choose to live at the Sun
16 Inn if they had other choices to--

17 THE COURT: Well, he just knew that he was
18 leaving there in a vehicle.

19 MRS. WILLIAMS: Correct.

20 THE COURT: Okay. And I totally understand you
21 being thorough and protecting the record. But I
22 don't buy the equal protection argument. So I'm
23 going to deny that and you are protected for the
24 record.

25 MRS. WILLIAMS: Thank you, Your Honor.

1 THE COURT: Anything else that we need to take
2 up before?

3 MR. NORRIS: Nothing from The State. Just on
4 the record, we'd like to bring light to the
5 Stipulation Order that was provided to Your Honor.
6 It's been -- it should be in your court file, it's
7 filed with the clerk of court.

8 THE COURT: I do need a copy of that.

9 MR. NORRIS: Okay.

10 THE COURT: And then what I need to do is just
11 leave that up to y'all to tell me when. Sometimes
12 with stipulations, I don't need to necessarily read
13 it into the record. But, in this case, since it's
14 more of a, I guess, a validity to what was tested and
15 then, also, no issue as far as chain of custody.

16 MRS. WILLIAMS: Correct, Your Honor.

17 THE COURT: So y'all guide me on when it would
18 be appropriate and how you wish to do that. I don't
19 know whether that's something that y'all normally
20 have done at, right after, you know, at the end of
21 your, you know, just before you rest or -- you just
22 let me know, okay?

23 MR. NORRIS: Okay.

24 THE COURT: I'm sure -- any objection to the
25 timeliness or when it's done?

1 MRS. WILLIAMS: Correct and I've made that clear
2 to Mr. Norris.

3 THE COURT: And I know that y'all discussed that
4 in the conference call.

5 MR. NORRIS: I got a clock copy for The Court.

6 THE COURT: All right. Any other findings of
7 facts or any findings that I need to make concerning
8 any of the motions that have been filed?

9 MR. NORRIS: Nothing from The State.

10 MRS. WILLIAMS: Nothing from The Defense as far
11 as that goes. I do have one very brief issue. Your
12 Honor, I note during the pre-trial motions it came up
13 that there was about \$740 found on Mr. Henderson's
14 person. We would just ask that any mention of that
15 be suppressed. Due to the fact that it was not
16 obtained as part of evidence from Deputy Bradley.
17 Your Honor, we're arguing that under Rule 303. It's
18 very prejudicial to the charge at hand. Obviously,
19 The State didn't find it important during the traffic
20 stop and/or related to the drug activity, which they,
21 ultimately, arrested Mr. Henderson for. And they
22 didn't take it into evidence. It's the Defense's
23 position that it would confuse the jury as to what is
24 actually in evidence and what The State has actually
25 shown as their case in chief.

1 THE COURT: Your argument is the probative value
2 is substantially outweighed by unfair prejudice by
3 allowing any mention of the \$700 into evidence?

4 MRS. WILLIAMS: Yes, Your Honor.

5 THE COURT: State?

6 MR. NORRIS: Your Honor, I'd be fine to exclude
7 that if this were a simple possession case. However,
8 The State intends to prove possession with intent to
9 distribute. This is very relative evidence to The
10 State's argument that Mr. Henderson intended to
11 distribute the drugs. It's our position that the
12 probative value, in this case, is substantial. And
13 we would ask that you deny The Defense's motion.

14 THE COURT: Can y'all approach?

15 (WHEREUPON, an off-the-record bench conference
16 was held.)

17 THE COURT: Okay, you made your argument that it
18 would be substantially, I guess, outweighed by unfair
19 prejudice. And I was going to hear back from y'all
20 on that.

21 MR. NORRIS: Judge, we feel that the existence
22 of this money in Mr. Henderson's possession is
23 crucial to our argument of possession with intent to
24 distribute. The weight of the drugs alone creates a
25 presumption of intent to distribute here. However,

1 that presumption can be rebutted. So The State
2 intends to use all the evidence that we can to
3 support our position of intent to distribute. Cash,
4 drugs, go hand in hand in drug dealing. And we feel
5 like this is not prejudicial, it's just cash. It's
6 just not something that prejudices their client. And
7 we'd ask you to deny the motion.

8 THE COURT: Okay, you're protected on the record
9 but I'm going to find that the probative value is not
10 substantially outweighed by any unfair prejudice.
11 And I will allow this evidence concerning the \$700
12 found on his person and observed come into evidence.

13 MR. NORRIS: Thank you, Your Honor.

14 THE COURT: Anything else? Y'all ready to
15 proceed?

16 MR. NORRIS: Yes, Judge.

17 MRS. WILLIAMS: Yes, sir.

18 THE COURT: Anything from The Defense?

19 MRS. WILLIAMS: Nothing further from The
20 Defense.

21 THE COURT: Okay. Y'all are good?

22 MR. NORRIS: Yes, Judge.

23 THE COURT: All right, you can bring the jury
24 in.

25 The only other thing I would say is that, like,

1 when it's going to be as extensive for a young Judge
2 here, not in age but wet behind the ears, it would be
3 great to have, like, that more briefed. I understand
4 some of it's trial strategy but, you know, just to
5 give me an opportunity to thoroughly digest things.

6 MRS. WILLIAMS: Of course.

7 THE COURT: We do have a foreperson chosen,
8 number 209, Terri Slattery. And I'll mark this in
9 just a second.

10 (WHEREUPON, Court's Exhibit No. 2 was marked for
11 identification only.)

12 (WHEREUPON, the jury came into open court at
13 approximately 2:46 p.m.)

14 THE COURT: Swear the jury.

15 THE CLERK: Please stand and raise your right
16 hand.

17 (WHEREUPON, the jury was sworn.)

18 THE CLERK: Thank you, please have a seat.

19 THE COURT: Okay, I understand, Mr. Slattery,
20 that you're to serve as our foreperson?

21 MR. FOREPERSON: Yes.

22 THE COURT: Okay, thank you.

23 I'm going to mark this. I did write foreperson
24 underneath, just for the record. There you go.

25 Okay, ladies and gentlemen of the jury, you are

1 now the jury in this case and I'm going to take a few
2 minutes to tell you something about your duty, the
3 duty that you'll have as jurors and give you some
4 instructions. At the end of the trial, I'll give you
5 more detailed instructions. Those instructions will
6 control your deliberations. The criminal case has
7 been brought by The State of South Carolina and I
8 will sometimes refer to The State as The Government
9 or The Prosecution. The State is presented at this
10 trial by Solicitor Adam Norris and Jacob Hofferth.

11 MR. HOFFERTH: Hofferth.

12 THE COURT: Hofferth, close.

13 The Defendant is represented by his lawyer
14 Attorney, Katelyn Williams and Mr.?

15 MR. ZUSCHKE: Zuschke, Your Honor.

16 THE COURT: Okay. Two challenging names.

17 The Defendant, in this case, has been charged by
18 The State with possession of methamphetamine with
19 intent distribute. The charge against Robert Allen
20 Henderson, Jr. is contained in the indictment, which
21 I previously read earlier. The indictment is simply
22 the description of the charge against Mr. Henderson.
23 It is not evidence of anything and The Defendant
24 pleaded not guilty to the charge and he denies
25 committing the crime. He is presumed innocent and

1 may not be found guilty by you, unless all of you
2 unanimously find that The State has proven his guilt
3 beyond a reasonable doubt.

4 South Carolina law makes the jury the finders of
5 the facts. And you 12, alone, are the finders of the
6 facts. It will be your duty to decide from the
7 evidence what the facts are. You will hear the
8 evidence, decide what the facts are and then you will
9 apply those facts to the law that I give you at the
10 close of the case. That is how you will reach your
11 verdict. And in doing so, you must follow the law,
12 whether you agree with it or not.

13 The evidence will consist of the testimony of
14 witnesses, documents and other items received into
15 evidence as exhibits and any facts on which the
16 lawyers agree or stipulate. The same law makes you
17 the 12 finders of the facts, makes me the judge of
18 the law. And our rules of evidence control what can
19 be received into evidence when a lawyer asks a
20 question or offer an exhibit into exhibit and a
21 lawyer on the other side thinks it's not permitted by
22 the rules of evidence, that lawyer may object. This
23 simply means that the lawyer's requesting that I make
24 a decision on a particular rule of evidence.

25 South Carolina law forbids a trial judge from

1 making a comment to the jury about the facts in a
2 case. Therefore, because it may be necessary for me
3 to comment on a fact in applying our rules of
4 evidence, it may be necessary for me to talk with the
5 lawyers out of your hearing. Sometimes I'll do that
6 by having a bench conference, where I'll bring the
7 attorneys up, while you remain present in the
8 courtroom or by excusing you from the courtroom. The
9 purpose of these conferences is to decide how certain
10 evidence is to be treated under the rules of evidence
11 and to avoid confusion and error.

12 There are certain things that are not in
13 evidence. Statements, arguments, questions and
14 comments by lawyers representing the parties in the
15 case are not evidence. Objections are not evidence.
16 Lawyers have a duty to their client to object when
17 they believe something is improper under the rules of
18 evidence. You should not be influenced by the
19 objection. If I sustain an objection you must ignore
20 the question or exhibit and must not try to guess
21 what the answer might have been or the exhibit might
22 have contained. If I overruled the objection, the
23 evidence will be committed but do not give it special
24 attention because of the objection. Testimony that I
25 strike from the record or tell you to disregard is

1 not evidence and must not be considered. Anything
2 you see or hear about this case outside the courtroom
3 is not evidence, unless I, specifically, tell you
4 otherwise during the trial of this case.

5 Finally, some of you may have heard the terms
6 direct evidence and circumstantial evidence. Direct
7 evidence is testimony by a witness about what that
8 witness personally saw, heard or did. Circumstantial
9 evidence is indirect evidence. That is it is proof
10 of one or more facts from which one can find or infer
11 another fact. You may consider both direct and
12 circumstantial evidence. The law permits you to give
13 equal weight to both. But it is for you to decide
14 how much weight to give to any evidence.

15 In deciding what the facts are, you may have to
16 decide what testimony you believe and what testimony
17 you do not believe. You may believe everything a
18 witness says or only part of it or none of it. In
19 deciding what to believe, you may consider a number
20 of factors, including the following. The witness'
21 ability to see or hear or know the things the witness
22 testifies to, the quality of the witness' memory, the
23 witness' manner while testifying, whether the witness
24 has a interest in the outcome of the case or any
25 motive, bias or prejudice. Whether the witness is

1 contradicted by anything the witness said or wrote
2 before trial or by other evidence. And how
3 reasonable the witness' testimony is when considered
4 in light of the other evidence which you believe.

5 It is my responsibility to rule as a matter of
6 law, as to whether certain testimony is admissible.
7 But once that testimony is admitted, whether or not
8 you believe it, is solely for you to determine. To
9 ensure fairness, you, as jurors, must not talk among
10 yourselves about this case or about anyone involved
11 with it until the end of the case when you go to the
12 jury room to decide your verdict. Do not talk with
13 anyone else about this case or about anyone who has
14 anything to do with it until the trial has ended.
15 And you have been discharged as jurors.

16 Anyone includes members of your family and your
17 friends. You may tell them that you are a juror but
18 do not tell them anything about the case until after
19 you have been discharged as a juror. Do not let
20 anyone talk to you about the case or about anyone who
21 has anything to do with it. If someone should try to
22 talk to you, please report it to me, immediately.
23 During the trial do not talk with or speak with any
24 of the parties, lawyers or witnesses involved in this
25 case. You should not even past the time of day with

1 any of them. And it's important not only that you do
2 justice in this case, but that you, also, give the
3 appearance of doing justice.

4 If a person from one side of the case sees you
5 talking to a person from the other side, even if it
6 is simply to pass the time of day, an unwarranted and
7 unnecessary suspicion about your fairness might be
8 aroused. If any lawyer, party or witness does not
9 speak to you when you pass them in the hall, ride on
10 the elevator or the like, it is because they are not
11 supposed to talk to or visit with you. Based on my
12 instructions.

13 Do not read any stories or articles about the
14 case or about anyone involved with it or listen to
15 any radio or television reports, if any, about the
16 case or anyone involved with it. Do not do any
17 search on the internet about anything in the case or
18 consult blogs or dictionaries or any other reference
19 materials and do not make any investigation about
20 this case on your own. Do not make up your mind
21 about what the verdict should be until after you have
22 gone to the jury room to discuss this case with your
23 fellow jurors. And keep an open mind until then and
24 I have instructed you to begin deliberating.

25 I'm often asked about note taking, you're not

1 able to take notes during the trial of this case.
2 And the reason for that is I want you to pay close
3 attention to each witness as he or she testifies and
4 not be fixated on taking copious notes.

5 The first step in the trial will be the opening
6 statements. The State in its opening statement will
7 tell you about the evidence that it intends to put
8 before you so that you will have an idea of what The
9 State's case is going to be. Just as the indictment
10 is not evidence, neither is the opening statement
11 evidence. Its purpose is only to help you understand
12 what the evidence will be and what The State will try
13 to prove. And after The State's opening statement,
14 The Defendant's attorney may, if she chooses, make an
15 opening statement. At this point in the trial, no
16 evidence has been offered by either side.

17 And next, The State will offer evidence that it
18 says will support the charge against The Defendant.
19 The State's evidence, in this case, will consists of
20 testimony of witnesses and may have include
21 documents, other exhibits or stipulations.

22 I remind you that The Defendant is presumed
23 innocent. And The State must prove the guilt of The
24 Defendant beyond a reasonable doubt. The Defendant
25 does not have to prove its innocence. And after you

1 have heard all the evidence on both sides, The State
2 and The Defense will each be given time for their
3 final arguments. I just told you that the opening
4 statements by the lawyers are not evidence and the
5 same applies to the closing arguments. They are not
6 evidence. In their closing arguments, the lawyers
7 for each side will attempt to summarize and help you
8 understand the evidence that was presented.

9 The final part of the trial occurs when I
10 instruct you about the rules of the law that you are
11 to use in reaching your verdict. And after hearing
12 my instructions, you will leave the courtroom
13 together to make your decisions and I will inform you
14 you can begin deliberating.

15 And it is your added duty, Madam Foreperson, to
16 preside in the jury room and be the jury's
17 spokesperson here in court. It will, also, be your
18 duty to write the verdict but I will give you first
19 instructions about that at the conclusion of the
20 case. And we will now begin the trial.

21 OPENING STATEMENT

22 MR. NORRIS: The reason we're here today is
23 Mr. Robert Henderson, the man sitting at the end of
24 that table, you will hear me refer to as Defendant,
25 is a meth dealer. He is a meth dealer who got caught

1 transporting his supply. Back on January 6, 2022,
2 The Defendant was pulled over for not having a
3 taillight at night. That's illegal in South
4 Carolina. He was leaving the Sun Inn in Easley. You
5 might drive pass it out on Highway 123. It's known
6 by law enforcement to be a drug spot, quote, unquote,
7 meaning drug transactions are known to take place
8 there.

9 He was the sole occupant of his vehicle when he
10 was pulled over and immediately started acting
11 suspicious when law enforcement approached him. Law
12 enforcement asked him to see his paperwork, he
13 provides wrong paperwork, not what law enforcement
14 asked for. Deputy Bradley was the arresting officer,
15 you'll hear from him. And with it being late at
16 night and all the circumstances at play, Deputy
17 Bradley decides that it's best to ask Mr. Henderson,
18 The Defendant, to step out of the vehicle due to
19 safety concerns. And then Deputy Bradley asks
20 Mr. Henderson if it's okay to search his person to
21 feel for weapons and that kind of thing. And if it's
22 okay to go in his pocket. Of which The Defendant,
23 Mr. Henderson, says, yes, it okay.

24 And law enforcement almost immediately finds
25 over 3 grams of methamphetamine in Mr. Henderson's

1 pocket, along with a lump of cash, a little over
2 \$700. And Mr. Henderson does admit to law
3 enforcement that the substance in the bag is, in
4 fact, methamphetamine.

5 Now, you'll hear more about this later but in
6 South Carolina, the law states that possession of
7 over one gram of methamphetamine is prima facia
8 evidence of intent to distribute. We call that the
9 inference weight. Meaning that if a person possess
10 over one gram, you as the finders of fact, can infer
11 that person to have the intent to distribute. In
12 this case, the amount methamphetamine found on
13 Mr. Henderson was over three times of what the
14 inference weight is by law. So the inference weight
15 is one gram, he had over three grams. Also, over
16 \$700 cash.

17 We want you to look at all the circumstances at
18 play in this case and find that Mr. Henderson
19 intended to deal the meth that he was in possession
20 of and find him guilty of possession with intent to
21 distribute methamphetamine. And we'll ask you for a
22 guilty verdict at the end of this trial. Thank you.

23 THE COURT: Counsel.

24 OPENING STATEMENT

25 MRS. WILLIAMS: May it please the Court.

1 As you've heard The Judge say and The State
2 says, it's their burden to prove Mr. Henderson guilty
3 beyond a reasonable doubt. That's every element of
4 this charge. That includes that he knew that it was
5 there. That he knew it was in his control. And that
6 it was over one gram.

7 Mr. Henderson walked in here innocent. And he's
8 going to remain so until The State meets that burden
9 of proof beyond a reasonable doubt. What does that
10 mean? It means proof that will justify a reasonable
11 person not to hesitate to act. If you have a doubt
12 that causes you to hesitate to act, that is
13 reasonable doubt. Proof beyond a reasonable doubt is
14 the highest standard in our judicial system. He
15 doesn't have to show anything here today. He has no
16 burden, he's innocent. He doesn't have to show
17 anything right now to prove that he's innocent.

18 Pay attention to what they have. Pay attention
19 to what The State puts into evidence. You're going
20 to see body camera from an officer, you're going to
21 hear his testimony. You're, also, going to see that
22 The Defense stipulated to drugs. We said yeah, when
23 SLED analyzed those drugs, it came back as
24 methamphetamine, we're not arguing that. And we're
25 not arguing that it was 3.53 grams. 3.53 grams is a

1 eight ball of meth. A common reference to meth is an
2 eight ball.

3 Pay attention to what they have. The State
4 reference money. A lot of it. Well, depending on
5 how much you spend on your weekly grocery bill, \$700
6 give or take. That's not going to be in evidence.
7 Because they didn't seize it. And the deputy didn't
8 seize it because he didn't think it was part of a
9 drug crime. But now, The State wants you to believe
10 that it had to do with his intent to distribute. But
11 the officer, who is trained, didn't think so, at the
12 time. He, actually, gave it back to him. He had it
13 in his property when he was arrested.

14 Pay attention to what they don't have. Because
15 that's where you're going to find your reasonable
16 doubt. As I mentioned, they have to prove every
17 element of this crime for you find Mr. Henderson
18 guilty. And I would pose to you that they won't be
19 able to do that. We ask you that you hold The State
20 to their very high burden. And it's a very high
21 because of the consequences that come from it. Thank
22 you.

23 THE COURT: State.

24 MR. NORRIS: State calls Deputy Bradley.

25 THE CLERK: Place your left hand on the Bible,

1 raise your right hand.

2 TERRY BRADLEY, after being duly

3 sworn{,} testified as follows:{F}

4 THE CLERK: Thank you, please have a seat.

5 State your name for the record.

6 THE WITNESS: Deputy Terry Christopher Bradley.

7 DIRECT EXAMINATION

8 BY MR. NORRIS:

9 Q And what do you do, Deputy Bradley?

10 A I'm a deputy with The Anderson County Sheriff's
11 Office?

12 Q Okay. And where were you employed in January of
13 2022?

14 A With The Pickens County Sheriff's Office.

15 Q Okay. What was your role there?

16 A I was a deputy assigned to the uniform patrol
17 division, where I routinely patrolled the area for crime.

18 Q How long had you been in law enforcement, at
19 that point in time?

20 A At that time of '22, roughly, about three and a
21 half, four years.

22 Q Okay. And what training did you undertake up
23 until that time?

24 A I had completed the criminal justice academy,
25 where I went through 12 weeks down there at the academy in

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 Columbia. And then drug identification class and the
2 [indiscernible] narcotics class.

3 Q And what did you learn in drug identification
4 class?

5 A I learned to identify different types of
6 narcotics based on what they look like, from anything from
7 marijuana to methamphetamine, cocaine, cocaine, crack
8 cocaine, heroin, Fentanyl, Carfentanil and various
9 different types of pills.

10 Q When did you complete that training?

11 A 2021.

12 Q Was that -- did you have to go to Columbia for
13 that, too?

14 A It was a -- it was a South Carolina Criminal
15 Justice Academy class. I did not go to Columbia. They
16 hosted it at Tri-County Tech in Easley.

17 Q Okay. So you were working on January 6th, 2022;
18 correct?

19 A Yes, sir.

20 Q And what shift were you working that day?

21 A I was on nights, so I was third shift.

22 Q Okay. What were the hours for night shift?

23 A It's from 6:00 at night until 6:00 in the
24 morning.

25 Q And did you have any -- did you make any arrest

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 that night?

2 A Just the one we're here for.

3 Q Okay. Tell us about that.

4 A So on January 6, 2022, at approximately 10:30,
5 11 o'clock at night, I was sitting observing the Sun Inn
6 in Easley. And where I was located at to observe the Sun
7 Inn was across a four-lane highway of 123. So where I was
8 sitting, I was sitting facing the Sun Inn. And all I
9 could see was the entrance of the Sun Inn. When I
10 observed the white Toyota Corolla pull out of the Sun Inn
11 with no tag lights.

12 When it did, I immediately got behind it
13 and conducted a traffic stop at 123 and Kay Drive.
14 Basically, I started out by letting dispatch know I was
15 going to conduct this traffic stop. The final resting
16 stop of that was at Kay Drive, just past [indiscernible]
17 School Road. I exited my marked patrol vehicle, made
18 contact with the sole occupant of the vehicle, Mr. Robert
19 Henderson.

20 Q Is he here?

21 A He is.

22 Q Can you point him out for us?

23 A (The witness indicates.)

24 Q Okay. And where did this take place, Easley?

25 A Yes, sir.

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 Q Is that in Pickens County?

2 A It is.

3 Q Okay. Continue, please.

4 A So I made contact with him. Asked him for
5 license, registration, proof of insurance. He handed me
6 his driver's license and when I asked for his
7 registration, he handed me a DMV piece of paper, a regular
8 piece of white copy paper, which was DMV paperwork. I
9 advised him that was not the registration. He continued
10 searching around for it. As he was doing it, he was
11 nervous, his hands were shaking. He finally handed me the
12 registration. I advised him that that was the
13 registration.

14 I then asked him if there was anything
15 illegal in the vehicle I need to know about? And I
16 proceeded to say any guns, drugs, knives, hand grenades
17 weapons of mass destruction, flamethrowers or dead bodies.
18 We kind of joked around about the last one.

19 He said, No.

20 I asked him for consent to search the
21 vehicle. To which he granted me consent. So, at that
22 time, I had him step out of the vehicle and walk back
23 towards my patrol vehicle. Once outside the vehicle, due
24 to safety reasons and the close proximity that me and him
25 would be in, I asked for consent to search his person. To

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 which he granted consent.

2 Before I even started my search of him, I
3 asked again, Hey, do you have any problem with me going
4 inside your pockets?

5 To which he stated, No.

6 Immediately when he did that, I went in the
7 right jacket pocket of the big black coat he had on. And
8 when I did that, I pulled out a clear plastic bag with
9 white crystal-like substance. As soon as I did that, I
10 placed Mr. Henderson in handcuffs and advised him that he
11 was under arrest. And asked him if he knew why he was
12 under arrest?

13 He stated, Yes, for methamphetamine.

14 Q Okay. So you said he was the only one in the
15 vehicle?

16 A That's correct.

17 Q And what time was it, approximately?

18 A Approximately, 10:30, 11 o'clock at night.

19 Q At night?

20 A Yes, sir.

21 Q Okay. And then you said you pulled him over for
22 not displaying a tag light?

23 A Yes, sir. The tag light was not illuminating
24 the tag.

25 Q That's a traffic violation in South Carolina?

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 A That's correct.

2 Q Okay.

3 A It wasn't until I, actually, got behind him with
4 my headlights and illuminated the tag that I could,
5 actually, make out what the tag says. As far as it
6 stating [REDACTED].

7 Q What was his overall demeanor when you first
8 made contact with Mr. Henderson?

9 A When I first made contact with him, I could tell
10 that he was nervous due to the fact his hands were
11 shaking, he was smoking a cigarette. He -- he was just
12 overall nervous and kind of antsy.

13 Q Did you ask him for proof of insurance?

14 A I did.

15 Q Okay.

16 A And he had -- even after he was outside the
17 vehicle, I still had not received that insurance.

18 Q Is it standard to look up somebody's license
19 plate number when you pull them over?

20 A Up until that point, we can run them in our
21 vehicle. But at distance from when I seen the traffic
22 violation and to when I, actually, stopped him, I did not
23 have time to do that. So I called it out over the radio.

24 Q After you had pulled him over; right?

25 A Correct.

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 Q And did it take a little while for that to come
2 back?

3 A It did.

4 Q Okay. And from the time you pulled
5 Mr. Henderson over, to the time that you found the meth in
6 his pocket, how much time elapsed?

7 A A couple minutes, no more than like three, four
8 minutes.

9 Q When you looked up the info on the vehicle, was
10 it registered to Mr. Henderson or another person?

11 A It was registered to another person.

12 Q Okay. And then why were you patrolling around
13 the Sun Inn to begin with?

14 A So when I initially got assigned that area, I
15 was told that the Sun Inn was known for, basically, a high
16 crime area, so to speak. From anything from stolen
17 property being there to drug activity being there.

18 Q Okay. Earlier today, I believe you reviewed a
19 video; is that correct?

20 A Yes, sir.

21 Q And the video's on this thumb drive, are you
22 able to see that thumb drive?

23 A Yes, sir.

24 Q Is it a fair -- did you take that video?

25 A Yes, sir.

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 Q Was it a body cam?

2 A It was captured on body cam, yes, sir.

3 Q Okay. And that is a fair and accurate depiction
4 of what happened during this incident?

5 A Yes, sir.

6 MR. NORRIS: Your Honor, at this time, The State
7 moves to introduce the video. I think we'll have to
8 remark it or will it come in as Defendant's Exhibit
9 1, since that was what it was at a hearing earlier?

10 THE COURT: Counsel.

11 (WHEREUPON, an off-the-record bench conference
12 was held in the presence of the jury but out of
13 the hearing of the jury.)

14 MR. NORRIS: It's been marked as Defense Exhibit
15 1, so we move to introduce as Defendant's Exhibit 1.

16 THE COURT: Okay.

17 Counsel.

18 MRS. WILLIAMS: No objections except for those
19 made during pretrial motions.

20 THE COURT: Okay.

21 MR. NORRIS: Permission to publish.

22 THE COURT: Sure.

23 MR. NORRIS: Thank you.

24 THE COURT: Admitted without objection.

25 (WHEREUPON, Defendant's Exhibit No. 1 was

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 admitted into evidence.)

2 BY MR. NORRIS:

3 Q I'm going to play your video, if anything stands
4 out during that stop, just let me know and I can pause it.

5 (WHEREUPON, Defendant's Exhibit No. 1 was
6 published.)

7 BY MR. NORRIS:

8 Q Okay. And where was that cash when you found
9 it?

10 A Located the cash in his left front pocket, if I
11 remember correctly.

12 Q Okay. Is there a reason you didn't collect
13 that?

14 A Yes. So for it being \$700, I could have legally
15 seized it based on the fact that the weight of the
16 narcotics was over 3-grams. I could have seized it. But
17 when it comes down to the seizure versus the court, as far
18 as going to civil court, in order to be able to take that
19 money, it comes to like a risk/reward type scenario.
20 Because I could have seized the vehicle, as well. Because
21 it was in commission of a crime.

22 Q But it's not because that you didn't think it
23 was related to the drugs?

24 A Correct.

25 Q It's just a judgment call on your part--

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 A Correct.

2 Q -- during the investigation. And then, you saw
3 the money there in the video, that was the same money you
4 found on him; correct?

5 A That is correct.

6 Q And then the meth itself, what did do with the
7 meth after you found it in his pocket?

8 A After I found it in his pocket, it never was out
9 of my sight. So anytime -- in the video you'll see
10 anytime I move, the meth goes with me wherever I go. That
11 way, I never lose that chain of custody. So even from
12 there, once I get him to the jail, it's still with me in
13 my possession. Then, ultimately, when I get back to the
14 sheriff's office to do my paperwork, I put it in the BEST
15 Kit and seal it up.

16 Q What's a BEST Kit?

17 A BEST Kit is, basically, a clear bag that is
18 sealed with the tampered tape. Basically, once it's
19 sealed, if I have to reopen it, I have to do a completely
20 new BEST Kit. But it controls the chain of custody, it
21 controls who it goes to, when it goes to SLED for testing.
22 SLED is the ones who opens it up.

23 Q Okay. So somebody there at SLED tested it?

24 A Correct.

25 Q Have you seen the results from that SLED

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 analysis?

2 A No, sir, I have not.

3 Q Okay, let me show that to you. It's been
4 premarked as State's Exhibit No. -- let's see, I got it
5 over here. This document has been premarked as State's
6 Exhibit 2, is that the analysis from this case?

7 A Yes, sir, it is.

8 Q Based on the date?

9 A Yes, sir.

10 Q Your name on the document as the officer and The
11 Defendant's name?

12 A Yes, sir.

13 Q And what do you learn by reading the analysis?

14 A So from reading the analysis, it has the BEST
15 Kit number, which is what we refer to as the control
16 number. It's on every BEST Kit and it reads, B350264.
17 And that's for documentation purposes. So it can maintain
18 a good chain of custody. Even when I fill out the
19 paperwork for the BEST Kit, I have to write that number on
20 the BEST Kit paperwork. Furthermore, it states that a
21 crystal substance was submitted. And the results were
22 methamphetamine found in the sample tested, one test, net
23 weight, 3.53 grams. Confidence level of the weight is
24 99.7 percent.

25 Q Do you know what happened to the meth after it

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 was tested?

2 A That I do not know. That would be up for the
3 forensic's department.

4 Q And is this the meth that was collected that
5 day?

6 A Yes, sir.

7 MR. NORRIS: Judge, The Defense and The State
8 have stipulated to the accuracy of the SLED lab, as
9 well as the chain of custody. Both the county chain
10 of custody and the SLED chain of custody, we move to
11 introduce State's -- premarked State's Exhibit No. 3
12 and 4 into custody -- I'm sorry, into evidence.
13 Additionally, would move to introduce the physical
14 evidence, the methamphetamine that's not been
15 premarked into evidence.

16 THE COURT: You need to mark it.

17 (WHEREUPON, State's Exhibit No. 5 was marked for
18 identification only.)

19 MR. NORRIS: Sorry, just to make sure I covered
20 all my basis. State moves to have State's Exhibit 2,
21 3, 4 and 5 introduced into evidence.

22 THE COURT: Okay, what, for the record, what is
23 No. 2?

24 MR. NORRIS: Number two is the SLED drug
25 analysis.

TERRY BRADLEY-DIRECT BY MR. NORRIS

1 THE COURT: All right, 3?

2 MR. NORRIS: Number 3 is the SLED chain of
3 custody.

4 THE COURT: Four?

5 MR. NORRIS: Number 4 is the SLED submission
6 receipt, forensic services request.

7 THE COURT: Five?

8 MR. NORRIS: And No. 5 is physical evidence, it
9 is, in fact, the 3.5 grams of methamphetamine found
10 on Mr. Henderson.

11 THE COURT: Please show those to Mrs. Williams.
12 Do you have any objection to these coming in?

13 MRS. WILLIAMS: No objection, Your Honor.

14 THE COURT: All right, No. 2, No. 3, No. 4, No.
15 5.

16 (WHEREUPON, State's Exhibits Nos. 2-5 were
17 admitted into evidence.)

18 Can counsel approach quickly?

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of the
21 hearing of the jury.)

22 THE COURT: Okay, ladies and gentlemen of the
23 jury, earlier I referenced that you may have
24 different types of evidence and one of those are
25 stipulations by the parties. So I am just going to

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 tell you now that there's been a stipulation of
2 accuracy and chain, referring to the chain of
3 custody.

4 And this stipulation states, That The State of
5 South Carolina and The Defendant, Robert --
6 Mr. Robert Henderson, Jr., consent to and agree to
7 the following stipulations. One, that SLED lab
8 L22-05357, attached to the stipulation, is true and
9 accurate. Particularly, in that the substance tested
10 was, in fact, methamphetamine. The weight of which
11 was approximately 3.53 grams. Two, that SLED chain
12 of custody, L22-05357 report, attached herein, is
13 true, accurate and complete.

14 MR. NORRIS: Your Honor, The State has no more
15 questions for Officer Bradley.

16 Officer Bradley, please answer any questions
17 that The Defense has for you.

18 THE WITNESS: Yes, sir.

19 CROSS-EXAMINATION

20 BY MRS. WILLIAMS:

21 Q How are you?

22 A Good.

23 Q All right. So you worked with Pickens County
24 Sheriff's Office during this investigation?

25 A Yes, ma'am.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 Q And you've worked there you said for three and a
2 half to four years.

3 A Yes, ma'am.

4 Q And Pickens County Sheriff's Office doesn't have
5 a particular narcotics unit?

6 A Are you asking do they have like a dedicated
7 unit, like that's their job?

8 Q Correct.

9 A Yes, they do.

10 Q They do. And what is that referred to?

11 A So you have a regular narcotic unit staff that,
12 I guess, they investigate bigger, bigger crimes. And then
13 you have what is called the Community Action Team. And
14 their -- they work hand in hand with narcotics. So
15 they're not answering calls like what a regular road
16 deputy would do. So they had more time to sit and do
17 surveillance on certain places and build a case that way.

18 Q Okay. So they kind of fill the lower level
19 narcotics role?

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

21 Q Okay. Are you familiar with how they would do
22 their operations?

23 A No, ma'am. It's kind of one of those things you
24 don't really learn that until you're in their situation.

25 Q That's fair. But you would agree that they do,

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 like, a controlled buys from dealers?

2 A I wouldn't necessarily say the Community Action
3 Team would but I would say narcotics, yes.

4 Q Okay. Do you know, like, when they would do a
5 control buy, how much they would, typically, try to buy at
6 one time?

7 A No, ma'am.

8 Q If I said an eight ball, would you know how much
9 that is?

10 A Yes, ma'am.

11 Q How much is that?

12 A Roughly, about 3 grams.

13 Q Okay, 3.53 grams?

14 A Yes.

15 Q All right. So you made a traffic stop on
16 Mr. Henderson for having no tag lights over his tag?

17 A That is correct.

18 Q And you almost, immediately, pull him out; is
19 that correct?

20 A Yes, ma'am.

21 Q Because he was acting nervous?

22 A Yes, ma'am.

23 Q He was shaking?

24 A Yes, ma'am.

25 Q You asked him, when you first walked up to the

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 window, for his driver's license and his proof of
2 insurance and registration?

3 A Yes, ma'am.

4 Q And so he went for the console?

5 A Yes, ma'am, the glove box, yes, ma'am.

6 Q To get it. Was that suspicious to you?

7 A That's things that people do on a daily basis
8 when I stop cars. They go to that. It does raise red
9 flags because I don't know what's in that locked
10 compartment.

11 Q Okay. But you weren't concerned enough to limit
12 his movement within the vehicle?

13 A No, ma'am.

14 Q So he reached to get his registration, pulled
15 back the wrong thing?

16 A Yes, ma'am.

17 Q But, eventually, he was able to give you that
18 registration?

19 A Yes, ma'am.

20 Q And this wasn't his car?

21 A No, ma'am.

22 Q So he had to make a phone call to get proof of
23 insurance?

24 A That's correct.

25 Q And you were allowing him to make the phone

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 call?

2 A Yes, ma'am.

3 Q Okay. You called for backup during this stop;
4 is that correct?

5 A That is correct.

6 Q And who were the officers that responded as your
7 backup?

8 A Two of which are members of the Community Action
9 Team. One being Deputy Daw and the other one being deputy
10 Cassell.

11 Q So you had yourself trained in narcotics, Deputy
12 Cassell and Deputy Daw, who are part of the narcotics
13 team, the CAT team?

14 A Yes, ma'am.

15 Q So between the three of you, you were pretty
16 well versed in drug activity?

17 A Yes, ma'am.

18 MRS. WILLIAMS: May I approach?

19 THE COURT: Sure.

20 BY MRS. WILLIAMS:

21 Q Showing you what's been marked as State's
22 Exhibit 2, which is the SLED analysis.

23 A Yes, ma'am.

24 Q Does it say on there what the purity of that
25 substance is?

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 A So if -- again, correct me if I'm wrong, okay?
2 When you ask about the purity, are you asking about the
3 confidence level or the weight; is that what you're asking
4 about?

5 Q So you testified earlier that the weight was
6 3.53?

7 A Yes, ma'am.

8 Q Okay, 3.53 grams, that's the weight?

9 A That's correct.

10 Q And then you testified to the confidence level
11 of?

12 A 99.7 percent.

13 Q Okay. All right. And that confidence level
14 goes to the weight?

15 A Yes, ma'am, that's what it says here.

16 Q Okay. But does it say how confident they are
17 that the entire substance is methamphetamine?

18 MR. NORRIS: Objection. Your Honor, this is
19 outside the scope -- I'm sorry.

20 THE COURT: Approach.

21 (WHEREUPON, an off-the-record bench conference
22 was held in the presence of the jury but out of
23 the hearing of the jury.).

24 THE COURT: I'm going to ask y'all to step out.
25 I told y'all that from time to time I may have to do

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 this.

2 (WHEREUPON, the jury left open court at

3 approximately 3:33 p.m.)

4 THE COURT: Thank you. Put your objection on
5 the record.

6 MR. NORRIS: Thank you, Your Honor. The State's
7 position is that the line of questioning that
8 Mrs. Williams is asking Officer Bradley is outside
9 the scope of his knowledge. He does not work for
10 SLED, he's not a chemist, he does not know the
11 details of how these tests work. The Defense
12 stipulated to the SLED lab, for that reason The State
13 didn't call anyone from SLED. We thought that was an
14 attempt to get past having to call people from SLED.
15 And Deputy Bradley's not qualified to testify as a
16 drug expert. If The Defense wants to challenge the
17 validity of that drug lab, we would need someone from
18 SLED to explain how they came up with the results
19 that they did. And The State was under the
20 impression that that was not going to be challenged
21 in this case.

22 THE COURT: Counsel.

23 MRS. WILLIAMS: Thank you, Your Honor. We're
24 simply having Deputy Bradley read what's on that
25 paper or say that something's not on that paper.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 Same as The State did to introduce it. The Defense
2 isn't arguing that it's methamphetamine. We're not
3 arguing that the weight SLED, you know, analyzed--

4 THE COURT: But y'all stipulated to all of that.

5 MRS. WILLIAMS: Right. I'm not disputing that
6 it's 3.53 grams, I'm not disputing their confidence
7 level. The point I'm trying to make is there is no
8 purity analysis on the SLED report. And he can
9 easily tell that from looking at the paper.

10 THE COURT: Okay, and the jury's going to have
11 that, y'all already stipulated to it. You stipulated
12 to the fact that it's meth, you stipulated to the
13 weight. Which, I mean, and I understand why you
14 would. So, I guess, what is the point that you're
15 trying to make?

16 MRS. WILLIAMS: Your Honor, the jury's having to
17 make an inference based on the weight of the drugs.
18 And getting into the understanding of how drugs are,
19 you know, are out on the street, is they're often cut
20 with things and that's pure. That entire substance
21 is probably not methamphetamine, thus --

22 THE COURT: But correct me, if as long as it
23 tested positive for meth, it doesn't matter whether
24 it's been cut a thousand times, does it? I mean,
25 educated me if I'm wrong on that.

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 MR. NORRIS: I believe that's the way the law
2 reads. And additionally, Judge, like I said, Deputy
3 Bradley is not qualified to testify about drug purity
4 or anything they did at SLED. We would need people
5 from SLED to testify to that.

6 THE COURT: My concern is just some confusion to
7 the jury. I'm going to allow you just to ask him
8 just what, specifically, is on there. But I don't
9 want you getting into somehow challenging the purity.
10 I mean, you have already stipulated to the fact that
11 it's methamphetamine.

12 MRS. WILLIAMS: Correct.

13 THE COURT: I mean, which is documented.

14 MRS. WILLIAMS: Correct.

15 THE COURT: I mean, there would not be --
16 there's not any reason why you would once it's been
17 verified.

18 MR. ZUSCHKE: If I may, Your Honor. It's just
19 the same reason the cash is a rebuttable presumption
20 based on the weight. So if we don't know the purity,
21 we don't know if that's one hit of methamphetamine or
22 it that's 20 hits of methamphetamine. I think all
23 she's trying to get at is that it wasn't tested at
24 all. We're not disputing anything that's on the test
25 or anything that they concluded, only pointing out

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 they did not test for purity at all.

2 MR. NORRIS: The report shows that there's three
3 and a half grams of methamphetamine in the bag. And
4 that's all The State needs to prove in terms of the
5 law. So our position is the purity, whether it was
6 tested or not, is immaterial and irrelevant to
7 whether or not he was in possession of three and a
8 half grams of meth, as the law requires.

9 THE COURT: I tend to agree with The State. I
10 mean, I think you're going to be just kind creating
11 confusion with the jury. So I'm going to sustain the
12 objection and ask you to reframe from verifying on
13 purity of the testing.

14 MRS. WILLIAMS: So don't even broach that, just
15 to clarify? Not even asking if that's on the paper
16 or? Not arguing, you don't know how pure it is?

17 THE COURT: Yeah, I don't want you asking it.

18 MRS. WILLIAMS: Period?

19 THE COURT: Period.

20 MRS. WILLIAMS: Okay.

21 THE COURT: So I sustain the objection.

22 MR. NORRIS: Thank you.

23 THE COURT: You can bring the jury back in.

24 (WHEREUPON, the jury entered open court at
25 approximately 3:40 p.m.)

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 THE COURT: You can continue.

2 BY MRS. WILLIAMS:

3 Q So I'm going to withdraw that question. You
4 testified earlier to The State that you didn't seize that
5 700, give or take dollars, because the seizure process is
6 too complicated?

7 A It's not that it's too complicated, it's more of
8 a risk versus a reward. Because when it goes to civil
9 court, they like for it to be over a certain amount,
10 roughly right at a thousand dollars, to qualify being able
11 to go to civil court on that.

12 Q So during pretrial motions I asked you if you
13 thought that was related to the drug offense, you would
14 have seized it?

15 A Correct.

16 Q And you said yes?

17 A Correct.

18 Q And you didn't seize this money?

19 A Correct.

20 Q There was no other reason for this traffic stop,
21 other than no tag lights?

22 A That is correct.

23 Q No speeding, nothing crazy going?

24 A No, ma'am.

25 Q Okay. When you asked Mr. Henderson out of the

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 car, he consented to get out?

2 A Yes, ma'am.

3 Q He didn't hesitate?

4 A No, ma'am.

5 Q When you asked if you could search the car he
6 consented and didn't hesitate?

7 A Yes, ma'am.

8 Q When you asked to pat him down and, eventually,
9 search his pockets, he consented?

10 A Yes, ma'am, both times.

11 Q And didn't hesitate?

12 A No, ma'am.

13 MRS. WILLIAMS: One moment, Your Honor.

14 Q When you searched the car, did you find anything
15 in it?

16 A No, ma'am.

17 Q No scales?

18 A No, ma'am.

19 Q No baggies?

20 A No, ma'am.

21 Q He had a sell phone on him?

22 A That's correct.

23 Q Did you seize that sell phone?

24 A No, ma'am.

25 Q So you didn't search any text messages?

TERRY BRADLEY-CROSS BY MRS. WILLIAMS

1 A No, ma'am.

2 Q Did you -- you said you were watching the Sun

3 Inn?

4 A That's correct.

5 Q Did you observed any sales?

6 A No, ma'am, where I was positioned, all I could
7 see was the entrance. So I could see what vehicles came,
8 would pull in and pull out.

9 Q So you didn't observe any behavior that would
10 make you think he was dealing drugs?

11 A No, ma'am.

12 Q When you talked to Mr. Henderson, did he tell
13 you that he intended to distribute these drugs?

14 A No, ma'am.

15 Q Do you know the street value of an eight ball?

16 A Not off the top of my head.

17 Q If I said 30, \$40, would that sound right?

18 A Roughly, yes, ma'am.

19 Q So no paraphernalia?

20 A No, ma'am.

21 Q No evidence of scales?

22 A (The witness shook his head.)

23 Q No residue?

24 A No, ma'am.

25 Q And you didn't seize the money?

TAYLOR COOK-DIRECT BY MR. HOFFERTH

1 A Correct.

2 MRS. WILLIAMS: No further questions.

3 THE COURT: Redirect?

4 MR. NORRIS: Nothing further from The State.

5 THE COURT: You may step down, sir.

6 MR. NORRIS: Judge, we ask that Deputy Bradley
7 be released from his subpoena.

8 MRS. WILLIAMS: No objection.

9 THE COURT: Without objection, you may be
10 released.

11 MR. HOFFERTH: The State calls its next witness,
12 very brief, very short.

13 THE COURT: Please.

14 MR. HOFFERTH: The State calls Taylor Cook.

15 THE CLERK: Please raise your right hand.

16 TAYLOR COOK, after being duly sworn(,) testified
17 as follows:{F}

18 THE CLERK: Thank you, please have a seat.

19 State your name for the record.

20 THE WITNESS: My name is Taylor Cook.

21 DIRECT EXAMINATION

22 BY MR. HOFFERTH:

23 Q Could you, please, give us your rank and current
24 position with the sheriff's office and describe it for the
25 jury?

TAYLOR COOK-DIRECT BY MR. HOFFERTH

1 A My rank is detective and I work within the
2 forensics division. And aside from forensic work or crime
3 scene processing, we also handle property and evidence.

4 Q What goes into -- so working in property and
5 evidence, what is the typical process you would see in a
6 case like this with a piece of evidence like the
7 methamphetamine, in this case?

8 A In a case like this, the deputy, narcotic agent,
9 detective, whoever, if they seize some evidence, they will
10 it secure in a temporary locker. And sometimes the same
11 date -- a lot of times it's the very next day, when we
12 come back into work, we'll go check or locker and see what
13 kind of evidence is out there. And then we will retrieve
14 it and store it accordingly.

15 Q Does -- does drug evidence get sent to SLED for
16 testing?

17 A It does.

18 Q Did that happen in today's case?

19 A It did.

20 Q And then I assume when it's finished with SLED
21 it gets sent back to the sheriff's office?

22 A It does, it comes back.

23 Q Do y'all keep a record of when it goes out and
24 when it comes back in?

25 A We do.

TAYLOR COOK-DIRECT BY MR. HOFFERTH

1 Q Okay. Is that part of the process you do day in
2 and day out is generate these records for cases just like
3 this one?

4 A That's correct.

5 Q If I showed you that record, would you recognize
6 it for today's case?

7 A I should, yes, sir.

8 Q All right. I'm going to show the witness
9 State's Exhibit 1. Would you, please, describe what I
10 just handed you?

11 A This piece of paper is our chain of custody
12 form. It shows when Deputy Bradley deposited the evidence
13 into the locker. It shows that I received it. Then it
14 shows when and who transferred it out to SLED to be
15 tested.

16 Q Is that a fair and accurate copy of the chain of
17 custody to the sheriff's office in today's case?

18 A That's correct.

19 MR. HOFFERTH: Your Honor, at this time, The
20 State would move into evidence State's Exhibit 1.

21 MRS. WILLIAMS: Without objection.

22 THE COURT: Without objection, number 1 is
23 admitted.

24 (WHEREUPON, State's Exhibit No. 1 was admitted
25 into evidence.)

TAYLOR COOK-DIRECT BY MR. HOFFERTH

1 BY MR. HOFFERTH:

2 Q And that reflects the chain of custody for
3 State's Exhibit five in today's case; right? The
4 methamphetamine?

5 A Can I see that?

6 Q Sure.

7 A That's correct. The case number on this piece
8 of paper matches the case number on this bar code label
9 and the BEST Kit number or the control number matches on
10 what's also on our evidence sheet here.

11 MR. HOFFERTH: Thank you, Detective Cook, I have
12 no further questions for you.

13 MRS. WILLIAMS: I have no questions for this
14 witness.

15 THE COURT: All right, you may step down, sir.

16 MR. NORRIS: Your Honor, The State rests.

17 THE COURT: Okay, you need this?

18 MR. HOFFERTH: Thank you.

19 THE COURT: Okay, ladies and gentlemen of the
20 jury, I am going to send you back to your room. I
21 have some matters of law that I have to take up with
22 the attorneys, then I will be back with you shortly,
23 okay. Thank you. I remind you not discuss this
24 case. Told you I'd be like a broken record.

25 (WHEREUPON, the jury left open court at

1 approximately 3:49 p.m.)

2 MRS. WILLIAMS: Your Honor, may we approach?

3 (WHEREUPON, an off-the-record bench conference
4 was held.)

5 THE COURT: So what was formally Defendant's No.
6 1 is now State's?

7 MR. NORRIS: Number 6, Your Honor.

8 THE COURT: Number 6. And that came in without
9 objection, correct?

10 MRS. WILLIAMS: Correct, Your Honor.

11 (WHEREUPON, State's Exhibit No. 6 was marked for
12 identification and received into evidence.)

13 THE COURT: Okay. Are there any motions from
14 Defense?

15 MRS. WILLIAMS: Your Honor, we would move for a
16 directed verdict, at this time.

17 THE COURT: And your motion is denied. Anything
18 else, at this time?

19 MR. ZUSCHKE: Judge, we think it's an
20 appropriate time to clarify under Rule 609, should
21 The Defendant testify, which we need to have that
22 conversation pretty soon, what evidence will be
23 admissible to impeach him from his prior record.

24 THE COURT: We will and I was getting ready to
25 go over that. I was heading in that direction. I

1 was getting this out.

2 Robert Allen Henderson, Jr., would you please
3 stand?

4 Madam Clerk, will you swear him in, please.

5 THE CLERK: Please raise your right hand.

6 ROBERT HENDERSON, after being duly
7 sworn, testified as follows:

8 EXAMINATION

9 BY THE COURT:

10 Q Okay, and you can sit down if you'd like. All
11 right, sir. Okay, Robert Allen Henderson, Jr., at this
12 time, I'm going to explain to you certain rights you have.
13 If you do not understand anything I say, please let me
14 know. If you want me to explain anything in more detail,
15 please let me know. If you want me to explain anything in
16 more detail, please let me know, do you understand?

17 A Yes, sir.

18 Q We've now reached the stage of the trial where
19 you may present your defense. You have the right to claim
20 the protections given to you by the Fifth Amendment to the
21 Constitution of the United States. And this amendment
22 states in part. No person shall be compelled in any
23 criminal case to be a witness against himself. And this
24 means that you cannot be required to testify in this case.
25 You have the right to testify on your own behalf, however,

ROBERT HENDERSON-EXAMINATION BY THE COURT

1 no one can make you testify. This is a personal right and
2 no one can waive this right except you. If you decide to
3 testify, you will be subject to the same rules that govern
4 other witnesses and you may be examined and cross-examined
5 on any relevant issues in this case. In addition, if you
6 have any convictions involving dishonesty or false
7 statement or for crimes punishable by imprisonment for
8 more than one year and this Court determines that the
9 probative value of admitting this evidence outweighs its
10 prejudicial effect to you, the solicitor will be able to
11 introduce your record to attack your credibility.

12 Have you provided Defense with anything
13 which you plan on attacking his credibility with?

14 MR. HOFFERTH: Your Honor, The State wouldn't
15 intend to bring out prior drug convictions unless we
16 should run into a situation where he testifies and
17 somehow denies knowledge or knowledge of prior
18 convictions or denies having been around
19 methamphetamine before or something of that nature.
20 And if we should run into that, I will make The Court
21 aware of my intention to go down that road and seek a
22 ruling from The Court before I do to avoid any errant
23 questioning.

24 THE COURT: What priors do you have?

25 MR. HOFFERTH: Your Honor, he has a 20 -- he

ROBERT HENDERSON-EXAMINATION BY THE COURT

1 pled in 2018 to possession with intent to distribute
2 meth and trafficking methamphetamine. These were two
3 separate incident dates. I believe were a few months
4 apart but pled at the same time, if I'm not wrong
5 there.

6 MR. NORRIS: Yeah, I believe that's correct. We
7 have certified copies of that, if The Court needs
8 them.

9 THE COURT: Anything else?

10 MR. HOFFERTH: Nothing from The State.

11 THE COURT: Okay. And again, I've not made any
12 ruling on whether or not I would allow that or not
13 allow that in.

14 BY THE COURT:

15 Q But, sir, you need to know that The State would,
16 potentially, raise only this 2018, possession with intent
17 to distribute and trafficking. And if you decide to
18 testify, this decision on your part must be freely,
19 voluntarily and intelligently made with the knowledge of
20 the protections that are given to you by the Fifth
21 Amendment. And the consequences of your decision to
22 testify. And if you decided not to testify, I will
23 instruct the jurors that they cannot give the fact that
24 you did not testify any consideration whatsoever. And
25 that there is to be absolutely no prejudice to you because

ROBERT HENDERSON-EXAMINATION BY THE COURT

1 you did not testify. It is left entirely up to you
2 whether or not you testify. You may talk with your
3 attorneys, your family and your friends. Or anyone else
4 but the final decision will be left entirely up to you.
5 Do you understand what I've explained to you?

6 A Yes, sir.

7 Q Do you have any questions about what I've
8 explained to you?

9 A No, sir.

10 Q And do you want a moment to discuss this with
11 your attorney or any family members?

12 A Yes, sir.

13 THE COURT: Okay. I will allow you to have more
14 time to talk to your attorney and anyone else that
15 you feel like you need to talk with.

16 So we'll take a break. How long do y'all need?

17 MRS. WILLIAMS: Fifteen minutes.

18 THE COURT: Do you need a place to meet?

19 MRS. WILLIAMS: We can just go to my office.

20 THE COURT: Okay. All right. So, like, 15
21 minutes?

22 MRS. WILLIAMS: Fifteen, 20 minutes, yes, sir.

23 THE COURT: Okay, 20 minutes. So it's -- we'll
24 be back here at 4:15.

25 MRS. WILLIAMS: Sounds good. Thank you, Judge.

ROBERT HENDERSON-EXAMINATION BY THE COURT

1 THE COURT: Is there anything you need to take
2 up with me?

3 MRS. WILLIAMS: I don't think so.

4 THE COURT: Okay.

5 (WHEREUPON, a short break was taken.)

6 MRS. WILLIAMS: We have a decision, Your Honor.

7 BY THE COURT:

8 Q Okay, Mr. Henderson, have you had adequate
9 amount of time to talk with your attorney and family
10 members about whether or not you wish to testify or not?

11 A Yes, sir.

12 Q Have you made that decision?

13 A Yes, sir.

14 Q What's your decision?

15 A I'll testify.

16 Q You going to testify?

17 A Yes, sir.

18 THE COURT: Okay, counsel, is that your
19 understanding?

20 MRS. WILLIAMS: That is, Your Honor.

21 THE COURT: Okay. Well, that will help me as
22 far as logistics. Will you have more than him
23 testifying?

24 MRS. WILLIAMS: No, just Mr. Henderson.

25 THE COURT: Okay. And then, I guess, what we'll

ROBERT HENDERSON-DIRECT BY MRS. WILLIAMS

1 do is break for the day, since it's 4:20 and then
2 we'll start back at --

3 April, you like, what, 7:30.

4 THE COURT REPORTER: 9:30, Judge.

5 THE COURT: 9:30. We'll start back at 9:30.

6 But I do, after y'all rests and renew whatever
7 motions, I do want to have just a conference with
8 attorneys, okay?

9 All right, you can bring the jury back out.

10 (WHEREUPON, the jury entered open court at
11 approximately 4:22 p.m.)

12 THE COURT: Okay, Defense.

13 MRS. WILLIAMS: Defense calls Robert Allen
14 Henderson Jr.

15 THE CLERK: Please raise your right hand.

16 ROBERT HENDERSON, after being duly
17 sworn{,}testified as follows:{F}

18 THE CLERK: Thank you. Please have a seat and
19 state your full name for the record.

20 THE WITNESS: Robert Allen Henderson, Jr.

21 DIRECT EXAMINATION

22 BY MRS. WILLIAMS:

23 Q All right, Mr. Henderson. How long have you
24 been using meth?

25 A Since 2000.

ROBERT HENDERSON-DIRECT BY MRS. WILLIAMS

1 Q And what started that?

2 A I used methamphetamine to get off other drugs.

3 Q And what initiated you being on other drugs?

4 A Marijuana.

5 Q And was there a reason that you used drugs?

6 A My mother was sick, at the time, and used it to
7 escape.

8 Q Do you know how much was in your pocket that
9 day?

10 A Yes, ma'am.

11 Q How much was that?

12 A Thirty-five dollars worth.

13 Q How many grams?

14 A Three. Yeah, three and a half, I guess.

15 Q And how long would it take for you to use that?

16 A About six hours, seven hours.

17 Q How much would you, typically, use in a day?

18 A About two of those.

19 Q About two eight balls?

20 A Yes, ma'am.

21 Q You had money on your person, where was that
22 from?

23 A Six hundred and forty of it was from the title
24 loan. I was going to get a truck the next day. But I
25 used that money to get out of jail. The other hundred was

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 from my job at the Sun Inn.

2 Q And they put that in your property when you were
3 arrested?

4 A Yes, ma'am.

5 Q So you got that money back?

6 A Yes, ma'am.

7 Q Why were you at the motel on January 6th?

8 A I lived there. I lived there. I live there
9 now.

10 Q And was there any other reason you would be
11 there?

12 A No. I clean rooms and do maintenance there.

13 Q Okay. So you worked there and you lived there?

14 A Yes, ma'am. Lived there for five years.

15 Q Okay. The eight ball that you had in your
16 pockets, did you intend to distribute that eight ball?

17 A No, ma'am.

18 MRS. WILLIAMS: Please answer any questions that
19 The State has.

20 THE WITNESS: Yes, ma'am.

21 MR. HOFFERTH: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. HOFFERTH:

24 Q Mr. Henderson, so the methamphetamine that we've
25 seen today in that body cam video, the methamphetamine

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 that was submitted into evidence, that's yours; right?

2 A Uh-huh.

3 Q That three and a half grams of meth?

4 A Yes, sir.

5 Q January 6th of 2022?

6 A Yes, sir.

7 Q That was yours?

8 A Yes, sir.

9 Q Now, you said you'd been using since 2000?

10 A Uh-huh.

11 Q To get off of other drugs you said?

12 A Yes, sir.

13 Q You're using meth to get off of marijuana?

14 A No, I was using meth to get off of crack.

15 Q Okay. Well, if you're going through two eight
16 balls a day, that's what about 70 bucks a day?

17 A Yeah.

18 Q Okay. So \$70 cash, every single day, that adds
19 up; right? I mean, you're doing seven days a week, \$70 a
20 day?

21 A Sometimes more than that.

22 Q That's about -- we're talking about hundreds of
23 dollars a week; right?

24 A Yes, sir.

25 Q And in all that time since 2000--

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 A I ain't been using that much since 2000. I
2 worked my way up to that.

3 Q Okay. But using since 2000?

4 A Yes.

5 Q But in all that time that you're using, all that
6 money that you're spending on methamphetamine, never were
7 you selling some methamphetamine to support your habit?

8 A Uh-huh. I don't have to.

9 Q You don't have to?

10 A I work at the motel.

11 Q Oh. How much do you make at the motel?

12 A Roughly?

13 Q Yes.

14 A On a busy week? A thousand dollars.

15 Q A thousands dollars. So at the height of this
16 time when you're using two eight balls a day, leading up
17 to January 6th of 2022, you could support that habit of
18 two eight balls a day, making around a \$1000 a week at the
19 Sun Inn?

20 MR. ZUSCHKE: Objection, may we approach, Your
21 Honor?

22 THE COURT: Sure.

23 (WHEREUPON, an off-the-record bench conference
24 was held in the presence of the jury but out of
25 the hearing of the jury.)

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 THE COURT: Keep it brief.

2 MR. HOFFERTH: Understood.

3 THE COURT: Will you send the jury out, please?

4 (WHEREUPON, the jury left open court at
5 approximately 4:29 p.m.)

6 THE COURT: Okay, I want to protect the record
7 and allow y'all to state your objection on the
8 record.

9 MR. ZUSCHKE: We just object based on relevance
10 and these being prior bad acts being used to prove
11 that on this day, that he had the intent to
12 distribute. I don't believe that he opened the door
13 by saying that he had a history of drug use, for them
14 to go into every single time that he possessed drugs
15 in the past and try to convict him on that.

16 THE COURT: Okay, anything else?

17 MRS. WILLIAMS: I would, also, add, Your Honor,
18 they're trying to get to him supporting him by
19 dealing, which is not really relevant to what the
20 testimony is. The testimony is he's a user and he
21 has used a lot.

22 THE COURT: And I believe the testimony that you
23 got from him was that he used two eight balls a day;
24 is that accurate?

25 MRS. WILLIAMS: Correct, Your Honor.

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 THE COURT: I just -- I will hear from y'all
2 but.

3 MR. HOFFERTH: Your Honor, he's charged today.
4 What The State has to prove is that not only the
5 element of possession but the intent to distribute
6 with the PWID that has been charged. The door was
7 opened on his direct examination as to his prior use,
8 as to the fact that he offered that he was only using
9 this methamphetamine, that's at hand today, for
10 personal use. I mean, The State has to have leeway
11 to cross-examine as to that intent element. And as
12 to the cash, as to, you know, his finances, as to,
13 you know, the fact that he went into detail on direct
14 examination about what that \$700 was, was the
15 breakdown was, his income. I mean, The State needs
16 some leeway to be able to pry into this and show some
17 testimony as it relates to that element of intent to
18 distribute.

19 MRS. WILLIAMS: Your Honor, I believe, The State
20 is just trying to backdoor his convictions in by
21 using that.

22 THE COURT: I can tell you right now, he's not
23 going to be allowed to use that. But I do think --
24 he got into -- that he used two eight balls a day.
25 Which, I think, essentially, did open the door. And

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 he's been asking legitimate questions and he's been
2 answering them. So I think -- I think he's going to
3 have some latitude here.

4 MRS. WILLIAMS: I just think that -- nothing
5 further, Your Honor.

6 THE COURT: What?

7 MR. HOFFERTH: I understand, Your Honor.

8 THE COURT: Tread carefully.

9 MR. HOFFERTH: Yes, Your Honor.

10 THE COURT: You can bring them back.

11 (WHEREUPON, the jury entered open court at
12 approximately 4:33 p.m.)

13 THE COURT: Proceed.

14 MR. HOFFERTH: Thank you, Your Honor.

15 BY MR. HOFFERTH:

16 Q Just to get us back on track to where we were,
17 you stated that at the time of this arrest or around the
18 time of this arrest, you were using around two 8 balls a
19 day; correct?

20 A Yes.

21 Q Which is around \$70 a day?

22 A Yes.

23 Q So a week, that's just shy of \$500?

24 A Uh-huh.

25 Q Okay. And you said on good weeks, that when

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 you're working at the Inn, you're making around \$1000; is
2 that correct?

3 A Yeah.

4 Q So you're spending half of your money a week on
5 methamphetamine?

6 A Yeah.

7 Q And we're not talking about your rent; right?
8 We're not talking about rent?

9 A No, I live there rent free because I do work
10 there.

11 Q Okay. Gas money?

12 A I don't go nowhere.

13 Q Food?

14 A I don't eat that much.

15 Q Okay.

16 A Especially on meth.

17 Q So a little bit of food, \$500 for meth,
18 sometimes?

19 A Might be more than that.

20 Q Okay. But not in that time you were ever
21 selling meth to support your habit?

22 A Ain't nobody -- when I got my drugs, it was for
23 me.

24 Q Oh, okay. No friends?

25 A No.

ROBERT HENDERSON-CROSS BY MR. HOFFERTH

1 Q No?

2 A Uh-huh.

3 Q Only for your personal use?

4 A Yep.

5 Q Okay.

6 I have no further questions for him.

7 THE COURT: Any redirect?

8 MRS. WILLIAMS: No redirect.

9 THE COURT: Okay, sir, you may step down.

10 MRS. WILLIAMS: Defense rests, Your Honor.

11 THE COURT: Okay.

12 Okay, ladies and gentlemen of the jury, we are
13 going to break for the day. And I'm going to ask
14 that you come back at 9:30 in the morning. At this
15 point, I have some matters of law that I just need to
16 take up with the attorneys and we will finish up in
17 the morning. I told y'all I was going to sound like
18 a broken record but let me just review this with
19 y'all. Just as you break tonight for dinner, I just
20 would remind you that you do not discuss this among
21 yourselves or anyone, spouses, friends who are going
22 to be all interested in the fact you're serving on a
23 jury. And they're going to want to know all about
24 it. And you're just going to have to say, I'm
25 serving but I can't talk about it. And The Judge

1 ordered me not to talk about it. I'm just kidding, I
2 didn't order you.

3 You're not to research this case, go by the
4 scene. You're to not pay attention to any type of
5 media or social media or any kind of newspaper
6 articles. And again, if contacted by anyone you need
7 to let me know immediately, okay? I hope y'all have
8 a great evening and I look forward to seeing y'all at
9 9:30 in the morning.

10 (WHEREUPON, the jury left open court at
11 approximately 4:36 p.m.)

12 THE COURT: Okay. Any motions from Defense?

13 MRS. WILLIAMS: Nothing from Defense, Your
14 Honor. Just renewing all prior.

15 THE COURT: You wish to renew?

16 MRS. WILLIAMS: I do, Your Honor.

17 THE COURT: Any prior objections and your
18 directed verdict?

19 MRS. WILLIAMS: And directed verdict.

20 THE COURT: Okay. Just want to make sure that's
21 on the record.

22 MRS. WILLIAMS: Thank you, Your Honor.

23 THE COURT: Anything from The State?

24 MR. NORRIS: Nothing further from The State.

25 THE COURT: Okay, do y'all wish to submit

1 charges? Do you want me to just send you what I've
2 got? What do you anticipate as far as the charges on
3 possession with intent to distribute?

4 MR. NORRIS: We would be opened to doing
5 possession with intent to distribute -- are you
6 talking about the verdict form?

7 THE COURT: No, well, I'll get to the verdict
8 form in just a second. But as far as the charge?

9 MR. NORRIS: Just standard charge.

10 THE COURT: Okay, lesser included?

11 MR. NORRIS: Yes.

12 THE COURT: Okay. Then what I plan on doing is
13 I will submit -- I'll email y'all those and if y'all
14 would just get back to Josh. I do want to make sure
15 we got all your emails, okay. And so what we'll do
16 is we'll be ready to rock and roll at 9:30 in the
17 morning, unless you have some kind of objections that
18 you need to put on the record as to my charges, then
19 we will move and address that accordingly. And he
20 will also send you the verdict form, okay.

21 MR. NORRIS: Great.

22 MRS. WILLIAMS: Thank you, Your Honor.

23 THE COURT: Anything else y'all need from me?

24 MRS. WILLIAMS: Nothing further.

25 THE COURT: All right.

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MR. NORRIS: Thank you, Your Honor.

MRS. WILLIAMS: Thank you, Your Honor.

THE COURT: All right, see y'all in the morning.

(WHEREUPON, the proceedings were concluded for
the day to be reconvened on July 9, 2024.)

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July 9, 2024

THE COURT: Do y'all need to look at the proposed charges? Everybody down and okay with the revised charge?

State?

MR. NORRIS: Yes, Judge.

THE COURT: Defense?

MRS. WILLIAMS: Yes, Your Honor.

THE COURT: Okay.

All right, let's bring the jury in.

(WHEREUPON, the jury came into open court at approximately 9:39 a.m.)

THE COURT: I do need counsel up here real quick.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Good morning, ladies and gentlemen, I hope y'all had a restful evening. We're going to be moving into closing arguments.

State.

CLOSING STATEMENT

MR. NORRIS: Thank you, Judge.

So yesterday we learned that Mr. Henderson was pulled over after leaving the Sun Inn in Easley, late

1 at night. And he was found to be in possession of
2 about three and a half grams of meth and about \$700.
3 Now, the law for possession with intent to
4 distribute, there's two parts of that law. One, that
5 he possessed the methamphetamine, we have established
6 that. And two, that he intended to distribute that
7 methamphetamine. Now, that same law says that
8 possession of over one gram of the methamphetamine is
9 prima facia evidence of possession with intent to
10 distribute. What that means is prima facia evidence,
11 evidence that will establish a fact unless contrary
12 evidence is provided.

13 Now, he had over three times the amount of that
14 weight that the law says creates a presumption of
15 intent to distribute. So you got one gram of meth,
16 the law says that you, as the jury, can assume he
17 intended to distribute that. He had over three times
18 that amount. Now, you heard Mr. Henderson provide an
19 explanation to that. He says that he does about \$500
20 worth of methamphetamine a week. But if you think
21 about it, that's a lot of money for any of us. And
22 he is selling that meth to fill his addiction.

23 If you look at the totality of the
24 circumstances, in this case, the fact that he had
25 that money in his pocket, that he was leaving late at

1 night from the Sun Inn. You can piece together from,
2 not just the weight of that meth, but through all of
3 the facts presented, look at it and ask yourself,
4 does this make sense? Is this just a user out and
5 about on the town? Or is he moving meth that he
6 intends distribute?

7 And just use your common sense. And for those
8 reasons, we're asking you to find Mr. Henderson
9 guilty of possession with intent to distribute.

10 Thank you.

11 THE COURT: Defense.

12 CLOSING STATEMENT

13 MRS. WILLIAMS: Thank you, Your Honor.

14 Piece together, use your common sense. That's
15 all good and fun but we're not here to piece together
16 what The State hasn't proved. You're going to hear
17 from The Judge in a minute and he's going to tell you
18 the law, the law to use to analyze the evidence that
19 The State has given you. The State must prove that
20 Mr. Henderson had in his possession methamphetamine,
21 we've been opened and honest with that. We admit
22 that. He got up there and admitted it yesterday. It
23 was in his pocket, how could we dispute that?

24 They also have to prove beyond a reasonable
25 doubt that he intended to distribute. At the

1 beginning of this trial I asked you to pay attention
2 to what they're giving you. But, also, what they
3 haven't given you. They haven't given you a lot.
4 The State would have you believe that Mr. Henderson
5 is a drug dealer, he's out peddling drugs, he's
6 moving meth in Pickens County. They would have you
7 convict Mr. Henderson for possession with intent to
8 distribute for over 30 to \$40 worth of meth. Thirty
9 to \$40 worth.

10 This meth, Mr. Henderson testified, would barely
11 get him through six hours. That's how much of an
12 addict he is. The State keeps repeating, over three
13 times the amount needed in order to be able to
14 presume. That means nothing. They also keep saying
15 Mr. Henderson's a drug dealer, that means nothing.
16 Why does it mean nothing? Because they've given you
17 no evidence to come to that conclusion. I could tell
18 you that the sky is green and the grass is blue. But
19 are you going to believe me if I don't give you
20 evidence of it?

21 The Judge is also going to charge to you --
22 charge you with the law that based on the weight
23 alone, you're able to make a permissive inference.
24 You're allowed to infer that he had the intent to
25 distribute. But he's also going to tell you that

1 that doesn't take away The State's burden to prove
2 beyond a reasonable doubt that he had the intent to
3 distribute. Because you can infer doesn't mean that
4 you should.

5 As I have mentioned, proof beyond a reasonable
6 doubt is the highest standard in our judicial system.
7 And it's high because of the consequences that come
8 with it. They want you to infer, based on the
9 weight, that Mr. Henderson is a drug dealer, that he
10 distributes. But they've given you no evidence, zero
11 evidence to support that theory. You heard the
12 officer, there were no scales, there were no baggies,
13 there were no text messages, no drug ledgers, no
14 residue. He was watching the Sun Inn. He didn't see
15 any transactions to make him think that Mr. Henderson
16 is a drug dealer.

17 The State keeps referencing this money, this
18 money that Mr. Henderson said he got from a title
19 loan so that he could buy a truck. \$700. The
20 officer didn't seize that money. He didn't think it
21 had anything to do with drug activity. He testified
22 to that. He would have seized it if he thought it
23 did. Why would you give a drug dealer his money
24 back? That makes no sense. You had three officers
25 out there. Three trained officers. Two of which

1 were on a specialized narcotics team. They know what
2 a drug dealer looks like. They know what drug
3 activity looks like. They didn't seize that money
4 because they didn't think it had anything to do with
5 it. They charged him with possession with intent to
6 distribute, solely off the weight of the drugs.

7 But now, The State doesn't have enough evidence
8 to prove his intent. They want to go back, reel it
9 back and say, hey, what about that money? The money
10 that Mr. Henderson explained, the money that the
11 narcotics officers didn't seize because they didn't
12 think it had anything to do with drug activity. But
13 now, they want you to override the narcotics training
14 and experience to lead them to believe that they
15 didn't need to seize it, and say, hey, use that to
16 convict him. Convict him over 30 to \$40 worth of
17 meth. Thirty to \$40, with inflation nowadays, that
18 might get you two combos at Wendy's. But they want
19 to say that's enough to say that Mr. Henderson is a
20 drug dealer. Narcotics team knew it was meth, they
21 knew it was an eight ball. They knew it was only 30
22 to \$40 worth.

23 You saw Mr. Henderson on the stand, he's a
24 addict. He said it himself. He's been struggling
25 with addiction for multiple narcotics, marijuana,

1 crack, meth. He has a problem. That problem is not
2 why we're here to judge him. You're here to
3 determine whether or not he had the intent to
4 distribute the drugs he had in his pocket. If those
5 officers truly thought he had that intent, they would
6 have taken that money.

7 They talked about risks versus reward. They
8 clearly didn't think it was worth it. Trained
9 deputies didn't think he was a dealer. And if they
10 did, they would have done a lot more to prove it.
11 They could have gotten a search warrant, gone back to
12 his home, found evidence of it, searched his phone,
13 found drug ledgers, found text messages. Found all
14 the things, the scales, the residue, everything he
15 would have needed to distribute. Did they do that?
16 No. They didn't seize the money, they didn't seize
17 his phone. You have no evidence. They didn't put
18 that into evidence. Why? Because it's not evidence.

19 They want you to convict Mr. Henderson for 30 to
20 \$40 worth of meth. Two combos at Wendy's. Just
21 because you can infer based on that weight, doesn't
22 mean you should. Mr. Henderson is guilty of being an
23 addict. An addict with the drug of his choice in his
24 coat pocket and nothing more. Thank you.

25 THE COURT: State.

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CLOSING STATEMENT

MR. NORRIS: So I disagree with Mrs. Williams. The State has given you plenty of evidence to convict Mr. Henderson with possession with intent to distribute. This case is not based on the weight of the drugs alone. That's one factor that The State has presented to you as evidence. Now, he was caught with three and a half grams, like I said, that's over three times what your state legislature says is sufficient to prove possession with intent to distribute. But that's what he was caught with.

I mean, I want you to look at the whole situation and ask yourself, what's really going on here? Late at night, leaving a known drug hangout, with \$700 in his pocket. Which by the way, if I remember correctly, Mr. Henderson testified yesterday, that \$700, most of it was from a title loan to go buy a car. Now, what title would he have traded for that cash? He already testified he doesn't have a home. He was driving somebody else's car that night when he was pulled over. The story doesn't add up.

He was out on the town selling drugs to fuel his addiction. And I buy his story that he's a heavy user. But heavy users and dealers go hand in hand,

1 these aren't mutually exclusive things. Dealers sell
2 meth to fuel their own addiction. And that's what's
3 going on here, if you look at the totality of the
4 circumstances. Ask yourselves what's really going on
5 here and convict Mr. Henderson of possession with
6 intent to distribute.

7 JURY CHARGE

8 THE COURT: Okay, members of the jury, it's now
9 my duty, as the trial Judge, to instruct you on the
10 law applicable to this case. And, in that regard, it
11 is your duty, as jurors, to accept and apply the law
12 as I now state it to you. Furthermore, it is your
13 exclusive duty to decide all the issues of fact, in
14 this case, and determine the effect, the value, the
15 weight and truth of the evidence. All the parties
16 have a right to expect that you will carefully
17 consider and evaluate the evidence and apply the law
18 of this case to it. So that in the end, all parties
19 will receive a fair and impartial trial.

20 I remind you that during this trial, you and I
21 have certain duties to perform. As trial judge, it
22 is my responsibility to preside over the trial of the
23 case, and I, also, have the duty to rule on the
24 admissibility of evidence offered during this trial.
25 You are to consider only the confident evidence

1 before you. If there was any testimony ordered
2 stricken from the record during this trial, you must
3 disregard that testimony. You are to consider only
4 the testimony which has been presented from this
5 witness stand, any exhibits which have been made part
6 of the record in this case and any stipulations of
7 counsel.

8 I have the additional duty to charge you the law
9 applicable to this case. As the presiding Judge, I'm
10 the sole Judge of the law of this case. And it is
11 your duty, as jurors, to accept and apply the law as
12 I now state it to you. If you already have any idea
13 as to what the law is or what the law ought to be and
14 it does not agree with what I now tell you the law
15 is, you must abandon this idea. Because you are
16 sworn to accept the law and apply the law exactly as
17 I state it to you.

18 In every case tried in this court before a jury,
19 the jury becomes the sole and exclusive judges of the
20 facts in a case. A trial Judge cannot intimate,
21 state, comment on or make any statement to a trial
22 jury about the facts in a case. Since you, the jury,
23 are the sole judges of the facts in this case, you're
24 not to infer from what I have said during the
25 progress of this trial in ruling upon the

1 admissibility of evidence or otherwise or anything
2 that I say now during the course of this instruction
3 to you, that I have any opinion about the facts in
4 this case. The law does not allow me to have an
5 opinion about the facts in this case. This is a
6 matter solely for you, the jury, to determine as
7 jurors. And it is your duty to determine the effect,
8 the value, the weight and the truth of the evidence
9 presented during this trial.

10 The Defendant is charged with the following,
11 possession of methamphetamine with intent to
12 distribute. I remind you that the fact The Defendant
13 was arrested, charged and indicted in this case is
14 not evidence in this case and cannot be considered by
15 you as evidence of guilt in this case. Nor does it
16 create a presumption or inference of guilt. These
17 documents are simply the formal written instruments
18 which contain the charge made against The Defendant.
19 It is the formal document by which this case is
20 brought into this court.

21 The Defendant has pled not guilty to this
22 indictment. And that plea puts the burden on The
23 State to prove The Defendant guilty. A person
24 charged with committing a criminal offense in South
25 Carolina is never required to prove himself innocent.

1 I charge you that it is an important rule of the law
2 that a defendant in a criminal trial, no matter what
3 the seriousness of the charge may be, will always be
4 presumed to be innocent of the crime for which the
5 indictment was issued, unless guilt has been proven
6 by evidence satisfying you of that guilt beyond a
7 reasonable doubt.

8 This presumption of innocence does not end when
9 you begin your deliberations but it accompanies The
10 Defendant throughout the trial, until you reach a
11 verdict of guilt based on evidence satisfying you of
12 that guilt beyond a reasonable doubt. The
13 presumption of innocence is not mere legal theory,
14 it's not just a legal phrase, it's a substantial
15 right to which every Defendant is entitled unless
16 you, the jury, are satisfied from the evidence of The
17 Defendant's guilt beyond a reasonable doubt.

18 The State has the burden of proving The
19 Defendant guilty beyond a reasonable doubt. Some of
20 you may have served as jurors in civil cases where
21 you were told that it was only necessary to prove
22 that a fact is more likely true than not true. Such
23 as by the greater weight or preponderance of the
24 evidence. In criminal cases, The State's proof must
25 be more powerful than that. It must be beyond a

1 reasonable doubt. Reasonable doubt is the kind of
2 doubt that would make a reasonable person hesitate to
3 act. Proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced of The Defendant's guilt.

5 There are very few things in this world that we
6 know with absolute certainty. And in criminal cases
7 the law does not require proof that overcomes every
8 possible doubt. If based on your consideration of
9 the evidence, you are firmly convinced that The
10 Defendant is guilty of the crime charged, you must
11 find The Defendant guilty. If on the other hand, you
12 think there's a real possibility that The Defendant
13 is not guilty, you must give The Defendant the
14 benefit of the doubt and find him not guilty.

15 Facts and circumstances that merely place upon
16 The Defendant a grave suspicion of the crime charged
17 or that merely raise a speculation or conjecture of
18 The Defendant's guilt, are not sufficient to
19 authorize a conviction of the accused. Facts at
20 issue may be proved either by direct evidence or
21 indirect evidence or circumstantial evidence. It is
22 direct evidence if it proves a fact without an
23 inference and which in itself, if true, conclusively
24 establishes that fact. Direct evidence is,
25 basically, evidence you can see, observe or hear with

1 your senses.

2 Circumstantial evidence means the proof of chain
3 of facts and circumstances indicating the existence
4 of a fact. In other words, you may infer that a
5 particular event occurred based on proof of
6 circumstances warranting such an inference. It is
7 not something that one observes but from facts one
8 can draw a conclusion. Crimes may be proven by
9 circumstantial evidence. The law makes no
10 distinction between the weight or value to be given
11 to either direct or circumstantial evidence.
12 However, to the extent that The State relies on
13 circumstantial evidence, all of the circumstances
14 must be consistent with each other. And when taken
15 together point conclusively to the guilt of the
16 accused beyond a reasonable doubt. If these
17 circumstances merely portray The Defendant's behavior
18 as suspicious, the proof has failed. The State has
19 the burden of proving The Defendant guilty beyond a
20 reasonable doubt. The burden rests with The State
21 regardless of whether The State relies on direct
22 evidence, circumstantial evidence or some combination
23 of the two.

24 The following things are not evidence and you
25 must not consider them as evidence in deciding the

1 facts of this case. Statements and arguments of the
2 attorneys, questions and objections of the attorneys
3 and testimony that I instructed you to disregard.
4 While argument of counsel is a beneficial part of
5 every trial, you should remember that the statements
6 made by counsel are not evidence. In presenting
7 arguments, counsel often refer to the evidence,
8 however, you should base your verdict on the evidence
9 as you remember it.

10 Therefore, if there are any conflicts between
11 the recollection of counsel about the evidence and
12 your own recollection, you should rely upon your own
13 understanding of the evidence. Necessarily, you must
14 determine the credibility of witnesses who have
15 testified in this case. Credibility simply means
16 believability. It becomes your duty, as jurors, to
17 analyze and to evaluate the evidence and to determine
18 which evidence convinces you of its truth.

19 In determining the believability of witnesses
20 who have testified in this case, you may believe one
21 witness over several witnesses, or several witnesses
22 over one witness. You may believe a part of the
23 testimony of a witness and reject the remaining part
24 of the testimony of that same witness. You may
25 believe the testimony of a witness in its entirety or

1 reject the testimony of a witness in its entirety.
2 You may consider whether any witness has exhibited to
3 you any interest, bias, prejudice or other motive in
4 this case. You may, also, consider the appearance
5 and manner of a witness while on the witness stand.

6 In order to establish criminal liability,
7 criminal intent is required. For example, the mental
8 state required to be proven by The State for a
9 particular crime might be purpose, intent, knowledge,
10 recklessness or criminal negligence. Criminal intent
11 must be proven by The State beyond a reasonable
12 doubt. Criminal intent is always a matter that must
13 be determined by the jury from the circumstances
14 surrounding the situation. There's no way to prove
15 intent to a mathematical certainty. There's no way
16 that medical science can dissect a person's brain and
17 determine what the person had in mind. So the law
18 says that criminal intent may be inferred from the
19 circumstances shown to have existed.

20 This is how you make the determination of
21 whether or not the element requiring intent was
22 present. It is not necessary to establish intent by
23 direct and positive evidence. But intent may be
24 established by inference, in the same way as any
25 other fact. By taking into consideration the acts of

1 the parties and all the facts and circumstances of
2 the case. Criminal intent is a mental state, a
3 conscious wrongdoing, and it is up to you to determine
4 what The Defendant intended to do based on the
5 circumstances shown to have existed. Criminal intent
6 can arise from action or failure to act.

7 The Defendant is charged with the possession
8 with intent to distribute. The State must prove
9 beyond a reasonable doubt that The Defendant
10 possessed methamphetamine with the intent to
11 distribute it. To prove possession, The State must
12 prove beyond a reasonable doubt that The Defendant
13 had both the power and the intent to control the
14 disposition or use of the methamphetamine.

15 Possession may be actual or constructive. Actual
16 possession means that the methamphetamine was in the
17 actual physical custody of The Defendant.

18 Constructive possession does not apply in this case.

19 The State must, also, prove beyond a reasonable
20 doubt that The Defendant intended to distribute the
21 methamphetamine. Distribute means to deliver, other
22 than buy, administering or dispensing a drug. Intent
23 may be shown by acts and conduct of The Defendant and
24 other circumstances from which you may naturally and
25 reasonably infer intent. In determining whether The

1 Defendant had the intent to distribute the
2 methamphetamine, you may consider the circumstances
3 surrounding The Defendant's alleged possession. You
4 may consider the amount of the substance alleged to
5 have been possessed, the manner in which it was
6 allegedly possessed, the place where it was allegedly
7 possessed and other factors which you consider to be
8 important. You must find that The Defendant did not
9 intend to have the methamphetamine solely for his own
10 use.

11 Possession of more than one gram of
12 methamphetamine creates a permissive inference that
13 The Defendant possessed the methamphetamine with
14 intent to distribute. This permissive inference does
15 not relieve The State from proving beyond a
16 reasonable doubt The Defendant intended to distribute
17 the methamphetamine. This permissive inference is
18 merely an evidentiary fact, to be taken into
19 consideration by you, along with the other evidence
20 in the case, and to be given the weight you decide it
21 should have.

22 If you find that The State has failed to prove
23 beyond a reasonable doubt that The Defendant is
24 guilty of possession with intent to distribute
25 methamphetamine, you may consider whether The State

1 has proved beyond a reasonable doubt that The
2 Defendant is guilty of simple possession of
3 methamphetamine. Simple possession does not require
4 an intent to distribute the methamphetamine.
5 Included within the offense of possession with intent
6 to distribute, is the lesser offense of simple
7 possession. Simple possession does not require an
8 intent to distribute the methamphetamine.

9 The Defendant is charged with possession of
10 methamphetamine. The State must prove beyond a
11 reasonable doubt that The Defendant knowingly or
12 intentionally possessed methamphetamine. Knowingly
13 means with knowledge, consciously, not accidentally.
14 Intentionally means willfully. Intended the result
15 which actually occurs. Not accidentally or
16 involuntarily. Or involuntary. Intent may be shown
17 by acts and conduct of The Defendant and other
18 circumstances from which you may naturally and
19 reasonably infer intent.

20 To prove possession The State must prove beyond
21 a reasonable doubt that The Defendant had both the
22 power and the intent to control the disposition or
23 use of the methamphetamine. Possession may be either
24 actual or constructive. And actual possession means
25 that the methamphetamine was in the actual physical

1 custody of The Defendant. Again, constructive
2 possession does not apply in this case.

3 In determining the guilt or innocence of The
4 Defendant, you cannot consider any possible penalty
5 for any particular crime. The punishment for the
6 crime is a matter for me to determine and should
7 never be considered by you in any way whatsoever in
8 arriving at a impartial verdict as to the guilt or
9 innocence of The Defendant.

10 Madam Foreperson and ladies and gentlemen of the
11 jury, I wish to express the hope that each of you
12 will be mindful of the importance of your
13 responsibility. You are not called upon to serve as
14 jurors very often. And the proper performance of the
15 duty requires each of you to reach the height of
16 freeing your mind of all improper influences. As the
17 presiding officer of this court, I am vitally concern
18 that whatever the verdict you find will be the result
19 of your going into the jury room and confining your
20 consideration to the evidence and the law that you
21 have heard in this courtroom, weighing it fairly and
22 impartially, as I have every confidence that you will
23 do.

24 Your verdict in this case cannot be based on
25 sympathy, compassion, prejudice or emotion or some

1 other consideration not found in the evidence.
2 Remember, your verdict must be unanimous. And I will
3 now explain the verdict form and possible verdicts.
4 And this will go back with you into the jury room.
5 There are two possible verdicts which you may find in
6 this case. There's no significance whatsoever in the
7 order in which I state these possible verdicts. It
8 is simply that one must be stated first. Ladies and
9 gentlemen, your verdict must be a unanimous one.

10 Madam foreperson, when the jury agrees on the
11 verdict, you will write the verdict on the verdict
12 form and then sign your name as foreperson. Then
13 knock on the jury room door and inform the bailiff
14 that you have reached a verdict. At that time, we
15 will receive you back into the courtroom.

16 I ask that you now return to your jury room but
17 do not begin deliberations until you are told by the
18 clerk or the bailiff to do so. There's some matters
19 that I must discuss with the attorneys before you
20 begin the deliberations. And, also, if while you're
21 deliberating, if you should have a question, you can
22 write it on a piece of paper but do not write it on
23 the verdict form, okay.

24 The jury can be returned except for my two
25 alternates.

1 (WHEREUPON, the jury left open court at
2 approximately 10:09 a.m.)

3 THE COURT: Well, y'all are the last two
4 remaining. Thank you so much for jury service this
5 week. I hope that it has given you encouragement
6 about our system. We couldn't do it without you. As
7 alternates, you're not allowed to participate in the
8 deliberations. And I'm going to give you some good
9 news, you're excused. You do not have to talk to
10 anybody this case. If someone approaches you, you
11 can tell them I don't want to discuss it, but you,
12 also, have the right to discuss it, okay. Thanks
13 again, you are relieved from your service this week
14 and he will show you out, okay. Take care.

15 Okay, anything from The State regarding the
16 charge?

17 MR. NORRIS: No, Your Honor.

18 THE COURT: Anything from The Defense?

19 MRS. WILLIAMS: Nothing from The Defense.

20 THE COURT: Okay. All right. We will let them
21 begin deliberating.

22 (WHEREUPON, deliberations began at approximately
23 10:11 a.m. and court was in recess awaiting a
24 verdict.)

25 THE COURT: Okay, so I got a question from the

1 jury, we'll mark that as a Court's Exhibit. And it's
2 from the foreperson. And says, May we see the body
3 cam video in its entirety?

4 And I know that that came into evidence. I
5 don't know what y'all normally do. Do y'all have a
6 computer or?

7 MR. HOFFERTH: Yeah, we just play it out here.

8 THE COURT: You bring them in here and play it?

9 MR. HOFFERTH: I mean, I wouldn't mind, in this
10 instance, them taking--

11 MRS. WILLIAMS: It's the clerk's computer.

12 MR. HOFFERTH: Well, I guess, that's --

13 THE CLERK: They're welcome to take it back
14 there.

15 MR. HOFFERTH: If they don't have an objection
16 to it, that might be more expedient.

17 (WHEREUPON, everyone was talking over one
18 another.)

19 MR. NORRIS: There's nothing on the USB that
20 we're trying to protect from the jury seeing or
21 anything like that but I don't see any problem with
22 it.

23 THE COURT: I'm fine with, you know. Y'all are
24 okay?

25 Defense?

1 MRS. WILLIAMS: I believe -- I believe in
2 Greenville, what Mr. Grubbs is saying, is Greenville
3 they have a computer that doesn't have internet
4 access --

5 THE COURT: It doesn't have anything.

6 MRS. WILLIAMS: So I think it might be better to
7 just bring them out here.

8 THE COURT: Bring them in here? Okay. I mean,
9 I'm fine. But that's exactly right, it is a clean
10 computer that's just for that purpose. Okay. So --
11 and I don't know that we need -- that anybody needs
12 to be in the courtroom while they view the video.

13 MRS. WILLIAMS: Yeah.

14 THE COURT: So we will clean -- clear out the
15 courtroom.

16 Ms. Lauren, you will be in here. And. . .

17 (WHEREUPON, the jury came into open court at
18 approximately 10:51 a.m. and everyone exited the
19 courtroom except the clerk.)

20 (WHEREUPON, the jury left open court at
21 approximately 11:04 a.m. and continued
22 deliberations. Court was in recess awaiting a
23 verdict.)

24 THE COURT: Okay, we have a verdict, y'all ready
25 to bring the jury back in?

1 MR. NORRIS: State's ready.

2 THE COURT: Defense?

3 MRS. WILLIAMS: Yes, Your Honor.

4 THE COURT: All right, please bring them in.

5 (WHEREUPON, the jury came into open court at
6 approximately 11:26 a.m.)

7 VERDICT

8 THE COURT: All right, Madam Forelady, I
9 understand you have a verdict?

10 MADAM FORELADY: Yes.

11 THE COURT: Can you please hand me the verdict?

12 Okay, would you publish verdict?

13 THE CLERK: In the case of The State of South
14 Carolina vs. Robert Allen Henderson, Jr., as to
15 Indictment number 2022-GS-39-748 for possession of
16 methamphetamine with intent to distribute, we, the
17 jury, find The Defendant, Robert Allen Henderson Jr.,
18 not guilty. As to Indictment number 2022-GS-39-748,
19 for simple possession of marijuana we, the jury, find
20 The Defendant, Robert Allen Henderson Jr., guilty.

21 Is this your verdict and is it still your
22 verdict? So say you all by raising your right hand.

23 (WHEREUPON, all members of the jury raised their
24 right hand.)

25 THE COURT: Okay. All right, ladies and

1 gentlemen, I'm going to ask you to step back to the
2 jury room and I'll be with you in just a second,
3 okay.

4 (WHEREUPON, the jury left open court at
5 approximately 11:28 a.m.)

6 THE COURT: All right. Any motions?

7 MRS. WILLIAMS: Just renewing all priors.

8 THE COURT: And, of course, you have 10 days.

9 MRS. WILLIAMS: Thank you.

10 THE COURT: Under the criminal rules.

11 Okay, so what do y'all need, like, 15 minutes?
12 Got to get a sentencing sheet, is that an adequate
13 amount of time?

14 MR. NORRIS: I've got one.

15 THE COURT: You got one?

16 MR. NORRIS: Yes, Judge.

17 THE COURT: All right, we'll take maybe a 10
18 minute recess. I'm going just going to go talk to
19 the jury and then I'll be back out for sentencing,
20 okay.

21 MRS. WILLIAMS: Thank you, Judge.

22 MR. NORRIS: Thank you, Judge.

23 THE COURT: Thanks.

24 (WHEREUPON, a short break was taken.)

25 SENTENCING

1 THE COURT: All right, I'll hear from The State.

2 MR. NORRIS: Thank you, Judge. The State has no
3 formal recommendation as far as sentencing, we'll
4 just leave that in The Court's discretion. I will
5 point out that Mr. Henderson's offer was 10 years.
6 He has a criminal history, 1996, accessory before the
7 fact of armed robbery, as well as burglary. And he
8 was sentenced to eight years for that. 2014,
9 possession of a stolen vehicle; 2016, grand larceny
10 and forgery. And then most recently in 2018, he was
11 sentenced -- he was convicted for PWID meth, as well
12 as trafficking meth. And he received a three year
13 sentence for that.

14 THE COURT: So three year active?

15 MR. NORRIS: Yes, Judge.

16 THE COURT: All right, Ms. Williams.

17 MRS. WILLIAMS: Thank you, Your Honor, as you've
18 heard throughout this trial, there was no scales, no
19 baggies, no paraphernalia of any kind. Mr. Henderson
20 did not intend to distribute these drugs, they were
21 for his personal use, he's a addict. An addict who
22 needs help and has vocalized his need and want to get
23 some help. He previously has done a program on his
24 own accord, not a court order to do so.

25 And I think that he would be a great candidate

1 for probation. He needs that help. Going down to
2 SCDC is going to put him around more drugs than he's
3 currently around in the street. Being on probation
4 would allow him to have that close supervision.
5 Allow him to go to some type of residential recovery
6 program that he's indicating to me that he really
7 wants to go to. He knows he has a problem. I
8 believe prior to this trial, he's been trying to stay
9 clean and get clean on his own. It is, obviously, a
10 struggle, he's been a addict for a very long time.
11 He's a hard worker, he's always worked. He's done
12 maintenance at the Sun Inn, as we mentioned in the
13 trial. He, also, worked at their tobacco store that
14 the owners own as well. He needs this recovery
15 program.

16 I would ask for home incarceration but being on
17 a ankle monitor makes it hard for them to get into
18 certain residential recovery programs. That ankle
19 monitor disqualifies him from a lot of different
20 programs that are out there. I would ask that you
21 hang time over his head, a considerable amount of
22 time. So that he knows if he doesn't complete that
23 program and follow probation to a tee, that he is
24 going down the road. His last conviction was in
25 2018, we acknowledge that. It is 2024. And he is in

1 a different place than he was in in 2022. He wants
2 to so desperately get out of the situation he's in.
3 And I would ask The Court to give him the opportunity
4 to do so.

5 THE COURT: Can counsel approach?

6 (WHEREUPON, an off-the-record bench conference
7 was held.)

8 MRS. WILLIAMS: And, Your Honor, I believe he
9 has three days credit on this.

10 THE COURT: Thank you, three days?

11 MRS. WILLIAMS: Three days.

12 THE COURT: Okay, Mr. Henderson, the sentence of
13 The Court is for you to be committed to The State
14 Department of Corrections for 10 years. And I am
15 going to suspend that upon the service of four years.
16 After that you will be placed on probation for three
17 years. You're to receive credit of three days. I am
18 asking that you be placed in the ATU at the South
19 Carolina Department of Corrections. When you get
20 released and you go on prohibition, you will be
21 involved in substance abuse counseling and random
22 alcohol and drug testing. I wish you the best, sir.

23 MR. NORRIS: Thank you, Your Honor.

24 MRS. WILLIAMS: Thank you, Your Honor.

25 THE COURT: Thank y'all.

(WHEREUPON, the proceedings were concluded.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens County, South Carolina, on the 8-9 day of July, 2024.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 9, 2024

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Indictment No: 2022-GS-39-0748

The State of South Carolina,)

v.)

Robert Allen Henderson, Jr.,)

Defendant.)

VERDICT FORM

Please answer the following question.

- 1. As to Indictment Number 2022-GS-39-0748, for **POSSESSION OF METHAMPHETAMINE WITH INTENT TO DISTRIBUTE**, we, the Jury, find the Defendant, Robert Allen Henderson, Jr., (Check One)

_____ Guilty
 Not Guilty

If you find the Defendant, Robert Allen Henderson, is not guilty, please proceed to question 2. However, if Guilty, then please skip question 2.

- 2. As to Indictment Number 2022-GS-39-0748, for **SIMPLE POSSESSION OF METHAMPHETAMINE**, we, the Jury, find the Defendant, Robert Allen Henderson, Jr., (Check One)

Guilty
 _____ Not Guilty

I certify that this is the unanimous decision of the jury.

Jeri Slattery
 Foreperson, Juror #209

July 09, 2024
Pickens, South Carolina

When you have completed your deliberations, please notify the bailiff.

ARREST WARRANT

2022A3910100020

STATE OF SOUTH CAROLINA
County: Pickens

Pickens

THE STATE

Robert Allen Henderson, Jr.
against

Address: Smymna Hill Rd.
Waterloo, SC 29384-

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 6 2 Weight: 170

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff

Prosecuting Officer: Terry C Bradley - S00472

Offense: Drugs / Distribution, etc. of methamphetamine, 3rd or sub. (Excludes manufacturing meth; see CDR

Offense Code: 3200

Code/Ordinance Sec: 44-53-0375(B)(3)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

is to be arrested and brought before me to be
dealt with according to the law. (L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant Robert Henderson Jr

on 1/7/22

Camee Lawrence 1975
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Pickens Summery Court
310 West Main Street (Hwy. 93)
Liberty, SC 29657

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Pickens

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about 1/6/2022

State of South Carolina (or ordinance of County/ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Distribution, etc. of methamphetamine, 3rd or sub. (Excludes manufacturing meth; see CDR
Code 3778)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on January 6, 2022, in the county of Pickens, one Robert Allen Henderson Jr. did have in his possession or control a quantity
of methamphetamine, more than one gram but less than ten grams. The amount in possession is evidence of intent to distribute. The
substance was located in the defendant's jacket pocket during a traffic stop after consent to search was given. Defendant has at least
two prior narcotics convictions. Probable cause is based on: 1. Incident report #2022-124. 2. Defendant's criminal history
confirming prior convictions.

Signature of Affiant 3055

STATE OF SOUTH CAROLINA

County/ Municipality of

Pickens

Affiant's Address 216 C. David Stone Rd.

Pickens, SC 29671-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/6/2022 defendant Robert Allen Henderson, Jr.

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of

Pickens

) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Distribution, etc. of methamphetamine, 3rd or sub. (Excludes manufacturing meth; see CDR
Code 3778)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 1/7/2022

BTR

Signature of Issuing Judge

Bruce Earl Anders (Magistrate)

Judge Code: 7064

Judge's Address 310 West Main Street

Liberty, SC 29657-

Judge's Telephone (864)898-5551

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

PICKENS COUNTY ORIGINAL
JAN 12 2022
15-304



WITNESSES

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
 Telephone: _____

Name: _____
 Address: _____
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Name: _____
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 Address: _____
 Telephone: _____

CODEFENDANTS

BAIL set by

Judge
 on 1/7/22
 Type and Amount: Surety 20,000
 Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____
 Decision: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

JURORS

DOCKET NO. 2022-GS-39-
SCF 0748

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUL 25 2023 TERM 2022

THE STATE

vs.

ROBERT ALLEN HENDERSON JR.

Indictment for

3200

POSSESSION OF METHAMPHETAMINE WITH
INTENT TO DISTRIBUTE

VIOLATION § 44-53-0375(b)(3)

WITNESSES

Terry C Bradley

Pickens County Sheriff's Office

1/7/2022

Presenting Officer: SHANE BLUMMITT

Date: 7/25/23

ARREST WARRANT NUMBER

2022A3910100020

ACTION OF GRAND JURY

TRUE BILL 25 JUL 2023

Date

Shane Blumitt
Foreperson of Grand Jury

VERDICT

Guilty - simple possession
of Methamphetamine

Shane Blumitt
Foreperson of Petit Jury

Date: 7/9/2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
POSSESSION OF METHAMPHETAMINE WITH INTENT TO
DISTRIBUTE

At a Court of General Sessions, convened on

JUL 25 2023

the Grand Jurors of Pickens

County present upon their oath:

That ROBERT ALLEN HENDERSON JR. did in Pickens County, on or about the 6th day of January, 2022, possess with intent to distribute or aid, abet, or conspire to possess with the intent to distribute a quantity of Methamphetamine, a controlled substance, such possession not having been authorized by law. This is in violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Janah Fowe 102711
SOLICITOR BAR # 102711

STATE OF SOUTH CAROLINA)
COUNTY OF Pickens)
STATE)

IN THE COURT OF GENERAL SESSIONS

VS.

INDICTMENT/CASE#: 2022 - GS - 39 - 00748

Robert Allen Henderson Jr.

A/W#: 2022A3910100020

AKA: _____

Date of Offense: 1/6/2022

Race: WHITE Sex: M Age: 44

S.C. Code § 44-53-0375(b)(3)

DOB: [REDACTED] 79 SS#: [REDACTED]

CDR Code #: 3200

Address: [REDACTED] Calhoun Memorial Hwy

City, State, Zip: Easley, SC 29640

DL#: [REDACTED] SID#: _____

SENTENCE SHEET

0-10 yrs
~~10-30 yrs~~

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSSESSION 3rd offense ~~DRUGS/MANUFACTURE, DIST, PWID/ METH (GS) 3rd offense~~

in violation of § 44-53-0375(b)(3) (A) of the S.C. Code of Laws, bearing CDR Code # ~~3200~~ 3016

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST: N. Adam Norris 703114 SC Bar # Defendant WILLIAMS, KATELYN 105549 SC Bar# Attorney for Defendant

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

for a determinate term of 10 days/months/years/Time Served Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of 4 days/months/years/Time Served and or payment of \$, plus costs and assessments as applicable*; the balance is suspended with probation for 3

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

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

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 3 days/months

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

The Defendant Shall be Released from County Detention Center.

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

No formal reo

STATE VS. Robert Allen Henderson Jr. INDICTMENT/CASE#: 2022 - GS - 39 - 00748

SPECIAL CONDITIONS:

- PTUP after _____ months/years
- And Other Terms Listed Below:**
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: ATY w/ SCDC

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5 %)				\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100			\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100			\$ _____
§56-5-2995 (DUI Assessment)	\$12			\$ _____
§56-1-286 (DUI Breath Test)	\$25			\$ _____
§14-1-212 (Law Enforce. Funding)	\$25			\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150			\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41			\$ _____
§50-21-114(BUI Breath Test Fee)	\$50			\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea			\$ _____
3% to County (if paid in installments)	TBD			\$ <u>27.25</u>
<input checked="" type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500			\$ <u>500.00</u>
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD			\$ _____
TOTAL				\$ <u>798.25</u>

Clerk of Court/ Deputy Clerk:
Court Reporter:

Harold P. Welton
Amy Heron

Presiding Judge: _____
Judge Code: 2777
Sentence Date: 7/9/2024

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

RECEIVED

Nov 03 2025

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of November 2025.

RECEIVED

Nov 03 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT ALLEN HENDERSON, JR.,

APPELLANT.

APPELLATE CASE NO. 2024-001211

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 3rd day of November 2025.



Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT