

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Sumter County

Honorable Alison Renee Lee, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM LEE ROSEBORO, JR.

APPELLANT

APPELLATE CASE NO. 2022-001551

RECORD ON APPEAL

JESSICA M. SAXON
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

AMBREE M. MULLER
Assistant Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit

215 N. Harvin St.
Sumter, SC 29150
(803) 436-2185

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
STATE,)

TRANSCRIPT OF RECORD
18-GS-43-0364

v.)

WILLIAM L. ROSEBORO, JR.)

DEFENDANT.)

October 25-27, 2022
Sumter, South Carolina

B E F O R E :

THE HONORABLE ALISON R. LEE, JUDGE;
AND JURY

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

ERNEST A. FINNEY, III, ESQ.
CHRISTA T. BELL, ESQ.
Assistant Solicitor

MICHAEL D. ROUTZONG, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

1 it on that basis. And before I say anything else,
2 I'll hear from Ms. Bell as to whether there's
3 anything she has that she wants to comment on or
4 indicate at this time.

5 MS. BELL: Thank you, Your Honor, may it
6 please the Court. Your Honor, I would concur with
7 the Court as far as the basis for the continuance.
8 Additionally, I don't know if he wants to move into
9 any other matters at this time, but I have a issue
10 with the indictment that I have talked with Mr.
11 Routzong about.

12 THE COURT: And does that issue affect our
13 ability to go forward?

14 MS. BELL: It does not. It would affect
15 it on this charge, but it would be -- we would move
16 to amend it to lesser included offense so, Your
17 Honor, so that would be no prejudice to the
18 defendant; but upon further review of the evidence,
19 it is the State's contention that this is more
20 appropriate possession with intent to distribute
21 marijuana based on the information that we have at
22 this time, and so I informed Mr. Routzong about that
23 yesterday. I did also, with candor to the Court,
24 that if for some reason the case is continued, that
25 we would be looking to enhance it because he does

1 have prior convictions that would enhance the
2 offense; but it was indicted as a first offense
3 trafficking and is more appropriately a PWID second
4 or subsequent and there may also be an additional
5 charge of criminal conspiracy. That would more
6 appropriately fit the facts of the case; but we are
7 prepared to go forward today, Your Honor, on
8 possession with intent to distribute marijuana.

9 THE COURT: Mr. Routzong, is there
10 anything you wish to state or anything further you
11 want to add at this point?

12 MR. ROUTZONG: Before you rule, Your
13 Honor, I have the medical report that was sent to me
14 and must still be on my desk; and before you rule
15 definitive on that, perhaps you could review.

16 THE COURT: I would like to review it,
17 yes, before I make a final decision. Yes, sir.

18 MR. ROUTZONG: Okay.

19 THE COURT: And I'll be happy to review
20 it. Are there any -- are there any other matters we
21 need to take up at this particular point? Is
22 there -- I understand that there's potential
23 pretrial, is that correct, or am I missing that?

24 MR. ROUTZONG: Your Honor, and I'm not
25 trying to be vague this time, at least ---

1 MS. BELL: Nothing from the State, Your
2 Honor.

3 MR. ROUTZONG: Nothing from Defense, Your
4 Honor.

5 THE COURT: If there's nothing further,
6 then we're ready for the jury to come in.

7 (WHEREUPON, the jury was returned to the
8 courtroom at approximately 10:10 a.m., and the
9 following proceedings commenced in open court.)

10 THE COURT: Good morning, ladies and
11 gentlemen. We are ready to begin the trial of this
12 case, and before we get started I'm going to ask
13 that you stand and raise your right hand for the
14 administration of the oath.

15 (WHEREUPON, the jury was sworn at
16 10:12 a.m.)

17 THE COURT: And to my alternates, the
18 alternate number 1 and alternate number 2, you're
19 seated in your seats.

20 And, Mr. Geddings, John Geddings, if you
21 will switch seats with the gentleman next to you
22 please. I'm asking that you serve as the foreperson
23 for this particular jury. As the foreperson, your
24 role will be to communicate with me in the event
25 that there's anything that you all need throughout

1 the course of this trial. If you have any issues
2 that I need to be aware of for purposes of taking a
3 break or if there are any conflicts in the event
4 that we have to go after 5 p.m., you should write me
5 a note about that. But more importantly, when this
6 case is submitted to you all to begin your
7 deliberations, it will be your responsibility to
8 make sure that everyone has the opportunity to
9 express his or her views about the evidence and what
10 the evidence shows, find them to coordinate those
11 discussions; and then ultimately when you have
12 reached a verdict in this case, it will be your
13 responsibility to record the verdict on the
14 appropriate form. I'd like to thank you in advance
15 for your willingness to serve as a juror -- as a
16 foreperson in this particular matter. Thank you.

17 Ladies and gentlemen, as I've indicated,
18 at this time we are ready to begin the trial of this
19 case; and what I'd like to do is, again, to remind
20 you that this case involves a charge of possession
21 with intent to distribute marijuana. As I told you
22 yesterday, those are allegations that have been
23 brought by the State against a defendant and this
24 defendant has plead not guilty to that charge and
25 that plea casts the burden upon the State to prove

1 that Mr. Roseboro is guilty of this charge beyond a
2 reasonable doubt and that is the purpose for our
3 trial today.

4 I'd like to explain to you the procedure
5 that we'll follow for the trial. The first thing
6 that you will hear will be the opening statements of
7 the attorneys. They're not required to give opening
8 statements, but they may tell you a little bit more
9 about what this case is about and give you kind of
10 an overview of what you may be able to hear in the
11 form of evidence that will be presented throughout
12 the course of this trial. So I ask that you listen
13 carefully to those opening statements. They kind of
14 give you a road map for what you can expect to hear.

15 Once they've made those opening
16 statements, then we will, in fact, hear the
17 evidence. The evidence may -- and that will be in
18 the form of witnesses' testimony. It may be in the
19 form of other documents or physical pieces of
20 evidence that are exhibits that'll be made part of
21 the record which you'll be able to take with you
22 into the jury room when it's time for you all to
23 begin your deliberations. From time to time you may
24 hear attorneys objecting about evidence that's being
25 presented, and they're simply pointing out to me

1 that there's an issue about -- a legal issue about
2 that particular evidence. I ask that you not
3 speculate as to the reasons for the objection or why
4 there's an objection on my ruling on the objection.
5 If I sustain the objection, then that means that the
6 evidence will not be allowed in. If I overrule the
7 objection, then you will be able to hear the
8 evidence that will be presented. On some occasions
9 I may need -- we may need to talk about those
10 matters in a little bit more detail and I will ask
11 that you retire to the jury room. I'm gonna tell
12 you now not to speculate as to what we're discussing
13 or the reasons for our discussion. I assure you
14 that we're not trying to hide or keep anything from
15 you. What we're trying to do is to make sure that
16 the evidence that you hear and the evidence that you
17 can consider will assist you in being able to
18 determine the facts of this case; for, again, that's
19 your job here today is to determine the facts based
20 upon the evidence that will be presented.

21 Once the evidence has been presented, then
22 you will hear again from the attorneys in the form
23 of a closing argument. At that particular time,
24 they will pick out portions of the evidence that
25 you've heard and then will make arguments to you to

1 encourage you to find the facts in accordance with
2 their view on what occurred, so I ask that you
3 listen to those closing arguments. And then once
4 they've made those closing arguments, then I will
5 instruct you on the law that's to be applied and you
6 may begin your deliberations at that particular
7 point.

8 Now, ladies and gentlemen, I'm sure that
9 we will continue throughout the day with this
10 particular trial. We -- I'm sure we might go into
11 tomorrow and we'll just wait and see how things
12 progress; but I do ask that you listen very
13 carefully to the attorneys and to the witnesses as
14 -- as they present information and evidence to you.
15 Again, I will remind you, if you need to take notes
16 to help you remember information, please let me know
17 so that I can make sure that you have appropriate
18 paper and pen to be able to do so. But I, again,
19 caution you that sometimes when you're writing
20 information down, you may miss something that's
21 being presented. When I do understand that
22 sometimes people need to take notes to help them
23 remember and keep up with information. And so, I
24 believe at this particular time we are now ready to
25 hear the opening statements of the attorneys.

1 Ms. Bell.

2 MS. BELL: Thank you, Your Honor. May it
3 please the Court, Mr. Routzong. Good morning,
4 ladies and gentlemen. I'm gonna ask you to remember
5 three words for me: Signed, sealed, delivered.
6 Some of you may have heard that term before. In
7 fact, I'm gonna tell my age, I'm aging myself, but
8 there's actually at least one song that I know of
9 that has that title Signed Sealed and Delivered. In
10 a nutshell, that's what this case is about. For you
11 see, on January the 12th of 2018, in the mid-morning
12 hours, the defendant who's on trial here today,
13 signed for a package. That package was sealed. And
14 you're gonna hear testimony from the witness stand,
15 and you'll actually see evidence as well. And I
16 want you to pay particular attention about the seal,
17 sealing of that parcel. It's very important and
18 relevant in this case. So the defendant signed for
19 a package. He signed for a sealed package and that
20 package was addressed to him and delivered to him.
21 Signed, sealed, delivered.

22 Now delivery, important. The defendant
23 was expecting this parcel. It wasn't like it was a
24 surprise. So when he went to the apartment complex
25 here in Sumter County to pick up -- and some of you

1 may know if you've ever lived in an apartment
2 complex or you've lived in a condominium or
3 something where there's a central office, sometimes
4 if you have a parcel because it can't fit in the
5 mail box, you go and pick it up from the leasing
6 office. And so in this particular case that's
7 exactly what happened. The defendant was expecting
8 this gift -- delivery, not a gift, delivery. He was
9 expecting it. He was anticipating it. He knew when
10 it was coming. How did he know when it was coming?
11 Because the State will submit to you that he is
12 actually the one that sent -- had that package sent
13 from California two days beforehand, two-day
14 delivery. So one time the package is there ready
15 for him to pick up on time ready for delivery, a
16 valuable package for him, ladies and gentlemen.
17 It's worth a good bit of money.

18 So what he doesn't know is that the United
19 States Parcel -- I mean, I'm sorry, the United
20 States Postal Service also knows about that package.
21 They also know that it's being delivered that day
22 and the Sumter Police Department also knows about
23 that package and also knows that that package is
24 being delivered that day. It's -- you're gonna hear
25 about it, but it's a, what's known as a controlled

1 delivery. So they knew what was in the contents of
2 that parcel, as well as the defendant did. Of
3 course, he didn't know that they knew.

4 So he gets the parcel and he is -- he
5 comes out of the -- into the parking lot, and he is
6 apprehended and he is arrested there because what's
7 inside that parcel? What do you think is inside
8 that parcel? Exactly what we're here about today.
9 Illegal drugs, marijuana, approximately 3.9 pounds
10 of marijuana. The judge is gonna instruct you on
11 possession with intent to distribute. That's what
12 the defendant is charged with. I don't want to take
13 too much of our time today in the opening because I
14 have an opportunity to come back to you once all the
15 evidence has been presented and then go over, as the
16 judge said, how the evidence -- walk you through the
17 evidence and how the law meets with that evidence.

18 Good morning, again. As you heard
19 yesterday, my name is Christa Bell. I'm an
20 assistant solicitor for the Third Judicial Circuit.
21 It is my pleasure to be here before you all today
22 representing the Third Judicial Circuit which
23 includes Sumter County, as well as my boss
24 Mr. Finney, the solicitor for this circuit, and the
25 citizens of Sumter County. It is truly very

1 important your role today, far more important than
2 who I am, is the reason why you all are here today.
3 And you're here today to, as we said, try the case
4 of the defendant William Lee Roseboro, Jr., on the
5 charge of possession with intent to distribute
6 marijuana. I want to thank you for your service
7 today and that's not just for the service on my
8 part, because your role as jurors makes this country
9 and our criminal judicial system work. Were it not
10 for each one of you, both individually and
11 collectively here today, and I know you didn't come
12 running down here saying you wanted to participate,
13 you had that little invitation in the mail, your
14 summons, your jury summons; but it's very important.
15 It's why this system works. It what -- it's what
16 when we say every defendant regardless of race,
17 color, creed, nationality, religion. In this
18 country every criminal defendant has the right to a
19 fair and impartial jury. That's why you all were
20 selected by Mr. Routzong and myself because all of
21 us feel that you all can be fair and impartial
22 jurors; that when you raised your hand to take that
23 oath to truly try this case, that you will do that.
24 And one of the things that we so much appreciate
25 about jurors and sometimes as lawyers we don'[t get

1 it, is that you don't check your common sense at the
2 door. You make important decisions every day of
3 your life and you use your experience and life
4 experience to make important decisions. So while
5 this decision that you're making today doesn't
6 directly affect you, it is important for the
7 defendant and it's important for the State of South
8 Carolina, Sumter County, and the citizens thereof.

9 So today I'll ask you again and I'll come
10 back to you at the end of the case, but the judge is
11 gonna give you before I sit down just a couple of
12 legal principles that I think are gonna apply
13 throughout the trial that I want you to keep in
14 mind. The judge has instructed you that the State
15 has the burden of proof, as we call it. That means
16 that the defendant is presumed innocent. They have
17 no burden whatsoever. It is upon the State. Ladies
18 and gentlemen, the State welcomes that burden. The
19 burden is beyond a reasonable doubt. Not beyond
20 every doubt, not beyond all doubt, because as you
21 all know, there's very few things in life that you
22 can be 100 percent certain of. I mean, you all
23 weren't even there on January 12th of 2018 so how do
24 you determine what happened in this case 'cause
25 thankfully, not me, not Mr. Routzong, not

1 Mr. Finney, not law enforcement, nobody else makes a
2 decision on what the facts are in this case except
3 all of you; and you all have to determine whether
4 those facts amount to beyond a reasonable doubt.
5 And so I want you to keep in mind that not every
6 doubt is a reasonable doubt. So when you hear
7 the -- when you are hearing the evidence and we
8 review the tangible documents, the physical
9 evidence, keep in mind that concept, that legal
10 concept; it's very important. The State does not
11 have to prove beyond a shadow of a doubt, 100
12 percent; it's beyond a reasonable doubt.

13 The other principle -- then I'm gonna sit
14 down -- that I want you to keep in mind is that
15 reasonable doubt has also been described as a doubt
16 that cause a reasonable person to hesitate to act.
17 I don't want you all to confuse -- and I don't think
18 you will -- reasonable doubt -- I mean, hesitate to
19 act in deliberation, because the defendant is
20 entitled to your deliberation. Things we think are
21 important that we make decisions on, we deliberate.
22 That's important. It's important to us. We don't
23 go into them haphazardly. And in this case I will
24 tell you, just because you deliberate when you get
25 back in the jury room to take this case, it does not

1 mean a hesitation to act. You should deliberate.
2 You should review the evidence. You should examine
3 the evidence. That's your role as the jurors.

4 Finally, I'll come back to you at the end
5 of the case. We'll talk about once all the evidence
6 has been presented, and I'm gonna ask you to find
7 the defendant guilty beyond a reasonable doubt. I'm
8 gonna ask you to have the jury -- the jury foreman,
9 sign that verdict form. That verdict form will be a
10 sealed deliberation of all of you on your unanimous
11 decision and deliver it to the defendant to hold him
12 accountable for his criminal actions. Thank you.

13 THE COURT: Mr. Routzong.

14 MR. ROUTZONG: Thank you, Your Honor.
15 Ms. Bell, Mr. Finney. Good morning, my name is
16 Michael Routzong. I'm an attorney. I represent
17 Mr. Roseboro. Ms. Bell has inspired me a little bit
18 with that song and one of the other lyrics in it is
19 Like a Fool I Stayed Too Long. That's one of the
20 other lyrics and I will not do that to you this
21 morning; I will be brief.

22 It is about reasonable doubt. It is about
23 examining the elements as it's given to you by the
24 Court. You're gonna get a chance to hear testimony
25 up here. You'll hear direct examination,

1 cross-examination, and that is where you get your
2 information. That's where you make your decision
3 from, the things you hear up here, the things that
4 are entered into evidence, and nothing else; and
5 that's what we're going to focus on.

6 I very much appreciate you being here. I
7 agree with Ms. Bell on almost everything she said,
8 not quite everything, but almost. And I very much
9 appreciate it and on behalf of Mr. Roseboro, we
10 thank you.

11 THE COURT: You may call your first
12 witness.

13 MS. BELL: Thank you, Your Honor. At this
14 time the State will call postal inspector Mike
15 Rogers.

16 THE CLERK: Place your left hand on the
17 Bible, raise your right hand. Do you -- state your
18 full name.

19 THE WITNESS: Michael Keith Rogers,
20 R-O-G-E-R-S.
21 WHEREUPON,

22 **MICHAEL ROGERS,**
23 having been duly sworn by the clerk, testified
24 as follows:

25 THE CLERK: Step around, sir. State your

SW - M. ROGERS - DIRECT

1 full name and spell your last name for the record
2 please, sir.

3 THE WITNESS: Michael Keith Rogers,
4 R-O-G-E-R-S.

5 THE COURT: Yes, ma'am.

6 **DIRECT EXAMINATION**

7 BY MS. BELL:

8 Q Mr. Rogers, or Inspector Rogers, could you
9 please tell the Court what is it that you currently
10 do?

11 A I'm a postal inspector for the United
12 States Postal Inspection Service.

13 Q And how long have you worked in that
14 capacity?

15 A I was hired in August of 2007, just over
16 15 years.

17 Q Prior to being a postal inspector --
18 postal inspector for the United States Postal
19 Service, -- I'm gonna get tongue twisted here -- can
20 you tell us what you did?

21 A Yes. At the time I was hired I was a
22 sergeant in charge of the investigation division for
23 the Sumter Police Department here in Sumter, South
24 Carolina. I spent ten-and-half years with that
25 agency.

SW - M. ROGERS - DIRECT

1 Q And what did you do with the Sumter Police
2 Department?

3 A Mainly I supervised 14 detectives; but I
4 was also investigated mostly financial crimes, fraud
5 and forgeries. I also investigated violent crimes,
6 homicides, rapes, armed robberies, arsons, pretty
7 much the gamut.

8 Q As a postal inspector, can you tell us
9 what -- what it is on a day-to-day basis that you
10 do? I'm sure it's varied, but can you tell the jury
11 what it is that you do?

12 A Yes, ma'am. Postal inspectors are federal
13 law enforcement agents. We execute arrests; we
14 issue subpoenas. We issue search warrants. We are
15 the investigative arm of the United States Postal
16 Service. We're a separate entity, but we fall under
17 the umbrella of the postal service. There's
18 approximately 1200 postal inspectors nationwide so
19 we're a very small agency. We investigate what's
20 called mail crimes or things that have a mail nexus.
21 For example, I investigate crimes of violence
22 against postal employees, whether it's assault and
23 threats, homicides, robberies. I investigate crimes
24 that occur on postal service properties: Armed
25 robberies, burglaries, arsons. I also investigate

SW - M. ROGERS - DIRECT

1 crimes that utilize U.S. mail: Mail theft, mail
2 fraud, dangerous mails, investigation meaning
3 anthrax, bombs, things of that nature; and also
4 investigate involving illegal contraband in United
5 States mail, like in this case, narcotics.

6 Q And in your capacity as a postal
7 inspector, do you have occasion to work with other
8 agencies and entities in a collaborative way for
9 your investigations?

10 A Yes, ma'am. We work local, state, and
11 federal law enforcement agencies throughout
12 different investigation, whatever the need arises.

13 Q And do you have a particular area or
14 region that you cover?

15 A Yes, ma'am. I'm based out of Columbia,
16 South Carolina. I cover mostly the Midlands --
17 Richland County, Sumter County, Lee County. Any
18 crimes that arising in that area, I do most of.

19 Q I want to draw your attention to the day
20 of January the 12th of 2018, the reason why we're
21 all here today. Did you have an occasion to come
22 into contact with the defendant?

23 A Yes, ma'am, I did.

24 Q Okay. Was it here in Sumter County?

25 A Yes, ma'am, it was.

SW - M. ROGERS - DIRECT

1 Q And for the record, could you identify the
2 defendant. I know he's wearing a mask. Would it
3 help if he ---

4 A Oh, no, I can see him; he's fine. He's
5 wearing a COVID mask. He -- looks like he has a
6 white shirt on, and he's carrying a cane.

7 MS. BELL: Your Honor, please let the
8 record reflect that the witness has identified the
9 defendant.

10 THE COURT: So noted.

11 BY MS. BELL:

12 Q I want to work my way backwards a little
13 bit. On -- what is -- first I'm gonna ask you, what
14 is a controlled delivery? Can you explain to the
15 jury what that is?

16 A Yes, ma'am. One of the things that we do
17 as postal inspectors when we investigate narcotics
18 through the mail, we do what's called a controlled
19 delivery, meaning we do not like to put the carriers
20 in jeopardy of knowingly manning narcotics. That
21 puts them in jeopardy and their safety. So when we
22 get involved in investigation, when we're ready to
23 actually execute a search warrant on the box, open
24 it, identify its contents, we'll seal it back up.
25 Sometimes we'll put just a little bit in left to

SW - M. ROGERS - DIRECT

1 make the charge because we don't want to mail all
2 the narcotics at one time with a risk of losing it.
3 So we do what's called a controlled delivery.
4 Myself and other inspectors will actually dress up
5 as a mail carrier and deliver the box so it takes
6 the carrier out of the equation.

7 Q Okay. And did you have an occasion to
8 execute a controlled delivery on January the 12th of
9 2018?

10 A Yes, ma'am, we did.

11 Q Okay. And where was that at?

12 A At the apartments in off -- I believe 117
13 Alice Drive, Palmetto Apartments here in Sumter.

14 Q And was there -- who was the recipient, I
15 guess, of the package?

16 A The package was addressed to the defendant
17 Mr. Roseboro.

18 Q Okay. And before you do what's known as a
19 controlled buy, are there certain things that you
20 have -- I said a controlled buy, I'm sorry, control
21 delivery. Are there certain things that you have to
22 put in place other than what you talked about as far
23 as getting the normal courier out of harms way, but
24 are there certain things that you have to do? In
25 other words, such as execute search warrant?

SW - M. ROGERS - DIRECT

1 A Yes, ma'am. It's a long, drawn out
2 process. It's not a rush thing where we do it in
3 one day. It's an ongoing process in investigative
4 steps. But basically what we -- and this case is no
5 different. Once we identify a suspicious parcel
6 going to a particular address, if we have reasonable
7 suspicion to put a canine, a drug dog on the box to
8 sniff it, if that dog alerts to the box, then we
9 will execute a federal search warrant. We have to
10 have reasonable suspicion to put a dog on a box. We
11 can't just take a canine to a post office and start
12 sniffing parcels. We have to have reasonable
13 suspicion for a particular parcel before we put it
14 on a box, and that's what was done in this case.
15 Once the canine alerted to the box, we issued a
16 federal search warrant. Once a warrant was sworn,
17 the box was opened and we identified the contents.
18 We photographed them; we weigh it. And then we pone
19 just enough back in the box, along with maybe some
20 papers and some books to add back to the weight
21 before we do the control delivery. Again, because
22 we don't -- there's that 1 percent chance when the
23 delivery is made, the target could run off with the
24 box and then we lose all the evidence in the case.
25 Q Okay. And thankfully that did not happen

SW - M. ROGERS - DIRECT

1 in this particular case?

2 A No, it did not.

3 Q Okay. As far as in this particular case
4 when you actually opened the parcel, how were the
5 contents inside packaged?

6 A Yes. Well, I always like to flip the box
7 upside down because when we do a controlled delivery
8 you don't want to damage the label. So once I open
9 the bottom, the first thing I noticed was what's
10 called a mylar bag, silver mylar bags. It's almost
11 like a very silky -- not a silky, but hard plastic
12 feel. We photograph that. And at each stage that
13 we open the contents, we photograph. The first
14 thing I noticed were mylar bags, and they are four
15 of them. Once we took those out, we opened those
16 bags up and then there were heat sealed, vacuum
17 sealed bags of green leafy substance which is later
18 we identified as marijuana, along with white
19 popcorn, packing popcorn inside the box.

20 Q And so the mylar bags that you talked
21 about, is there any specific advantage to those if
22 you are mailing illegal drugs?

23 A Yes. Mylar bags, aside from other uses,
24 they're also -- both based on my training and
25 experience -- sometimes a subject will ship drugs in

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1 mylar bags to try to attempt to seal the scent to
2 keep the dogs from alerting on it.

3 Q Is culti-- I guess marijuana that is not
4 burned, just marijuana in its plain state, does it
5 have an odor?

6 A Yes, it does.

7 Q And would it be a odor that could be easy
8 to detect, do you know?

9 A Yes. I mean, for -- well, for the dogs,
10 canine, yes, obviously. For us it would be harder
11 for us to -- to observe it if it's packed properly;
12 but when it's exposed, you can clearly smell it from
13 --from a distance.

14 Q So what I'm hearing you say is the mylar
15 bag and the sealed bag, the way this one was
16 packaged helps prevent that smell from emanating
17 from the package?

18 A That's correct; I cannot smell it.

19 Q Okay. I'm showing you what's been marked
20 for identification purposes without objection
21 State's No. 1, 2, and 3. Can you identify these
22 photographs for me?

23 A Yes, ma'am. These are photographs of the
24 box and its contents that was delivered by me,
25 controlled delivery, to Mr. Roseboro's apartment

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1 complex. The first picture, Exhibit 1, shows an
2 outer picture of the overall package, along with a
3 label. Upper right-hand corner it shows the postage
4 showing which post office it came from, how much the
5 postage was paid for. Upper left-hand corner is
6 significant because it has the name and address of
7 the sender; and, of course, it's addressed to Mr. W.
8 Roseboro, Apartment 117, 1005 Alice Drive, Sumter,
9 South Carolina. And on the bottom it's got the
10 tracking number for that parcel and ---

11 Q Oh, I'm gonna ask you to hold on ---

12 A Okay.

13 Q ---just a moment because I realize that I
14 did not use our Elmo system.

15 MS. BELL: But, Your Honor, could I have,
16 instead, the witness step down and point to the jury
17 what he's referring to since they don't have the
18 picture in front of them?

19 THE COURT: Yes, that's fine, as long as
20 he keeps his voice up so that the court reporter can
21 record it.

22 MS. BELL: Okay. Could you please step
23 down.

24 THE WITNESS: Yes, ma'am.

25 BY MS. BELL:

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1 Q If you could publish to the jury what
2 you're referring to, I'm sorry.

3 A Yes. So this is the overall picture of
4 the parcel, overall picture of the parcel. This is
5 the priority mail label. This is standard priority
6 mail. This is the postage, where it was paid. Of
7 course, if you look here you can see how much he
8 paid. You look closely you can see the date that it
9 crossed the counter in California. It also has the
10 zip code where it's mailed from. This is the label
11 showing the name, return address of the sender.
12 This is who it was addressed to here in Sumter,
13 South Carolina, and this is the tracking number. So
14 anybody, you can go online and check it yourself.
15 If you have a tracking number you can see where the
16 parcel is at.

17 Q Okay, thank you.

18 MS. BELL: And, Your Honor, may I publish
19 this to the jury and move it into evidence at this
20 time as State's No. 1?

21 THE COURT: Any objection?

22 MR. ROUTZONG: No. No, Your Honor.

23 THE COURT: State's Exhibit 1 is admitted.

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

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1 BY MS. BELL:

2 Q Now as part of your investigation and
3 let's talk about right now State's No. 1, the return
4 address, can you tell us if -- what the return
5 address was? Like, who is named on the label for
6 the return address?

7 A Yes. The reason this parcel drew our
8 attention was because when I ran the name and
9 address in the law enforcement data base called
10 CLEAR, the name did not match at all, even just the
11 last name. Sometimes you'll have variations. You
12 know, if it's addressed to a child, their name is
13 not gonna be in the system. But just the last name
14 of Miller is not -- has no association with the
15 address, and that's significant because based on my
16 training and experience, people that are involved in
17 sending drugs in U.S. mail will not put their real
18 name and address for return for obvious reasons;
19 they don't want to be caught. So that raises a
20 suspicion level of the parcel and that was the --
21 one of the main bases for putting the canine on the
22 parcel.

23 Q Okay. And then the date, could you please
24 publish to the jury what the date was that this was
25 sent?

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1 A Yes. According to the label in the upper
2 right-hand corner for the postage that was printed
3 at the post office, the date was January 10th, 2018.

4 Q Okay. And then who was it addressed to
5 and at what address?

6 A Addressed to Mr. W. Dot Roseboro, 1005
7 Alice Drive, Apartment 117, Sumter, South Carolina
8 29150.

9 Q And that, is that -- is it Palmetto
10 Apartment?

11 A I believe it's Palmetto, yes, ma'am.

12 Q Was that the Palmetto Apartments at 1005
13 Alice Drive?

14 A Yes, ma'am.

15 Q Okay. And then the tracking number, did
16 you have another occasion to see this tracking
17 number at some point in time?

18 A Yes, ma'am, I did.

19 Q Okay. And we'll talk -- we'll get to that
20 in a moment. I'm gonna show you what's being
21 marked, I guess, or -- it's actually 3. But can you
22 tell us what this is a picture of?

23 A Yes. As soon as we open the box, this is
24 what we would see, the mylar bags inside the parcel.
25 And as I described earlier, it was silver, almost

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1 like an aluminum foil feel; but they don't -- they
2 don't crinkle like aluminum foil, but they're --
3 they feel like plastic, but they also feel and look
4 like aluminum foil, but that's nylon mylar bags.

5 Q Okay. They're not easy to puncture, are
6 they?

7 A No, it'd take -- you have to actually
8 either take a pair of scissors and cut into it.

9 Q Okay. And this is a picture of actually
10 what you found in that box?

11 A Yes, ma'am.

12 Q All right.

13 MS. BELL: Your Honor, at this time the
14 State would move -- I don't know if I moved 1, 2,
15 and 3 into evidence.

16 THE COURT: I think you may have, but just
17 to make the record clear.

18 MS. BELL: Okay, thank you. So what's
19 been moved into evidence without objection, State's
20 No. 3.

21 THE COURT: There's no objection; is that
22 correct?

23 MR. ROUTZONG: That's correct, Your Honor.

24 THE COURT: Thank you.

25 (WHEREUPON, State Exhibit No. 3 was

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1 admitted into evidence.)

2 BY MS. BELL:

3 Q And then, finally, related to the package
4 and the photographs, can you please describe what's
5 depicted in State's Exhibit No. 2 without objection.

6 A Yes, ma'am. Once we broke one the mylar
7 bags, there were four in the box that I testified
8 earlier. These were the contents to the mylar bags.
9 They were vacuum sealed, heat-sealed bags, a green
10 leafy substance which is later to be identified as
11 marijuana.

12 Q Okay. And did you determine what the
13 approximate weight was of the substance?

14 A If you -- you can actually see on the
15 photographs, one of them has one pound written.
16 They appear to be one pound each. I believe the
17 total weight was 3.9 pounds if I'm not mistaken.

18 Q Okay. And do you see in that photograph
19 what you are referring to?

20 A Yes. Right here in the middle you can see
21 the -- it says one pound on the actual -- on the
22 actual bag itself; it's actually written. We did
23 not write that. That was actually written on the
24 bag so.

25 Q Oh, that was already written on there?

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1 A Yes, ma'am.

2 MS. BELL: And, Your Honor, at this time
3 the State would move into evidence without objection
4 State's No. 2.

5 MR. ROUTZONG: No objection.

6 THE COURT: Without objection it's
7 admitted.

8 (WHEREUPON, State Exhibit No. 2 was
9 admitted into evidence.)

10 BY MS. BELL:

11 Q We talked about -- you mentioned just a
12 few moments earlier about the significance of the
13 tracking number.

14 A Yes, ma'am.

15 Q That's -- is that almost like the
16 fingerprint for that, for that box?

17 A Yes, ma'am.

18 Q You know, the identifying feature of that
19 box as it comes from the postal -- the U.S. Postal
20 Service?

21 A Yes, ma'am.

22 Q Okay. You indicated that you had an
23 occasion to come in contact with the defendant on
24 January the 12th of 2018, correct?

25 A Yes, ma'am.

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1 Q And after he was arrested, did you have an
2 occasion -- well, let me show first State's No. 4.

3 (Attorneys confer.)

4 BY MS. BELL:

5 Q So you've identified that that's the
6 tracking number, correct?

7 A Yes, ma'am.

8 Q And you had an occasion to see that
9 tracking number another time, correct?

10 A Yes, ma'am.

11 Q Did you have an occasion to search the
12 defendant's wallet after he was arrested on Decem--
13 I'm sorry, on January the 12th?

14 A Yes, ma'am, I did.

15 Q And what did you find?

16 A Among other things, we found a receipt
17 from the post office in California which had that
18 tracking number on it.

19 Q Okay. And is that, that receipt, is that
20 something that the postal department keeps in its
21 ordinary course of business? Do they keep a record
22 of it?

23 A Yes, ma'am, they do.

24 Q Okay. And then this was actually found on
25 the defendant, correct?

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1 A That's correct.

2 Q Okay.

3 MS. BELL: Your Honor, at this time this
4 is the photo of --- and I understand there may be an
5 objection.

6 MR. ROUTZONG: We object to having that
7 admitted, Your Honor. It's hearsay. Under no
8 exception?

9 MS. BELL: Your Honor, that's fine. We
10 have the original in evidence so I'll -- I'll move
11 on.

12 THE COURT: So you said you have the
13 original?

14 MS. BELL: Yes, through the evidence
15 technician, yeah. I'm sorry, Your Honor. We'll --
16 we'll wait for later, Your Honor.

17 THE COURT: So you're withdrawing the
18 admission of that at this particular time?

19 MS. BELL: Yes. Thank you, Your Honor.

20 THE COURT: Thank you.

21 BY MS. BELL:

22 Q In addition to the tracking information
23 that you found on the defendant, was there anything
24 that was on his person? Was there anything else
25 that was found?

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1 A Yes. Interestingly enough, we found some
2 receipts, airline ticket receipts, from Los Angeles,
3 California, to Columbia, South Carolina.

4 Q Okay. And specifically related to around
5 the time of January the 12th of 2018, did you find
6 anyone there that was close in date to that one?

7 A Yes, ma'am. The receipts indicated, at
8 least based on what we found on, in his person, it
9 appears that a flight was taken from Columbia, South
10 Carolina, to Los Angeles between January 9th and the
11 return on January 11th.

12 Q Okay. And did that particular receipt
13 have the name of an individual on it?

14 A Yes, ma'am, it did.

15 Q And what was the name of the individual
16 that was on that receipt?

17 A The defendant William Roseboro.

18 MS. BELL: Beg the Court's indulgence.

19 BY MS. BELL:

20 Q There was some discussion earlier I
21 mentioned to you about the -- you mentioned about
22 the canine once there's a suspicious package. And
23 in this particular case, there was a canine that was
24 alerted to that particular package, correct?

25 A Yes, ma'am.

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1 Q And that -- at that time that package was
2 not opened. It had not been identified as anything
3 other than that box the way it looked unopened,
4 correct?

5 MR. ROUTZONG: Your Honor, I have to
6 object to any reference to what the canine may have
7 done or didn't do. I don't believe he was the
8 canine handler. I don't think he's in a position to
9 interpret what the alert meant. If they want to
10 talk about the canine, I would think they need to
11 bring the canine handler in and then discuss that.
12 I don't think he's the appropriate witness for that,
13 Your Honor.

14 THE COURT: Based upon the question that
15 you asked, I sustain the objection.

16 MS. BELL: Okay.

17 THE COURT: You need to rephrase your
18 question.

19 MS. BELL: Thank you, Your Honor. Let me
20 move back.

21 BY MS. BELL:

22 Q Were you -- were you present when the
23 alert was made on the package?

24 A Yes, ma'am, I was.

25 MR. ROUTZONG: That's asking the same

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1 question with the same problem. I have to object to
2 that, Your Honor.

3 MS. BELL: I just asked if he was ---

4 THE COURT: I'll overrule. I think he can
5 testify as to what he saw and observed at the time,
6 and so I think that he can testify to that
7 particular point.

8 MR. ROUTZONG: For the record, may I
9 respond, Your Honor?

10 THE COURT: Yes, sir.

11 MR. ROUTZONG: It's the word "alert".
12 That's still implying that the dog behaved and had a
13 reaction to this package, Your Honor. That's my ---

14 THE COURT: And I think if she lays the
15 appropriate foundation, then I would -- I would
16 sustain as to what she stated about the alert, but I
17 think that she can rephrase the question; and if
18 he's present, then he can testify as to what he
19 knows from his knowledge and experience.

20 MS. BELL: Thank you, Your Honor.

21 BY MS. BELL:

22 Q So you were present at the time that a
23 canine was used, ---

24 A Examining.

25 Q Yeah, examined or was used, in this

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1 particular case?

2 A Yes, ma'am, I was.

3 Q Do you know where that canine originated
4 from? Where?

5 A As far as employment?

6 Q Yes.

7 A Yes, ma'am, at the Sumter Police
8 Department.

9 Q Okay. Was -- were there anybody -- was
10 there anybody else present with you at that
11 particular time?

12 A I believe, now lieutenant, at the time
13 Sergeant Joe Lane was also present.

14 Q Okay.

15 MS. BELL: Oh, beg the Court's indulgence,
16 I'm sorry.

17 THE COURT: No problem.

18 BY MS. BELL:

19 Q So tell me what -- what initiated you in
20 this particular case to have -- request that a
21 canine be brought in?

22 A Right. As I testified earlier, typically
23 when I'm analyzing parcels I can -- we used to do it
24 old school where we had physically go to either a
25 post office or plant, physically look in boxes. Now

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1 it's all electronic. I can do it from behind my
2 desk in Columbia, and I can look and see what all is
3 coming to a particular address. And this particular
4 parcel, when I analyzed it, I actually pulled the
5 image up. I ran the address, the name and return
6 name and address to a law enforcement data base and
7 it came back false. So that was -- that alerted our
8 presence and that was the reasonable suspicion why
9 we requested canine.

10 Q Okay. And as far as how this package was
11 taped and how it was packaged on the outside, how
12 was that as far as ---

13 A Yes. Typically, once I actually saw the
14 parcel itself rather than just looking on the
15 screen, once I laid eyes on it it will pick it up.
16 It was tightly packed which is another indicator.
17 Based on my training and experience, most narcotics,
18 whether it's cocaine, marijuana, whatever, it tends
19 to be very tightly packed. When you pick it up,
20 there's no -- there's no give or take. It was -- it
21 was taped very tightly, obviously to try to either
22 to keep the contents from moving or, and/or, to keep
23 the scent sealed in. It was -- most -- the
24 narcotics that we see come through U.S. mail are
25 either shipped priority or expressed. Expressed is

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1 next day; priority is usually two or three days.
2 Because it, you know, they pay for that service,
3 they want to get it as soon as possible. Usually
4 comes from a source area and this, you know, based
5 on my training and experience, California is in a
6 source area of marijuana narcotics coming to the
7 east coast. So all those factors combined give us
8 reason to start inspecting the box a little bit
9 closer as opposed to thousands of other parcels. So
10 once we start looking at that, then we can -- once
11 we get the -- confirm that the addresses are bad,
12 whether it's return address or the sender address,
13 that gives us enough reasonable suspicion to put a
14 canine on the box.

15 Q And as far as being a postal inspector, if
16 you have a suspicious package and you're going to
17 have a canine employer actually be involved in the
18 investigation of a case, is there any way you kind
19 of, you yourself as a postal inspector, set up a
20 particular kind of situation related to that?

21 A Yes, ma'am. I do not just put a box in
22 the room and have the dog sniff it because in my
23 training and experience that's very suggestive,
24 meaning it'd be no different if I -- instead of
25 showing you a six pack lineup I show you one

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1 photograph; that's very suggestive. So rather that
2 just put one box in a room and have the dog sniff
3 it, I take -- and this case it's no different --
4 four or five boxes. Most of the time I just grab
5 them from the police department that I'm going to.
6 I say, hey, do you have any empty boxes in a closet
7 that are separate -- that have been kept separate
8 from this box. I don't want the scent to possibly
9 taint the other boxes, to get a false positive. So
10 I set those -- I, myself, set the boxes on the floor
11 along with the suspicious parcel out of the view and
12 sight of the canine officer, so they don't know
13 which box, you know, the dog could possibly alert
14 on. And so it's a clean, what we call a clean
15 examination. There's no cross-contamination between
16 the empty boxes, and the canine handler and the dog
17 itself does not know which box is the actual
18 narcotic box.

19 Q Okay. And in this particular case did you
20 have the canine handler that was present with you
21 all?

22 A Well, he was -- he was in the building,
23 but he was not present in the room when I set the
24 examination up.

25 Q Okay. Okay. Did you verify that the

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1 particular canine that was being used was certified
2 during that period of time?

3 MR. ROUTZONG: Your Honor, I'm -- I don't
4 know where she's going with this, but I think that's
5 an objectionable question. We're getting back into
6 whether or not the dog is certified. That's
7 certainly hearsay. He would have to be relying on
8 an out-of-court statement and for the truth of the
9 matter asserted the certification of the dog. So I
10 don't -- I think that's objectionable, Your Honor.

11 THE COURT: I think he can -- I think you
12 need to rephrase the questions.

13 MS. BELL: Okay.

14 THE COURT: I think he's capable of
15 testifying to what occurred; but without, I guess,
16 leading him into it, so you can rephrase the
17 question.

18 MS. BELL: Okay. Thank you, Your Honor.
19 Thank you.

20 BY MS. BELL:

21 Q All right. And you indicated that
22 Lieutenant Lane with the Sumter Police Department
23 was present with you at that time?

24 A Yes, ma'am.

25 Q Okay. Once you -- once you had an

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1 occasion to discover the stubs of the airline
2 tickets that were found in the defendant's pocket
3 with his name on it?

4 A Yes, ma'am.

5 Q Did you actually investigate that further?

6 A Yes, ma'am, I did.

7 Q Can you tell the jury what you did?

8 A Yes. We have access in our agency what's
9 called ARC, the Airline Reporting Corporation. Sort
10 of like CLEAR, it's another law enforcement data
11 base that we have access to. And we can send
12 information. You have to have at least a full name
13 to the - to the analyst, but we can send that to our
14 analyst and they can run it through ARC and they
15 --it'll tell us if that person took any flights
16 throughout the United States at all. If they paid
17 cash, it obviously won't show up; but if they paid
18 with any kind of debit or credit card, it'll be in
19 the system. And I took the stub information that
20 was found in the defendant's pocket. We ran it
21 through ARC; and it did confirm that he did take a
22 flight from Columbia, South Carolina, to Los Angeles
23 and back between January 9th and January 11th, 2019.

24 Q All right. When was this package picked
25 up by the defendant in Sumter County?

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1 A It was delivered by ---

2 Q Or the City of Sumter, I'm sorry.

3 A Yes. It was delivered by me on
4 January 12th. It was mailed from California on
5 January 10.

6 MS. BELL: Beg the Court's indulgence.
7 Your Honor, if you'll beg my indulgence one moment.
8 BY MS. BELL:

9 Q I think we're about finished, Investigator
10 Rogers.

11 (Attorneys confer.)

12 BY MS. BELL:

13 Q So in addition to the ARC law enforcement
14 data base that you checked to confirm the ticket
15 tracking ---

16 A Yes, ma'am.

17 Q ---that matched what the defendant had,
18 now that you had that information on the 10th being
19 the date and California being the location with the
20 defendant, did you do anything else?

21 A Yes, ma'am. In terms of this particular
22 parcel, we as postal inspectors, and myself
23 included, have access to much more detailed
24 information as far as the tracking. If the general
25 public tracks a package, it's gonna give you city

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1 and date, where it's going to and where it's coming
2 from. We have much more detailed access as far as
3 which counter it came across, what time it came
4 across. So in this particular case I ran the
5 tracking number through my system. It told me which
6 post office it was mailed from, what time it's
7 posted it was mailed by. And then I took that
8 information and forwarded it to the postal inspector
9 in California. And I asked him, I said search
10 your -- see if that post office has any cameras, and
11 they were able to pull up some -- a couple of
12 images, and send those to me.

13 Q Okay. And I'm gonna show you what's been
14 marked as State's Exhibit No. 5 and No. 6 and ask
15 you if you can identify those.

16 A Yes. These are from the counter in
17 California at the post office on January 10th, and
18 you can see the date and time stamp on the actual
19 photograph from where this particular package was
20 mailed from.

21 Q So the receipt that -- that was in the
22 defendant's pocket with the tracking number was that
23 location?

24 A Yes, ma'am.

25 MS. BELL: And, Your Honor, at this time I

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1 would like to move into evidence State's No. 5 and
2 6.

3 THE COURT: Any objection?

4 MR. ROUTZONG: I do, Your Honor. I don't
5 think enough foundation has been laid. I don't know
6 what those are pictures of somebody from somewhere.
7 I don't think there's been appropriate foundation
8 laid.

9 MS. BELL: Your Honor, I'll follow up.

10 THE COURT: If you can provide some
11 additional information.

12 BY MS. BELL:

13 Q In addition to the tracking number and the
14 date for your investigative purposes and as it
15 relates to this case, what was the importance of
16 these photographs?

17 A I'm sorry, repeat the question.

18 Q I'm sorry, I had my back turned, I'm
19 sorry. What were the importance of those
20 photographs?

21 A Right. These -- this is actually the
22 transaction involving this package. The reason we
23 -- I know that is because I gave the information to
24 the inspectors in California, meaning the time the
25 package was mailed, the date it was mailed, the

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1 finance number of the post office it came from.
2 Once they get that information, they can look
3 through their system in California and pull the
4 footage. They can't get that information unless it
5 comes from me so they have to have a date, the
6 location and the time; otherwise, they'll be
7 searching all day for video footage.

8 Q Okay.

9 A So once they got that information, this is
10 actually the transaction for that, for that parcel.

11 Q Okay. And in addition to the time stamp,
12 is there anything else that -- of significance in
13 that photograph, in those two photographs?

14 A Yes, it appears to be a black male subject
15 with a -- wearing a ball cap that's mailing the
16 parcels.

17 Q Okay.

18 MS. BELL: Your Honor, at this time we
19 would move -- we would now move these into evidence.
20 We think the proper foundation has been laid.

21 MR. ROUTZONG: I still object, Your Honor.
22 The problem can be encapsulated in the word "they,"
23 that the postal inspector has used several times.
24 Those are the people that can lay the foundation for
25 that photograph. He certainly can say, I requested

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1 someone or "they" in California to do that. The
2 State should have brought somebody from California
3 to -- to lay the foundation for those pictures and
4 tell us how they got them, where they came from, so
5 on and so forth, Your Honor.

6 MS. BELL: Your Honor, we feel that this
7 goes to the weight and not the admissibility for the
8 jury. There's been a proper foundation that links
9 circumstantially everything in and so that this
10 appropriately is -- can be moved into evidence.

11 THE COURT: I would agree that it's
12 admissible and anything else relates to the weight
13 to be given to it.

14 MS. BELL: Thank you, Your Honor. So,
15 Your Honor, the State would move into -- subject to
16 the defendant's objection, State's No. 5 and 6 into
17 evidence.

18 THE COURT: And they're admitted.

19 (WHEREUPON, State Exhibits Nos. 5 and
20 6 were admitted into evidence.)

21 MS. BELL: Thank you, Your Honor. Thank
22 you, Your Honor. I have no further questions.

23 BY MS. BELL:

24 Q Thank you, Inspector Rogers. Please
25 answer any questions Mr. Routzong may have for you.

1 A Yes, ma'am.

2 THE COURT: Any cross-examination?

3 MR. ROUTZONG: Yes, Your Honor. Would it
4 be possible to take a break first? We've been going
5 about an hour.

6 THE COURT: Yes, sir, I'll be happy to do
7 that. And so we've been in here before the jury
8 came in.

9 Ladies and gentlemen, we're gonna to take
10 a brief break. I'm gonna ask you to remember the
11 instructions that I've given to you. That is, not
12 to begin to discuss this matter among yourselves as
13 you still have not heard all the evidence that has
14 to be presented. Let's take a brief morning break
15 and then we'll come back and continue on with the
16 trial of this matter.

17 (WHEREUPON, the jury was removed from
18 the courtroom at 11:08 a.m.)

19 THE COURT: Mr. Rogers, you may step down
20 from the witness stand.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: I'm gonna instruct you that
23 you should not discuss your testimony with anyone.
24 You have not concluded it so it would be
25 inappropriate for you is discuss it with anyone at

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1 this time, including the attorneys.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Let's take a break, then
4 we'll come back.

5 (WHEREUPON, a recess was taken from the
6 proceedings.)

7 THE COURT: Anything we need to take up
8 before we bring the jury in?

9 MS. BELL: Nothing else from the State.

10 MR. ROUTZONG: I don't think so, Your
11 Honor. Nothing from the Defendant.

12 THE COURT: Okay. Then we can ask the
13 jury to come back in.

14 (WHEREUPON, the jury was returned to the
15 courtroom at approximately 11:30 a.m., and the
16 following proceedings commenced in open court.)

17 THE COURT: At this time we're ready to
18 continue on.

19 Mr. Routzong.

20 MR. ROUTZONG: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. ROUTZONG:

23 Q Good morning, sir. I've just got a couple
24 of questions.

25 A Yes. Good morning, sir.

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1 Q I think your testimony was that on
2 January 12th you picked up the parcel that's in
3 question here.

4 A Yes.

5 Q And you took it to the apartment complex?

6 A Controlled delivery, yes, sir.

7 Q I'm sorry?

8 A A controlled delivery, yes, sir, after --
9 after a search warrant was executed.

10 Q Okay. And at the apartment complex you
11 delivered it to the apartment, somebody in the
12 office?

13 A Yes, sir, it was at the office. That's
14 where the parcel delivered to so people can come
15 pick them up.

16 Q Okay. And then you left?

17 A Yes, sir.

18 Q It's my understanding that somewhere they
19 call this -- I think it's referred to as a -- well,
20 it doesn't really refer to anything. Some area
21 where everybody gathers and they're surveilling an
22 office; is that correct?

23 A You're referring to other law enforcement
24 officers?

25 Q Yes. Uh-huh.

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1 A Yes. When I conducted the controlled
2 delivery members of the drug unit for Sumter Police
3 Department are in the parking lot surveilling the
4 office awaiting to see if someone came and picked up
5 the parcel.

6 Q So basically, when you delivered it into
7 the complex you were done, you left the area?

8 A Right. I was driving a marked postal
9 vehicle so I had to go back to the post office and
10 switch cars, throw on my tactical gear, and I come
11 back to the -- to the location.

12 Q Okay. I see. I understand now. Thank
13 you. And now I'm not gonna ask you anything about
14 the canine or anything. I just want to make sure
15 I'm clear as to what you did to set all that up.

16 A Yes, sir.

17 Q Did you testify those were other packages
18 that were just mailed, or were they empty boxes?
19 Which one was it?

20 A Are you referring to when we did the
21 array?

22 Q Yes, sir.

23 A Those are other packages from the post --
24 from the police department. They're boxes in a
25 closet or something of that nature. It could be a

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1 box full of paper. The idea is to get a box on the
2 floor so the dog can run by it. You don't want to
3 just put one single box because that's suggestive so
4 you put other parcels within the room. You don't
5 tell the canine officer which one it is, and you
6 just let the dog go and see which one it alerts.

7 Q And those other boxes came from the police
8 department?

9 A Yes, sir. They're just like a closet
10 containing paper or miscellaneous files or whatever.

11 Q I do not have any other questions. Thank
12 you very much, sir.

13 THE COURT: Any redirect?

14 MS. BELL: No, Your Honor. Thank you.

15 THE COURT: You may step down.

16 THE WITNESS: Thank you.

17 THE COURT: And I believe you're getting
18 your next witness? You're getting your next
19 witness; is that correct?

20 MS. BELL: Yes, Your Honor, I'm sorry.

21 THE COURT: And we just don't know who
22 that is yet?

23 MS. BELL: Correct, Your Honor. We've got
24 some witnesses serving double duty.

25 (Pause.)

1 MS. BELL: Your Honor, may we approach,
2 Mr. Routzong and I?

3 THE COURT: Yes, ma'am.

4 (WHEREUPON, counsel approached the
5 bench for an off-the-record discussion.)

6 THE COURT: Okay. Ladies and gentlemen,
7 we have some witnesses on behalf of the State who
8 are also testifying in another trial and so that's
9 why we cannot get them here with us right now. So
10 what I'm gonna do is, I'm sending you to an early
11 lunch. I'm gonna ask that you return to the jury
12 room at 1:00 and hopefully by 1:00 we'll have some
13 witnesses who will be present who will be able to
14 testify, and we'll continue on with the trial at
15 that particular time. I'm just gonna remind you,
16 again, the instructions I've given to you not to
17 discuss this matter among yourselves as you have not
18 heard all the evidence that has to be presented.
19 Please remember as you come and go from the
20 courthouse not to listen to conversations that you
21 may hear in the hallways and do not allow anyone to
22 approach you to discuss this matter with you. If
23 someone wants to talk to you about this case, please
24 tell them that you are a juror and you cannot
25 discuss it; and we ask that you report it as soon as

1 possible to either of the bailiffs or to me so that
2 we can conduct an investigation to make sure that no
3 one is attempting to influence you in any way. Like
4 I told you yesterday, I -- you don't always have
5 control over what goes and so this is one of those
6 particular circumstances. I appreciate your
7 patience and your diligence. I'll see you back here
8 at 1:00. Have a good lunch.

9 (WHEREUPON, the jury was removed from
10 the courtroom at 11:45 a.m.)

11 THE COURT: Okay. And so with that, Mr.
12 Roseboro, this will be a lunch break and so I ask
13 that you return and be back by 1:00 at the very
14 latest. If you fail to return at 1:00, we will
15 continue this trial in your absence. I'm just
16 putting you on notice about that at this particular
17 point if we can't determine where you are and,
18 hopefully, nothing will -- will happen in the
19 interim.

20 And so let's take a lunch break until one
21 and then we'll hopefully have a witness or maybe two
22 we can take up at that particular time.

23 MR. ROUTZONG: Just to make the Court
24 aware, I rechecked -- Investigator Davis rechecked
25 for me this disk. We don't have any jail calls.

1 Now, in fairness to the State, I think what happened
2 in this case is we were initially appointed years
3 ago back in probably 2018, and I want to say at some
4 point in time you obtained Ken Young; is that
5 correct?

6 THE DEFENDANT: Yes.

7 MR. ROUTZONG: And, you know, I don't know
8 what from our file might have given -- might have
9 been give to Ken Young. Of course, the State's
10 responsible to make sure that discovery gets to him.
11 I can say I'm not aware that we ever received it so
12 I don't know what to tell the Court. I don't know
13 whether we received it, it was given to Mr. Young
14 and we never got it back, or we never got it at all.
15 I became aware of the jail calls yesterday evening.

16 THE COURT: Is it more -- it's more than
17 one call? Just one call. And obviously, you have a
18 copy of it 'cause you intended -- if you will burn a
19 copy.

20 MS. BELL: Absolutely.

21 THE COURT: And, Mr. Routzong, if you take
22 a -- listen to it and listen to it with your client,
23 and we can go from there and see what happens.

24 MR. ROUTZONG: Yes, Your Honor.

25 THE COURT: Okay.

1 MR. ROUTZONG: It may, as you know, this
2 will be discoverable as a statement to him under
3 Rule 5 and Brady. There could -- I don't -- see, I
4 just -- I'm ignorant once again. I don't know what
5 it could have happened. They're saying -- I know
6 they think that. I just don't know when we had this
7 break ---

8 THE COURT: And I, and I understand that.
9 You know, I would -- I would like to at least get
10 you a copy so that at least you can listen to it.
11 It, you know, I will -- I don't know what's on it;
12 you haven't heard it; obviously they have. But if
13 there are issues about it, then we can still address
14 those issues; but at least you'll have the
15 opportunity to hear it before we get any further
16 into the issue.

17 MR. ROUTZONG: Yes, Your Honor. Thank you
18 so much.

19 THE COURT: Thank you.

20 MS. BELL: Thank you, Your Honor.

21 THE COURT: All right. We'll see you back
22 at 1:00.

23 (Whereupon, a lunch break was taken.)

24 THE COURT: Good afternoon. Thank you.
25 Be seated. Counsel, is there anything we need to

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1 take up before we get started?

2 MS. BELL: Nothing from the State, Your
3 Honor.

4 MR. ROUTZONG: No, Your Honor.

5 THE COURT: Okay. Then we can call for
6 the jury please.

7 (WHEREUPON, the jury was returned to the
8 courtroom at approximately 1:23 p.m., and the
9 following proceedings commenced in open court.)

10 THE COURT: Good afternoon, ladies and
11 gentlemen. We're ready to continue on with the
12 trial of this matter.

13 All right, Ms. Bell, you may call your
14 next witness.

15 MS. BELL: Thank you, Your Honor. At this
16 time the State would call investigator Lieutenant
17 Joe Lane.

18 THE CLERK: Place your left hand on the
19 Bible, raise your right hand, and state your full
20 name.

21 THE WITNESS: Joseph M. Lane.

22 WHEREUPON,

23 **JOSEPH LANE,**

24 having been duly sworn by the clerk, testified
25 as follows:

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1 THE CLERK: Thank you. Step around, sir.

2 Be careful going up.

3 THE WITNESS: Yes, sir.

4 THE CLERK: State your full name and spell
5 your last name for the record please, sir.

6 THE WITNESS: Joseph M. Lane, L-A-N-E.

7 THE COURT: Yes, ma'am.

8 MS. BELL: Thank you, Your Honor.

9 **DIRECT EXAMINATION**

10 BY MS. BELL:

11 Q Good afternoon, Investigator Lane.

12 A Good afternoon.

13 Q Been a busy day for you today; hasn't it?

14 A Yes, ma'am, it has.

15 Q Okay. Can you tell us where you're
16 currently employed?

17 A Yes, ma'am. I'm currently employed with
18 the Sumter Police Department here in Sumter, in the
19 city of Sumter.

20 Q And in what capacity?

21 A I am the lieutenant of the organized crime
22 and vice control unit, better known as narcotics
23 unit or drug unit.

24 Q And how long have you served in that
25 capacity?

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1 A As the lieutenant?

2 Q Yes, sir.

3 A Yes, ma'am, approximately two years.

4 Q And prior to that, what did you do?

5 A Prior to that I was a sergeant with the
6 city police department in narcotics. Prior to that
7 I was -- worked for the Sumter County Sheriff's
8 Office. I spent about 18-and-a-half years with the
9 Sumter County Sheriff's Office. My capacity there
10 was a sergeant in narcotics for quite some time. I
11 did a few years on patrol before I assumed that
12 position. And at another point in my career I was
13 promoted from sergeant to lieutenant with the
14 Sheriff's Office, and at that point in time I was
15 transferred over to the criminal investigations
16 division where I was there for as a lieutenant in
17 charge of the investigative division for
18 approximately two years.

19 Q So in total, as it relates to narcotic
20 investigations, supervision of other officers, how
21 long in sum and total have you been in law
22 enforcement specifically related to narcotics?

23 A Just give me one minute. Probably about
24 23 years, 24 years in narcotics. I currently have
25 29 years as of yesterday as a police officer in the

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1 community of Sumter County.

2 Q Well, congratulations.

3 A Thank you.

4 Q Are there occasions as it relates to your
5 investigations that Sumter Police Department
6 narcotics unit works with other law enforcement
7 entities?

8 A Yes, ma'am. We do that quite frequently.
9 We work with federal agencies, other state agencies
10 quite often.

11 Q In the matter that we're here about today,
12 did you have an occasion to work with the U.S.
13 Postal Inspector's Office?

14 A Yes, ma'am, I did.

15 Q Okay. And specifically, did you have an
16 occasion to work with postal inspector Mr. Rogers
17 here?

18 A Yes, ma'am.

19 Q Okay. I want to draw your attention back
20 to the day of January the 18th -- I mean, I'm sorry,
21 January the 12th of 2018.

22 A Yes, ma'am.

23 Q And ask you, did you have an occasion to
24 have an encounter with William Lee Roseboro, Jr.?

25 A Yes, ma'am, I did.

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1 Q Okay. And please tell the jury how that
2 came about, just for that day.

3 A Yes, ma'am. On that particular day postal
4 inspector Rogers and my unit received a package that
5 was addressed to Mr. Roseboro going to a location on
6 Alice Drive apartments, Apartment 117.

7 Q Is that in the city of Sumter by the way?

8 A Yes, that is in the city of Sumter. I've
9 worked these cases with Mike Rogers on many
10 occasions. So as the -- as the day progressed, he
11 was able to bring the package down that he had
12 seized, and a canine was placed on the package and
13 the canine alerted to the package.

14 MR. ROUTZONG: Your Honor, here we go
15 again with the canines and the alert. I object to
16 that.

17 THE COURT: And I believe before I
18 sustained the objection as long as they can make an
19 appropriate foundation.

20 MS. BELL: Thank you, Your Honor.

21 BY MS. BELL:

22 Q Before we talk about with the canine,
23 let's go back to, were you involved in the arrest of
24 the -- of William Lee Roseboro, Jr., on January
25 the 12th of 2018?

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1 A Yes, ma'am, I was.

2 Q And the person that you recognized on this
3 date as William Lee Roseboro, Jr., do you see that
4 individual in the courtroom here today?

5 A Yes, ma'am, right there (indicating).

6 MS. BELL: Please let the record reflect
7 that Investigator Lane has also identified the
8 defendant.

9 MR. ROUTZONG: Your Honor, for the record,
10 I neglected to move to strike that remark as well.
11 I'd ask the Court to strike that remark about the
12 dog and the alert.

13 THE COURT: Yes, sir. At this particular
14 point it's -- I sustained your objection so I'll
15 strike that.

16 MS. BELL: I'm sorry.

17 THE COURT: So noted. Yes, it's noted
18 that he identified the defendant.

19 MS. BELL: Thank you, Your Honor.

20 BY MS. BELL:

21 Q Where did that arrest occur?

22 A That arrest occurred at the apartment
23 complex where Mr. Roseboro stays just outside of the
24 office area.

25 Q And prior -- did you have an occasion to

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1 observe the defendant prior to him entering the
2 leasing office?

3 A Yes, ma'am. The parcel in question was
4 delivered by postal inspector Rogers in an
5 undercover capacity. I, myself, and several of my
6 members of my unit were stationed in Palmetto Point
7 Apartments observing to see when the defendant
8 Mr. Roseboro would come to the office to collect
9 that package. We waited there for a short period of
10 time and then we observed Mr. William Roseboro, the
11 defendant, go inside the office of the apartment
12 complex and retrieve the package in question.

13 Q Do you know approximately what time of the
14 day it was?

15 A I have to look at my notes so excuse me.
16 We started surveillance at 10:40 a.m. At 10:54
17 Inspector Rogers was in route to Palmetto Point to
18 deliver the package. At approximately 11:02 he
19 delivered. At approximately 11:08 a.m. we observed
20 Mr. Roseboro entering the office of Palmetto Point
21 Apartments wearing khaki pants and a light brown
22 jacket.

23 Q And you never lost sight of him from the
24 time he entered until the time that he came out?

25 A Yes, ma'am.

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1 Q And approximately how long a period was
2 that?

3 A At approximately 11:10 a.m. we observed
4 Mr. Roseboro exit the office of the building
5 carrying the package that Investigator Rogers had
6 delivered to the office.

7 Q And you -- when you arrested the defendant
8 on site there after he exited the leasing office,
9 did you have an opportunity to subsequent to that
10 arrest and pursuant to that arrest seize that
11 package?

12 A Yes, ma'am, we did.

13 Q And was it tampered with in any way? In
14 other words, was it opened at that time?

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

16 Q Okay. In addition to the arrest getting
17 the parcel in place, did you have an opportunity at
18 some point to open up that parcel, I mean, open up
19 the box?

20 A You mean prior to the delivery?

21 Q Well -- well, yes. That would -- I guess
22 that was the que-- I meant subsequently, but you can
23 certainly explain if you had an opportunity prior to
24 then of seeing what was inside the parcel.

25 A Yes, ma'am. Prior to the delivery of the

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1 box, the parcel, a search warrant was executed on
2 that box, a federal search warrant; and it contained
3 approximately 4 pounds of marijuana wrapped in
4 plastic inside mylar bags, silver bags, little
5 silver bags.

6 MS. BELL: May I approach the witness,
7 Your Honor?

8 THE COURT: Yes.

9 BY MS. BELL:

10 Q Investigator Lane, I'm gonna show you
11 what's previously been marked into evidence as
12 State's No. 1, 2, and 3 respectively, and I'll ask
13 you -- maybe not respectively. Let me ask you
14 number one, do you recognize what that is?

15 A Yes, ma'am, I do.

16 Q And what do you recognize that as?

17 A This is the parcel that was seized by
18 postal inspector Rogers, and a search warrant was
19 executed on that parcel; and this is the parcel that
20 was delivered to Palmetto Point Apartments addressed
21 to 105 Alice Drive, Sumter, South Carolina,
22 Apartment 117.

23 Q And on -- on that date that's where you
24 all were, correct?

25 A Yes, ma'am.

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1 Q Okay. I'm gonna show you what's been
2 marked into evidence already as State's Exhibit
3 No. 3 and ask you if you recognize this picture?

4 A Yes, ma'am. So this is in reference to
5 what was inside the parcel. When I was speaking of
6 mylar bags, these are mylar bags, the silver bags.
7 That was inside the parcel that contained the
8 marijuana.

9 Q And in your train-- in your over 23 years
10 of training as a -- in narcotics, is there any
11 particular significance of a mylar bag as it relates
12 to delivery of drugs?

13 A You know, being involved in many cases
14 like this, I've been involved with, there's been
15 several -- where we open up packages like this,
16 there's several ways that people may try to avoid
17 the smell coming out of the parcel. I'm not sure if
18 that was the case here, place it into the mylar bag
19 maybe getting where the -- where the smell of the
20 marijuana would not come out of the bag and be able
21 to be smelled through the box, if that makes sense.

22 Q So you -- not related to this defendant
23 but on other occasions in your experience and
24 training, you have seen the use of mylar bags for
25 transporting illegal substances?

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1 A Yes, ma'am, I have.

2 Q Okay. And I'm gonna show you what's also
3 been moved into evidence previously as State's
4 Exhibit No. 2 and ask you if you recognize this.

5 A Yes, ma'am. This, this is the contents of
6 the package in question today. This was actually
7 inside of the mylar bags so you had the mylar bags.
8 This was inside, vacuum sealed.

9 Q Were there some of those Styrofoam peanuts
10 ---

11 A Yes, ma'am.

12 Q ---things in there too? Okay.

13 A It's just a varie-- people use a variety
14 of different things when they're shipping illegal
15 narcotics through the mail.

16 Q Thank you, sir. So we've established that
17 you seized that parcel on January the 12th from the
18 defendant on his person?

19 A Yes, ma'am.

20 Q What we refer to as he was in actual
21 possession?

22 A Yes, ma'am. He was in very possession of
23 it.

24 Q Okay. In addition to that and subsequent
25 and pursuant to his arrest, did you find anything

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1 else on the defendant's person?

2 A Are you referring -- let me look back ---

3 Q Yeah.

4 A Are you referring before we transported
5 him to the jail or after we transported him to the
6 jail?

7 Q Well, let's talk about did you have an
8 opportunity to see any contents in his wallet?

9 A Yes, ma'am.

10 Q Okay. And can you recall what those were?

11 A Yes, ma'am. It was receipt, I believe,
12 airline tickets. It was also a receipt for the
13 particular parcel that we -- that postal inspector
14 Rogers seized that day.

15 Q Okay. And did you obtain that ---

16 A Yes.

17 Q ---as part of evidence in this case?

18 A Yes, ma'am, we did.

19 Q Okay. And after you obtained it, and by
20 the way, the parcel and what you've identified in
21 pictures 1 through 3, what did you do with those
22 things?

23 A After we -- after we obtained the pit, the
24 box, of course we do what we normally would do. We
25 go back to our office and we do a Best kit and we

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1 submit the whole box, the whole box, including the
2 marijuana, and place that into evidence; in which at
3 which time, once it goes into the evidence, then it
4 will go to -- to be analyzed.

5 Q Okay. And as far as that's concerned, the
6 Best Kit that you talk about, where is it
7 maintained?

8 A The Best Kit?

9 Q Yeah, all the evidence.

10 A Okay. So all the evidence is -- is
11 contained in our evidence locker at the Sumter
12 Police Department. We have a very large evidence
13 locker. That's where all that stuff is contained,
14 including the Best Kit; and once they are able to
15 take it down to the chemist or to SLED, I think in
16 '17 the Sumter County sheriffs had -- had their own
17 chemist so it would then be transferred to chemist
18 to conduct his analysis of that and then it would be
19 in turn brought back and secured in our evidence
20 locker until today.

21 Q Okay. And so let me ask you, how does
22 the -- how does the Department maintain the
23 integrity of evidence that's collected? I know you
24 -- you indicated you send it there. It's -- but
25 could you just walk in at any time and go in there

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1 and get it without any kind of other processing
2 procedure?

3 A No, ma'am. So the way the Sumter Police
4 Department is set up, I will try to explain to the
5 best of my ability. Our evidence -- we have an
6 evidence office where our two evidence custodians
7 are, okay. There is a lock door that goes into the
8 evidence room. Me placing this box into evidence,
9 I -- I go down to the next, to the next door, glass
10 door, that contains refrigerator and places to deal
11 with evidence at. Once I get into that room with my
12 key card, I go in and I place it into a box and I
13 drop the lock. It's like a wall locker. There's
14 different sizes. Drop the lock and it is locked and
15 cannot be accessed from that side. Our evidence
16 custodians can go into the evidence room, come
17 around the back of all those evidence lockers, and
18 that's how they retrieve the evidence out. Once
19 that evidence is retrieved out of the evidence
20 locker, whatever paperwork they do, then they take
21 it and they transport it to another area in the
22 office that's locked and that's where it sits.

23 Q And if, for some reason, you mention that
24 certain types of evidence that -- that is
25 maintained, there has to be some further forensic

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1 analysis of that particular piece of evidence,
2 correct?

3 A Yes, ma'am.

4 Q And so what happens, and explain to the
5 jury, what happens in instances where you have to
6 have something taken to SLED, taken to like in this
7 case the person, the chemist that's gonna analyze
8 it, what -- what process is in place to insure the
9 integrity of evidence?

10 A Yes, ma'am. So we have -- we have two
11 evidence custodians. They handle the evidence for
12 the Sumter Police Department, all the evidence for
13 the Sumter Police Department. So what happens is,
14 when they -- in this case they were going to the
15 Sheriff's Office 'cause at that time we had the
16 chemist at the Sheriff's Office. So at that time
17 when they get a certain amount of evidence, they
18 are -- they take that evidence from the lockers that
19 they're in back in their storage unit and they
20 transport that evidence, in this case would have
21 been out to the Sheriff's Office lab once that is
22 done.

23 Now during this whole process we have -- we
24 have -- we have ways of saying, hey, they're taking
25 it from here, they're taking it out to the chemist,

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1 okay. When they drop it off to the chemist, the
2 chemist signs for that, okay. Once the analysis is
3 complete, they will go back out and then they will
4 retrieve that evidence from the chemist and they
5 will then, again, transport it back to the Sumter
6 Police Department's evidence facility and secure it
7 until it's time for court.

8 Q And the process that you have described
9 for the jury, is that sometimes also known as
10 maintaining the chain of custody ---

11 A Yes, ma'am.

12 Q --- of evidence.

13 A Chain of custody is very, very important.
14 And the -- what I just walked you through is the
15 chain of custody. It's very important. When I
16 receive -- when I received this parcel from
17 Inspector Rogers, we had a chain from him to me. It
18 went from me to the evidence locker. From the
19 evidence locker it goes to evidence and they have --
20 they have ways that they scan. They put tags and
21 things likes that on there as saying that it's in
22 their -- it's in their custody at that time. A
23 chain of custody is very important when it comes to
24 evidence, very, very important.

25 Q Very good. And you mentioned to the jury

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1 that there's two people currently that are -- serve
2 in the role of the evidence technicians; is that
3 right?

4 A Yes, ma'am. Currently we have Buck, Dan
5 Buck, and we have Aleja -- I can't never say her
6 name, Alexa. They are two current. I believe,
7 actually, in 2017 that we had Jim Alsbrooks, and I'm
8 not sure if Dan Buck had been back there in 2017 or
9 not.

10 Q All right.

11 A So I'm not really sure who exactly was
12 back there at that time.

13 Q And when you mention -- you mentioned
14 Ms. Carter or Officer Carter ---

15 A Ms. Carter, yes.

16 Q Do you see her here in the courtroom
17 today?

18 A Yes, I see her over there. Yes.

19 Q Okay.

20 A Alexa Carter.

21 Q And so she is one of the people that you
22 talk about their role is to -- that's where you
23 would turn the evidence in and it's maintained in
24 that area in the evidence rooms ---

25 A Yes, ma'am.

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1 Q ---that you identified?

2 MS. BELL: Beg the Court's indulgence.

3 BY MS. BELL:

4 Q I'm gonna back up a little bit.

5 A Yes, ma'am.

6 Q If you will bear with me. So prior to --
7 you talk about when the basis for the federal search
8 warrant being obtained and issued, that there was a
9 process where a canine was involved. Without
10 getting into what the canine officer did, can you
11 explain were you present during that -- during that
12 process in this case?

13 A Yes, ma'am, I was.

14 Q Okay. Were you there with Inspector
15 Rogers?

16 A Yes, ma'am, I was.

17 Q Okay. Can -- do you recall -- in other
18 words, was it just one, the box in question, the
19 parcel that the defendant had in his possession?
20 When the canine was there, was that the only box
21 that was there?

22 A No, ma'am. When we're dealing with
23 parcels, we do -- you can call it an array of
24 parcels. We try to get parcels to a similar size,
25 shape. It could be an empty box. It could be a box

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1 of books or something. We never just put the actual
2 parcel that we're focusing on by itself. We always
3 do at least three or four boxes or an array of other
4 boxes that are situated in different areas of a room
5 of some type.

6 Q And that's for the benefit and protection
7 of a suspect or -- or defendant, correct?

8 A Yes, ma'am. It's also -- in my opinion,
9 it's also for the canine. The canine does not know
10 what box that we're putting there so we put an array
11 of boxes out there so ---

12 MR. ROUTZONG: Your Honor, I have to
13 object again getting into canines. I don't think
14 he's been qualified as an expert on canines and drug
15 sniffs and all that kind of stuff, Your Honor.

16 THE COURT: If you want to lay a
17 foundation for what knowledge he does have.

18 BY MS. BELL:

19 Q As it relates to the processes and
20 procedures that are put in place, do you have any
21 experience and training related to that particular
22 area?

23 A No, ma'am.

24 Q Okay. But you observed several boxes
25 there that day?

SW - J. LANE - DIRECT

1 A Yes, ma'am.

2 Q Okay.

3 MS. BELL: Your Honor, do you mind, this
4 might be a good time just to take a brief break if
5 we could. I want to make sure I'm showing the
6 appropriate thing and have it marked appropriately.
7 Or do you want to just do it right here right now?

8 THE COURT: Yes, ma'am.

9 MS. BELL: Okay, thank you. Beg the
10 Court's indulgence.

11 BY MS. BELL:

12 Q As part of the things that you seized from
13 the defendant, I ask you to take a look at these and
14 ask you do you recognize those?

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

16 Q Okay. And what do you recog---

17 MR. ROUTZONG: Your Honor, can I approach
18 real quick. I hate to interrupt.

19 (WHEREUPON, counsel approached
20 the bench for an off-the-record discussion.)

21 (WHEREUPON, State Exhibits No. 15 and 16
22 were marked for identification only.)

23 BY MS. BELL:

24 Q I'm showing you what's being marked as
25 State's Exhibit No. 15 for identification and ask

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1 you, do you recognize that?

2 A Yes, ma'am, I do.

3 Q Okay. And what do you recognize that as?

4 A These are airline tickets or airline
5 baggage claims for Mr. William Roseboro.
6 January 11th is one of the dates and January 9th is
7 another date for American Airlines on Los Angeles,
8 California.

9 Q Okay. And where were those found?

10 A These were found in Mr. Roseboro's wallet,
11 I do believe, by Inspector Rogers.

12 Q On his person?

13 A Yes, on his person.

14 Q In his actual possession?

15 A In his actual possession.

16 Q Showing you what's marked as State's
17 Exhibit No. 16.

18 MS. BELL: And, Your Honor, we would move
19 into evidence State's No. 15.

20 THE COURT: Any objection to No. 15?

21 MR. ROUTZONG: No, Your Honor.

22 THE COURT: It's admitted.

23 (WHEREUPON, State Exhibit No. 15 was
24 admitted into evidence.)

25 THE WITNESS: Yes, ma'am. This is a

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1 receipt that was seized from Mr. Roseboro out of his
2 wallet on the day of his arrest; and, yes, ma'am, it
3 is very familiar to me.

4 BY MS. BELL:

5 Q Okay. And is there a tracking number on
6 there that's familiar to you?

7 A Yes, ma'am, there is.

8 Q Okay. And what -- why is it familiar to
9 you?

10 A Yes, ma'am. That particular tracking
11 number is familiar to me because that particular
12 tracking number is on the particular package that we
13 delivered to Mr. Roseboro on that day that
14 Investigator Rogers seized that contained 4-pounds
15 of marijuana.

16 Q So this tracking number is based on a
17 recei-- based on a receipt right there?

18 A Yes, ma'am.

19 Q One and the same?

20 A Yes, ma'am.

21 MS. BELL: Your Honor, may I publish these
22 to the jury?

23 THE COURT: You've admitted it?

24 MR. ROUTZONG: Without objection, Your
25 Honor.

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1 THE COURT: It's admitted. Yes, you may
2 publish.

3 (WHEREUPON, State Exhibit No. 16 was
4 admitted into evidence.)

5 MS. BELL: Beg the Court's indulgence one
6 moment.

7 THE WITNESS: Yes, ma'am.

8 MS. BELL: Your Honor, at this time that's
9 all that we have for Investigator Lane.

10 BY MS. BELL:

11 Q Please answer any questions that
12 Mr. Routzong may have for you.

13 A Yes, ma'am.

14 THE COURT: Any cross?

15 MR. ROUTZONG: Thank you, Your Honor.

16 **CROSS-EXAMINATION**

17 BY MR. ROUTZONG:

18 Q Good afternoon, sir.

19 A Good afternoon, sir. How are you doing?

20 Q I'm okay so far. I wanted to start back
21 on that day January 12th and you were in a position,
22 I guess, to surveil the apartment building, the
23 office?

24 A Yes, I was.

25 Q And you were there when postal inspector

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1 Rogers walked in with a parcel and he gave it to --
2 or he left it in the apartment complex; is that
3 correct?

4 A Yes, sir, I was.

5 Q And you watched him leave and he didn't
6 have the parcel anymore; is that correct?

7 A No, sir, he did not.

8 Q Okay. I want to kind of -- this is gonna
9 be a little bit of anotia in the weeds, I guess, so
10 to speak; but you testified quite a bit of what the
11 procedure is for placing things into evidence. Part
12 of what you do, when you place something into
13 evidence you're supposed to document that; is that
14 correct?

15 A Yes, sir.

16 Q And you're supposed to have a notary's --
17 that should be done in the presence of a notary and
18 you -- when you write that statement out and you
19 sign it and you're supposed to say, well, I put it
20 into evidence and I didn't do anything to change or
21 alter it and I got it from somebody else and they
22 did the same thing/and all that gets sworn in front
23 of a notary and then it's called a written chain of
24 custody; is that correct?

25 A No, sir. I'm not quite familiar with what

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1 you're talking about as far as us using notaries to
2 witness our chain of custodies. We do not have
3 notaries to witness our chain of custodies.

4 Q Okay. And one of the things that I think
5 you testified very well on, and I wrote some -- some
6 of the things that you said. You talked about
7 safety and security. That whole idea of the chain
8 of custody is, is to make sure that nothing is
9 altered and nothing has been entered into evidence
10 under a different number or anything like that.
11 Everything pertaining to one particular case, it
12 gets assigned a number and it gets placed in
13 evidence and then somebody in the evidence locker
14 takes it and they probably put it in a shelf
15 somewhere until somebody else comes and then takes
16 it to test it. That's how it's supposed to go; is
17 that correct?

18 A Yes, sir. So, once again, our goal is in
19 all cases when we place -- say, I place evidence in,
20 I do a chain of custody and I number the items that
21 I'm placing into evidence and then I, in turn, take
22 what I'm placing into evidence with my chain of
23 custody and place it into the evidence box. Yes,
24 sir.

25 Q I just -- I think I just got one, one

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1 other question. Are you personally aware of whether
2 or not Mr. Roseboro has any family or friends in
3 California?

4 A I don't recall, sir. I'm not gonna sit up
5 here and say that I'm -- that I do or I don't know
6 because I really don't rem-- know or I can't recall
7 during the investigation.

8 Q This was -- you know, I noticed a minute
9 ago when you -- when you were asked whether postal
10 inspector Rogers was there when -- when you laid all
11 those boxes out and all that other stuff, you
12 hesitated for a minute, took a minute to remember
13 whether that was true or not; is that correct?

14 A No, sir, I did not.

15 Q I just -- I'm sorry, I just noticed you
16 hesitated. It's been how many years ago now has
17 this been?

18 A It's been approximately five years, sir.
19 Currently I'm in a trial next door, and I had to
20 come from over there to come over here for this
21 trial.

22 Q I see.

23 A So...

24 Q Hold on just a second.

25 MR. ROUTZONG: Your Honor, I'll be back in

SW - J. LANE - CROSS

1 just a second.

2 BY MR. ROUTZONG:

3 Q I just kind of want to clear something up
4 here in terms of when the evidence is placed into
5 your locker, there's -- there's written -- you do
6 some kind of a documentation to make sure that if
7 this is five years down the line here as you
8 testified, so there's some kind of documentation
9 that goes in the package to make sure that when it's
10 pulled back out we know what it is 'cause, like I
11 said, it's been five years. What kind of
12 documentation are you ---

13 A Are you referring to a Best Kit?

14 Q I might be. I'm just kind of -- I guess
15 I'm really trying to ---

16 A Okay.

17 Q ---make sure I understand. How do you
18 document it?

19 A Yes, sir. So, and forgive me for that.
20 We do what is called a Best Kit for evidence, drug
21 evidence. Now we are doing that for marijuana. I
22 can't remember if we were doing it back in '17. I
23 don't believe -- I think we were. So a Best Kit --
24 I wish had one to show you -- it's a form that we
25 fill out. It's two copies. It's a white copy and

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1 it's a hard copy, okay. So on that Best Kit you put
2 your case number on that Best Kit. You put the
3 address that the incident occurred. You put the
4 defendant's name, date of birth, his birth date, and
5 if you have a social security number or other items
6 like that. You put the incident location once again
7 and the charge on that. As you go down that form
8 you have other lines. It's a, like, maybe eight to
9 ten lines for your actual -- what you're actually
10 turning in, okay.

11 So in this particular incident I could put
12 number one, four bundles of suspect marijuana, okay.
13 That's the Best Kit. On my chain of custody I have
14 the -- the actual box itself on the chain of custody
15 and the Best Kit which would go into -- it's not on
16 this chain of custody; but if it's a Best Kit,
17 that's the actual chain for the drugs. Does that
18 make sense? That make sense to you?

19 BY MR. ROUTZONG:

20 Q Well, it might, but I don't know -- are
21 you -- are you finished? I don't want interrupt
22 you.

23 A Yes, sir.

24 Q Now you just said that something is not on
25 the documentation that you had. You said there's no

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1 Best Kit number on it?

2 A No, sir. So the Best Kit number goes in
3 to evidence. That's if a Best Kit number was even
4 used. I can't recall if one was used at this time
5 or not. So marijuana never went into a Best Kit.
6 Best Kits were originally for methamphetamine, crack
7 cocaine, heroine, cocaine, and things like that.
8 Marijuana would usually go in just as -- just with
9 regular evidence card is what would happen.

10 Q Well, I guess your testimony was that you
11 were the person that seized the box of Mr. Roseboro;
12 is that correct?

13 A Yes, sir.

14 Q Who did you hand it off to?

15 A I put it in a locker.

16 Q It went directly from you to a locker?

17 A Yes, sir. Have you seen this yet here?

18 Q I have, yes, sir.

19 A Okay. So Item 1 is a brown priority
20 parcel tracking number 950551622006 so on and so on,
21 containing approximately 4-pounds of suspect
22 marijuana wrapped in individual bundles. That is my
23 chain of custody that I put in with the actual box
24 into the wall locker.

25 Q Okay. And the reason you do that is out

SW - J. LANE - CROSS

1 of precaution. That way it's not confused with
2 anything else; is that correct?

3 A Yes, sir.

4 Q And the same would be true of everybody
5 else who handled this particular object on that day.
6 In other words, there should be a -- there should be
7 a documentation for the evidence custodian when he
8 took it from you and he put it somewhere. There
9 should be documentation on that as well; isn't that
10 correct?

11 A Yes, sir, that would -- that would have to
12 come from the evidence custodian.

13 Q I don't have -- you don't have any of
14 those documents, do you?

15 A No, sir, I -- I'm trying to explain to
16 you. When I -- when I turn in the box with the
17 chain of custody, I walk through a glass door.
18 Within that gl-- within that glass door there is a
19 wall of wall lockers, variety of sizes, some tall,
20 some small, some medium, okay. In that room -- in
21 that room is also a shelf that if you want to
22 process other things there. There's also a
23 refrigerator in there, okay. So as I'm walking into
24 that glass door, I walk into there, I choose a
25 locker that's not already locked that my evidence

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1 will fit into. I then open, open that evidence
2 locker. I place my evidence in the evidence locker
3 with this chain of custody, pull the tab, this
4 little black thing, pull it down, it locks
5 automatically. Okay.

6 So when the evidence custodians come in that
7 day, the next day, they enter their office. They
8 come in through a completely opposite door that I
9 came through when I placed it into evidence. They
10 then are able to open -- it's like a big old, long
11 bar from what I recall. They are able to pull that
12 bar and that releases, I'm taking it, the locks for
13 the boxes, and they obtain the evidence from the
14 rear of the room that I placed it. And then they do
15 their paperwork saying that they received it and
16 whatever -- nowadays they are able to put tags on
17 things. I'm not sure if that was going on in 2017.
18 But they have their own way of tracking the
19 evidence.

20 They have their own way of tracking the
21 evidence when it -- when it comes in, it's tagged.
22 When it leaves to go to the chemist, there's a
23 record of that digitally, I believe. And when it
24 comes back from the chemist, it shows digitally that
25 it's come in. I'm not an evidence technician, okay.

SW - J. LANE - REDIRECT

1 I have a little bit of knowledge of the way things
2 work at the police department; but that would be
3 questions that you would have to be asking the
4 evidence custodian, once it comes out of my custody,
5 how they track it from after that.

6 Q Yes, sir. That was a very good
7 explanation of your understanding of how it works.
8 Thank you for it. Basically what you're telling, I
9 think, the Court today is that when you place this
10 thing in there, you don't -- you don't necessarily
11 know what happens to it next, at least in this
12 particular case. You just put it into evidence.
13 You probably haven't seen it since five years ago;
14 is that correct?

15 A You're absolutely correct, sir.

16 Q Okay. And you can't testify what -- what
17 the next person did or didn't do is what you're
18 telling me and you're telling the Court. And you're
19 just -- you're just telling us what you know about
20 it. You took it and you put -- you had it in your
21 custody and you put it in the box, and that's --
22 that's all you know about it?

23 A Yes, sir.

24 Q Okay, sir. Thank you very much. I
25 appreciate it.

SW - J. LANE - REDIRECT

1 A Thank you, sir.

2 THE COURT: Any redirect?

3 MS. BELL: Yes, Your Honor.

4 (WHEREUPON, counsel approached the
5 bench for an off-the-record discussion.)

6 **REDIRECT EXAMINATION**

7 BY MS. BELL:

8 Q Investigator Lane, I failed to do this on
9 direct examination. Let me -- do you recognize --
10 I'm gonna have this marked State's No. 17 for
11 identification purposes.

12 (WHEREUPON, State Exhibit No. 17 was
13 marked for identification only.)

14 BY MS. BELL:

15 Q Do you recognize what this document is?

16 A Yes, ma'am.

17 Q You were asked on cross-examination about
18 is there anything that you fill out when you take
19 things to -- into evidence related to a case. Is
20 this the type of document, and in this case is this
21 the document you would have filled out?

22 A Yes, ma'am. This is a evidence inventory
23 chain of custody for Sumter Police Department.

24 Q And specifically, what does it pertain to?

25 A This pertains to this particular case, and

SW - J. LANE - REDIRECT

1 it pertains to the evidence that I turned in on that
2 date on this -- during this case on the particular
3 date.

4 Q And although -- and there's items listed
5 on there, correct?

6 A Yes, ma'am.

7 Q Those items, those are items that you
8 retrieved subject to -- subsequent to an arrest of
9 the defendant on January the 12th of 2018, correct?

10 A Yes, ma'am.

11 Q They were taken off his person?

12 A Yes, ma'am.

13 Q And his actual possession?

14 A Yes, ma'am, everything ---

15 Q And can you flip that form over for me
16 please, sir. Do you recognize what's on the back of
17 that form?

18 A Yes, ma'am.

19 Q And what do you recognize that as?

20 A So, this is exactly what I was talking
21 about. On the back of this form I have my name,
22 okay. I have items 1 through 4 because I had four
23 items that day. And then you have my signature.
24 Once I place it in the box, then you see James
25 Alsbrooks' signature which was the evidence

SW - J. LANE - REDIRECT

1 custodian at that time.

2 Q And you testified that he's no longer with
3 the Sumter Police Department?

4 A No, ma'am, he's not.

5 Q So he would not maintain control of these
6 items that were submitted into evidence, correct? I
7 mean, now. He ---

8 A Now he wouldn't.

9 Q Right.

10 A But back then, that's the reason. He's
11 actually the individual that retrieved them out of
12 the box.

13 Q Okay. But as of today's -- they've
14 been -- they had to be brought here today, correct?

15 A Yes, ma'am.

16 Q They had to be brought here by a current
17 employee of the Sumter Police Department, correct?

18 A Yes, ma'am.

19 Q And I think -- did you identify earlier
20 that Ms. Carter, Officer Carter ---

21 A Yes, ma'am.

22 Q ---is that individual?

23 A Alexa.

24 Q Okay. And then, let me ask you.

25 MS. BELL: At this time, Your Honor, the

SW - J. LANE - REDIRECT

1 State would move into evidence State's No. 17.

2 MR. ROUTZONG: With objection, Your Honor.

3 THE COURT: I overrule your objection.

4 It's admitted.

5 (WHEREUPON, State Exhibit No. 17

6 was admitted into evidence.)

7 MS. BELL: Your Honor, may I publish to
8 the jury?

9 THE COURT: Yes, ma'am.

10 BY MS. BELL:

11 Q I'm showing you what's been marked as --
12 have I had it marked? I apologize.

13 (WHEREUPON, State Exhibit No. 18

14 was marked for identification only.)

15 BY MS. BELL:

16 Q Investigator Lane, I'm showing you what's
17 been marked for identification purposes as State's
18 Exhibit 18. Can you take a look at that and just
19 answer whether you recognize that is?

20 A Yes, ma'am, I do. Once, again, referred
21 to -- this is the Best Kit that I was referring to
22 talking about earlier. It has a control number up
23 top, SPD. I filled this out, date sealed 1/12/18,
24 Joe Lane. So in a situation like this, I do not see
25 the carbon, the carbon copy or the hard copy. We

SW - J. LANE - REDIRECT

1 would normally put drugs into this. I, on this
2 date, as you can tell with 4-pounds of marijuana, it
3 wouldn't have fit in this plastic bag so, therefore,
4 we still had to fill that out.

5 Q Okay. And you would have deposited that
6 as we talked about in the procedure ---

7 A Yes, ma'am.

8 Q ---that you've testified to several times
9 now?

10 A Yes, ma'am. Chain of custody. Best Kit.
11 We do it -- we do a Best Kit. If we have drugs that
12 are inside the Best Kit, they will actually fill
13 into the sealed bag. They are placed back into a
14 Manila envelope that has agency and all that stuff
15 on the front of it, and all that other information
16 including the top white part. The hard copy is
17 placed into that bag, reversed, reversed where you
18 can read what's on it, and all that is placed back
19 into the Manila envelope and that is placed into the
20 box also with the narcotics or drugs.

21 MS. BELL: Your Honor, at this time the
22 State would move into ---

23 BY MS. BELL:

24 Q Does this have your signature on it by the
25 way?

SW - J. LANE - REDIRECT

1 A Yes, ma'am, it does.

2 MS. BELL: Your Honor, at this time the
3 State will move into evidence State's Exhibit 18.

4 MR. ROUTZONG: With objection, Your Honor.

5 THE COURT: Same objection?

6 MR. ROUTZONG: Yes, Your Honor.

7 THE COURT: All right. I overrule that
8 objection.

9 (WHEREUPON, State Exhibit No. 18 was
10 admitted into evidence.)

11 MS. BELL: Your Honor, may I publish to
12 the jury?

13 THE COURT: Yes.

14 BY MS. BELL:

15 Q And in your 23 years of law enforcement
16 experience and in working -- well, you have 29
17 years, but 23 with narcotics. Who generally brings
18 the -- any drugs that are seized in a case, who
19 brings those to court?

20 A The evidence custodian.

21 Q Are you the evidence custodian?

22 A No, ma'am, I'm not.

23 Q Thank you.

24 THE COURT: Anything? One moment.

25 Anything further from the Defense at this point?

SW - J. LANE - RECROSS

1 MS. BELL: Your Honor, I -- I'm sorry.
2 Mr. Routzong.

3 THE COURT: Mr. Routzong. Mr. Routzong,
4 do you have anything further at this particular
5 point?

6 MR. ROUTZONG: Yes, Your Honor.

7 **RECROSS-EXAMINATION**

8 BY MR. ROUTZONG:

9 Q I think you just testified that the
10 control number, this number right here?

11 A Yes, sir.

12 Q What did you call this bag here again?

13 A That's a Best Kit bag, sir.

14 Q Biscuit bag, okay.

15 A No, Best Kit.

16 Q Best Kit, oh.

17 A Yes, sir.

18 Q I guess I'm hungry, I must be. And that
19 control number, why is that put on there?

20 A To track the -- so to track the evidence.
21 So, in this particular case we weren't able to place
22 this into a Best kit. A Best kit was just done
23 just -- just to do it. That's what we started doing
24 for the chemist at the Sheriff's Office. This, it
25 would not actually fit into this bag so that's why I

SW - A. CARTER - DIRECT

1 have this on here stating that was turned in.

2 Q But that control number is not on this?

3 A No, sir, it's not.

4 Q Okay.

5 MR. ROUTZONG: I do not have any other
6 questions, Your Honor.

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

8 THE WITNESS: Thank you.

9 MS. BELL: Your Honor, Investigator Lane,
10 I'm not sure if he's needed over in the other
11 courtroom. Can he be excused?

12 THE COURT: Any objection to him being
13 excused?

14 MR. ROUTZONG: No objection, Your Honor.

15 THE COURT: You may be excused. Thank you
16 very much.

17 You may call your next witness.

18 MS. BELL: Oh, I'm sorry, Your Honor. At
19 this time the State will call -- and I'm gonna have
20 some problems -- you told me, but your name, but I
21 would call Officer Carter to the stand.

22 THE CLERK: Place your left hand on the
23 Bible, raise your right. State your full name.

24 THE WITNESS: Alexis Carter.

25 WHEREUPON,

SW - A. CARTER - DIRECT

1 **ALEXIS CARTER,**
2 having been duly sworn by the clerk, testified
3 as follows:

4 THE CLERK: Thank you, ma'am. Step around
5 please, ma'am.

6 MR. ROUTZONG: Your Honor, could you
7 request her to ---

8 THE COURT: I will.

9 MR. ROUTZONG: Thank you, Your Honor.

10 THE COURT: I'll ---

11 THE CLERK: State your full name and spell
12 your last name for the record please, ma'am.

13 THE WITNESS: Alexis Carter, C-A-R-T-E-R.

14 **DIRECT EXAMINATION**

15 BY MS. BELL:

16 Q Good afternoon, Officer Carter.

17 A Good afternoon.

18 THE COURT: If you will speak up a little
19 bit louder. I can barely hear you which means that
20 the jury can barely hear you, and I'm sure Mr.
21 Routzong can barely hear you as well.

22 BY MS. BELL:

23 Q Could you please tell the jury where
24 you're currently employed?

25 A Sunter Police Department.

SW - A. CARTER - DIRECT

1 Q And how long have you been employed with
2 the Sumter Police Department?

3 A A little over three years.

4 Q And what -- what is your official title at
5 the police department?

6 A Evidence technician.

7 Q And as evidence technician, did you have
8 to go through certain kind of training through the
9 Department related to your position?

10 A Yes, ma'am.

11 Q Can you kind of describe to the jury what
12 that involved and entailed?

13 A One of the current -- well, the former
14 evidence technician, Mr. Jim Alsbrook, was my
15 trainer. He taught me how to empty the lockers,
16 identify the evidence, label the evidence, package
17 them the right way. If they need to go to SLED for
18 testing, he taught me how to package them for SLED;
19 or if they need to be taken out to the county, he
20 taught me how to do that as well. He taught me how
21 to store them in our facility also.

22 Q And as a evidence technician, could you
23 quickly describe what is your day-to-day duty?

24 A When I walk in in the morning, I go to
25 the -- I walk through my initial secure door which

SW - A. CARTER - DIRECT

1 only -- it's limited access to the public and to the
2 rest of the police department. Six of us that have
3 access to that. Then I walk into another secure
4 door which those same six people only have access as
5 well. I go to the back, empty out the lockers,
6 release the lock on that locker so they can be
7 utilized throughout the day and overnight. I
8 identify the evidence that's been turned in. I
9 print out the labels. I package them up. I label
10 them, and I put them in the designated places that
11 it needs to be in.

12 Q Okay. And have you -- have you also as
13 part of your training and experience observed court
14 proceedings related to cases that involve evidence
15 that's been put in the evidence room?

16 A Yes, ma'am.

17 Q Okay. Is this your first time testifying
18 in a case?

19 A Yes, ma'am. You probably can hear it in
20 my voice.

21 Q Everybody has to have their first time.
22 So you've been with the Department three years.
23 The -- I'm sorry, who was your predeces-- your boss
24 that trained you?

25 A Mr. Jim Alsbrook.

1 Q And did you hear his name mentioned before
2 previously?

3 A Yes, ma'am.

4 Q Okay. I show you what's been marked ---

5 MR. ROUTZONG: Your Honor, I'm afraid I'm
6 gonna have to object to this testimony. This might
7 be a matter of law we need ---

8 MS. BELL: That's okay. I'll ---

9 MR. ROUTZONG: ---outside the ---

10 MS. BELL: I'll -- I'll withdraw that
11 question. I'll withdraw the question.

12 THE COURT: Okay. He's with-- she's
13 withdrawing the question.

14 MR. ROUTZONG: Well, it goes ---

15 THE COURT: Do we still need to have other
16 issues?

17 MR. ROUTZONG: ---deeper than that, Your
18 Honor.

19 THE COURT: I'm sorry?

20 MR. ROUTZONG: I think it goes a little
21 bit deeper than that. We probably need to take it
22 up outside the presence of the jury.

23 THE COURT: Ladies and gentlemen, we have
24 an issue which we need to take up outside your
25 presence. I'm gonna ask that you retire to the jury

1 room. Again, I'm gonna ask that you not begin to
2 discuss this matter among yourselves as you still
3 have not heard all the evidence that has to be
4 presented. When we have addressed this particular
5 issue, then we'll return back to court and we will
6 bring you back. Thank you.

7 (WHEREUPON, the jury was removed from
8 the courtroom 2:28 p.m.)

9 THE COURT: Yes, sir, Mr. Routzong.

10 MR. ROUTZONG: I didn't mean to cut this
11 off too soon, but they were starting to get into --
12 they were starting to get into an area of what
13 another -- another evidence custodian was doing.
14 She's worked at the Department for three years.
15 It's clear this, this item, this package, is in
16 their possession and she is the custodian now, but
17 what relevance is that today? She's not in the
18 chain of custody from the time it was taken and
19 perhaps given to the evidence custodian
20 Mr. Alsbrook, then given to somebody else we don't
21 really know, but it certainly wasn't her. I don't
22 see what relevance her testimony can have. She
23 can't talk about what Mr. Alsbrook did five years
24 ago. That's a problem, I think, Your Honor.

25 THE COURT: Yes, ma'am.

1 MS. BELL: Thank you, Your Honor.
2 Actually, I was not gonna -- I withdrew the question
3 related to that; but that's not where I was going
4 with that, Your Honor. Actually, and I'm sorry, I
5 cannot pronounce his name; he's no longer with
6 the -- he's retired I guess, but he was the evidence
7 technician at the time. He cannot -- his testimony
8 today would not further what we need because he
9 couldn't bring these drugs into court. We have to
10 show from the time that it was put into evidence
11 that procedures were followed and that if she
12 brought it to court and she can establish the chain
13 as best practicable. This is actually fungible
14 marijuana; it's not subject to change. The rules
15 allow for fungible items that are not gonna change
16 to be able to be introduced into evidence, and so we
17 feel that we have established the chain as far as
18 Investigator Lane identified that he submitted
19 4-pounds of marijuana into evidence. He explained
20 the process that he used for that. He explained the
21 BEST kit number. He explained he had his beginning
22 of a chain of custody where he signed it and turned
23 it in.

24 We have -- we will also have an individual
25 testify, of course, Mr. Powell, that he examined it;

1 but it would be under these circumstances impossible
2 to be able to -- the witness that he's claiming that
3 we don't have, he could not bring the documents into
4 court so we have established as best practicable the
5 chain of custody. And, Your Honor, I do believe
6 there's also a recent case that talks about the
7 chain of custody that indicates -- and I'm sorry, I
8 have to pull it for you, Your Honor -- but that it
9 doesn't have to be a perfect chain. It's as best as
10 practical, practicable. Especially when you're
11 dealing with fungible evidence I would think that
12 furthers the Court's rationale and that that's what
13 we intend to establish here today. So the witnesses
14 that not -- that's not here, he couldn't bring them
15 into court. Ms. Carter is the responsible person,
16 or Officer Carter, I apologize, is the appropriate
17 person to bring that into court. I think the case
18 may be State v. Green; but I'm not quite sure, Your
19 Honor. I have to pull it.

20 THE COURT: Yes, sir.

21 MR. ROUTZONG: The nature of relevance is,
22 is whether a testimony or piece of evidence makes it
23 seem to indicate that -- for example, in this case,
24 Mr. Roseboro possessed marijuana with intent to
25 distribute, and there has to be an accompanying

1 chain of custody with that. And she's not really in
2 the chain of custody up until the time it was
3 tested. She's very kindly brought it over for the
4 Court today. That's not really relevant. The
5 relevant -- the relevant time and the relevant
6 people are, at least in part, from Investigator Lane
7 to the evidence custodian and then presumably
8 however many people handled it, we don't know, we
9 don't have a chain, and then the person that tested
10 it. Her testimony doesn't -- doesn't involve any of
11 that.

12 THE COURT: So what I hear you saying is
13 that you are challeng-- you are challenging the --
14 you see her testimony as being outside the chain of
15 custody because she -- she was not the person who
16 would have delivered it to whoever did the chemical
17 analysis or whatever and then received it. That
18 would have been returned back to the Department.
19 Then the Department would have then brought it over
20 here for court. So you're saying that because she
21 was not in -- that there was not a full chain of
22 custody, that she can't testify as to what she's
23 done with it and she can't testify from the forms
24 that indicate who picked up the -- who picked them
25 up and who re-- when they were put back and how they

1 were retrieved?

2 MR. ROUTZONG: For purposes of this
3 hearing or this trial, Your Honor, the chain of
4 custody we -- from postal inspector Rogers to the
5 chemist Mr. Powell and everybody in that chain;
6 that's the chain of custody. Those are the people
7 that handled it. And the purpose of, I mean, the
8 real -- the real importance of the chain of custody
9 is up until the point it's tested. She brought it
10 over here. That doesn't -- she brought it to court.
11 It's been in her custody since Alsbrook, but that's
12 not relevant to proving this case against him. All
13 this testimony is not relevant.

14 THE COURT: So are you -- is your
15 complaint that they're not going in order of the
16 chain? For example, if it was placed into the
17 appropriate department for the evidence room and
18 then it was subsequen-- then it was subsequently
19 transferred to the chemist and then -- so you're
20 saying the chemist should testify that when they
21 received it and what they did with it and then they
22 returned it back to the -- to the county, and then
23 whoever retrieved it from the county to bring it
24 over to the courthouse? Because when someone --
25 when someone is no longer with the -- with the

1 Department, they're -- by your standard, there's a
2 break in custody that would never be completed so
3 they would never be able to testify about what
4 happened to it, which I, I disagree with. I think
5 that they're capable of -- of looking at the
6 documentation. The custodian is entitled to look at
7 the documentation and be able to testify from the
8 documentation and then those other individuals who
9 had chain of custody and who did possess it because
10 it was -- they retrieved it or received it at a
11 certain time, could also testify. So I'm not sure
12 whether you're just complaining about the order in
13 which the testimony is offered or you're complaining
14 entirely of off the chain.

15 MR. ROUTZONG: I'm explicitly alleging,
16 Your Honor, that she's not in the part of the chain.
17 Her testimony is not relevant and relevance -- well,
18 if we go to -- we can go to Rule 401; that's going
19 to the source.

20 THE COURT: So, if she's the person who
21 brought the items, presumed the drugs here to
22 court, you're saying that she's still not the
23 appropriate person.

24 MR. ROUTZONG: If the State -- I don't
25 want to interfere with the State's case any more

1 than necessary; but if the State wants her to
2 testify that she -- she toted the drugs here to the
3 court, that's fine. Nothing else that she can
4 testify about is relevant. Rule 401, it means
5 evidence having any tendency to make the existence
6 of any fact that is of consequence to the
7 determination of the action more probable or less
8 probable than it would be without the evidence. She
9 can't say anything about that. She's not in that
10 particular chain of custody. I'm not complaining
11 about the order. We're doing the best we can; I
12 know Ms. Bell is. But she's not in that chain of
13 custody. Up to the point it was tested where
14 someone can say it's 3.9-pounds of marijuana, each
15 and every person in that chain is important and
16 relevant.

17 And since we've gone into this, Your
18 Honor, in -- in 2018 on January 26th, we filed a
19 request and motion under Rule 5 for discovery. I
20 got a certified copy. And on the bottom of it it
21 says, "Further, pursuant to Rule 6 the defendant
22 objects to the introduction of the identity of any
23 evidence or substance without the testimony of the
24 qualified analyst who personally tested."
25 Mr. Powell will be here, I assume, they will call

1 him. "Tested the substance, and the testimony of
2 all individuals who are involved in the chain of
3 custody of the evidence or substance." And that's
4 Rule 6. When I demand that, Your Honor, that means
5 they have to produce the chain of custody, and each
6 person in that chain of custody has to come here and
7 testify.

8 THE COURT: And what happens when your
9 person in the chain of custody is deceased for
10 example? I don't know that that's the case in this.
11 So, and so you cannot get someone who is in that
12 chain to be able to come and testify, are you saying
13 that that evidence can't be admitted?

14 MR. ROUTZONG: No. No, Your Honor. The
15 courts have been clear on that. Gaps can be filled
16 ---

17 THE COURT: Okay.

18 MR. ROUTZONG: --- a little bit. It has
19 to be mostly. You know, it has to be enough for to
20 be convincing to the court that they provided a
21 chain of custody, but I have demanded that if these
22 people are available, you know. You offered the
23 reason that they were deceased. If these people are
24 available, they haven't presented them yet; and we
25 have made that demand. We have that right under the

1 rule.

2 THE COURT: And -- and so what I hear then
3 is that it's not so much that this witness is not
4 eligible to testify, it's just that this witness is
5 not in the chain as it should be -- as it should
6 have been presented because the next thing was
7 the -- I would presume based upon what I've heard, I
8 presume that what will happen is that the next thing
9 that occurred was that the items that were placed
10 into evidence, in the evidence locker, were then
11 sent to SLED or some other agency or Sumter, Sumter
12 County Sheriff's Department lab, for testing and
13 that person should be -- if the -- if the custodian
14 cannot be located and cannot be present, then -- or
15 is not available, then the next person in the line,
16 chain of custody, I would presume would be whoever
17 retrieved, received it from the -- in the lab, and
18 that that person would need to testify before anyone
19 else could be able to testify.

20 MR. ROUTZONG: The problem, Your Honor,
21 is, is that there's a distinction -- there's a
22 two-fold problem here at least. She's been in the
23 Department for three years. I'm looking for the
24 date that it was actually tested. It looks like it
25 was submitted January 6th, 2018. I'm still looking

1 for the ---

2 THE COURT: Mr. Routzong, I think, I
3 think -- what I'm hearing is that you believe that
4 she is not the next person in the chain and you're
5 ---

6 MR. ROUTZONG: She's not -- she's not ---

7 THE COURT: And that you are objecting to
8 her testimony at this particular point because she's
9 not the next person in the chain, and you're asking
10 for the chain to be established so that each person
11 who touched that evidence or had something to do
12 with that evidence would testify before she
13 actually tes-- before it's actually presented here
14 in court as evidence.

15 MR. ROUTZONG: Her testimony is not
16 relevant because it was tested before she began
17 working. It was tested back in sometime in 2018.

18 THE COURT: It's not relevant at this
19 particular moment, but it is relevant because that's
20 how the drugs get -- that's how the marijuana gets
21 to court is that she has to bring it to court.

22 MR. ROUTZONG: If she wasn't -- if that's
23 what the question -- it's not-- if that's the
24 question the State wants to ask her, that's fine,
25 it's okay. But going into things that happened five

1 years ago before she worked, so there's really one
2 question to ask her, how did the drugs get -- did
3 you bring the drugs to court? Yes. Okay, thank
4 you. That's it. That's her relevance, if that is,
5 in fact, relevant.

6 THE COURT: Yeah. I think -- I think
7 there needs to be some conversation about the person
8 who would have retrieved the evidence from the
9 locker and why that person is not available or how
10 that person is not available and then move on to the
11 next chain. I think, I think that's the issue that
12 we're looking for a direct chain showing each stop
13 before she brings it here to court.

14 MS. BELL: And I understand, Your Honor.
15 And normally I would say that I would have presented
16 the chemist. We were operating under some ---

17 THE COURT: Yeah, I understand that the
18 chemist ---

19 MS. BELL: He's gonna be ---

20 THE COURT: --- may be available later
21 this afternoon.

22 MS. BELL: Yes.

23 THE COURT: And that's fine.

24 MS. BELL: So that would have been my
25 normal way to try to introduce it is to put him

1 because she is in the chain of custody, Your Honor.
2 I don't know where Mr. Routzong is going saying
3 she's not in the chain 'cause she is the evidence
4 technician and has been for three years so part of
5 that is maintaining and she said evidence. And
6 today, it's not only just that she's bringing it to
7 court today, but she could also show based on the
8 logs that they maintain as in their routine per, I
9 mean, it's gonna be for accreditation purposes. But
10 just in their normal course of practices, the sign
11 out sheets. So that's why when that was challenged
12 I had Mr. Lane go back and identify that, yes, he
13 signed it, he put it in. But I jumped ahead because
14 of our -- we were trying to move things along. If
15 you prefer, Your Honor, we can certainly -- I know
16 you got another matter we can -- however you to want
17 to do it, Your Honor.

18 THE COURT: I think that's -- my
19 impression is that Mr. Routzong would like to have
20 the chain presented so that it's an orderly
21 presentation.

22 MS. BELL: Yes, ma'am.

23 THE COURT: And that each step along the
24 way can be analyzed and evaluated and
25 cross-examined, and I think that's -- that would be

1 normally the way it would go. And I understand that
2 under the circumstances today, I understand that
3 Mr. Powell is available and can return and may
4 return today; and so to the extent that he's
5 available, then so the only gap that I'm aware of
6 from what's been stated here in court is from who
7 picked it up and from the locker and when it was
8 transported for analysis.

9 MS. BELL: Correct. And then who brought
10 it back from analysis back into today, yes. Yes,
11 Your Honor.

12 THE COURT: All right.

13 MS. BELL: So should we just stand down
14 Ms. Carter at this time or is she still under ---

15 THE COURT: And I have no problem with
16 that and she can come -- she can come back and
17 testify or come later today to testify or tomorrow,
18 whatever, wherever we are.

19 MS. BELL: Okay. Would you explain
20 something to the jury, Your Honor, so that there's
21 not -- or do we need to?

22 SOLICITOR FINNEY: May we have a moment,
23 Your Honor.

24 (Pause.)

25 THE COURT: Ms. Carter, during this break

1 you cannot discuss your testimony with anyone. You
2 have not concluded your testimony so it would be
3 inappropriate to discuss it at this time.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: We'll take a break.

6 (WHEREUPON, a recess was taken from the
7 proceedings.)

8 THE COURT: Are there still issues we need
9 to take up?

10 MS. BELL: Your Honor, if I can just have
11 a moment with Mr. Routzong.

12 (Pause.)

13 MS. BELL: Your Honor, we're ready.

14 THE COURT: We're ready to proceed?

15 MS. BELL: The State's ready, Your Honor.

16 MR. ROUTZONG: I don't -- we still have
17 the issue, Your Honor, that I raised before.

18 THE COURT: And I'm about to address that
19 issue right now. I have read Rule 6 of the Criminal
20 Rules of Criminal Procedure, and I have also read
21 portions and provisions of the State v. Hatcher at
22 392 South Carolina 86, 708 Southeastern Second 750.
23 And it specifically indicates that -- and this is
24 quoting from Hatcher. "A party offering into
25 evidence fungible items such as drugs or blood

1 samples, must establish a complete chain of custody
2 as far as practicable. When the substance analyzed
3 has passed through several hands, the evidence must
4 not leave, leave it to conjecture as to who had it
5 and what was done with it between the taking in the
6 analysis. However, each person who handled the
7 evidence is not required to testify. When other
8 evidence establishes the identity of those who have
9 handled the evidence and reasonably demonstrates the
10 manner of handling of the evidence, our courts have
11 been willing to fill gaps in the chain of custody
12 due toward absent witness. Nevertheless, evidence
13 is inadmissible under the rule when the offering
14 party omitted a link in the chain of possession by
15 failing to establish the identity of each custodian
16 at least as far as practicable." So I read that
17 case as saying -- and this is -- and that is one of
18 the cases that's listed under Rule 6 of the South
19 Carolina Rules of Criminal Procedure. I read that
20 as saying that -- that whoever is the current
21 custodian of the records and the files and who has
22 evidence indicating that there was a signature and
23 who -- and someone who signed for it and the
24 circumstances under which the signatures were made
25 or what evidence there is as relates to that and

1 then there's a chain as to the chemist or the person
2 who analyzes it and they can testify as to how they
3 received it or I think that that would go forward
4 towards establishing appropriate chain of custody
5 that complies with Rule 6 and with the South
6 Carolina case law relating to the chain of custody.

7 Yes, there can be circumstances in which
8 it's not completed; but until we hear such evidence
9 that seems to establish that, I'll be happy to hear
10 any arguments at that particular point. But I think
11 that the witness who was on the witness stand can
12 testify from the documents that she would have in
13 her possession as custodian of the records within
14 the Sumter County, Sumter County or city of Sumter
15 lab; and certainly you can cross-examine her as to
16 what she knows about and what information she has
17 about how that has been established and what her
18 role is as custodian. Anything else we need to take
19 up?

20 MS. BELL: Nothing from the State, Your
21 Honor.

22 MR. ROUTZONG: I don't know if you want to
23 move forward now and hear -- it sound looks you've
24 already ruled, but I don't think I had a chance to
25 actually argue this on the record and we have to

1 preserve ---

2 THE COURT: I'm sorry. Then I will
3 certainly hear you again and I will listen to it
4 again and if I hear something different that would
5 change my ruling, I will certainly consider that and
6 acknowledge it accordingly.

7 MR. ROUTZONG: Thank you, Your Honor.

8 THE COURT: I'm happy to hear your full
9 argument.

10 MR. ROUTZONG: Oh, I thought you wanted me
11 to do it later.

12 THE COURT: Oh, no, sir. You can go ahead
13 and do it at this particular point just to, just so
14 that we can cover it and make sure that I fully
15 understood what was argued to me at the bench before
16 we took a break.

17 MR. ROUTZONG: Well, it seems to me,
18 Judge, that we've got several problems here. They
19 want to introduce into evidence something that was
20 not given to me, and that's a Rule 5 violation,
21 Brady violation. Just ten minutes or five minutes
22 ago was the first time I'd seen that report, or that
23 log, that they intend to enter so there's that.
24 Judge, the rule is pretty clear and the case law
25 backs it up. Mr. Finney at the side bar asked me

1 where's the rule. Well, if I had just read the rule
2 I would have -- I could have told him. It says
3 right there. "The statement contains the sufficient
4 description of the substance or its container to
5 distinguish it." And the statement says, "The
6 substance was delivered in substantially the same
7 condition as when it was received." I reviewed the
8 thing that they want to put into evidence, Judge.
9 That's where it fails. Under State v. Brogmire,
10 establishing a strict chain of custody is not an
11 iron clad requirement and the fact that a missing
12 link does not prevent the admission of real evidence
13 so long as there is sufficient proof that the
14 evidence is what it purports to be and has not been
15 altered in any material respect. Without each
16 person, Judge, coming into this court or if you
17 wanted to use to fill the gaps -- and if I can show
18 you exactly what I'm talking about. Judge, there's
19 forms in that book you have right in front of you,
20 and I have previously marked this for identification
21 purposes as Defense No. 1 and Defendant's No. 2.
22 Out of that book I made a copy last night. The
23 forms are right there.

24 MS. BELL: Your Honor, may I be shown a
25 copy of that please?

1 MR. ROUTZONG: You've already seen it.

2 MS. BELL: I haven't seen it in reference
3 to the arguments that you're making.

4 MR. ROUTZONG: I don't know what that
5 means, but.

6 MS. BELL: It means exactly what I said it
7 means.

8 MR. ROUTZONG: Well, I don't understand
9 what you're saying. But my point is, Judge, if I
10 can -- as soon as she's done looking at it, I can
11 hand it up. In that book right in front of you are
12 the forms that are -- that -- it says right on the
13 form it has to be notarized and the person signs it
14 who handled the evidence and is sworn to by a
15 notary. They don't have any of those forms. And
16 what does it say on that form? May I have that back
17 please.

18 THE COURT: If you can just tell me what
19 the page numbers are that you copied out of here so
20 I can look at them at the same time. It'd be at the
21 bottom of whatever you copied.

22 MR. ROUTZONG: It's located right next to
23 Rule 6, Judge, in the Rules of Criminal Procedure.
24 That would be form A, B, and C, 1 -- form A refers
25 to ---

1 THE COURT: Tell -- I need a -- you're
2 looking at this book. Tell me what page number.

3 MR. ROUTZONG: I'm sorry. 1496, 1497.

4 THE COURT: Yes, sir, I'm on -- I'm on
5 that page.

6 MR. ROUTZONG: I draw your attention, Your
7 Honor, to form B. It has a control number. Print
8 all information except where signature is required.
9 Certificate of proof of chain of physical custody or
10 control. This is to certify. You should have an
11 officer's there. Go down a little bit further. I
12 seized from, that would be the defendant. Pursuant
13 to at or near the place and why I serve -- I seized
14 it. Describe the container and on this date I made
15 delivery of the above substances or containers to --
16 that would be the next person in the chain of
17 custody. And it is in substantially the same
18 condition as when I received it. And right below
19 that is a place for them to sign and below that is a
20 notary public for a notary public for South
21 Carolina, my commission expires. That's a proper
22 chain of custody, Judge. It's right there in our
23 own rule books. That's what they have to show.
24 That logbook won't do it. Those references won't do
25 it. They have -- it's right there in Brogmire.

1 They have to be able to testify that it's
2 sufficient proof that the evidence is what it
3 purports to be and has not been altered in any
4 material respect. What happened to the Sixth
5 Amendment, Judge, if they're allowed to do this.
6 How am I going to question them was it, you know,
7 was it the same as when -- when you received it? I
8 mean, did you put it in there, did you alter it in
9 any way? That's why we have a chain of custody.
10 And I demanded that the chain of custody be here, or
11 our office did. I didn't represent him at the time,
12 but I demanded that.

13 They're supposed to have -- the way this
14 works, Judge, they're supposed to have these forms,
15 and these forms can substitute for the chain of
16 custody in the courtroom unless the defendant
17 demands the presence of everybody in the chain of
18 custody. These gaps that are being filled are
19 supposed to be filled with documents like this,
20 Judge. You don't have that, and therefore, you
21 can't fill the gaps. And I can't confront anybody
22 because they're not here.

23 THE COURT: Any response?

24 MS. BELL: Yes, Your Honor. First of all,
25 I'm not sure the rule says that that particular form

1 is required. I know we do have forms that are
2 suggested forms, but nowhere does it say that that
3 form is a required form that must be used.
4 Furthermore, there's been testimony and the -- and
5 Mr. Routzong had every opportunity to cross-examine
6 so far. So what we have is, we've had Mr. Rogers
7 who was on the stand, and he testified that he
8 initially from a law enforcement standpoint had it.
9 That was the basis to get the search warrant and
10 that's when the package was first opened. So there
11 starts our beginning chain. Then we had testimony
12 that he turned it over to -- Mr. Lane indicated that
13 he received it from Mr. Rogers. He indicated the
14 process that he went through to deliver it and what
15 he did as far as his best evidence information to
16 identify that that's what it purported to be and
17 that that's what he actually took off. The question
18 was, is -- and you, that was what you actually --
19 the defendant actually had in his possession. And
20 then what did you do with it as soon as you did. He
21 said exactly what he did with it. Then we have --
22 Mr. Powell is now here as well, so. And he
23 indicated that he and we need them because
24 Mr. Routzong made a point of it, we had that chain
25 of custody form that Mr. Lane signed on the back to

1 indicate what he did with it and underneath it
2 was -- and he explained in 2017 that was the
3 individual who was working in the evidence custody
4 room who would normally take in the evidence like
5 that and that that person is no longer here, but he
6 identified that that was his signature. And then
7 that's his part of his chain right there.

8 We now have Mr. Powell who, and what I
9 showed Mr. Routzong -- and I don't know if he has it
10 or not -- but what we've shown him is that
11 Mr. Powell actually received it from the evidence
12 technician there and we were prepared to offer that.
13 And we also have that when he finished testing the
14 substance that he returned it back. I will elicit
15 testimony: Did you take any of it, did you add
16 anything, did you adulterate it, did you do
17 anything, nothing? And they're testifying and
18 certifying to that under oath, Your Honor. So I
19 believe that the information that we have is
20 sufficient to establish the chain of custody in this
21 case.

22 MR. ROUTZONG: Your Honor, clearly some of
23 these people aren't here to testify so it doesn't
24 comport with the ruling, it doesn't comport with the
25 case law. They have to make -- they have to say,

1 they have to certify, they have to swear. It's on
2 the form, the suggested form, that they did not in
3 any way alter it. And since we're going here,
4 Judge, I guess I should say one other thing.
5 There's one person in the chain of custody that's
6 missing, and you had testimony about this already
7 today. You had testimony that postal inspector
8 Rogers delivered a package into the office of that
9 apartment complex and he left it there. Who is that
10 person, Your Honor? Can the State produce that
11 person? If they cannot, this case should be
12 dismissed, these drugs should be suppressed. If
13 they don't know who that person is and can't get
14 them to come here and testify, this case should be
15 over. That person is in the chain of custody.

16 THE COURT: Yes, ma'am.

17 MS. BELL: Your Honor, the testimony was
18 that the defendant was under surveillance the entire
19 time that he -- that -- and you heard Mr. --
20 Inspector Rogers indicate that he delivered that box
21 and that box was intact when he delivered it. You
22 also heard from the officers that they observed the
23 defendant the entire time. I specifically asked
24 Investigator Lane, Lieutenant Lane, was that box
25 messed with in any way, did you observe him the

1 whole time? He said, yes, we did. So, Your Honor,
2 in that particular regard, I think that argument is
3 also without merit because there again -- and at
4 that particular time, there's no indication
5 whatsoever that there was anything to upset the
6 integrity of that package.

7 MR. ROUTZONG: State v. Taylor, Your
8 Honor, 360 SC 18.

9 MS. BELL: Do you have a copy,
10 Mr. Routzong?

11 MR. ROUTZONG: I do not. I will let you
12 see it here in a second.

13 THE COURT: I'm sorry, 360 south -- SC?

14 MR. ROUTZONG: 360 SC 18, the bottom of
15 page 23. "Where the identity of persons handling
16 the evidence is unknown, our courts have
17 consistently held that the evidence is
18 inadmissible." They don't know who that is, Judge.
19 That was -- the testimony -- I can't accept this.
20 The testimony was what it was. I took great pains
21 to ask both those officers: Postal inspector
22 Rogers, you took it in there and you left it in
23 there and you left. That's not in dispute who was
24 in there. That person is not here. They're in the
25 chain of custody, Judge. This case should be

1 dismissed.

2 MS. BELL: Your Honor, at the particular
3 point that it was -- the chain of custody goes to
4 once it's taken into the control of law enforcement.
5 And at that particular time it was not evidence that
6 was in -- it was -- it wasn't -- hadn't even been in
7 the defendant's possession yet as far as it wasn't
8 California. But it wasn't when it came to South
9 Carolina so after the time that the defendant took
10 possession of it thereafter there is a chain.
11 Moreover, prior to that, Your Honor, we -- we have
12 the testimony that he was observed the entire time
13 that he went through. I can't remember what the
14 time was there; but, again, the testimony -- I think
15 it was less ten minutes, Your Honor, or so that he
16 was there. 11:08 the package was retrieved. 11:10
17 he was arrested. Two minutes, Your Honor. Two
18 minutes where they saw him and said that the package
19 was unscathed in any way.

20 THE COURT: Yes, sir.

21 MR. ROUTZONG: It's just clear, Judge.
22 She says that this is not -- that it wasn't in --
23 that the chain of custody refers to law enforcement
24 chain of custody. Well, that's true, it refers to
25 everybody that handles this package. They don't

1 know. The case law is clear, Judge.

2 THE COURT: I disagree. I think Taylor
3 does not seem to support that in that particular
4 matter. The chain of custody is really designed
5 from the time that the -- that whatever it is, is
6 obtained from the defendant until such time as it is
7 tested and comes into court. The whole idea behind
8 the chain of custody is making sure as well that the
9 State or someone else doesn't tamper with the
10 evidence that was obtained from the defendant. It's
11 not whether it was tainted before it was given to
12 the defendant. The -- because he's charged, he's
13 charged with the possession of the drugs, and so the
14 analysis of the drugs is what counts in this
15 particular matter. It's not -- it is not the idea
16 that someone tampered with it before they gave it to
17 him. He's -- he's charged with that particular
18 crime and they have to establish that what he had in
19 his possession was -- were, in fact, drugs. And
20 that's where the analysis and the chain of custody
21 comes in.

22 The rule, Rule 6 goes on to state that
23 what's -- primarily what Rule 6 addresses is the
24 idea that you can substitute. Instead of having a
25 witness come in and testify live, you can have are

1 sworn statement and it talks about the statement in
2 the report that's required in order to avoid having
3 a witness come in and have to testify as to those
4 particular matters. And I think that's what, in
5 addition, what the forms that you're referring to in
6 this book to be able to establish the chain of
7 custody as to who had possession of it and whether
8 it was the opportunity to tamper with the evidence
9 by law enforcement or someone else after -- after it
10 came into the law enforcement's hands.

11 And in this particular matter, as I
12 understand it, there -- there would be testimony
13 from the person who received the package and did the
14 chemical analysis of it and that chemical analysis,
15 and that person is going to testify as to what they
16 received, the circumstances under which it was
17 received, what they did know and to test it, what
18 the results were from that test, and then that it
19 was being returned to the custodian of the
20 substance. I don't think it is required that there
21 has to be a full chain of custody.

22 And the case law clearly states -- there's
23 more than one case that says it -- that they do
24 not -- do not have to have each and every person who
25 handled that particular drug, that you have to show

1 the procedure by which they've done that. When the
2 custodian of the evidence comes in and says we have
3 a system in which we document, we sign out
4 information, this is the person who signed it out,
5 this is the person who signed it back in, it has not
6 been removed or tampered with since that particular
7 time, that -- I think that's sufficient. And any
8 other arguments that you wish to make, you can
9 certainly make that to the jury and the jury can
10 decide whether or not they wish -- that they agree
11 with you or they feel it's been tampered with, or
12 that there's some missing information that lessens
13 or in which the State fails to prove beyond a
14 reasonable doubt that the defendant had possession
15 and control over the drugs and that they were, in
16 fact, drugs and illegal substances. And I think
17 that's what we're here to determine so I'm still
18 gonna overrule your objection and we can go forward.
19 And it's noted for -- clearly noted for the record.
20 Anything else we need to take up?

21 MS. BELL: Nothing from the State, Your
22 Honor.

23 THE COURT: So the question that I have
24 is, is Officer Carter re-taking the stand, or you
25 gonna leave her off and then go directly to someone

1 else?

2 MS. BELL: Whatever the Court.

3 THE COURT: No, it's not what the Court.

4 MS. BELL: Okay.

5 THE COURT: It's not my place. I'm all

6 ---

7 MS. BELL: Your Honor, since -- yes, I
8 understand, Your Honor. Since she's already on the
9 stand, it may make more sense for her to be on the
10 stand so to take her down -- oh, yeah. Your Honor,
11 to accommodate, I'm sorry, we've been trying to
12 switch things around; but because of Mr. Powell's
13 situation, if we could stand Ms. Carter down and ask
14 that Joe Powell -- we will call him as a witness,
15 Your Honor.

16 THE COURT: All right. Any -- anything
17 further?

18 MS. BELL: Nothing from the State, Your
19 Honor.

20 THE COURT: If you're going to put any
21 objections on the record, now is the time to do it.
22 Okay, hearing none, anyone? We can call the jury
23 back in.

24 MR. ROUTZONG: Your Honor, I'm sorry, I
25 might have missed that. You just said was there an

1 objection about what?

2 THE COURT: She ---

3 MR. ROUTZONG: Standing the witness down?

4 THE COURT: Yes.

5 MR. ROUTZONG: Oh, no. No objection, Your
6 Honor. I'm sorry, I ---

7 THE COURT: Yes, that's what -- that's
8 what I'm talking about.

9 MR. ROUTZONG: Okay.

10 THE COURT: All right. So this witness,
11 the witness Ms. -- Officer Carter will not be
12 re-taking the stand at this particular point. We
13 want to accommodate Joseph Powell. Is that my
14 understanding, that we can accommodate him at this
15 particular point?

16 MS. BELL: That's correct, Your Honor.
17 Thank you.

18 THE COURT: All right. If you would ask
19 the jury to come in.

20 (WHEREUPON, the jury was returned to the
21 courtroom at approximately 4:25 p.m., and the
22 following proceedings commenced in open court.)

23 THE COURT: Good afternoon, ladies and
24 gentlemen, we're ready to continue on with the trial
25 of this matter.

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1 You may call your next witness.

2 MS. BELL: Your Honor, at this time the
3 State will call Joseph Powell.

4 THE CLERK: Place your left hand on the
5 Bible and state your full name.

6 THE WITNESS: Joseph Powell, P-O-W-E-L-L.
7 WHEREUPON,

8 **JOSEPH POWELL,**
9 having been duly sworn by the clerk, testified
10 as follows:

11 THE CLERK: Step around, sir.

12 THE WITNESS: Thank you, sir.

13 THE CLERK: State your full name and spell
14 your last name for the record please, sir.

15 THE WITNESS: Yes, sir. My name is Joseph
16 Powell, P-O-W-E-L-L.

17 **DIRECT EXAMINATION**

18 BY MS. BELL:

19 Q Good afternoon, Mr. Powell.

20 A Good afternoon.

21 Q Could you please tell the Court what you
22 do now, and the jury?

23 A Yes. Currently I'm actually retired. I
24 am enjoying the wonderful world of being at home and
25 taking care of business there. Before that,

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1 however, I was employed at the Sumter County
2 Sheriff's Office as a drug analyst being able to
3 analyze various drugs that were submitted to my
4 department for analysis.

5 Q And how long were you employed as a
6 chemist with the Sheriff's Department?

7 A With the Sheriff's Office I was employed
8 for ten years. Prior to that I had started working
9 at the South Carolina Law Enforcement Division in
10 the drug laboratory where I worked there for
11 approximately ten years in the area of drug
12 analysis. After about ten years, we had cut out a
13 new section called trace evidence where we dealt
14 with hair, fiber, paint, glass, explosives, and I
15 felt that would be a area that I wanted to look
16 into, so I moved in that area and within a year
17 became supervisor. I remained there until I put in
18 27 years of service and decided to move -- do my
19 first retirement. My wife thought it was wise if I
20 looked for a job again for some reason; and so,
21 thus, my job here at the Sumter County Sheriff's
22 Office came about.

23 Q Okay, great. And can you tell the jury
24 about your educational background and your -- you're
25 gonna need to talk some more about your experience,

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1 but we'll get into it a little bit more as far as
2 what you would do for Sumter County Sheriff's
3 Department as it related to just kind of your
4 duties.

5 A Yes. I originally received my degree in
6 Chemistry from the University of Southern
7 Mississippi. After completing my degree, I came
8 here to South -- South Carolina to actually work on
9 my advanced degree; but after about a year of study,
10 I decided it just wasn't something I needed to do.
11 After being hired on at SLED I went through an
12 extensive in-house training program, as well as
13 other classes around the country in various types of
14 analysis, use of instruments, the way we analyze
15 things, and then begin to analyze cases.

16 I have had -- been qualified in court both
17 federally, state, municipality, and local courts. I
18 have been court -- in every level of court I've been
19 qualified in. I've testified in all types of cases,
20 a total about 600 times, and it's all broken up in
21 the many different types of cases. And it has been
22 a wonderful career, I've enjoyed it immensely.

23 Q And when you say about 600 cases that you
24 testified in, were you introduced as a expert?

25 A Yes, ma'am. All those I was introduced as

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1 a expert and was qualified in every one as the
2 expert in the field of interest.

3 Q Okay. And then approximately, can you say
4 or guesstimate how many of those would have been in
5 the area of drug and chemical analysis?

6 A Drug analysis would be at least half of
7 those, about 300 or so, because of extensive number
8 of cases I handled at SLED and also here at Sumter.

9 Q Good. Did you require -- were there any
10 kind of annual certifications or any kind of things
11 related to -- any kind of things related to that
12 with your position?

13 A Yes, ma'am. We continually were being
14 tested by what's called proficiency tests. The
15 purpose of it was to be able to give us an unknown
16 substance and see if we accurately determine what
17 the material was and be able to report it in a way
18 which would characterize its scheduling meaning, how
19 dangerous it was as far as what the South Carolina
20 rules were. And I -- every year that I worked in
21 drug evidence, I had a proficiency test. I have
22 passed every one; I've never had a failure.

23 Q And is the average individual in South
24 Carolina -- let me ask you this. Marijuana, how is
25 that classified under South Carolina law?

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1 A Under South Carolina law, marijuana is
2 classified as what's called a Schedule I. That
3 means that it has no medical use. Now that may be
4 subject to change in the near future; but at this
5 moment, that was the classification it was. There's
6 also another additional change that happened a few
7 years ago. Because of what is called
8 tetrahydrocannabinol, THC, they wanted to take a
9 look at me having people be able to get the CBD oils
10 or you can buy them in stores. And you get this
11 from a type of marijuana plant that has almost no
12 THC in it. So they had delegalized the type of
13 marijuana that has very, very low concentration of
14 THC, a very high level of concentration of
15 cannabidiol oil. So in the past last few years of
16 my career, I had to make sure that every marijuana
17 sample I received was actually still the marijuana
18 that we would consider to be illegal. The type of
19 marijuana that had low THC was legal; you could
20 possess that. So I had to make that distinction
21 also.

22 Q Okay. Now I'm gonna draw your attention
23 to January of 2018. Were you employed with the
24 Sheriff's Department at that time?

25 A Yes, ma'am, I was.

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1 Q Okay. And you were as a chemist?

2 A Yes.

3 MS. BELL: Your Honor, at this time I
4 would move to admit Mr. Powell as a expert in the
5 area of drug analysis.

6 MR. ROUTZONG: Without objection, Your
7 Honor.

8 THE COURT: Without objection, I find him
9 so qualified.

10 MS. BELL: Thank you, Your Honor.

11 BY MS. BELL:

12 Q So what was your responsibility? If you
13 could walk the jury through what you would do with
14 analyzing marijuana.

15 A Well, I was actually responsible for cases
16 coming in from four different counties; and this
17 would be both from city or municipal, as well as
18 sheriff's office. And also, in some cases I had to
19 deal with a few federal cases that they would make
20 in conjunction with maybe the sheriff's office. But
21 samples were submitted to me. What I would do is I
22 receive them, sign the chain of custody indicating I
23 have received them. I would then take the log-in
24 sheet and compare it to what I actually found. What
25 I'm doing is I'm looking to make sure that -- what

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1 the content I have matches up with what is on the
2 inventory sheet. If it says it has 15 plastic bags
3 of green plant material, I'm looking for 15 plastic
4 bags of green plant material. If there's a
5 discrepancy I would immediately stop and then begin
6 to find out what -- what's going on with it, and it
7 would not go any further until I was happy with
8 finding out why we had too many or not enough or
9 what was going on with them. If that was met, I
10 then took the samples and I only opened up one case
11 at a time. Unfortunately, I was looking at between
12 1200 to 1400 cases a year, and that's just -- you
13 cannot have those mixing together so only one case
14 at a time. Once I opened it up, I would go through
15 and I would do what is called a spot test. A spot
16 test is just a chemical test to give you an
17 indication that are you dealing with a certain
18 chemical -- in this case, a marijuana. Once I had
19 spotted to make sure that what I'm looking at is
20 marijuana and all the packets that we had were the
21 same, then I would take and combine them together
22 and weigh the contents taking that information and
23 recording it. After recording that, I will then
24 take a sample of the marijuana and then run it on an
25 instrument to be able to determine how much THC it

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1 had compared to CBD, as I described earlier,
2 determining whether it is marijuana or whether it's
3 hemp. And once I've made that determination, I
4 would then issue my report either stating it was
5 marijuana and its weight, or hemp was found, which
6 would be a legal component.

7 Q During the course of your testing of
8 elicit drugs, and in this case marijuana, would you
9 do anything to adulterate or alter the chemical
10 makeup of the drug?

11 A No, ma'am. There was no alteration. Now
12 I did take a sample and extract it out and run it on
13 instrument, but that's not altering. I'm just --
14 I'm just conveying it from a plant material into a
15 liquid that I can be able to analyze with.

16 Q And that has been approved and has -- or
17 has that been approved in all the courts of
18 jurisdiction that you have testified in relating to
19 the way that you test for marijuana?

20 A Yes, it has been approved. And every
21 agency in the United States uses this very same
22 technique. It is the way to be able to get into
23 this instrument to be able to determine what it's
24 got, what's the composition.

25 Q So that is the gold standard?

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1 A That's the gold standard.

2 Q In this particular case did you take any
3 of the drugs yourself, or did you somehow alter 'em
4 in any way?

5 A No, ma'am, I have no interest in being
6 involved in marijuana whatsoever. My wife thinks
7 I'm crazy enough like it is; I need nothing else to
8 help me out.

9 Q Thank you, sir. You indicated that you
10 would sign in. So how would -- let me back up a
11 little bit. How, how do you get substances from
12 cases to actually be able to test it?

13 A Once the ---

14 Q How does it come to you? I'm sorry.

15 A A person from the law enforcement agency
16 that has the evidence, they would bring it to me.
17 It's normally going to be the evidence technician.
18 They would bring it to me and then there would be --
19 depending upon what each agency's requirements were:
20 It could be a form, it would be electronic version.
21 It all depends upon the -- what the agency asks. We
22 would fill out our paperwork or electronically do
23 it, and then that will be transferred to me. I
24 retain that under lock and key until I finish with
25 my analysis and held on to it after repackaging and

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1 sealing it up, until they came back and picked it
2 back up. Again, we would sign information saying it
3 was turned over to them and then it would be in
4 their custody.

5 Q Okay. In this particular case, and we're
6 talking about the case of Mr. Roseboro, Jr., William
7 Lee Roseboro, Jr., did you have an occasion or were
8 you asked to test marijuana substances?

9 A I do not have my report in front of me.
10 If you have my report, I will need to refer to that.

11 Q Yes.

12 MS. BELL: Your Honor, may I approach.

13 THE COURT: Yes, ma'am.

14 BY MS. BELL:

15 Q Can you take a look at that document and
16 tell us if you recognize it?

17 A Yes, ma'am. This is a document which is
18 using -- 'cause I worked at Sumter County I used
19 Sumter County letterhead. It's listed as State's
20 Exhibit No. 7. It shows the investigating officer
21 information as far as the item, what the materials
22 were, what the offense or the charge was, who I
23 received it from, also who received by which would
24 be me. And then it shows -- the second sheet is
25 going to be my actual results. And then the third

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1 sheet is going to be a statement of my
2 qualifications. This is where I send out with every
3 report indicating how many times I've testified,
4 what I testified in, things like that.

5 Q Your educational experience, ---

6 A Yes, ma'am.

7 Q ---certifications, professional
8 associations related to the work that you do?

9 A That is correct.

10 Q Okay. Who did you receive, in this
11 particular case, who did you receive a parcel from?

12 A I received this evidence from Daniel Buck.

13 Q And who is Daniel Buck?

14 A He is a officer employed at the City of
15 Sumter Sheriff's Office -- not Sheriff's Office,
16 City of Sumter, and I worked with him for several
17 years.

18 Q Okay. And so back in 2017 can you tell
19 the date that you actually received it?

20 A Yes. I received that on January 16th of
21 2018.

22 Q Okay. And after -- let me ask you this.
23 So, when something comes to you -- and in this case
24 when the substance came to you, marijuana, or what
25 was suspected to be marijuana, what -- how do you

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1 know that you're testing in products from the right
2 case number? Does that make sense to you?

3 A I take and I use the information that I
4 have been given by the agency. In other words, they
5 actually submit to me this evidence with a piece of
6 paper which, you know, says this is what they've
7 got. I will then take that and take that piece of
8 evidence and run the analysis on it using the
9 information they give me. Again, I only open up
10 that one case so all information that I'm putting on
11 this paper is reflected on the piece -- on the
12 evidence that was submitted to me.

13 Q Okay, all right. Do you mark on any of
14 the evidence itself ---

15 A Yes.

16 Q ---that you test it?

17 A Yes, I do. I will sit down here. My JDP
18 will be on the evidence. Wherever it is, it will be
19 in a box or plastic bag and my -- I put my initials
20 on it and the date that I seal it up.

21 Q Okay.

22 MS. BELL: Beg the Court's indulgence.

23 (Attorneys confer.)

24 (WHEREUPON, State Exhibit No. 19 was
25 marked for identification.)

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1 BY MS. BELL:

2 Q I'm showing you what's been marked State
3 Exhibit 19. Is there a -- can you compare with the
4 information that you have in your report and based
5 on the information you see there, can you tell
6 whether you're -- first of all, can you make the
7 markings that you would show but also that you -- is
8 there any markings on the bag itself that correspond
9 with the information on your report?

10 A Yes, ma'am. At the very top of this you
11 will see -- and you may not be able to see where
12 you're at -- but you'll see a date and my initials.
13 On the bag itself there's going to be a
14 number 18005947. This corresponds to the actual
15 number that was given to it by the City, so that's
16 the number that you'll see as a case number. We
17 also have descriptions of what is here. And then
18 there is also the Sumter PD label which has on it
19 more information dealing with the contents of what
20 is here. When I received this, I had taken and op--
21 actually, this bag was not part of it 'cause I
22 actually put this bag on it the last. But I did
23 receive what you have here, this paper bag. This
24 bag I then set down -- well, I apologize. This
25 label was here so I have lost a plastic bag.

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1 There's one over this too, but.

2 Q Correct.

3 A Okay.

4 Q No, the Defense counsel and I dealt with
5 it.

6 A Okay. So when I received it, it was in
7 this bag. I then took and open. I opened it up,
8 analyzed the contents which is four bags inside of
9 it with green plant material. Once I finished with
10 my analysis, I took and sealed this up, dated it,
11 and then I sealed that up in a larger plastic bag
12 and then to return that back over to the City when
13 they came back to pick it up.

14 Q Okay. So when you received it, it would
15 have been sealed, correct?

16 A Yes, ma'am, it. Was sealed when I
17 received it and it was sealed when I returned it
18 back over.

19 MS. BELL: And, Your Honor, just for the
20 record, we would mark that -- we would notice that
21 it's open now but, of course, it would be --he
22 testified that it was sealed at the time he received
23 it.

24 BY MS. BELL:

25 Q And once you analyze substances, then what

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1 do you do after you do that?

2 A Once I ---

3 Q Seal it, initial there?

4 A I'm sorry. Once I have analyzed and
5 finished, I will seal it back up in a plastic
6 container to try to contain the smell and anything
7 else that maybe happen, turn it back over to the
8 evidence officer when he comes back to my office.

9 Q Okay. Speaking of that, the odor, does
10 being a chemist and being familiar with drugs and
11 marijuana, does it have an odor? Can it have an
12 odor?

13 A Oh, yes, it definitely can have an odor.
14 Now let me -- there are over 400 different varieties
15 of marijuana. When I first started in this career
16 there was about one or two, and we would have plants
17 that would go -- there were a type of plant that
18 would grow real tall, not a lot of leaves, and it
19 didn't have a lot of odor to it, but it had about 3
20 to 5-percent THC in it. Through genetics, they have
21 modified this plant and crossbred and now we have,
22 as I say, over 400 different varieties, everything
23 from purple flower, all the way to skunk weed. I'll
24 let you guess which one stinks the worst, but they
25 have a range of smell depending upon which one

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1 you're talking about. And this is a huge mark
2 market in being able to create various types of
3 marijuana plants for various purposes.

4 Q Have you -- and I'm just asking you this.
5 Do you know, like, the kind of value of the
6 marijuana? Do you ever?

7 A I right now today, candidly, the value is
8 going to be all over the place. Because it's been
9 legalized in many states, they're setting the price
10 by the state; but the black market is setting their
11 value just a little bit lower because they say, I
12 still want to sell my product without paying taxes
13 on it so you wind up having a competition going on
14 in the market. So, you'd have to look at the value
15 that has been placed by the -- a state that has it
16 legal and that will dictate it. I don't know what
17 it is in this state at this point because there's so
18 much over the realms. You can get it through
19 ordering or you can sit down here and get it
20 locally.

21 Q Okay, very good. Now you indicated that
22 in this particular case you were -- you did analyze
23 what's in this bag?

24 A Yes, ma'am.

25 Q Can you tell the Court and the jury what

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1 your findings were related to it?

2 A There were four plastic bags that's in
3 here, and I analyzed all four bags to make sure that
4 all four were marijuana or that they were hemp. And
5 in this case, all four had in them marijuana. I
6 found 1,796.2-grams or 3.9-pounds.

7 Q 3.9-pounds of marijuana?

8 A Yes, ma'am.

9 Q Okay. And ---

10 MS. BELL: Your Honor, at this time the
11 State would move into evidence State's Exhibit No. 8
12 which is Mr. Powell's report.

13 THE COURT: Any objection?

14 MR. ROUTZONG: I do object, Your Honor.
15 It's hearsay. He's already testified to the
16 contents of the report, and it's an out-of-court
17 statement to -- for the matter asserted, the truth
18 of the matter asserted. He's already testified to
19 it. I do object, Your Honor. It's hearsay.

20 THE COURT: Any response?

21 MS. BELL: Your Honor, I believe this is
22 the results of a chemical test analysis and that he
23 is the person that prepared the report and that it
24 is not hearsay.

25 THE COURT: I will admit it.

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1 (WHEREUPON, State Exhibit No. 8
2 was admitted into evidence.)

3 MS. BELL: Thank you, Your Honor. May I
4 publish to the jury?

5 THE COURT: Yes, ma'am.

6 MS. BELL: Beg the Court's indulgence.

7 BY MS. BELL:

8 Q Mr. Powell, you talked about you would
9 sign something indicating that you received it?

10 A Yes, ma'am. In the case of Dan Buck we
11 had at one time a paper but then they tran-- they
12 changed over to electronic format so I'm not sure --
13 I think this is should be on the paper time. But,
14 yes, there were some documents that I would sign for
15 Dan when he'd come by to pick up the evidence.

16 Q Okay. And sometimes you would have more
17 than one case; is that correct?

18 A Oh, yes. Usually, we would in a transfer
19 they would be all the cases he had accumulated over
20 the week so it could be anywhere from just a couple
21 and were a couple of times it was 20 or 30 cases.

22 Q But you made sure not to contaminate any
23 of the cases?

24 A All the cases were made sure they kept
25 separate, they were sealed. There was none of them

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1 there -- I would not take a case if it's loose so.
2 If he had brought me a case which was loose, I'm --
3 it doesn't come to me.

4 Q Thank you.

5 MS. BELL: Your Honor, at this time for
6 identification purposes only, the State would mark
7 State's No. 20 and 21 for identification purposes.

8 (WHEREUPON, State Exhibits Nos. 20 and
9 21 were marked for identification only.)

10 BY MS. BELL:

11 Q I'm gonna show you what's been marked as
12 State's No. 20 for identification purposes only and
13 ask you if you recognize this type of document?

14 A Yes, ma'am. State's Exhibit No. 20 would
15 be a transfer receipt that would have been presented
16 to me by Dan Buck for me to be able to sign -- in
17 this case would for me to return it back to him
18 'cause my -- on the very last page ---

19 MR. ROUTZONG: Your Honor, I object to
20 this testimony for the reasons we already discussed.

21 THE COURT: I'll overrule the objection to
22 the extent that he has personal knowledge of what he
23 signed and what -- and the reason behind why he
24 signed it or what it was that he signed.

25 MS. BELL: Thank you, Your Honor.

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1 THE WITNESS: The last page bears my
2 signature and also his information. This would
3 indicate a transfer of all the contents on these
4 pages. In other words, when he came back to my
5 laboratory, we would go through this list and we'd
6 make sure that each one was listed on, that I had,
7 was on this piece of paper and then I would sign it
8 to turn it back over to him.

9 BY MS. BELL:

10 Q Okay. And what's the date on that one? I
11 think I ---

12 A The date is going to be January 22nd of
13 2018.

14 Q Okay. And then this one that's been
15 marked as State's 21. I believe I should have
16 showed you that one first, but can you identify that
17 one?

18 A Yes. This is going to be, again, the
19 transfer receipt. This is going to be the -- oh,
20 this is going to be where Dan brought it to me so
21 this was the document that I signed when he brought
22 the evidence to me. Again, ---

23 Q And when you say "the evidence," this
24 evidence?

25 A Yes, ma'am. This would be -- this will be

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1 one case that is listed on this information sheet.
2 Then we go through it, make sure that I was getting
3 what -- what I believe I was getting. I would sign.
4 You will find my signature on this document. Then
5 when he comes back to pick it up, this document,
6 again, we would -- I transfer it back to him and
7 then I would sign the last page on this document
8 indicating I turned it back over to Dan Buck.

9 Q Okay, thank you. And then would your
10 initials already be on there when you gave it back
11 -- when you gave it to Mr. Buck ---

12 A Oh, yes.

13 Q ---after you analyzed it?

14 A Yes. This right here was generated on the
15 18th. We returned the evidence back, I believe, the
16 22nd. So, yes, I would have -- this would have
17 already been on the sealed plastic bag.

18 Q Okay.

19 MS. BELL: And, Your Honor, I will just
20 leave those for identification purposes.

21 BY MS. BELL:

22 Q And this is the electronic version you
23 were talking about; isn't it?

24 A No, ma'am, this was ---

25 Q Oh, is that the ---

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1 A This was actually the paper version. The
2 electronic version came later, and it would be one
3 where we actually signed electronic pad.

4 Q I see.

5 A And then that would, if we needed to it
6 can be printed out via the computer to show what had
7 been done electronically.

8 MS. BELL: Your Honor, at this time I
9 would actually move into evidence State's 20 and
10 State's 21. And may I approach with Mr. Routzong.

11 THE COURT: Yes.

12 (WHEREUPON, counsel approached the
13 bench for an off-the-record discussion.)

14 MS. BELL: Your Honor, at this time over
15 Defendant's objection, the State moves into evidence
16 State's No. 20 and 21 regarding the chain of custody
17 regarding the parcel in question.

18 MR. ROUTZONG: We object, Your Honor.
19 This is a continuous objection, I guess, on all
20 these matters I guess pertaining to the matters we
21 discussed earlier.

22 THE COURT: Yes, sir. And based upon that
23 I'm going to overrule the objection and I'll admit
24 it into evidence.

25 MR. ROUTZONG: Thank you, Your Honor.

1 (WHEREUPON, State Exhibits Nos. 20 and
2 21 were admitted into evidence.)

3 MS. BELL: Nothing further at this time,
4 Your Honor.

5 BY MS. BELL:

6 Q Thank you, Mr. Powell. Please answer any
7 questions Mr. Routzong may have.

8 THE COURT: Is there any
9 cross-examination?

10 MR. ROUTZONG: No questions, Your Honor.

11 THE COURT: You may step down. Thank you.
12 You may be excused.

13 THE WITNESS: Thank you.

14 MS. BELL: Thank you, Your Honor. At this
15 time the State will call Cameron Bryant.

16 THE COURT: No, I was gonna send the jury
17 home.

18 MS. BELL: Oh, thank you. Okay. I'm sure
19 they would appreciate that, Your Honor.

20 THE COURT: Yeah. I think -- I think
21 they've been together long enough today and so think
22 this is a good time to stop so before we take up
23 another witness. Ladies and gentlemen, I'm going to
24 remind you the instructions I've given to you, not
25 to begin to discuss this matter among yourselves as

1 you still have not heard all the evidence that has
2 to be presented. Please remember, as you come and
3 go from the courthouse not to allow anyone to
4 approach you to discuss this matter with you.
5 Again, if someone attempts to talk to you about this
6 case, please tell them that you are a juror and you
7 cannot discuss it and I ask that you report it as
8 soon as possible to any of the bailiffs or the
9 deputies or myself because we certainly would like
10 to have the opportunity to investigate on that.

11 Ladies and gentlemen, please, again, I
12 know your family and friends will want to know what
13 you're doing on jury duty; and besides telling them
14 that you've been sitting in a room together for a
15 while today, please tell them that I've asked you
16 not to discuss it with them. Again, while they are
17 not strangers, when you talk about what you've heard
18 or seen, they may make comments to you. They may
19 ask questions. It may influence how you think about
20 the evidence, and that would be inappropriate under
21 the circumstances. Until you are able to be -- to
22 begin your deliberations and discuss this matter
23 among yourselves, I ask that you not discuss it with
24 family and friends or anyone else. I don't think
25 that there will be any media reports; but I please

1 ask that you not listen to, watch, or read any media
2 reports that may be out there. Do not go online,
3 blogs, your social media site of choice, text,
4 whatever. Whatever you get you information from or
5 who you talk to, please just do not try to find out
6 anything about this particular case.

7 I believe that tomorrow we might be in a
8 position that we may be able to get this case to you
9 to begin your deliberations and so I hope that you
10 have a pleasant evening. I'm gonna ask that you
11 report tomorrow morning at 9:30. When you report at
12 9:30, then hopefully we will be ready to continue on
13 with the trial in this matter. I hope you have a
14 pleasant evening. Thank you again for your
15 patience. Thank you.

16 (WHEREUPON, the jury was removed from
17 the courtroom at 5:03 p.m.)

18 THE COURT: Is there anything we need to
19 take up before we adjourn for the evening on this
20 case?

21 MS. BELL: Nothing, Your Honor. I will
22 tell you that I do anticipate tomorrow should go
23 pretty quickly for us. I only anticipate two
24 witnesses. That will be Ms. Carter to finish up her
25 testimony and then we have our officer here who is

1 the canine officer and that should proceed
2 relatively quickly on the State's part. And then if
3 nothing else, and then we may have the jail issue
4 that we would have with that. This is very short
5 testimony as well. So that would conclude the
6 State's case if nothing were to change.

7 THE COURT: And the name of the canine
8 officer is?

9 MS. BELL: Cameron Bryant.

10 THE COURT: I'm sorry?

11 MR. ROUTZONG: Cameron Bryant.

12 THE COURT: B-R-Y-A-N-T?

13 MS. BELL: Yes, ma'am. Thank you.

14 THE COURT: Thank you. Anything else we
15 need to take up from the Defense?

16 MR. ROUTZONG: No, Your Honor.

17 THE COURT: All right. Then on this
18 particular case involving Mr. Roseboro, we are
19 adjourned until tomorrow morning at 9:30.

20 (Court was adjourned and resumed on October 27,
21 2022.)

22 THE COURT: Is there anything we need to
23 take up before we bring the jury?

24 MS. BELL: Just quickly, Your Honor. On a
25 good note probably to move things along, after some

1 deliberation last night, we are not going to attempt
2 to move in the jail phone call so what we will have
3 left from the State, unless something else comes up
4 from Mr. Routzong, is we have the canine handler and
5 the rest of the Ms. Carter's testimony.

6 THE COURT: Okay.

7 MS. BELL: Or Officer Carter's testimony.

8 MR. ROUTZONG: There is an issue with
9 calling the canine handler, Your Honor. He was not
10 on our witness list so you didn't have an
11 opportunity to voir dire the jury, and I suspect we
12 probably have to do that.

13 THE COURT: Yes, sir.

14 MS. BELL: And the State agrees, Your
15 Honor. That's appropriate.

16 THE COURT: I'll certainly ask them. Who
17 are you going to call first? The canine officer or
18 Officer Carter.

19 MS. BELL: I'll go ahead and call
20 Ms. Carter. Well, since we've already kind of
21 started with her testimony, I'll finish with
22 Ms. Carter and then we'll get to.

23 THE COURT: And before we start with her
24 testimony, I'll -- I'll inquire about the jury,
25 whether they know or have any dealings with canine

1 Bryant.

2 MS. BELL: Thank you, Your Honor.

3 THE COURT: Anything else?

4 MR. ROUTZONG: I did object to
5 Ms. Carter's testimony and that kind of led into a
6 long issue for us, and I just want to make sure that
7 you'd actually ruled on the motion and given the
8 reason and all that for -- as to her testimony.

9 THE COURT: I think what I remember is
10 that most of -- most of the objection from how she
11 started was related to the fact that she was
12 employed after the previous custodian of the records
13 has departed, and I -- and I initially interpreted
14 that as being part of your concern about the chain
15 of custody which I thought was resolved. But I
16 think -- I don't know whether you want to renew your
17 objection as to her testimony. I think she's
18 capable of testifying because she's the current
19 custodian of the evidence and she's the one who
20 brought them here to court, so I don't -- I don't
21 know what the testimony would be beyond that.
22 Certainly, I'll be -- I'm happy to hear any
23 objections that you have if you don't believe that
24 it's relevant.

25 MR. ROUTZONG: It would be the continuing

1 objection from the things we discussed yesterday,
2 Your Honor: Relevance, her relevance and to this
3 matter and also the insufficiency of the chain of
4 custody.

5 THE COURT: Okay. I'll accept your
6 objection as to being a continuing objection as to
7 the chain of custody issue. Until I hear what she's
8 going to testify about, I think you would need to
9 renew any objection as to those, as to that
10 particular part. There may be some relevance and
11 she may be capable of being able to testify. Even
12 though it's something that happened years ago, if
13 she's the current custodian and she's bringing the
14 drugs in or she's bringing evidence into court, I
15 think she will be the appropriate custodian to do
16 that. And so if there are other objections, I'll be
17 happy to hear those when she testifies.

18 MR. ROUTZONG: Thank you, Your Honor.

19 THE COURT: Thank you. But I do accept
20 your continuing objections as to chain of custody.

21 MR. ROUTZONG: Thank you, Your Honor.

22 THE COURT: If there's nothing else we
23 need to take up, we can bring the jury in.

24 (WHEREUPON, the jury was returned to the
25 courtroom at approximately 9:43 a.m., and the

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1 following proceedings commenced in open court.)

2 THE COURT: Good morning, ladies and
3 gentlemen. Hope everyone's doing well this morning.
4 Ladies and gentlemen, earlier this week when we were
5 going -- when I was qualifying you to ask you
6 questions to determine your eligibility to serve as
7 jurors in this matter, there was a witness that was
8 omitted and so at this particular time I'm going to
9 ask you, is there any member of the jury panel who
10 is related by blood or marriage or close personal
11 friend of Cameron Bryant who is a canine officer?
12 And he's present here in the courtroom. If so,
13 please stand.

14 (There was no response.)

15 THE COURT: Okay, thank you. Then we are
16 ready to continue on. Ms. Bell, you may call your
17 next witness.

18 MS. BELL: Your Honor, at this time the
19 State would call as their witness Officer Carter and
20 understand that she's still under oath, and she's
21 previously started her testimony.

22 THE COURT: Okay. Officer Carter, you are
23 still under oath to tell the truth in this
24 particular matter so we're not going to re-swear you
25 at this time.

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1 THE WITNESS: Yes, ma'am.

2 THE COURT: And please, again, state your
3 name for the record.

4 THE WITNESS: Alexis Carter.

5 **DIRECT EXAMINATION**

6 BY MS. BELL:

7 Q Officer Carter, good morning.

8 A Good morning.

9 Q I think where we left off I was asking you
10 about your responsibilities as evidence technician
11 as it relates to chain of custody documents, so
12 things that show either checked in, signed out,
13 turned back in to the evidence room. Do you all
14 have a procedure or process y'all use for that?

15 A Yes, ma'am. Right now it's digitally; but
16 when I first started, it was paper and then we had
17 to do the digital part of it.

18 Q For this particular case did you bring
19 with you yesterday that information, those logs?

20 A Yes, ma'am.

21 Q Are those logs that you all keep in the
22 ordinary course of business?

23 A Yes, ma'am.

24 Q Are those logs to show that the -- the
25 maintenance of where all evidence has gone to and

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1 when it's received back?

2 A Yes, ma'am.

3 Q And who had it and who received it; is
4 that right?

5 A Yes, ma'am.

6 Q Okay. I want to show you what's been
7 marked as -- bear with me a moment. I want to show
8 you what's been marked into evidence, subject to
9 redaction, State's 20 and 21, and ask you do you
10 recognize this document?

11 A Yes, ma'am.

12 Q And do you recognize State's No. 20 for
13 identification? Well, that's been marked into
14 evidence, I'm sorry.

15 A Yes, ma'am.

16 Q And what do you recognize State's Exhibit
17 No. 1 [sic] is as it pertains to this case?

18 A This is a document that we print out when
19 we're taking the drugs outhouse to be tested at the
20 sheriff's office.

21 Q Okay. I'm gonna ask you to turn to the
22 last page. And do you recognize -- first of all,
23 the type of form that that is on the last page?

24 A Yes, ma'am.

25 Q And what do you all -- what is the

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1 relevance and purpose of that form?

2 A It shows who signed the drugs out and who
3 we gave it to.

4 Q And this is a document that you all keep
5 in the ordinary course of business?

6 A Yes, ma'am.

7 Q Could you please state in this particular
8 case any -- what does it reflect?

9 A It shows that Sergeant Dan Buck signed the
10 drugs out on the 16th of January of 2018 and that
11 Mr. Joe Powell received them on the 16th of January,
12 2018.

13 Q Okay. And do you know Dan Buck?

14 A Yes, ma'am.

15 Q Okay. And how do you know Dan Buck?

16 A He's my counterpart. He works with me in
17 the evidence room.

18 Q And for the three years that you have been
19 there, has he been working with you during that
20 time?

21 A Yes, ma'am.

22 Q Are you familiar with his signature?

23 A Yes, ma'am.

24 Q Is his role the same as yours?

25 A Yes, ma'am.

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1 Q Do you know why he's not here today?

2 A He's on vacation.

3 Q Okay. Any particular reason?

4 A 'Cause he wanted the time off.

5 Q Okay. That's a very good reason. Thank
6 you. And then I'm gonna show you what's been marked
7 as State's No. 20 and ask you, do you recognize this
8 form?

9 A Yes, ma'am.

10 Q And what do you recognize that as?

11 A This is the receipt from when we picked up
12 the drugs from Mr. Powell.

13 Q Okay. So, and who is Mr. Powell?

14 A The drug chemist at that time in 2018.

15 Q Okay. And -- I'm trying to think. So you
16 actually at some period of time you probably worked
17 with Mr. Powell as far as him -- meeting him when he
18 would come to pick up evidence?

19 A Yes, ma'am.

20 Q Okay. Do you recognize his signature?

21 A Yes, ma'am.

22 Q And is that -- does that reflect his
23 signature there?

24 A Yes, ma'am.

25 Q Okay. And do -- does this -- do these

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1 signing out documents transfer receiving and
2 accepting it back in, is it pertaining to what's
3 been marked as State's No. 19 for identification
4 purposes?

5 A Yes, ma'am.

6 Q Okay. And have you other than -- are you
7 in the chain of custody?

8 A Yes, ma'am, I brought the evidence to the
9 courtroom today.

10 Q Okay. Is there any other information that
11 from the time of 2018 when it was brought back from
12 Mr. Powell after it was tested and received, that
13 there -- this had been tampered with or checked out
14 or moved or changed in any way?

15 A No, ma'am. It sat on the shelf in our
16 security facility until now.

17 Q Okay. And, in fact, when you came to
18 court yesterday, this was actually sealed; was it
19 not?

20 A Yes, ma'am.

21 Q And then in the presence of myself and
22 Mr. Routzong, you actually unsealed it for his
23 benefit so he could look at some of the information
24 on it, correct?

25 A No, ma'am, I didn't unseal it.

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1 Q Oh, Mr. Rogers.

2 A Yes, ma'am.

3 Q In your presence?

4 A Yes, ma'am.

5 Q Okay. After court yesterday because the
6 con-- it was different once it had been opened
7 yesterday, was there anything that you and postal
8 inspector Rogers did related to the bag that's
9 covering the bag of drugs?

10 A Yes, ma'am. We took it back to the secure
11 room in Sumter Police Department and sealed it up
12 with tamper proof tape.

13 Q Okay. And how do you know you did? I
14 mean, how -- well, I know how you know, but how
15 would the jury know that you did that?

16 A You can see our initials and date along
17 the taping.

18 Q Okay. And do you -- I'll just ask you.
19 Do you smell anything related to this package?

20 A Yes, ma'am.

21 Q Okay.

22 MS. BELL: Your Honor, at this time the
23 State would move into evidence State's Exhibit 19,
24 which is the upward 4-pounds of marijuana.

25 MR. ROUTZONG: Objection, Your Honor.

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1 THE COURT: Yes, sir.

2 MR. ROUTZONG: For the reasons that I
3 stated before.

4 THE COURT: Related to chain?

5 MR. ROUTZONG: Yes, Your Honor.

6 THE COURT: And your objection is noted
7 and I've -- I've ruled on that already, ruled. It's
8 admitted.

9 MS. BELL: Thank you, Your Honor.

10 (WHEREUPON, State Exhibit No. 19
11 was admitted into evidence.)

12 MS. BELL: And may I publish this to the
13 jury, Your Honor?

14 THE COURT: Yes, ma'am.

15 MS. BELL: I have no further questions at
16 this time for Officer Carter.

17 BY MS. BELL:

18 Q Thank you. Please answer any questions
19 that Mr. Routzong may have for you.

20 A Yes, ma'am.

21 THE COURT: Any cross?

22 MR. ROUTZONG: No, Your Honor.

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

24 MS. BELL: Your Honor, if Officer Carter
25 needs to be excused, can she be?

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1 THE COURT: Yes, ma'am. You may be
2 excused.

3 MS. BELL: Your Honor, at this time the
4 State will call Cameron Bryant, Sergeant Cameron
5 Bryant, of the Columbia Police Department -- Sumter.
6 I'm sorry, Your Honor, I said Columbia. I'm having
7 a flashback, I'm sorry.

8 THE CLERK: State your full name.

9 THE WITNESS: Cameron Bryant.
10 WHEREUPON,

11 **CAMERON BRYANT,**
12 having been duly sworn by the clerk, testified
13 as follows:

14 THE CLERK: Step around, sir. State your
15 full name, sir, and spell your last name for the
16 record please, sir.

17 THE WITNESS: Cameron Bryant, B-R-Y-A-N-T.

18 **DIRECT EXAMINATION**

19 BY MS. BELL:

20 Q Good morning, Sergeant Bryant.

21 A Good morning.

22 Q Where are you currently employed? Not ---

23 A Sumter.

24 Q ---Columbia Police Department.

25 A Sumter Police Department.

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1 Q Thank you. And in what capacity are you
2 employed?

3 A I'm the patrol sergeant, as well as the
4 canine sergeant.

5 Q And as it relates to -- how long have you
6 been a law enforcement officer?

7 A I've been with Sumter Police Department
8 for nine years, eight of those in canine.

9 THE COURT: You'll need to speak up a
10 little bit louder please.

11 THE WITNESS: I apologize.

12 THE COURT: And you can pull that
13 microphone closer to you.

14 BY MS. BELL:

15 Q All right. We'll start at the beginning.
16 Could you please tell the jury how long it is that
17 you've been with the Sumter Police Department?

18 A I've been with the Sumter Police
19 Department for nine years, eight of which have been
20 on the canine unit.

21 Q And working as the canine -- in the canine
22 unit, other than your sergeant title do you have
23 another title that you're known as?

24 A No, ma'am.

25 Q Are you also known as canine handlers?

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1 A Yes, ma'am.

2 Q Okay. And is there certain kind of --
3 could you tell the jury what that entails?

4 A I'm in charge of, obviously, the canine
5 unit as well as my assigned canine partner. We do a
6 minimum 32-hours of training a month every month
7 which has been sustained the entire time I've had my
8 dog. We're assigned with assisting OCVC with drug
9 searches, searching vehicles, tracking missing
10 persons, wanted suspects, things of that nature.

11 Q And the OVC drug unit that you mentioned,
12 the abbreviation, is that also known as the
13 narcotic/drug unit?

14 A Yes, ma'am.

15 Q Have -- what, as far as your -- the canine
16 that you're actual officer, canine officer, if you
17 would tell the jury what kind of training does your
18 canine officer go through?

19 A Initially, when we first get our canines
20 we go through a minimum 160-hour training course
21 over the course of four weeks; and as I said before,
22 that's sustained by a minimum of 32-hours a month
23 additional training, as well as any other training
24 that comes forth and certifications annually.

25 Q And during that training, what -- what are

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1 the important things, the techniques, the skills,
2 that the canine officer needs to be trained on as it
3 relates to and as it's relevant to this case?

4 A Make sure that all of our dogs are
5 trained to certain state standard. That's the point
6 of the annual certification to insure that the
7 canine team is operating to state standards which
8 have been set forth in -- put through the South
9 Carolina Criminal Justice Academy.

10 Q And how do they -- how do they -- so if we
11 talk about what an alert is, can you tell the jury
12 what an alert means as it relates to the canine
13 officer?

14 A Yes, ma'am. There's a series of changes
15 in behavior that the dog will display, whether it be
16 a change in respiration by closing their mouth,
17 taking a deep breath and through their nose, a head
18 snap toward the source of the odor, then getting as
19 close to source of the odor as possible, all that
20 which is followed by -- typically followed by what
21 we call a final alert which is, in our case, a
22 passive alert which is the dog sitting or other dogs
23 have different final alerts.

24 Q And what is the significance of that?

25 A They're trained to detect a certain odor

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1 type, which my dog is trained to the detection of
2 marijuana, methamphetamine, cocaine, and heroine.
3 Those four drug types are imprinted on them during
4 that initial 160-hour training course, and we
5 additionally train on those four odor types during
6 those 32-hours monthly training.

7 Q And I'm assuming each one of those drugs
8 has a different type of scent. Is that ---

9 A Correct.

10 Q I want to draw your attention to January
11 the 12th of 2018. The canine officer that was
12 involved in this particular case, is that the same
13 canine officer that you have today?

14 A Yes, ma'am.

15 Q Okay. And what is her name?

16 A Canine Murphy.

17 Q Okay, canine Murphy. And how long has she
18 been with you?

19 A I've had canine Murphy for five years, and
20 this is actually my second dog. My first dog I had
21 for three years.

22 Q Okay. And the certification process, is
23 that through another accreditation agency outside of
24 the Sumter Police Department to meet those
25 standards?

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1 A Yes, ma'am. It's set -- the standards are
2 set by the South Carolina Criminal Justice Academy
3 where we do our certification through a company
4 called Custom Canine Unlimited.

5 MS. BELL: Your Honor, may I approach at
6 this time?

7 THE COURT: Yes, sir -- yes, ma'am. I'm
8 sorry.

9 BY MS. BELL:

10 Q I'm gonna show you what's been marked as
11 State's Exhibit 12 for identification purposes only
12 at this time and ask you, do you recognize this
13 document?

14 A Yes, ma'am, I do.

15 Q And what do you recognize this document
16 as?

17 A That is our certification for obedience
18 back in 2017 in September when we got our initial
19 certification.

20 Q Okay. And so at the time of this case,
21 both you and canine Officer Murphy had been through
22 the training requisite to be able to do narcotic
23 detection for marijuana?

24 A Correct. This is our obedience
25 certification.

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1 Q Uh-huh.

2 A There's also a drug ----

3 Q Oh, okay.

4 A ---detection and a few other
5 certifications in there as well.

6 Q Ah, I'm sorry.

7 A That's fine.

8 Q I'm gonna show you what's been marked as
9 State's 13 and 14 for identification and ask you if
10 you can identify those.

11 A Yes, ma'am.

12 Q And what do you identify those as?

13 A Those are certifications for drug
14 detection and article search, as well as tracking.

15 Q Okay. So I guess now with the question
16 that I asked you previously, would either one of
17 these certificates be the type of certification
18 needed to show the qua-- requisite training and
19 qualification for both the handler and the canine
20 officer to be able to do -- to detect drugs, and
21 specifically, in this case marijuana?

22 A Yes, ma'am.

23 Q Which one of the certifications is that?

24 A That one right there, drug detection and
25 article search.

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1 MS. BELL: Your Honor, at this time the
2 State would move into evidence State's Exhibit No.
3 14.

4 THE COURT: Any objection?

5 MR. ROUTZONG: I haven't seen them yet,
6 Your Honor.

7 MS. BELL: Oh, I apologize, I'm sorry.

8 (Attorneys confer.)

9 MR. ROUTZONG: Without objection, Your
10 Honor.

11 THE COURT: Without objection they're
12 admitted.

13 THE COURT REPORTER: Is that all of them
14 or just 14?

15 THE COURT: All of them.

16 MS. BELL: Do you have an objection to the
17 other ones, Mr. Routzong?

18 MR. ROUTZONG: Without objection, Your
19 Honor.

20 MS. BELL: Okay. So at this time we'll
21 move into evidence without objection State's No. 12,
22 13, and 14.

23 THE COURT: They're admitted.

24 (WHEREUPON, State Exhibits Nos. 12,
25 13 and 14 were admitted into evidence.)

SW - C. BRYANT - DIRECT

1 BY MS. BELL:

2 Q Officer Cameron, do you specifically
3 recall this incident?

4 A I don't recall many details of it; but as
5 I've stated prior, we do the same ritual basically
6 every time we conduct a search which includes us.
7 If it's a room, which this one was, I take him to
8 the doorway, take control of him which means put him
9 in a sit position, take him off leash and give him
10 his command to search, which is find it, and at that
11 point he goes around the room in a clockwise motion
12 searching the exterior walls of the room and then
13 comes closer to the interior searching anything
14 which is inside the walls.

15 Q And just to -- just so the -- for the
16 jury's edification, are these the only kind of
17 searches that your, related to drugs, that your
18 canine officer and you engage in?

19 A No, ma'am. We do building searches as
20 well as area searches, vehicle searches. Wherever
21 somebody can place drugs or narcotics is where we'll
22 try to search.

23 Q Vehicles?

24 A Yes, ma'am. Cars, commercial vehicles,
25 the list is endless.

SW - C. BRYANT - DIRECT

1 Q So in -- since 2018, beginning of 2018,
2 about how many of these type of drug searches have
3 you done in any regard?

4 A I can't even begin to put a number on it.
5 It's -- between training, as you can imagine
6 32-hours a month every month over the course of five
7 years almost, as well as deployments; and the list
8 is, I can't even count that high.

9 Q Let me ask you, so if -- you said you
10 remember vaguely that you -- you were there?

11 A Yes, ma'am.

12 Q And is it your procedure to be in the room
13 when the boxes are set up?

14 A Absolutely not.

15 Q Is it ---

16 A I -- I prefer to not be there. That way
17 there's no type of outside influence that can be
18 placed on the -- on the canine.

19 Q And in -- and this -- so would there have
20 been in this particular case the dog to alert?

21 A I'm sorry?

22 Q Would -- is there -- in this particular
23 case with those drugs right there, do you recall if
24 your -- if your dog reacted to that?

25 A Yes, ma'am. He displayed the change in

SW - C. BRYANT - CROSS

1 the behavior which I noticed since the beginning of
2 our training which is he displays a head snap which
3 is just a very quick turn of his head whenever he
4 first identifies the odor that he smells. He then
5 traces the odor back to the source of the odor,
6 which in this case is the marijuana which was
7 packaged inside the box. Places his nose on the box
8 and then gives a final alert by sitting.

9 Q Were you involved in the investigation?
10 Was that the extent of your involvement in this
11 case?

12 A Yes, ma'am.

13 MS. BELL: Your Honor, I have no further
14 questions. Beg the Court's indulgence.

15 BY MS. BELL:

16 Q I have no further questions at this time.
17 Sergeant Bryant, please answer any questions that
18 Mr. Routzong may have for you.

19 A Yes, ma'am.

20 THE COURT: Any cross-examination?

21 **CROSS-EXAMINATION**

22 BY MR. ROUTZONG:

23 Q Good morning, sir. How are you?

24 A Good morning. Doing well.

25 Q I notice on the certification that Murphy

SW - C. BRYANT - CROSS

1 was certified in September of 2017; is that correct?

2 A Yes, sir.

3 Q When this -- when this event that you're
4 testified today occurred, that was, what, about 90
5 days or maybe 120 days later, around about there?

6 A About three months, yes, sir.

7 Q You've been a canine officer a long time
8 it sounds like. How many times have you had a false
9 alert?

10 A There have been false alerts, absolutely.

11 Q Do you know how many?

12 A I'm not sure.

13 Q Okay. I'm curious about a couple of
14 things. I'm bothered by something you said a little
15 bit earlier. You said you didn't specifically
16 remember this event and then you subsequently
17 testified that you could remember the dog in
18 reaction to that. I was just wondering, how many --
19 how many sniffs have you -- have you and Murphy done
20 or since January of 2018?

21 A We've done several. Also, in my
22 deployment log it states the change in the behavior
23 that he displayed whenever he detected the odor.

24 Q But you don't specifically remember; is
25 that correct?

SW - C. BRYANT - REDIRECT

1 A What was written in my deployment log is
2 what jogs my memory, so to speak, and that's what I
3 remember it by.

4 Q Okay. Do you remember when you -- when
5 you went into this -- this room where we had
6 testimony there were boxes and one of the boxes it's
7 alleged to be that -- the drugs that have been
8 admitted into evidence. Do you remember that scene?

9 A Not specifically, however, every time we
10 do a -- we assist the drug unit in a building search
11 or parcel sniff in this case, they set it up the
12 same way every time, as well as I deploy my canine
13 the same way every time.

14 Q Do you know if all the boxes were empty?

15 A I don't know. As I stated before, I'm not
16 there whenever they set the room up. I have no idea
17 what I'm walking into except I'm going to deploy my
18 canine in this room that has boxes in it, and
19 that's -- that's the extension of my knowledge
20 whenever I enter the room.

21 Q Excuse me for just a minute. Thank you,
22 sir. I don't have any other questions.

23 THE COURT: Any redirect?

24 **REDIRECT EXAMINATION**

25 BY MS. BELL:

SW - C. BRYANT - REDIRECT

1 Q Officer Bryant, let me ask you, prior to
2 today have you and -- and your canine officer and
3 regarding the qualifications of the canine officers
4 and the techniques that you testified about today,
5 have you ever had an occasion to appear and testify
6 in any court of competent jurisdiction related to
7 that?

8 A No, ma'am.

9 Q Okay. Very good. Thank you.

10 THE COURT: Anything further?

11 MS. BELL: Oh, Your Honor, I do have one
12 other question.

13 BY MS. BELL:

14 Q Aside -- aside from the canine officer, do
15 you have occasions where because of your training
16 and experience, and not just you but other officers
17 and narcotic unit, that you're trained to yourself
18 to detect the smell as probable cause related to
19 marijuana?

20 A Yes, ma'am.

21 Q So if -- have you had occasion yourself
22 where if a vehicle, if you're on patrol and there's
23 a vehicle that were to pass you, be in close
24 proximity to you, have you had an occasion where you
25 have from your training and experience and

1 certification as to drug detection been able to
2 detect the smell of what's suspected to be
3 marijuana?

4 A Yes, ma'am.

5 Q And further that, later tested to be
6 positive for marijuana?

7 A Yes, ma'am.

8 Q Thank you.

9 THE COURT: Anything further?

10 MR. ROUTZONG: Excuse me, Your Honor. No
11 other questions, Your Honor.

12 THE COURT: You may step down. Thank you
13 very much.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: You may call your next
16 witness.

17 MS. BELL: Your Honor, at this time the
18 State would rest.

19 THE COURT: Ladies and gentlemen, at this
20 time we have some matters which we need to take up
21 outside of your presence. I'm gonna ask that you
22 retire to the jury room and not to begin any
23 discussions or deliberations related to this matter
24 as you still have not heard all of the instructions
25 related to this particular matter. Thank you.

1 We'll bring you back as soon as possible.

2 (WHEREUPON, the jury was removed from
3 the courtroom at 10:14 a.m.)

4 THE COURT: I believe the State has
5 rested. Are there any motions at this time?

6 MR. ROUTZONG: Your Honor, the Defense
7 moves for a directed verdict on behalf of the
8 defendant viewing the evidence in a light most
9 favorable to the State. We do not believe the State
10 has provided enough evidence for the jury to
11 consider whether or not Mr. Roseboro is guilty of
12 possession with intent to distribute, Your Honor.
13 And on based on the prior motions, as you know, Your
14 Honor, we objected to entering the drugs into
15 evidence; and I just want to put one last thing on
16 the record in terms of that motion if you don't
17 mind, if you'll hear me out on.

18 THE COURT: Yes, sir.

19 MR. ROUTZONG: Your Honor, there's a case
20 called State v. Chisholm. I think I brought it up
21 here with me; probably I did not. I might have it.
22 I can get that cite to you, Your Honor, in just a
23 minute but. State v. Chisholm was actually
24 overruled on other grounds by State v. Taylor and
25 Taylor is cited at 316 S.C. 18. But Chisholm still,

1 I think it's good law on one aspect of what we're
2 trying to argue and this comes back to what you
3 ruled yesterday, Your Honor, that the chain of
4 custody begins with the defendant. In Chisholm, it
5 clearly says it's the initial seizure when the chain
6 of custody begins. And I cannot believe I did not
7 bring that case up here with me. I guess I thought
8 maybe we -- I just didn't stick it in the -- I --
9 it's probably cited in Taylor since they overruled
10 it on other grounds, and it is, actually. Please
11 excuse me for just a second, Your Honor.

12 THE COURT: No problem.

13 MS. BELL: Your Honor, while Mr. Routzong
14 is looking that up, may I ask that Sergeant -- I
15 forgot to ask if Sergeant Bryant could be excused.

16 THE COURT: Certainly.

17 MS. BELL: He worked midnight last night,
18 Your Honor.

19 THE COURT: Thank you. You may be
20 excused.

21 MR. ROUTZONG: I picked up all the ones I
22 didn't need, Your Honor, and left the one I did.
23 Your Honor, that cite is 584 S.C.2d 401 if I can
24 pull that up. And this is on -- on that cite, Your
25 Honor. This would be on, looks like page 179. And

1 I'll just read from this. "A complete chain of
2 evidence tracing possession from the evidence
3 there's initial control," and that's the area I want
4 to focus on, Your Honor. When the police came to
5 the initial control of that item. And remember, the
6 purpose of the chain of custody is to insure there's
7 no tampering with the item of evidence. And as I
8 said, Your Honor, the important thing here was
9 there's a gap in that chain. And I agree with the
10 court, a court -- the court can look at the case,
11 hear all the evidence and see that, okay, there's
12 pretty much a chain, the gap is gonna be filled; but
13 an absence in the chain can't be filled so the
14 chain, I would argue to the Court, until Chisholm
15 which I said was overruled by Taylor, I would argue,
16 for other reasons. It says the initial control of
17 the -- to its final analysis. Well, initial control
18 in this case took place when postal inspector Rogers
19 opened that box, took it into his custody. He
20 carried it to somebody we don't know and then
21 they're alleging that Mr. Roseboro picked it up.
22 That's the entire chain, Your Honor, I would argue.
23 And that's my directed verdict, Your Honor.

24 THE COURT: So let me make sure I get the
25 timeline as to what you're referring to. Are you

1 talking about the time period from when the postal
2 inspector picked it up and took it into the office,
3 or are you -- are you starting from some other
4 particular time?

5 MR. ROUTZONG: When -- when it first came
6 into his custody, I think he testified it was at the
7 post office and that's when they opened it up. This
8 is prior to it being dropped off at the apartment.
9 Remember, there's law enforcement interaction with
10 this, this item at that point. Before it's taken to
11 the office there's law enforcement interaction with
12 it. The chain of custody is there to protect the
13 defendant from any tampering with that item all
14 along the way the chain of custody all the way to
15 testing it. And that makes sense. It's -- who else
16 would tamper with it other than law enforcement
17 potentially, except in this case we have an unknown
18 person that had it in their possession at some point
19 in time that you have not heard from during the
20 course of this trial, and we do not know who that
21 is.

22 THE COURT: Ms. Bell.

23 MS. BELL: Your Honor, the State would
24 contend that in the light most favorable to the
25 moving party, the State has met -- has laid

1 sufficient evidence to be able to present this case
2 to the jury. And all due respect to Mr. Routzong,
3 the argument he makes today is no different than the
4 argument he made yesterday. There's nothing new
5 about it. He mentioned all these things yesterday,
6 and the Court had already ruled. But moreover, you
7 heard sworn testimony that the things -- if we
8 wanted to start at the time when, you know, and I
9 was trying to read State v. Chisholm just here for a
10 moment to try to see because there was a period of
11 time when there was a draw apparently of blood for
12 testing purposes and the State had requested that,
13 and it was so I -- I didn't have a chance to really
14 read it. However, I think based on the facts and
15 evidence and the law that we have, that we have a
16 sufficient chain of custody. We have the U.S.
17 postal inspector Mr. Rogers that indicated that he
18 had the drugs in his possession. That's how he was
19 able to obtain a search warrant for them. That once
20 they were open, that they were in his possession.
21 We also had that he delivered it to the apartment
22 complex, that it did not leave his possession and
23 control, that it went to the -- he took it to the
24 apartment complex in a undercover capacity, that the
25 defendant was under surveillance, and I -- under

1 visual surveillance.

2 And one of the things I plan to argue to
3 the jury is that if Your Honor sees fit to not grant
4 the motion, is that Lieutenant Lane and his team
5 never lost sight of the defendant when he went
6 inside the -- they had visual observation of him.
7 And I actually, because looking at notes, that the
8 period of time that he was in there when he went in
9 and the period when he came out was just minutes. I
10 also asked Lieutenant Lane, was there anything about
11 the -- about the package that suggested in that
12 short period of time when he didn't lose sight of
13 the defendant, was there anything that changed about
14 that parcel, did it look like it had been tampered
15 with or not. And he indicated, no.

16 The -- you did hear testimony and, Your
17 Honor, this is acceptable practices. It makes a
18 very good reason as to why you not leave all the
19 drugs in there at the time that they were
20 intercepted; but because there could be something
21 where the defendant could flee, there could be
22 something where all the evidence could be lost.
23 However, it was maintained by postal inspector
24 Rogers. Likewise, to the extent practicable, Your
25 Honor, we believe that the fact that the defendant

1 went in, certainly Mr. Routzong, if he wants to say
2 the police tampered with this evidence, that's
3 appropriate if he wants to argue that to the jury,
4 Your Honor, but it does not affect the
5 admissibility. And from the time that it was taken
6 off the defendant, we have Investigator Lane
7 indicating that he received drugs from postal
8 inspector Rogers, that he turned those in. We have
9 the sheet where he turned it in. We have the sheet
10 where it was accepted by a custodian of evidence.
11 We have the sheet that's kept in the ordinary course
12 of business that it was kept there. We spent a lot
13 of time talking about the integrity of how things
14 cannot be tampered with and then, but we also have
15 the chain of custody log that shows a proper chain
16 so. And the reasons why the individuals whose
17 names, by the way, Officer Carter recognized because
18 she worked with both of these individuals, is there,
19 that there was nothing else that was done with those
20 drugs.

21 So, Your Honor, we would state to the
22 Court that there's ample evidence as far as -- I
23 don't know if you need to hear on just generally,
24 you know, that the defendant was in actual
25 possession which is an element of possession with

1 intent to distribute, that he was in a sufficient
2 amount that there can be the permissive inference of
3 intent. If the jury believe nothing else just by
4 weight alone, they can believe that there's an
5 intent to distribute by the defendant. The drugs
6 have been analyzed. You heard Joe Powell, the
7 chemist, indicate that the gold standard was used to
8 analyze these drugs and they tested positive for
9 marijuana. Of course, it's a C-1 illegal substance
10 in this state and that the defendant possessed it in
11 Sumter, in the city of Sumter.

12 Your Honor, also, and again, I think it
13 goes to the weight and not the admissibility; but on
14 the tracking record, and one of the things I plan to
15 discuss about circumstantial evidence is when the
16 defendant was arrested, he had in his possession a
17 receipt from California with a tracking number that
18 matched the tracking number of where -- of this
19 parcel from California. We have on that because, as
20 we know, the post office is gonna charge money based
21 on the weight; and they weigh it to know how much to
22 charge, and then if you want insurance or other
23 things. But on that parcel it indicates that
24 there's approximately, I think they weigh it at 4 or
25 5-pounds, I can't remember, but that would be

1 consistent with the evidence. So I, I believe the
2 State has proven all the elements sufficiently
3 enough that the case should go to the jury. Thank
4 you. And then I did not mention State v. Hatcher,
5 Your Honor, but we believe that would be applicable
6 in this case as it relates to the chain of custody.

7 MR. ROUTZONG: I agree with the State and
8 that's why I confine in terms of the arguments
9 yesterday you heard and so I'm not -- it's not my
10 intent to reargue those. But your ruling was based
11 on this, this new consideration I would argue, of
12 when the chain of custody starts. Yesterday you
13 said it starts with the defendant and then
14 afterwards. And my simple argument is, I believe
15 Chisholm stands for the proposition it starts
16 whenever the law enforcement seizes the item and
17 that would have been before the apartment. Now you
18 have a chain, you have a gap in the chain, and I
19 don't think -- I think that gap is fatal to their
20 case, Your Honor.

21 THE COURT: And from your -- and from your
22 perspective, that gap in the chain is the time
23 period that it was in the office. Is that -- is
24 that what you're referring to? The time from when
25 the postal inspector took the package and left it in

1 the office for the defendant to pick up.

2 MR. ROUTZONG: Well, Chisholm -- Chisholm
3 goes on to state, Your Honor, it must not be left to
4 conjecture concerning who had the evidence and what
5 was done with it, but that's -- I'm somewhat careful
6 with that because, as I said, it was overruled by
7 State v. Taylor, but I don't -- arguably, Taylor did
8 not overrule that. I think that's always a true
9 statement. If you don't have any -- if you don't
10 have any paper log or computer log or actual
11 testimony from that person and you have a gap that
12 cannot be filled.

13 THE COURT: And I'm just trying to confirm
14 that that's, that's the gap that you're referring
15 to.

16 MR. ROUTZONG: Yes, ma'am.

17 THE COURT: From the time that the postal
18 inspector dropped it off at the office until the
19 time that it was picked up by the defendant.

20 MR. ROUTZONG: Yes, Your Honor.

21 THE COURT: Okay. I just -- that's what I
22 wanted to clarify. Thank you. I'm gonna take a few
23 moments to read Chisholm and also to look at Taylor;
24 and if there is any other case law that you want me
25 to look at while I'm reading, we can stand in recess

1 until we have a chance to do that and I'll come back
2 and after I've had a chance to read it, read those
3 cases and digest it, and come back with a
4 conclusion.

5 MS. BELL: Thank you, Your Honor.

6 MR. ROUTZONG: Thank you, Your Honor.

7 THE COURT: Thank you.

8 MR. ROUTZONG: Before you leave the bench,
9 Your Honor, do you want to take this opportunity to
10 ask him if he ---

11 THE COURT: I can. I was going -- I was
12 gonna wait, but I'll do that so that you all at
13 least will have the opportunity to discuss it while
14 I'm reviewing it and then we'll go from there.

15 MS. BELL: I'm sorry, what questions was
16 that? I'm sorry, I didn't hear.

17 THE COURT: To indicate to Mr. Roseboro
18 that he has the right to testify and go through
19 that.

20 MS. BELL: Thank you, Your Honor.

21 THE COURT: So, Mr. Roseboro, if you would
22 please stand and confirm your name again please.

23 THE DEFENDANT: William Roseboro.

24 THE COURT: Would you raise your right
25 hand please.

1 WHEREUPON,

2 **WILLIAM ROSEBORO,**

3 having been duly sworn by the Court, testified as
4 follows:

5 THE COURT: Mr. Roseboro, at this time I'm
6 going to explain to you one of your rights that you
7 have. If you don't understand anything that I say,
8 then please ask me to explain it further and let me
9 know if you don't understand what I'm indicating.
10 We've reached the point in the stage of this trial
11 where you can present a defense. You have the right
12 to claim the protections given to you by the Fifth
13 Amendment to the Constitution of the United States,
14 and that amendment states in part that no person
15 shall be compelled in any criminal case to be a
16 witness against himself. That means you cannot be
17 required to testify in this case. You have the
18 right to testify in your own behalf; however, nobody
19 can make you testify, and this is a personal right
20 to you to which you have the opportunity to waive
21 that particular right. If you decide to testify,
22 you will be subject to the same rules as any other
23 witness who'd be examined, to be examined and
24 cross-examined, on any relevant issue in this
25 particular case.

1 In addition, if you have any convictions
2 involving dishonesty or false statement or crimes
3 that are punishable by imprisonment of more than one
4 year and this court determines that the probative
5 value of omitting this evidence outweighs its
6 prejudicial effect, then the solicitor will be able
7 to use those convictions to impeach or attack your
8 credibility. You must decide whether you wish to
9 testify. That decision on your part must be freely
10 voluntarily and intelligently made and that you
11 understand the protections have been given to you by
12 the Fifth Amendment. If you decide that you do not
13 wish to testify, I will instruct the jurors the fact
14 you did not take the witness stand and testify in
15 your behalf cannot be used against you in any manner
16 whatsoever. They can't even discuss the fact that
17 you did not take the witness stand. You have an
18 absolute right not to testify in this -- in this
19 particular matter. It is the State's burden, always
20 the State's burden to prove that you are guilty of
21 the -- this particular charge, by evidence that
22 satisfies that jury of that guilt beyond a
23 reasonable doubt. So you don't have to prove that
24 you're innocent. You don't have to take the witness
25 stand to talk about whether you're innocent or not.

1 Do you understand what I've explained to you?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Okay. Do you have any
4 questions about what I've explained?

5 THE DEFENDANT: No, I'm fine.

6 THE COURT: I will give you some
7 opportunity to discuss the matter further with your
8 attorneys. You can talk with them and get as much
9 advice that you wish to get; but ultimately, the
10 decision is your decision and you're the one who has
11 to make the final decision as to whether or not you
12 wish to testify. Do you understand?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. Thank you. You
15 and I have had that conversation and I'll go read
16 the case law.

17 Anything else I need to talk to him about?

18 MR. ROUTZONG: No, Your Honor.

19 THE COURT: Okay.

20 (WHEREUPON, a recess was taken from the
21 proceedings.)

22 THE COURT: I've had the opportunity to
23 review Chisholm, State v. Chisholm, State v. Taylor,
24 and State v. Hatcher. This is what I gather from
25 reading those cases. It is — to me it's apparent

1 that what they're talking about when they're talking
2 about the chain of custody involves the chain
3 involving law enforcement's seizure of the drugs or
4 whatever -- the -- whatever is required to be tested
5 by the State in order to establish a case against
6 the defendant. And I think that in this partic-- it
7 doesn't -- none of the case law talks about the fact
8 that the drugs are made -- that there's something
9 that's being delivered to a third person intervening
10 and particularly in as it relates to drug
11 transactions. The cases that seem to address the
12 chain continuously are those that involve a control
13 buy in which they are somebody who is identified who
14 is going to -- who is searched before they go in to
15 purchase drugs. When they return -- they purchase
16 the drugs from a suspect, they return with the drugs
17 in the hand and the officers, you know, search to
18 make sure that they don't have anything additionally
19 or that they didn't pick up something else or they
20 didn't leave something behind. The officers then
21 take -- take control of whatever that substance is,
22 and then -- and then the chain continues on from
23 that particular point. There is no case law that
24 seems to address the circumstance where there's a
25 package that's delivered to a non-law enforcement

1 person, a person who is not cooperating with law
2 enforcement in any way, someone who's not in a
3 undercover capacity. There is -- is in this case it
4 was a package that was delivered to an office and
5 the recipient of the package or the person to whom
6 it was addressed came and picked it up and then
7 immediately thereafter the package was seized by law
8 enforcement. And that's, that's what we have in
9 this particular situation.

10 I think the fact that -- the fact that the
11 officer who was the U.S. postal inspector had
12 possession of the package previously. We know from
13 his testimony what he did with that particular
14 package. He then delivered the package as he was
15 required to do as a postal employee, and it was in a
16 office which in the normal course of business. The
17 defendant came in and picked up the package; and
18 then after that, the package was seized again by law
19 enforcement, or the postal inspector in this
20 particular case. And I think the case law does not
21 require that there be -- that the intervening person
22 to whom the package was delivered in this particular
23 case to the office of the apartment complex, does
24 not require that they have to come in and testify as
25 to what happened to the package. And, and I don't

1 believe that there's any case law that indicates
2 that.

3 What is important, however, is, as
4 Ms. Bell indicated, there is evidence to show or
5 there's testimony that when the package was
6 retrieved from the defendant, the postal inspector
7 who has delivered it to the apartment complex,
8 indicated that it had not been -- it did not appear
9 to be changed. The seal on it, the tape on it,
10 hadn't been removed, it hadn't been replaced.
11 There's not been any tampering with it that he could
12 tell in that the contents of the package were
13 exactly the same contents as to what he placed in it
14 before it was delivered to the apartment complex. I
15 think that those are issues certainly that the jury
16 can -- can determine whether there's some flaw,
17 there's some problem with that testimony or with
18 that evidence. But for purposes of, well, the chain
19 and whether there's evidence to submit to the jury,
20 I believe that the fact that it was picked up by the
21 postal inspector, it was opened, it was
22 photographed, the contents of it, it was repackaged,
23 it was resealed, and it was delivered to an office
24 that didn't have anything to do with law enforcement
25 or with the defendant directly and that the

1 defendant picked it up within a short period of
2 time. It wasn't like it -- I think I would be more
3 concerned perhaps if it would have been several
4 hours or it had been a day or more; but he
5 immediately picked it up. And as soon as he came
6 out of the office with the package before he had the
7 chance to open it, he was stopped and it was seized
8 from him and at that particular point I think is
9 when all the chain of custody is to be established.
10 So I would -- I would disagree with you,
11 Mr. Routzong, that either Chisholm or Taylor
12 requires that there has to be a chain for someone
13 who is not in law enforcement or not someone -- or
14 someone who's not a custodian for law enforcement,
15 custodian of the evidence, or someone who is not
16 testing whatever that particular piece of evidence
17 is.

18 So I'm gonna deny your request and deny
19 your motion to -- as it relates to dismissing the
20 matter. I think that those are -- those are all
21 arguments, of course, that you can make to the jury
22 and the jury can then interpret the evidence as they
23 see fit based upon what's been presented to them and
24 then apply the law as instructed and go from there.

25 MS. BELL: Thank you, Your Honor. May I

1 just, not to belabor the point because I know we
2 talked about this for some time, but just as an
3 additional sustaining ground, if I can put on the
4 record to protect the record that Mr. Routzong cited
5 State v. Chisholm and State v. Taylor. State v.
6 Hatcher specifically overruled. Those two cases
7 were Court of Appeals cases from 2003 and 2004
8 respectively. The State v. Hatcher is a Supreme
9 Court case from 2011 as the Court already identified
10 as his basis earlier in this case to overrule his
11 objection. But specifically, in addition to that,
12 because one of Mr. Routzong's objections was that
13 two people while it was in the chain did not come in
14 and testify today and that caused a -- an issue with
15 the admissibility of the evidence.

16 I want to read something from Hatcher.
17 Courts have abandoned rules -- and this is on
18 page -- this is under Westlaw. Let me see. I'm
19 trying to get a page number here, Your Honor. I
20 can't find it, I'm sorry. Second -- third page of
21 the opinion, the last paragraph. "Courts have
22 abandoned inflexible rules regarding the chain of
23 custody and the admissibility of evidence in favor
24 of a rule granting discretion to the trial courts.
25 The nature of the article, the circumstances

1 surrounding the preservation and custody of it, and
2 the likelihood of intermeddlers tampering with it."
3 I think that's very important, Your Honor, because I
4 think if you read State v. Taylor and State v.
5 Chisholm, or at least my interpretation of it, is in
6 those cases it was a inflexible rule. The court is
7 given in -- the Supreme Court in State v. Hatcher
8 recognizes that that rule is inflexible. It also
9 gives to the trial court, whereas, before there was
10 no discretion to the court. It gives discretion to
11 the court, and therefore, for purposes that we're
12 here for today that they're not going to abuse the
13 discretion -- they're not going to -- it gives a
14 greater deference to the trial court in that regard.
15 So, in that regard, along with the other reasons for
16 indicating that you don't have to establish that
17 every person in that chain come in and testify. In
18 this particular case, and especially today,
19 Ms. Chisholm -- I'm sorry, Officer Carter testified
20 that she knew those two individuals so they are
21 identified. She recognized their signatures. She's
22 worked with both of them and she indicated that they
23 signed the form. So I think based on that, if there
24 was ever a question in the Court of Appeals cases
25 under State v. Taylor and State v. Chisholm, State

1 v. Hatcher, the Supreme Court cleared that up
2 clearly and said that this rule cannot be that
3 inflexible and there has to be discretion given to
4 the court and the court is gonna -- reviewing court
5 is gonna recognize that the court has that
6 deference.

7 So I just wanted to put that on the record
8 because I think that also is an official sustaining
9 ground for the Court's ruling today. Thank you.

10 THE COURT: Anything further,
11 Mr. Routzong?

12 MR. ROUTZONG: No, Your Honor. I think
13 you sufficiently addressed all the issues. The only
14 thing remaining, if you wouldn't mind, Your Honor,
15 Defense No. 1 and No. 2 are copies of the forms, the
16 correct forms, that are suggested by SLED for the
17 chain of custody, if you could make those Court
18 exhibits.

19 THE COURT: I'll be happy to do so, yes,
20 sir.

21 MR. ROUTZONG: And that was also -- and
22 I'm not -- I just want to clear the record a little
23 bit. That was also part of my argument that the
24 things they introduced were not properly certified
25 or sworn to, and that's all I have on that issue,

1 Your Honor.

2 THE COURT: Okay. And we'll change those
3 to Court exhibits for the record so that if there
4 are any issues on appeal that you wish to address,
5 that they'll be available.

6 MR. ROUTZONG: Thank you, Your Honor.

7 MS. BELL: Your Honor, I would just for
8 the record note that there was no testimony that
9 that's the only way. In other words, the Defense
10 did not present related to just for that court
11 exhibit and for the purposes of any particular
12 appellate issues, they did not provide testimony
13 from SLED that said this is the only way that you
14 can establish the chain of custody.

15 THE COURT: And that'll be noted and you
16 all can make those appropriate arguments.

17 MS. BELL: Thank you, Your Honor.
18 (Defense Exhibit Nos. 1 and 2 were re-marked as
19 Court Exhibits Nos. 1 and 2 and made a part of the
20 record.)

21 THE COURT: And you can certainly
22 reference this large volume here which -- from which
23 the forms 'cause I've never seen those forms before
24 so I've never -- it wasn't until I looked in this
25 particular book that I'd seen this form.

1 MR. ROUTZONG: The volume you're referring
2 to is the South Carolina Criminal Law manual.

3 THE COURT: Criminal law manual, yes.

4 MR. ROUTZONG: And I thought it was
5 Westlaw, but apparently it's not. It's---

6 THE COURT: It's Thompson's.

7 MR. ROUTZONG: Rutgers.

8 THE COURT: Yes.

9 MR. ROUTZONG: Thank you, Your Honor.

10 THE COURT: And this, this was a twen--
11 the one that I looked up from the bench was a 2021
12 date on that particular manual.

13 Mr. Roseboro.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: We have reached that point in
16 the trial where it will now be up to -- your
17 decision as to whether or not you wish to present
18 any evidence and whether or not you wish to testify
19 in this matter. Have you and your -- have you had
20 the opportunity to discuss this matter with your
21 counsel?

22 THE DEFENDANT: Yes, I did.

23 THE COURT: And have you made a decision
24 as to whether or not you wish to testify in this
25 matter?

1 THE DEFENDANT: Yes, I did.

2 THE COURT: And what is that decision?

3 THE DEFENDANT: I'm not testifying.

4 THE COURT: And, Mr. Roseboro, then what I
5 will do is I will certainly explain to the jury the
6 fact that you have not taken the witness stand and
7 testifying, that you are not required to do so and
8 the fact that you have not taken the witness stand
9 and testify on your behalf cannot be considered by
10 them or even discussed with them -- discussed by
11 them at any point during their deliberations. That
12 you have the constitutional right to remain silent
13 and the fact that you exercise that right is not to
14 be held against you in any manner whatsoever. The
15 burden remains with the State to prove your guilt
16 beyond a reasonable doubt by evidence that satisfies
17 that -- the jury of that guilt beyond a reasonable
18 doubt.

19 Is there anything else we need to take up
20 before we talk about the matter further?

21 MR. ROUTZONG: Nothing from Defense, Your
22 Honor.

23 MS. BELL: Nothing from the State. Thank
24 you, Your Honor.

25 THE COURT: It is about 11:30. I have put

1 together a charge that I can discuss with you.
2 There are two ways I can do this. I can send the
3 jury out to lunch and have them come back; or we can
4 have them sit there and I can -- we can order lunch,
5 and then we can go through this and hear your
6 closing arguments and then my instructions to the
7 law. So I'm open to whichever way is easier. Our
8 Clerk of Court, of course, has very generously will
9 be happy to pay for lunch for jurors if we need to
10 keep them here, but that's entirely up to you
11 depending on how much time you wish to -- after I
12 explain what my charge is to be able to talk about
13 those things and then give you an opportunity to
14 incorporate those in whatever closing arguments you
15 wish to make.

16 MS. BELL: Your Honor, and the State will
17 certainly be flexible in that regard so.

18 THE COURT: You want me to send them to
19 lunch? I'll send them to lunch, either way.

20 MS. BELL: I think they've been -- I know
21 they've sitting around since ---

22 THE COURT: They've been around since ---

23 MS. BELL: --- 9:30 ---

24 THE COURT: ---since about 10:30, yes,
25 sir -- yes, ma'am.

1 MS. BELL: ---so.

2 MR. ROUTZONG: We vote for sending
3 everybody to lunch, Your Honor.

4 THE COURT: Okay. Then what I will do is
5 I will call the jury back in. I will explain --
6 thank them for their patience, that we had some
7 legal issues that we need to take up. There's still
8 some additional matters we need to take up and I'm
9 gonna send them to lunch and have them come back.
10 That saves the county a little bit of money. Ask
11 the jury to come back.

12 Mr. Routzong, do you wish to -- do you
13 wish to indicate on the record that -- before the
14 jury that you did not wish to put up any
15 information, or you just want me to skip over that
16 part?

17 MR. ROUTZONG: I can say the Defense
18 rests, Your Honor, on the record. That will be ---

19 (WHEREUPON, the jury was returned to the
20 courtroom at approximately 11:38 a.m., and the
21 following proceedings commenced in open court.)

22 THE COURT: Thank you, ladies and
23 gentlemen, for your patience again. This particular
24 point I believe that we're ready to hear if the
25 Defense wishes to put up any evidence at this time.

1 MR. ROUTZONG: The Defense rests, Your
2 Honor.

3 THE COURT: Ladies and gentlemen, the
4 Defense has rested and so we would then need to take
5 up some additional legal matters. Instead of having
6 you sit back in the jury room, I'm going to send you
7 to lunch. We have a number of matters that we will
8 need to discuss and just to make sure that
9 everybody's rights are protected. And I will tell
10 you to return at 1:00 to be on the safe side. And
11 then when you return at 1:00, then at that
12 particular time we will be ready to hear the closing
13 arguments of the attorneys, then I'll -- you will
14 hear my instructions to you as to the law and then
15 you may begin your deliberations at that particular
16 time. I hope that you have a pleasant lunch. We're
17 almost to the end, and that you have a good lunch
18 and we'll see you back at 1:00. Thank you for your
19 patience.

20 (WHEREUPON, the jury was removed from
21 the courtroom at 11:40 a.m.)

22 THE COURT: Counsel, does State -- the
23 State has rested. We've done those motions. The
24 Defense has rested. I would presume that you would
25 renew your same motions that you would have

1 raised -- that you have raised previously. Is that
2 correct, Mr. Routzong?

3 MR. ROUTZONG: Yes, Your Honor, that's
4 correct.

5 THE COURT: All right. And given the fact
6 that there's not much time between those
7 discussions, my -- I'm sure my ruling will be the
8 same. And so at this time I'm -- I will hear from
9 you about some exhibits and then I can explain to
10 you what my instructions would be.

11 MS. BELL: Thank you, Your Honor. Just
12 very briefly. Today so that Officer Carter can keep
13 the original of the document for the chain, we would
14 like to have it marked as -- we would like to give
15 that back to her because we made a copy. She has
16 indicated that they would like to keep the original
17 along with their items.

18 THE COURT: And if you can pull -- I don't
19 have any problem with that if Mr. Routzong does not
20 have any problem with that. If you can peel off
21 that particular exhibit sticker, you can put it on
22 the new one and...

23 MS. BELL: And, Your Honor, just so you
24 know, the court reporter made a copy of it,
25 Mr. Routzong, so what she did is that's the original

1 and she made a copy and we would just place the
2 sticker.

3 THE COURT: Use the same number right on
4 top of the copy.

5 THE COURT REPORTER: Yeah.

6 MR. ROUTZONG: This is kind of an unusual
7 request, Your Honor, but they do appear to be
8 identical so. I'm not quite sure I understand why
9 but...

10 MS. BELL: I have not had the request
11 either, Your Honor, but if it's -- if it's not a
12 problem. If it is of, course, we'll accept the
13 Court's ruling. We'll give her a copy that's been
14 marked ---

15 THE COURT: If you all have examined it
16 and it's exactly -- the copy is exactly as the
17 original ---

18 MS. BELL: The color is different. I
19 think it's blue in this one, but the contents are
20 exactly the same.

21 THE COURT: I think that the Rules of
22 Evidence allow the copies. Appropriate copies can
23 be substituted for the original document.

24 MS. BELL: Thank you, Your Honor.

25 (Copy of State's Exhibit No. 17 was marked.)

1 THE COURT: Counsel, I did not really
2 receive any particular requests to charge so I will
3 go over what I have; and if I have omitted anything
4 ---

5 MR. ROUTZONG: Your Honor, I sent an
6 email this morning.

7 THE COURT: Did you?

8 MR. ROUTZONG: I didn't see your email
9 till this morning actually about, oh, gosh, I guess
10 it might have been 8:30 or 9:00, ---

11 THE COURT: Okay.

12 MR. ROUTZONG: --- something like that.
13 In that email I requested the Court to consider
14 charging the jury with possession of marijuana more
15 than an ounce; and I gave the statute, Your Honor.
16 I think it's 370 -- 44-53-370(d) (2). There were ---

17 THE COURT: I'm sorry, what was the code
18 section again? 44-53?

19 MR. ROUTZONG: 370(d) (2) I believe, Your
20 Honor.

21 THE COURT: I think (d) (2) refers to Item
22 C which just says that it's unlawful for a person
23 knowingly or intently to possess a controlled
24 substance.

25 MR. ROUTZONG: I think I realize now that

1 I probably wrote it, but I didn't send it and that
2 is what I did. I didn't send it; I just wrote it.
3 I apologize.

4 THE COURT: That's all right. Okay.

5 MR. ROUTZONG: That's correct, Your Honor.
6 It's 44-53-370(d) (2). "Any other controlled
7 substance classified as Schedules 1 through V."
8 Marijuana is a Schedule 1 drug, Your Honor. "Is
9 guilty of a misdemeanor, and upon conviction, must
10 be in prisoned not more than six months or fined not
11 more than \$1,000 or both. For a second or
12 subsequent offense, the offender is guilty of a
13 misdemeanor, and upon conviction, must be in
14 prisoned not more than one year or a fine not more
15 than \$2,000 or both."

16 THE COURT: Any response from the State?

17 MS. BELL: Your Honor, we think that all
18 the evidence in this case points to the fact that
19 possession with intent to distribute, including the
20 weight amount which Your Honor knows there's a
21 permissive inference that that fact alone can be --
22 can be a grounds for intent to distribute.

23 THE COURT: And that's -- that's under
24 44-53-370(d) (4). It says that possession of more
25 than 28-grams or 1-ounce of marijuana is prima facie

1 evidence of -- is prima facie guilty a violation of
2 subsection A of this section. Subsection A talks
3 about the manufacture, distribution, and including
4 the possession or possess with intent to distribute
5 the controlled substance.

6 MS. BELL: And, Your Honor, we think the
7 facts of this case dictate we're not talking about a
8 situation where there was 29, 30-grams. We're
9 talking about a such amount of weight of drugs that
10 the law itself prima facie states that it is a
11 violation of possession with intent to distribute.

12 THE COURT: Let me -- let me go through
13 the charge first and then come back to that.

14 MS. BELL: Yes.

15 THE COURT: That might clear up some
16 issues for me, as well as perhaps for both of you.
17 And I guess we can discuss further, you know, if
18 there are lesser includes that you wish to -- that
19 you think are appropriate based upon the evidence
20 that's been presented. And I'll go through -- I
21 won't read my charge to you, but I'll go over the
22 general information as to what will be stated.

23 I will charge them that they have to
24 consider the evidence that's been presented in this
25 case and that I have a duty to also instruct them on

1 --- as to the law as -- just as they are the judges
2 of the facts in this case. No one can tell them
3 what the facts of this case are. I would be the
4 judge of the law that's to be applied. And tell
5 them that if, you know, I make some error in my
6 charge then there's another court that can correct
7 those errors of law. In determining the facts of
8 this case, they have to judge the credibility of the
9 witnesses. I'll give them factors for them to
10 consider being the manner and appearance of the
11 witness who have testified. Was the witness
12 hesitant or was the testimony of the witness
13 consistent or inconsistent. How did the witness
14 come to know the facts that were testified to.
15 Would the witness want to give testimony that would
16 help or hurt one side or the other, and was the
17 testimony of the witness strengthened or weakened by
18 other testimony or other evidence. They can
19 consider whether or not a witness' testimony has
20 been impeached or challenged by inconsistent
21 statements. If the witness's testimony has been
22 impeached, then they can give any or all the
23 witnesses present or prior testimony they think that
24 it deserves.

25 I will instruct them as to expert

1 witnesses. Those are individuals who because of
2 some education or experience or art or science, they
3 are considered to be experts and they may give an
4 opinion in the area which they profess to be an
5 expert. They should consider any expert opinion
6 that's been offered in this case and give it the
7 weight they think it deserves. That if they should
8 determine that it's not based upon sufficient
9 education or training or it's outweighed by other
10 evidence, then they don't have to adopt it. An
11 expert's opinion is not to be given that of any
12 greater weight than that of any other witness simply
13 because that person professes to be a witness. They
14 can believe one witness against several witnesses or
15 several witnesses against one witness. Their
16 objective is to determine the facts based upon the
17 evidence that's been presented to them; and when
18 they've done that, they will apply the law and then
19 they will be able to arrive at their verdict. Their
20 verdict should not be based upon sympathy, passion,
21 or prejudice.

22 I will charge them on there are two types
23 of evidence. There's direct evidence and
24 circumstantial evidence. Circumstantial evidence --
25 crimes can be proven by circumstantial evidence.

1 The law makes no distinction between the weight or
2 value to give to direct or circumstantial evidence.
3 To the extent that the State relies on
4 circumstantial evidence, then the circumstances must
5 be consistent with each other and when taken
6 together point conclusively to the guilt of the
7 accused beyond a reasonable doubt. If the
8 circumstances merely portray the defendant's
9 behavior suspicious, then the proof has failed.

10 The State has the burden of proving that
11 the defendant is guilty beyond a reasonable doubt
12 and that burden rests with the State. Whether the
13 State relies upon direct evidence, circumstantial
14 evidence, or a combination of the two. Conjecture,
15 speculation, suspicion, or probabilities do not
16 constitute circumstantial evidence.

17 The fact that the defendant was arrested,
18 charged, and indicted, is not evidence, cannot be
19 considered by them as evidence of guilt in this
20 case, nor does it create any presumption or
21 inference of guilt. The documentation is simply the
22 manner in which we're able to come into this -- the
23 allegations against a defendant, and that's the
24 document by which we're able to come into court and
25 to proceed with a trial.

1 To the indictment the defendant has
2 pleaded not guilty and that plea casts upon the
3 burden for the State to prove that the defendant is
4 guilty because a person who is charged with
5 committing a criminal offense is not required to
6 prove himself innocent. It's -- then I'll tell them
7 that it's a cardinal rule of law that a person who
8 has charges that are pending against him is
9 always -- is and always will be presumed innocent of
10 the crime for which they've been indicted unless the
11 guilt has been proven by evidence that satisfies
12 them of that guilt beyond a reasonable doubt.

13 The presumption of innocence does not
14 cease when they go to the jury room; but it remains
15 with the defendant from the time he appears in court
16 throughout the trial until you, the jury, reaches a
17 verdict of guilt that is based upon evidence that
18 satisfies you of that guilt beyond a reasonable
19 doubt. I use the Victor v. Nebraska reasonable
20 doubt charge. That is, the government has a burden
21 of proving each and every element of the offense
22 charged beyond a reasonable doubt. Some of you may
23 have served as jurors in civil cases in which you
24 were told that that was only more true than not
25 true. In criminal cases it must be more powerful.

1 The matter must be proof beyond a reasonable doubt.
2 Proof beyond a reasonable doubt is proof that leaves
3 you firmly convinced of the defendant's guilt.
4 There are a few things that we know in the world
5 with absolute certainty, and in criminal cases the
6 law does not require proof that overcomes every
7 possible doubt.

8 If based upon considerations of evidence
9 you are firmly convinced that the defendant's
10 guilty, then you must find him guilty. If on the
11 other hand, you think that there is a real
12 possibility that he's not guilty, then you must give
13 him the benefit of the doubt and find him not
14 guilty.

15 The defendant is charged with possession
16 with intent to distribute marijuana. The State must
17 prove beyond a reasonable doubt that the defendant
18 possessed marijuana with the intent to distribute
19 it. To prove possession the State must prove beyond
20 a reasonable doubt that the defendant had both the
21 power and the intent to control the disposition or
22 use of the marijuana. Possession may be either
23 actual or constructive. Actual possession means
24 that the marijuana was in the actual physical
25 custody of the defendant. Constructive possession

1 means that the defendant had dominion and control or
2 the right to exercise dominion and control over
3 either the marijuana itself or the property on which
4 the marijuana was found.

5 Mere presence at the scene where the drugs
6 were found is not enough to prove possession.
7 Actual knowledge of the presence of the marijuana is
8 strong evidence of the defendant's intent to control
9 its disposition or use. The defendant's knowledge
10 and possession may be inferred when the substance is
11 found on property under the defendant's control.
12 However, this is simply an evidentiary fact to be
13 taken into consideration, along with other evidence
14 in this case, and it should be given the weight that
15 you, the jury, decide it should have.

16 The State must also prove beyond a
17 reasonable doubt that the defendant intended to
18 distribute the marijuana. Distribute means to
19 deliver other than by administering or dispensing a
20 drug. Intent may be shown by acts and conduct of
21 the defendant or other -- or other circumstances
22 from which she may naturally and reasonably infer
23 intent. In determining whether the defendant had
24 the intent to distribute the marijuana, you may
25 consider the circumstances around the defendant's

1 alleged possession. You may consider the amount of
2 the substance alleged to have been possessed, the
3 manner in which it was allegedly possessed, the
4 place where it was allegedly possessed, and other
5 factors which you find to be impor-- which you
6 consider to be important. You must find that the
7 defendant did not intend to have the marijuana
8 solely for his own use. Possession of more than
9 28-grams or 1-ounce of marijuana creates an
10 inference that the defendant possessed the marijuana
11 with intent to distribute it. This inference does
12 not relieve the State from proving beyond a
13 reasonable doubt that the defendant had the intent
14 to distribute. It is simply an evidentiary fact to
15 be taken into consideration by you, along with other
16 evidence in the case, and to be given the weight
17 that you decide it should have.

18 So this would be the point where I -- I
19 could, in fact, charge a lesser included offense.
20 And so, I guess on that circumstance, the testimony
21 would be if you find that the State has failed to
22 prove beyond a reasonable doubt that the defendant
23 possessed the marijuana with the intent to
24 distribute it, then you may consider the lesser
25 included offense of possession of marijuana. And,

1 again, the State would have to prove beyond a
2 reasonable doubt that the defendant possessed the
3 marijuana and in order to prove the possession, the
4 State must prove, as I stated before, the -- that he
5 had both the power and the intent to control the use
6 of -- that he had actual possession of the drug,
7 dominion, it was actually in his custody; or that he
8 had constructive possession which means the
9 defendant had dominion and control, the right to
10 exercise control over either the drug itself or the
11 property on which it was found. Again, mere
12 presence at the scene where the drug was found is
13 not sufficient to prove possession.

14 Actual knowledge of the possession of the
15 marijuana, strong evidence of the defendant's
16 intent. The defendant's knowledge of possession's
17 inferred when a substance is found on the property
18 under his control. If you find that the State has
19 failed to prove beyond a reasonable doubt that the
20 defendant possessed the marijuana, then you would
21 return a verdict of not guilty so.

22 In reaching their verdict there would be
23 three possible options. First, the first one for
24 them to consider would be the State's charge, the
25 possession with intent to distribute marijuana. Did

1 the State prove beyond a reasonable doubt that the
2 defendant was guilty of the possession with intent
3 to distribute the marijuana as I have instructed
4 them. If they find that the State has met that
5 burden, then -- and I'll -- we'll get a verdict form
6 for you. There will be a check for that particular
7 place. If, however, the State has failed to prove
8 beyond a reasonable doubt that the defendant is
9 guilty of the charge of possession with intent to
10 distribute marijuana, then you may consider whether
11 the defendant -- whether the State has proven beyond
12 a reasonable doubt that the defendant is guilty of
13 possession of marijuana as I've described that to
14 you. If you find that the State has met that
15 burden, then you would check that particular block.
16 If, however, you find that the State has failed to
17 prove that the defendant possessed the marijuana,
18 then your verdict would be not guilty and you
19 would -- you would check that particular box.

20 No matter what the verdict, it must be the
21 verdict of all twelve of them. They've been sworn
22 as fair and impartial jurors to determine the facts
23 of the case based upon the evidence that's been
24 presented and based upon the law as I instruct them.
25 When they have considered all the evidence and

1 reached their verdict, then no one can complain
2 about the verdict that they've reached and they've
3 fully discharged their duty and responsibility as
4 jurors in this matter.

5 When -- Mr. Foreman, when you fin-- when
6 you complete the verdict form, you would simply sign
7 your name, fill out the form appropriately based
8 upon your deliberations, sign his name. You will
9 already have today's date on it and then at that
10 particular point knock on the door and tell the
11 bailiff that you've reached a verdict and we will
12 receive them back in to court to receive their
13 verdict.

14 Their verdict must be based upon -- it
15 must not be based upon sympathy, prejudice, or
16 passion. Their verdict should simply speak the
17 truth based upon the evidence that's been presented.
18 And I will tell them, again, why their verdict they
19 have no friends to reward, they have no enemies to
20 punish. It's simply speak the truth. Is there
21 anything else that I would need to add. I might
22 need to clarify some of the things I've stated; and
23 some of that I may not have directly with me, but I
24 can pull it up.

25 MS. BELL: Your Honor, on behalf of the

1 State, I do believe, although I think this is not a
2 case of possession of marijuana of 28-grams, I
3 believe that, you know, it could create a issue on
4 appeal if it's a lesser included offense. So while
5 I'd say I'm obviously not happy about that, we
6 understand the Court has to charge that charge. As
7 far as other charges, Your Honor, we're fine with
8 the ones that you have already stated. I would ask
9 and if Your Honor wants me to create one, if you
10 have one, a chain of custody charge because I
11 anticipate that there's gonna be some beating up on
12 the State about that. And, Your Honor, State v.
13 Hatcher, I think if it -- if there's a standard one
14 that the Court uses, that will be fine.

15 MR. ROUTZONG: Your Honor, I think if you
16 go, start going into the facts that have been
17 presented as evidence, you're in danger of maybe
18 falling into a comment on the evidence. I never
19 heard of a chain of custody charge. I get to argue
20 about it. The jury can make a -- of it what they
21 will. The chain of custody really is more of a
22 matter of law as opposed to fact that's gonna be a
23 winner in this case.

24 MS. BELL: Exactly. Oh, excuse me.

25 MR. ROUTZONG: But it doesn't keep me from

1 talking about it, and I don't -- I just think you're
2 in danger of stumbling into a comment on the facts
3 if you start -- if you start giving charges on
4 particular pieces of evidence. I don't think that's
5 a good idea.

6 MS. BELL: No, ma'am. I disagree, Your
7 Honor, if I may be heard. That is not -- as he
8 stated, it is a principle of law and I think that
9 you could explain that principle of law without
10 having to go into any specific facts of this case as
11 to the chain of custody, Your Honor, with all due
12 respect.

13 THE COURT: I don't think I need to
14 explain to them procedural legal issues because
15 that's clearly a legal issue, not a factual issue.
16 And I'm not sure -- I have never seen a charge for
17 chain of custody and I've -- and to be honest, I
18 never heard chain of custody to be argued, but at
19 least not -- not using those words. I mean, I think
20 you can stand up and say, you know, where were the,
21 you know, witnesses who you can say what happened
22 to. You know, how do we know -- how do we know
23 what, you know, I don't, I don't ---

24 MS. BELL: Okay.

25 THE COURT: I don't ---

1 MS. BELL: Can ----

2 THE COURT: I don't -- I don't have any
3 chain of custody charges because those are generally
4 considered to be legal issues.

5 MS. BELL: Okay. And ----

6 THE COURT: And so I would, I would not
7 tend to address chain of custody at all, you know.
8 I mean, if -- if he wants to argue that it's been
9 tampered with, then he can argue that, but that's --
10 that's -- that would be an issue for them to
11 consider. I don't charge them on, you know, whether
12 it's been tampered with or not and -- and so that's
13 where I think the change issue comes in.

14 MS. BELL: Right. And it wasn't to the
15 extent of whether it was tampered with or not, it
16 was just that that ----

17 THE COURT: Well, and I'm just, I'm just
18 presuming what the argument could be.

19 MS. BELL: Right. Yes, Your Honor. I
20 understand.

21 THE COURT: Whatever argument it is, you
22 know, I think he's entitled to raise those issues.

23 MS. BELL: Yes. Yes, Your Honor.

24 THE COURT: And make whatever argument
25 that he wishes to say about that. And if that leads

1 to him attacking the -- the analysis, then that will
2 be up to the jury to make the decision as to whether
3 or not they wish to accept the expert's testimony.

4 MS. BELL: Thank you, Your Honor.

5 THE COURT: Anything else?

6 MS. BELL: Nothing from the State, Your
7 Honor.

8 MR. ROUTZONG: Nothing from the Defense,
9 Your Honor.

10 THE COURT: Okay. And what I heard you
11 say is that you thought it would be appropriate to
12 do the lesser included, while you may disagree with
13 it.

14 MS. BELL: Well, Your Honor, I'm gonna
15 check. I'll do a little research just to make sure,
16 but I certainly wouldn't want to create a issue
17 where it be some kind of reversible error if that
18 was the case.

19 THE COURT: I mean, I -- and I also
20 realize that what the charge says is that if it's
21 more than 28-grams or whatever it is, then there's
22 an inference and they can choose to accept that
23 inference or not. I guess that's a part of what
24 could be argued as well.

25 MR. ROUTZONG: Without charging a lesser

1 included, I think you end up putting a lot more
2 emphasis on the weight and there's not a lot of --
3 we deal with indicia of intent to distribute. Well,
4 there's not any of that in this case. The only
5 piece of evidence is the weight and so it would
6 really be putting an undue amount of emphasis on the
7 weight as opposed to perhaps the lack of other
8 indicia of intent to distribute.

9 MS. BELL: Your Honor, I probably agree
10 that we're -- that's appropriate.

11 THE COURT: All right. Anything else we
12 need to take up?

13 MS. BELL: Your Honor, I think there are
14 some exhibits that we need to redact that we talked
15 about at side bar.

16 THE COURT: Yes.

17 MS. BELL: So it does not confuse the jury
18 and so that those references to other ---

19 THE COURT: And please, let's confirm with
20 the court reporter those exhibits that are in
21 evidence again just to make sure that we're on the
22 same page.

23 MS. BELL: Thank you, Your Honor. May we
24 approach?

25 THE COURT: Yes.

1 (Reviewing of exhibits at court reporter's station.)

2 THE COURT: I try to take notes on it, but
3 I think I may have dropped off on some of the note
4 taking as it relates to what was admitted.

5 THE COURT REPORTER: That's my in evidence
6 pile right there.

7 MS. BELL: Okay, great.

8 THE COURT REPORTER: That's No. 1.

9 MS. BELL: Oh, okay, this is 17 here.

10 THE COURT REPORTER: Oh, that's -- yeah.
11 1, 2, 3, 5, 6, -- are you checking?

12 THE COURT: 1, 2, 3.

13 THE COURT REPORTER: 5, 6.

14 THE COURT: 5, 6.

15 THE COURT REPORTER: 8, 12, 13, 14, 15,
16 16, 17, 18, 19, 20, and 21. All the others are I.D.
17 That's the I.D. pile right there. Is that what you
18 have, Judge?

19 MS. BELL: Do we have the SLED drug
20 analysis in here.

21 THE COURT REPORTER: I have No. 7 is I.D.,
22 if that's what you're talking about, 7.

23 MR. ROUTZONG: The analysis?

24 THE COURT REPORTER: If you're talking
25 about 7 and 9 ---

1 MS. BELL: Uh-huh.
2 THE COURT REPORTER: I have down as I.D.
3 MS. BELL: Okay.
4 THE COURT REPORTER: I could have made a
5 mistake.
6 MS. BELL: Okay.
7 THE COURT REPORTER: Is that what you're
8 talking about?
9 MS. BELL: Right.
10 THE COURT REPORTER: 7 and 9.
11 MS. BELL: Your Honor, we moved 7 and 9.
12 THE COURT REPORTER: I don't think you
13 did, but...
14 MS. BELL: Oh, yeah, it's part of 8. It
15 would all be together.
16 THE COURT REPORTER: Okay.
17 MS. BELL: That's correct, Your Honor. So
18 8 is in.
19 MR. ROUTZONG: 8 was moved in. That was
20 in this pile.
21 THE COURT REPORTER: Yeah, 8 was moved in.
22 MS. BELL: And I'm sorry, this is part of
23 8.
24 THE COURT REPORTER: Okay.
25 THE COURT: No. 4, you don't have 4?

1 THE COURT REPORTER: That's the receipt.

2 MS. BELL: Yeah, we didn't.

3 THE COURT: I have 5 and 6.

4 MS. BELL: Oh, 4 we did move in the
5 original one, yeah.

6 THE COURT: No. 4 was in the wallet.

7 MS. BELL: Right. And so it's actually
8 No. 16.

9 THE COURT REPORTER: I have these two in.

10 MS. BELL: Okay.

11 THE COURT REPORTER: Yeah, but not 4.

12 MS. BELL: Yes, I've got you because it
13 wasn't the original, that's right. You objected,
14 got the original. Okay. So I'm sorry, Your Honor,
15 did you catch that one?

16 THE COURT: I'm sorry?

17 MS. BELL: I'm sorry, 4 and 16, they're
18 one and the same, but one's a copy and one's the
19 original.

20 THE COURT: So which one are ---

21 MS. BELL: 16 is in evidence.

22 THE COURT: 16 is in evidence ---

23 MS. BELL: 4 is for identification, yes,
24 ma'am. And 16 is one we have to redact because it
25 has references to the other tracking so we're just

1 gonna redact that.

2 THE COURT REPORTER: Oh, okay.

3 MS. BELL: And only make it the tracking
4 for this parcel right here.

5 MR. ROUTZONG: I'm uncomfortable with
6 moving stuff in and out of evidence like No. 7. If
7 No. 8 is definitely in. If No. 7 wasn't moved in,
8 I'm not real happy about ---

9 MS. BELL: I'm --

10 MR. ROUTZONG: ---comfortable ---

11 MS. BELL: I put it all in at one time.

12 THE COURT REPORTER: I don't think so
13 'cause usually I ---

14 MS. BELL: How did I -- how is it listed
15 in?

16 THE COURT REPORTER: I mean, I marked them
17 separately.

18 MR. ROUTZONG: They're marked with
19 different numbers, right? See, that's No. 7.
20 That's No. 8.

21 MS. BELL: I understand that.

22 THE COURT: No. 7 is the report was for
23 I.D. at the time.

24 THE COURT REPORTER: No. 7?

25 MR. ROUTZONG: Yeah.

1 MS. BELL: I admitted everything ---

2 THE COURT: I wrote down the number when
3 it first came up, but I didn't write down after
4 that.

5 THE COURT REPORTER: 'Cause I went back
6 and looked and I didn't see it -- I didn't see it
7 admitted.

8 MS. BELL: Your Honor, this was Mr.
9 Powell's in total report.

10 THE COURT REPORTER: Yes, I know.

11 THE COURT: So that's admitted. 7 is
12 admitted. 8 is admitted.

13 MS. BELL: And 9. That was his entire
14 report.

15 MR. ROUTZONG: I think that's a bad idea,
16 Your Honor.

17 THE COURT: What's a bad idea?

18 MR. ROUTZONG: Well, may I just for a
19 second.

20 MS. BELL: Can we -- we can go back and
21 listen to the testimony, but you didn't object. I
22 showed it to you.

23 MR. ROUTZONG: Well, I wouldn't have -- I
24 did object actually.

25 MS. BELL: No, you didn't, when Mr.

1 Powell, when he testified.

2 MR. ROUTZONG: I -- we -- this one was in
3 and these two are marked separately, and I -- I do
4 agree that it was all the report, but I don't know
5 that it's appropriate since it's all marked
6 together. No. 8 is in.

7 MS. BELL: But what I'm saying is No. 8 is
8 all in the report.

9 MR. ROUTZONG: I think things that were
10 moved in before they rested, are fine. Things -- I
11 don't think it's a good idea to ---

12 MS. BELL: Now did we term ---

13 MR. ROUTZONG: ---move things in around
14 afterwards.

15 MS. BELL: Okay. Well, that's fine, Your
16 Honor. That's great. That's the biggest part
17 anyway. That's fine. We can keep it clean. We'll
18 keep it at 8.

19 THE COURT: That's fine. This is 7 and 8
20 I believe.

21 MS. BELL: I'm sorry. Maybe it was my
22 intent to and I didn't, so that's fine. This is the
23 big part.

24 THE COURT REPORTER: Yeah, there were a
25 couple of times you showed a few documents but only

1 moved the one number in.

2 MS. BELL: Okay. Sorry about that. So
3 let me make sure again that 'cause I'm kind of
4 confused. I just want to make sure. So these are
5 I.D. and that's I.D. 10 is I.D. 11 is in.

6 MR. ROUTZONG: Is 11 in?

7 THE COURT REPORTER: No. 11 is not in.

8 MS. BELL: You agreed to all three of
9 these coming in evidence.

10 MR. ROUTZONG: You ---

11 THE COURT REPORTER: Well, they weren't
12 actually moved in.

13 MR. ROUTZONG: It's okay. They heard from
14 the canine person. You'll be all right.

15 MS. BELL: Okay.

16 MR. ROUTZONG: You have to move it in
17 before, but they heard from him.

18 MS. BELL: Yeah, I said did you have any
19 objection to these being moved in 'cause they ---

20 MR. ROUTZONG: I will be ---

21 MS. BELL: 'Cause initially it was the
22 wrong one. That was not the drug and tracking one
23 that I showed them. It was the other one so then I
24 said ---

25 THE COURT REPORTER: The 12, 13, and 14

1 were the ones that you actually stated the numbers
2 that they were in.

3 MS. BELL: Okay.

4 THE COURT REPORTER: I didn't hear
5 anything about 11 or 10.

6 MS. BELL: Okay. Okay. All right.

7 THE COURT REPORTER: So.

8 MS. BELL: Okay, drug -- okay. Very good.
9 Okay, that's great.

10 THE COURT REPORTER: I mean, ---

11 MS. BELL: Maybe ---

12 THE COURT REPORTER: I've been told ---

13 MS. BELL: ---it's one and the same.

14 THE COURT REPORTER: ---I'm old fashioned

15 ---

16 MS. BELL: Oh.

17 THE COURT REPORTER: ---even with the ---

18 MS. BELL: You know what, this one covers
19 the -- I didn't realize the difference, but this is
20 ---

21 MR. ROUTZONG: This is same too, right, or
22 not? Nope, nope, same thing.

23 MS. BELL: No, but this one has both the
24 dog and -- so this is the one we actually moved in.

25 THE COURT REPORTER: Yeah. Yeah.

1 MS. BELL: Okay. It's been a while. It's
2 been a while.

3 THE COURT REPORTER: I mean, I make
4 mistakes too. That's why I go over it.

5 MR. ROUTZONG: Huh-uh, that's not true.

6 MS. BELL: That's right.

7 THE COURT REPORTER: I don't usually make
8 three or four mistakes. I might miss one, but I
9 don't usually miss three or four.

10 MS. BELL: Okay. I'm sorry, guys.

11 THE COURT REPORTER: I've been told I'm
12 old fashioned. If they don't actually -- if you
13 don't actually say the number and move it in, I
14 don't put it down as being in.

15 MS. BELL: Well, and you're doing ---

16 THE COURT REPORTER: Even though the
17 attorneys agree to it, ---

18 MS. BELL: That's right.

19 THE COURT REPORTER: Judge Newman has told
20 me I'm old fashioned. I'm like, well, yeah, that's
21 how I was taught so...

22 MS. BELL: No, that's right. That's my
23 job. You're exactly right.

24 THE COURT REPORTER: Y'all agree No. 7 was
25 in?

1 MS. BELL: No, we're gonna ----

2 THE COURT: I've got 1, 2, 3, 4, 5, 6, 7.

3 THE COURT REPORTER: Okay.

4 THE COURT: And I admitted No. 8.

5 THE COURT REPORTER: Yeah, I had No. 8.

6 Okay.

7 THE COURT: Then I have --- then I've got
8 12, 13, 14, 15, 16, 17, 18.

9 THE COURT REPORTER: 19, 20, 21.

10 THE COURT: We good?

11 MS. BELL: Yes. Yes, ma'am.

12 (State's Exhibit No. 16 was redacted and State
13 Exhibit Nos. 4 and 7 were admitted into evidence.)

14 (WHEREUPON, a lunch break was taken.)

15 THE COURT: Counsel, if you will take a
16 look at that verdict form that was placed on your
17 desk and tell me if there's anything that I need to
18 amend or change or redact.

19 MR. ROUTZONG: Without objection, Your
20 Honor.

21 MS. BELL: Without objection, Your Honor.

22 THE COURT: All right. Is there anything
23 that we need to take up before we bring the jury in?

24 MS. BELL: Nothing from the State, Your
25 Honor.

1 MR. ROUTZONG: No, Your Honor.

2 THE COURT: All right. You can ask the
3 jury to come in please.

4 (WHEREUPON, the jury was returned to the
5 courtroom at approximately 1:12 p.m., and the
6 following proceedings commenced in open court.)

7 THE COURT: Good afternoon, ladies and
8 gentlemen. At this time we are now ready to hear
9 the closing arguments of the attorneys; and as I've
10 told you previously, their -- or maybe I haven't.
11 Their closing arguments are not evidence; but what
12 they will do is they will pick out portions of the
13 evidence and make arguments to you in an effort to
14 try to sway you to find the facts in accordance with
15 their view of what occurred so I ask that you listen
16 very carefully to those closing arguments.
17 Sometimes they may cause to you think about the
18 evidence in a different light, or they may raise
19 questions that you want to discuss among yourselves
20 when it's time for y'all all to begin your
21 deliberations. Then once they have made those
22 closing arguments, then I will instruct you on the
23 law that's to be applied and then you may begin your
24 deliberations at that particular point.

25 Ms. Bell.

1 MS. BELL: Thank you, Your Honor. May it
2 please the Court.

3 THE COURT: Yes, ma'am.

4 MS. BELL: Mr. Routzong.

5 Good afternoon, ladies and gentlemen.

6 JURORS: Good afternoon.

7 MS. BELL: First of all, before we get
8 into our summation and I review some of the evidence
9 with you, I promise I won't take too long; but it is
10 important. I want to thank you all for your
11 patience during the course of the trial, for your
12 attentiveness to the evidence that's been presented.
13 I say thank you for your patience because unlike TV
14 where if you watch a show Law and Order, things just
15 seem to run straight through. You don't -- you
16 don't see the jury getting up, having to go back,
17 sit down, wait; and I just ask that for those
18 periods of time when you all had to sit back there
19 and waiting, not being here hearing evidence, please
20 don't hold it against the defendant, please don't
21 hold it against the State. Unfortunately, it's just
22 the way the court process runs. I wish everything
23 could run smoothly from beginning to end, but
24 sometimes unexpected things come up. You heard that
25 we had a witness who was in two courtrooms so we

1 were juggling various different things and things
2 that had to be heard outside of your presence, so
3 please don't hold it against the Defendant or the
4 State.

5 Secondly, I also want to thank the Sumter
6 Police Department and the United States Postal
7 Service. Often, and many of you may be able to
8 relate to this, it appears sometimes like in your
9 job it seems thankless. What you do is very
10 important, but sometimes people don't really
11 appreciate it. And so, on behalf of the Third
12 Circuit Solicitor's Office and myself, I want to
13 thank the police department and the U.S. Postal
14 Service and specifically the witnesses that came in
15 here today because they are professional out in the
16 field, they did things the right way; and as you saw
17 on the stand, they were also very professional in
18 their delivery and mannerisms and how they collected
19 evidence, what they did with the evidence, and just
20 bringing the evidence forward to you. So with that
21 being said, we'll turn to what the evidence is.

22 And if you'll give me -- just beg your
23 indulgence. I'm a little old school. Powerpoint
24 might have been good, but hopefully for you all --
25 I'm a visual person and so I hope this will help

1 you. I know it helped me make sure that I try to
2 stay on point with you and not waste too much of
3 your time. So first of all, State's No. 19.

4 (Opens Exhibit No. 19.)

5 MS. BELL: Ladies and gentlemen, just as a
6 first observation, this is a lot of drugs. This is
7 a lot of illegal drugs, and I'm going to go through
8 with you why the weight of these drugs is so
9 important to what the defendant is charged with. So
10 the elements of the offense that the defendant is
11 charged with, he's charged with possession with
12 intent to distribute marijuana; and the judge will
13 charge you that the State has the burden of proof --
14 and we talked a little bit about that in opening
15 statements -- of proving each and every element of
16 each charge beyond a reasonable doubt. And so for
17 possession with intent to distribute marijuana, one
18 of the elements that the State has to prove is that
19 the defendant actually possessed. And you may have
20 noticed during the course of the trial I said -- I
21 asked them a couple of times, he actually possessed
22 it, it was on his person, it was in his hands. And
23 the reason why I point that out is because the law
24 recognizes two different types of possession.
25 There's what's known as actual possession. I've got

1 my glasses actually in my hand. There's also known
2 under the law what's known as constructive
3 possession. And constructive possession, if you
4 will, that notebook over there, you don't see it in
5 my hand but if it's in close proximity where I
6 exercise dominion and control of that item, then
7 that is one way under the law that you establish
8 constructive possession. I can tell you right now,
9 ladies and gentlemen, this is not a constructive
10 possession case. This is a actual possession case.
11 That's why during the course of the testimony I was
12 asking the witnesses who were able to observe the
13 defendant with the drugs, was it on his person. So
14 this is a actual possession case.

15 The State has to prove that the defendant
16 actually possessed marijuana. And as you heard from
17 Joseph Powell, the chemist in this case, and you
18 heard of his credentials, his years of experience.
19 You actually heard that he's testified in federal
20 court, state court, pretty much any kind of court in
21 competent jurisdiction where he can testify. He's
22 testified in all those levels in over 300 cases
23 related to drug cases. You heard about the training
24 and experience; but what you heard him say is that
25 he used the gold standard, the gold standard that's

1 recognized everywhere related to how you test for
2 illegal marijuana. And so, what he did -- and it's
3 in evidence for you to see and review -- is that he
4 tested the marijuana or he tested the green leafy
5 substance and then confirmed what it was, was
6 marijuana. So if I had a check mark, I would say
7 the State has proved this element beyond a
8 reasonable doubt. As far as the marijuana charge
9 and was this, what was in possession of the
10 defendant, was it actually marijuana, you've heard
11 testimony from the stand that, yes, it was. Part of
12 the reason I put that there, that's evidence for you
13 to consider; but I -- you have the opportunity when
14 this is in evidence to see it, to smell it, to
15 observe it, and you'll see the markings on it as
16 well which I'll take to you about a little bit
17 later.

18 Another element that the State has to
19 prove is with the intent to distribute so that the
20 defendant possessed marijuana. We know he actually
21 possessed it. We heard testimony from both invest--
22 Lieutenant Lane, that he -- that he possessed it,
23 that he observed him with the package in Sumter
24 coun-- in the City of Sumter at the apartment
25 complex. He saw him go into the apartment complex

1 leasing office without anything. He saw him come
2 back out with a package. Later that package -- and
3 we're gonna talk about how we know it was that
4 package. It also goes somewhat to this element with
5 intent to distribute. But we'll talk a little bit
6 about the tracking number. But intent to
7 distribute -- so the law recognizes, and you all can
8 follow that law, is that weight of drugs. By law
9 you can permissively infer any amount of marijuana
10 that's in a person's possession if it's over point
11 -- if it's over 28-grams -- and that should be 28.
12 And then that is, you can infer that the defendant
13 had an intent to distribute; you can infer that.
14 You can infer and use that alone. The fact that he
15 possessed this much marijuana, that fact alone --
16 states that on there. However, I'll submit to that
17 there's others reasons and circumstances in this
18 case that you can also use to determine that the
19 defendant intended to distribute marijuana. Let's
20 fact it, ladies and gentlemen, the reality is, if
21 this defendant wanted to recreationally smoke a
22 couple of joints, to put it quite bluntly -- no pun
23 intended there either -- then he would not have
24 flown to California to get 3-pounds of marijuana.
25 And something that struck me not until yesterday,

1 but it's the drug analysis of chemist Joe Powell, is
2 that I referred to it in opening statements as 3.9
3 pounds and that is correct. But so that you can
4 appreciate, you can infer intent to distribute with
5 28-grams. This right here, ladies and gentlemen --
6 and you're gonna have it in evidence -- is
7 1,796.2-grams. 28-grams you can infer intent to
8 distribute. And I mention this to you, I'm not
9 gonna have another opportunity to come back before
10 you, and you're probably saying thank God, we're
11 ready to deliberate and move on with our lives. But
12 I, I won't be able to come back to you after
13 Mr. Routzong has his closing argument so part of
14 what I'm going to try to do is anticipate where he
15 may go and try to tell you why because at the
16 beginning of this case you might remember, I
17 mentioned about beyond a reasonable doubt. And so
18 there are things that Mr. Routzong said surely in
19 this case that's reasonable doubt, the State didn't
20 meet its burden of proof.

21 So I want to tell you right now that one
22 of the things he may argue to you is that you
23 also -- you don't have to charge the defendant with
24 PWID marijuana, and you don't have to find him
25 guilty of PWID marijuana. You can find him -- and

1 the judge is going to instruct you on lesser
2 included offenses. You could find him guilty of
3 possession of over an ounce of marijuana. Don't do
4 that, ladies and gentlemen, because in this case the
5 evidence does not lead in that direction. This is
6 not recreational use of marijuana with a couple of
7 joints under 28 -- just right over 28-grams. This
8 is 1,796.2-grams of marijuana.

9 Remember what I said at the beginning of
10 this case, and while you all are uniquely qualified
11 to serve as judges of the facts in this case as
12 jurors, it's because you don't check your common
13 sense at those doors. When you come in here, we
14 rely on you all to use your common sense. Is it
15 common sense that the defendant is recreationally
16 gonna fly out to California, get I don't know how
17 many times -- that's why I went to law school I
18 guess, for math, with the math -- but I can't even
19 tell you how many times over that is the weight. So
20 just by that weight, the State has met its burden of
21 proof. We ask that you not find for the lesser
22 included offense, but that you find for possession
23 with intent to distribute marijuana because that's
24 what the evidence firmly and loudly speaks to.

25 So as far as the elements of the offense,

1 it was established that the defendant actually
2 possessed marijuana. We talked about the amount.
3 We talked about the location. So the State has
4 proven beyond a reasonable doubt. We talked about
5 actual versus constructive possession. The judge is
6 also gonna charge you on direct and circumstantial
7 evidence, and you have both in this case. And I
8 want to give you an example, just one example. I
9 don't want to retry the case this afternoon. But an
10 example of direct evidence, and the judge is gonna
11 instruct you on the law and if my recitation of the
12 law is any different than the judge's, you must
13 follow the judge's; she is the judge of the law.
14 But I submit to you that direct evidence is the kind
15 of evidence that you directly perceive, something
16 you see, something you -- through your senses you
17 perceive direct evidence.

18 In this case, you remember the testimony
19 of Lieutenant Lane when he said he saw, visually
20 saw, the defendant walk in the leasing unit without
21 a package and then come back minutes later with a
22 parcel. And I want to talk about this because this
23 is another example of what I think the Defense is
24 gonna try to get you to fall for, and don't, that
25 you know what, within a minute of that between

1 postal inspector Rogers taking it to the leasing
2 office and the defendant walking out, no telling
3 what happened with that. It could have been
4 tampered with, it could have been messed with, and
5 therefore there's a reasonable doubt. Ladies and
6 gentlemen, that is not a reasonable doubt. All the
7 competent evidence is that the defendant was seen
8 minutes later with the parcel, and it was
9 specifically asked had it been -- did you observe
10 him the whole time when he walked in, when he walked
11 out it was a matter of minutes; and the package when
12 you arrested him, had it been disturbed in any way,
13 did it look like it'd been messed with in any way.
14 You've got the photographs to see how the defendant
15 packaged it when he mailed it from California, so
16 that is not a reasonable doubt, ladies and
17 gentlemen.

18 Circumstantial evidence is one piece of
19 evidence, another piece of evidence that logically
20 connects with that evidence. And in this case we've
21 got a couple of pieces of evidence and it points
22 conclusively to the guilt of the defendant. It's
23 just as good as direct evidence and the judge is
24 gonna instruct you on that. In fact, there are
25 many cases where there's only circumstantial

1 evidence; and it is enough, it is sufficient, for a
2 jury to find the defendant guilty just on
3 circumstantial and that he can say just on
4 circumstantial evidence but on circumstantial
5 evidence alone. You don't need direct evidence.
6 It's just as competent as a matter of law as long as
7 it meets that factor.

8 So, in this case you heard testimony that
9 the defendant was arrested and in his possession, in
10 addition to these drugs were baggage tickets,
11 American Airline tickets. Look at that, analyze
12 that. That came off the defendant for the dates of
13 January the 9th, 2018, and January the 11th, 2018.
14 Additionally -- so that's, that's one piece of
15 circumstantial evidence to prove a point the
16 defendant was in California. What else do you have?
17 A receipt that was found in the defendant's
18 possession, actual possession. From California,
19 from the post office box there -- I mean, the postal
20 service there, in his possession dated January 10th
21 of 2018.

22 This parcel number, and you might have
23 remembered I asked him this question of postal
24 inspector Rogers, this tracking number right here,
25 you're gonna see it more than once in this case.

1 You have the evidence; you can look at it. But I
2 asked him, is this like a fingerprint for that
3 package, and he said, yes, it's a way to track it.
4 He said, now for law enforcement purposes, we have
5 other things that we can do and I'll talk about that
6 in a moment. But that this tracking number is like
7 a fingerprint for that package. So you have a
8 tracking number here showing it was being mailed
9 from California on -- by two-day delivery on the
10 10th, meaning it would get to Sumter on what? On
11 the 12th.

12 Where do we see that packing -- I mean,
13 that tracking number again? It's on the package.
14 And ladies and gentlemen, right there is the
15 tracking number ending in 244716. And then you see
16 it right here, 244716, and the rest of the numbers
17 match too. This -- this piece of evidence, this
18 piece of evidence, which came off the defendant, and
19 this piece of evidence, all circumstantially put
20 that defendant in California when this transaction
21 went down. That's important in this case because I
22 submit to you that goes back to the element of
23 intent with -- possession with intent to distribute
24 these drugs.

25 Thankfully, due to good police work done

1 the right way, these drugs were intercepted so they
2 didn't get out on the streets to be pushed, to be
3 peddled, to be distributed. We don't have to prove
4 that through any other testimony which brings me to
5 another point. The Defense is gonna say -- I
6 anticipate -- the State didn't call this witness,
7 the State didn't call this witness, the State didn't
8 see the defendant -- didn't bring anybody in here to
9 see ---

10 MR. ROUTZONG: Your Honor, I object to
11 this -- this argument because that's burden
12 shifting. She's shifting the burden away from the
13 State to the Defendant by if I point out the fact
14 they haven't called a witness, then what is the next
15 conclusion from that. That is definitely burden
16 shifting.

17 MS. BELL: Your Honor, I don't believe
18 that's burden shifting. I apologize, I'll redirect,
19 but.

20 THE COURT: Please do.

21 MS. BELL: Okay. Thank you, Your Honor.
22 Everything that you need -- you need nothing more in
23 this case to prove the defendant's guilt beyond a
24 reasonable doubt. The State has provided you
25 evidence beyond a reasonable doubt of the

1 defendant's guilt for evidence he himself had that
2 puts him in California. Through circumstantial
3 evidence, through direct evidence, you'll have it,
4 ladies and gentlemen.

5 Burden of proof. The State has the burden
6 of proof and must prove to you beyond a reasonable
7 doubt, and we talked about this a little bit in
8 opening statements. Not beyond all doubt, not
9 beyond every doubt, not to a hundred degree
10 certainty. The judge is going to instruct you on
11 that. It's -- a reasonable doubt is the kind of
12 doubt that calls for a reasonable person to hesitate
13 to act. And you remember there were two points that
14 I said I wanted to talk with you all about before I
15 sat down in opening, and one of them was reasonable
16 doubt, cause a reasonable person to hesitate to act.
17 You deliberate. You go back and talk about it; you
18 weigh the evidence. That's not hesitation; that's
19 deliberation. The key for you all as you go back
20 and deliberate and talk amongst yourselves, weigh
21 the evidence and look at the evidence, is to at the
22 end of the day are you all satisfied that the
23 State's meets its burden of doubt if you are firmly
24 convinced of the defendant's guilt. If you are
25 firmly convinced of the defendant's guilt, then the

1 State has met its burden of proof beyond a
2 reasonable doubt. Not beyond all doubt, shadow of a
3 doubt, something that's going out there to divert
4 your attention from what the evidence clearly shows.

5 Chain of custody. I put a little asterisk
6 here because I submit one of the things that may
7 come up in closing arguments is that the State has
8 failed to show you and therefore they have not met
9 their burden, that they have not -- do not have a
10 complete chain of custody. Ladies and gentlemen, do
11 not offer that either. The State has proven to you
12 beyond a reasonable doubt that you have everything
13 you need competently to establish that from the time
14 that this defendant possessed it -- and talking
15 about the drugs -- that from the time that he
16 possessed it that it was not tampered with, it was
17 not played around with by law enforcement, it was
18 not somehow something done to frame him or set him
19 up or that somehow the State didn't meet its burden
20 because a person that's retired from the Sumter
21 Police Department didn't come in, but their name is
22 on the form. We've met the burden of proof. And I
23 kind to put here, but you'll have it in those
24 documents, that actually Officer Carter testified
25 to. And you heard from her, this was her first time

1 testifying in court. But, remember, she had been
2 trained and she worked with both of those
3 individuals. One of them was on vacation so could
4 not be here for the call of this case. But it is
5 her job. She did exactly what she is supposed to
6 do, ladies and gentlemen. The people who are in
7 chain of this custody, they did exactly what they
8 were supposed to do and that, that also gets it down
9 to credibility of witnesses. What reason would any
10 of these people have to tamper with this evidence?
11 In fact, you heard Lieutenant Lane say, we know
12 chain of custody is very important. We spent a fair
13 amount of time talking about how it's even locked,
14 the lock box, the way packages are sealed, how
15 they're initialed to make sure that every person in
16 law enforcement that touches it or that has had some
17 transport of it has somehow put their name somewhere
18 saying this is the chain, it went from this person
19 to this person to this person. You don't need
20 everybody to come in and talk about that. The law
21 doesn't require that in this state. As long as to
22 the degree practicable that we can establish the
23 chain of custody, and you'll see it through the
24 documentation, we have met the chain of custody that
25 you all can rely on this that nothing has been

1 changed. I'm gonna give you another thing you can
2 consider too.

3 And, again, using your common sense, the
4 weight. When the defendant in California mailed
5 this off was, you know, because of course when you
6 go to the post office and mail off parcels, they
7 weigh it. That determines how much you might pay
8 for it. And it was estimated at 5-pounds and that
9 includes the packaging, the outside packaging and
10 the inside packaging, any stuffing that's used
11 inside of it, so it's a total package. That's very
12 consistent with what when you take all the stuff out
13 of it with 3.9. So there again, that's before any
14 law enforcement person touched it, again. It makes
15 up, the evidence is consistent. The judge will tell
16 you, is the evidence consistent, does it make sense;
17 if so, I submit to you that the State has met its
18 burden that you should be firmly convinced beyond a
19 reasonable doubt that the defendant is guilty.

20 And I'm about through. As I've indicated,
21 and I know I've gone through a lot of things.
22 You'll have it back there; you'll get to look at it.
23 You need no more evidence. So as Mr. Routzong goes
24 through his closing arguments with you, please
25 remember that in this case you need no more evidence

1 that you have right now. We could have called in
2 other people. It wouldn't have changed the evidence
3 that you have before you. It's sufficient; it's
4 enough. It meets the standard; it meets the burden
5 of proof. And I ask you -- I should have hidden
6 this -- but I asked you all at the beginning to
7 remember the three words that I asked you about:
8 Signed, sealed, and delivered. So now I just want
9 to come back to you in that regard as you've heard
10 all the evidence. And the defendant signed for the
11 package. He actually mailed the package from
12 California. I talked about, I remember saying to
13 you, didn't elaborate on it, but it was sealed. And
14 pay attention to how it was sealed because that was
15 important in this case 'cause this stuff stinks.
16 And so, if you don't -- you know, so how it was
17 sealed and you heard testimony about that, that it
18 was sealed in such a way to conceal a smell. So it
19 was sealed.

20 And we know it was delivered. And guess
21 what? It was delivered to him by him from him, his
22 name on it. You heard testimony that this, this
23 didn't match up. You saw the photographs that
24 postal inspector -- once -- once he knew the exact
25 time, the tracking number, through his law

1 enforcement contacts and investigation he was able
2 to get these photographs. Now he couldn't tell you
3 that -- he didn't make an in-court identification of
4 the defendant being the one in these photos; but,
5 again, it's that time that's on there. And ladies
6 and gentlemen, it does fit the general description.
7 He's got a cap on. But it fits the general
8 description. Again, just another piece of evidence,
9 the point to being firmly convinced. Circumstantial
10 evidence because nobody cared today testified that
11 that was him in California, but goodness knows, all
12 the evidence, circumstantial evidence, puts him
13 there.

14 That's why he was waiting for that
15 package. Remember, I said that he was waiting. He
16 knew it was coming 'cause he put it in the stream of
17 commerce. He sent it from California here. He knew
18 it was coming. He beat the package home to get his
19 package. But also remember I told you, law
20 enforcement was doing stuff ahead and so that had
21 been intercepted, and it was -- they knew what was
22 in there. And as I said, thankfully, it didn't make
23 it to the streets. So thank you United States
24 Postal Service and the Sumter Police Department for
25 a job well done.

1 I think I mentioned to you that at the end
2 of this case I would ask -- I would come back and
3 ask you to have the foreperson sign the verdict
4 form, that it's basically a sealed consensus
5 unanimously. All of you have to agree beyond a
6 reasonable doubt of the defendant's guilt and
7 deliver it to the court that the defendant is
8 guilty, not of possession of greater than 28-grams,
9 but guilty of possession with intent to distribute
10 marijuana because, ladies and gentlemen, that's
11 exactly what he did. Thank you.

12 THE COURT: Mr. Routzong.

13 MR. ROUTZONG: Thank you, Your Honor. I
14 guess I'm gonna turn out to be even older school
15 since I'm a little bit older, maybe quite a bit
16 older than Ms. Bell. I don't have such things on my
17 phone. Thank you very much for your attentiveness.
18 I've watched you all collectively and I appreciate
19 each and every one of you. This has been kind of a
20 hard case in a way. There's been a lot of fighting
21 in this courtroom but not necessarily in front of
22 you guys; and as Ms. Bell said, we tried to keep it
23 as smooth as we could, but sometimes it just works
24 out that way.

25 Ladies and gentlemen, what we have here is

1 a case where, you know, you get pieces of evidence
2 in front you and, well, they didn't really identify
3 anybody -- overlook that part 'cause this is an
4 important thing here. And it kind of goes in my
5 mind to the profundity or the depth of this case and
6 how they investigated it and what they did and the
7 things that they kind of wanted to do and just
8 entice you to find somebody guilty of possession or
9 possession with intent to distribute.

10 Let's look at -- let's look at when the
11 dog was involved in this. You remember the
12 testimony from Detective Lane? He said they put
13 boxes that they had at the police station around a
14 box. You know these boxes come from the police
15 station. Where, where do these drugs go when
16 they're stored? Where do those boxes come from?
17 Had they been vetted before they put them on the
18 ground by maybe a different dog? That's important,
19 Your Honor -- I'm sorry, ladies and gentlemen,
20 because once, again, it goes to show maybe the depth
21 of this investigation. But I think you've heard all
22 the evidence. It's in terms of what Mr. Roseboro is
23 alleged to have done. Did he fly to California?
24 Did he mail this to himself? You have the evidence
25 on that? That's for you to judge.

1 But, you know, the one thing that bothers
2 me, they were was so confident that he was a drug
3 dealer that they delivered a package to someone in
4 that apartment building without their consent,
5 without their knowledge. They're alleging all that
6 drugs and they involved a civilian in that process.
7 And they're here today, ladies and gentlemen,
8 telling you they're so confident that he's a drug
9 dealer that I would argue to you how could -- if
10 that's true, why would they endanger that person's
11 life. We don't even know who that person is. And
12 it's true that box was in there for minutes, that
13 was the testimony. Could you tell it have been
14 tampered with? Can you beyond a reasonable doubt
15 say that it wasn't? And that's why it's important
16 to think about the package where the -- where the
17 dog was at. They put other boxes from the police
18 department in front of a dog, and you have no way of
19 knowing whether they were contaminated by the scent
20 perhaps in the form of drugs from some other case
21 that was subsequently destroyed, they kept the
22 boxes; you just don't know. And you have to think
23 about that from the standpoint that the defendant is
24 presumed guilty -- I'm sorry, presumed innocent,
25 until you decide that he's guilty beyond a

1 reasonable doubt.

2 I wrote three numbers up here. Our
3 solicitor Ms. Bell went through a lot of pains to
4 talk about what possession with intent to distribute
5 means, but she left out an important thing. She
6 told you if you possess more than 28-grams of
7 marijuana, then you can infer from that fact an
8 intent to distribute. 28-grams, 27-grams, there's
9 no intent to distribute based on that inference.
10 29, there is. We could be in here right now on this
11 case making the same arguments she just made on
12 29-grams, 1-gram more than 28-grams. So when
13 they -- when they talk about 1700-grams or 3 pounds
14 and 9 ounces and all that, that doesn't matter.
15 Yes, you can infer from that; the law is clear. But
16 what you would expect the police to have done in
17 this case, would be to tell you other things that
18 are associated with the dealings of drugs; but you
19 didn't have any evidence of that whatsoever, none.
20 They're solely relying on the difference between 28
21 or 29. This is identical. Possession with intent
22 to distribute. You ought not to do that.

23 You know what drug dealers do. All of you
24 have read the newspapers, listened to the news. Is
25 there violence? Where's the person he intended to

1 distribute it to as a matter of fact? Where's the
2 investigation on that? That's just left up in the
3 air. You haven't heard any evidence as to whether
4 or not somebody, a recreational user, would use
5 something in this amount over a period of a year or
6 two years, I don't know, and neither do we,
7 collectively, because there was no evidence on that.
8 They're just simply relying on the weight. And you
9 ought not to -- ought not to allow them to get away
10 with that.

11 They have to introduce actual evidence
12 that there's an intent to distribute more than just
13 the weight. Remember, she can make the same
14 argument about 29-grams. And you have no evidence
15 before you whether a typical recreational user uses
16 in a six-month period of time, one year, you don't
17 have that. Without that evidence you can't conclude
18 beyond a reasonable doubt that there was an intent
19 to distribute.

20 So first of all, just to reiterate, I'm
21 not gonna stay up here all day. Just to reiterate,
22 you have to look at every step in this process, has
23 the -- have the police done you what they should
24 have done. If he's a drug dealer, why are they
25 endangering somebody potentially in the apartment

1 complex without their consent if that's true. And
2 without any other indicia of intent to distribute
3 being testified to from right up there, how can you
4 possibly say there's any difference between the
5 charge at 29-grams and the charge of 3 pounds and
6 9 ounces; there is no difference. A person -- you
7 don't have that evidence, you presume him innocent.
8 If you believe he possessed this marijuana, you
9 should find him guilty of simple possession. Thank
10 you very much.

11 THE COURT: During this trial, ladies and
12 gentlemen, you and I have certain duties to perform.
13 As the trial judge, it's my responsibility to
14 preside over the trial of this case and to rule upon
15 or pass upon the admissibility of evidence that's
16 been presented throughout the course of this trial.
17 You are to consider only the competent evidence
18 which is before you. To any evidence to which there
19 was an objection sustained, you must not speculate
20 as to what that evidence might have been or the
21 reasons for the objection. Again, you should
22 consider all the evidence that's been presented,
23 along with any of the exhibits that have been made a
24 part of the record in this case.

25 Now I have the additional duty and

1 responsibility to instruct you on the law that
2 applies in this case; and as the trial judge, I'm
3 the sole judge of the law that applies. If you have
4 any preconceived ideas as to what the law is or your
5 interpretation of the law or what you think the law
6 is or what you've heard the law is, you must set all
7 of that aside, for under your oath as jurors, you
8 are sworn to accept the law as I instruct it you.
9 Now if by chance I make some error in my
10 instructions, then there's another court at another
11 time that can correct those errors of law. But for
12 purposes of this trial right now, this moment, you
13 must accept the law as I instruct you as being the
14 correct statement of the law.

15 Now in every case tried before a jury, you
16 the jurors become the sole and exclusive judges of
17 the facts in this case. No one can tell you what
18 the facts of this case are. And if I've done
19 anything throughout the course of this trial that's
20 given you any impression that I'm commenting on the
21 facts, that I'm telling you what facts to find, I'm
22 hinting about the facts, I ask that you set all that
23 aside as well. I assure you, I don't have any
24 opinion about the facts in this case. That's not my
25 job here; that's not my responsibility. That's your

1 duty, your responsibility as jurors, to determine
2 the facts of this case based upon the evidence
3 that's been presented in this matter.

4 Now in order to do that, you have to
5 evaluate and consider the evidence that's been
6 presented and determine the truthfulness of the
7 evidence that's been presented throughout the course
8 of this trial. In order to do that, you have to
9 consider the credibility of the witnesses who
10 testified in this matter. And credibility is simply
11 a legalistic term meaning believability. And it
12 becomes your duty as jurors to analyze and to
13 evaluate and analyze that evidence and determine
14 what evidence convinces you of its truth. In order
15 to evaluate the credibility of the witnesses, you
16 may consider the following factors: What was the
17 manner and appearance of the witness who testified;
18 was he or she hesitant or straight forward in
19 answering the questions; was the testimony of a
20 witness consistent or inconsistent; how did the
21 witness come to know the facts that he or she
22 testified to, or what was his or her ability to know
23 these facts; is there some reason that a witness
24 would want to give testimony that would help or hurt
25 one side or the other. In other words, was the

1 witness' testimony biased or prejudiced in some
2 manner. And was the testimony of the witness
3 strengthened or weakened by other testimony or other
4 evidence.

5 Now, ladies and gentlemen, in determining
6 the credibility of the witnesses you may believe one
7 witness against several witnesses, or you may
8 believe several witnesses against one witness. You
9 may believe a portion of a witness' testimony and
10 disregard other portions of that same witness'
11 testimony; and if you have a good and sufficient
12 reason for doing so, you can accept the witness'
13 testimony in its entirety or you may reject it in
14 its entirety.

15 You may also consider any opinions that
16 have been given in this matter through the course of
17 the testimony by an expert witness. The -- our
18 rules of evidence ordinarily do not permit a witness
19 to testify as to opinions or conclusions. An
20 exception exists for those that we call expert
21 witnesses. Those are witnesses who profess to be or
22 who through their education, training, and
23 experience, they profess to be an expert in some art
24 or science or some profession. And they may state
25 an opinion as to the relevant and material matter in

1 which they process to be an expert, and they may
2 also state the reasons for their opinion. You
3 should consider any expert opinion in this case and
4 give it the weight that you think that it deserves.
5 If you find that the witness' testimony -- expert's
6 testimony, is not based upon sufficient education or
7 training, or if the witness' opinion is outweighed
8 by other evidence or other -- or other opinions,
9 then you may disregard the witness' testimony in its
10 entirety. An expert's opinion is entitled to no
11 greater weight than that of any other witness simply
12 because that person professes to be an expert. And
13 you're not required to accept an expert's opinion
14 even though it may be uncontradicted.

15 Now, ladies and gentlemen, in considering
16 these matters, you should not exercise them
17 arbitrarily. If in your good judgment there's
18 reason for you to consider all these factors, then
19 you should do so. Ladies and gentlemen, your
20 objective is to determine the facts based upon the
21 evidence that's been presented throughout the course
22 of this trial. What the law simply requires is that
23 when you exercise your mental processes in coming up
24 with what you consider to be truthful evidence, you
25 should use your good common sense, your sense of

1 logic and reasoning. You use your experiences in
2 life and you then apply these attributes to the
3 evidence and determine what you, the jury, consider
4 to be truthful evidence. And then to those true
5 statements of fact is determined by you, you apply
6 the law as I will instruct you and then you will be
7 able to arrive at your verdict.

8 Ladies and gentlemen, your verdict should
9 not be based upon sympathy, passion, or prejudice.
10 By your friends you have no -- by your verdict you
11 have no friends to reward and you have no enemies to
12 punish. Your verdict should simply speak the truth.

13 Now there are two types of evidence that's
14 normally presented throughout the course of a trial.
15 There's direct evidence and there's circumstantial
16 evidence. Direct evidence directly proves the
17 existence of a fact and does not require any
18 deduction. Circumstantial evidence is proof of a
19 chain of facts and circumstances which indicates the
20 existence of a fact. Crimes may be proven by
21 circumstantial evidence. The law makes no
22 distinction between the weight to be given to either
23 direct evidence or circumstantial evidence. To the
24 extent that the State relies on any circumstantial
25 evidence, the circumstances must be consistent with

1 each other and then taken together point
2 conclusively to the guilt of accused beyond a
3 reasonable doubt. If the circumstances merely
4 portray the defendant's behavior as suspicious, then
5 the proof has failed. The State has the burden of
6 proving that the defendant is guilty beyond a
7 reasonable doubt and that burden rests with the
8 State regardless of whether the State uses direct
9 evidence, circumstantial evidence, or some
10 combination of the two. Conjecture, speculation,
11 suspicion, or probabilities do not constitute
12 circumstantial evidence.

13 Now, ladies and gentlemen, I instruct you
14 that once, again, the fact that the defendant was
15 arrested and charged and indicted in this case is
16 not evidence in this case and cannot be considered
17 by you as evidence of guilt in this case, nor does
18 it create any presumption or inference of guilt.
19 The indictment is simply the formal written document
20 which contains the charge made against the
21 defendant. It serves as the formal document by
22 which this case is processed and how we're able to
23 come to court for a trial.

24 Now the defendant has pleaded not guilty
25 to that indictment, and that plea casts the burden

1 upon the State to prove that the defendant is guilty
2 because a person who is charged with a criminal
3 offense in South Carolina is never required to prove
4 that they are innocent. Ladies and gentlemen, it's
5 a very important cardinal rule of law that the
6 defendant in a criminal trial, no matter how serious
7 the charges against him may be, he is and always
8 will be presumed innocent of that crime for which he
9 is indicted unless his guilt has been proven by
10 evidence that satisfies you, the jury, of that guilt
11 beyond a reasonable doubt.

12 Now the presumption of innocence is not --
13 it does not cease when you retire to the jury room
14 and begin your deliberations. It remains with the
15 defendant from the time that he comes into court and
16 throughout the trial until you, the jury, reach a
17 verdict of guilt that is based upon evidence that
18 satisfies you of that guilt beyond a reasonable
19 doubt. Now our supreme court has stated that the
20 presumption of innocence is like a robe of
21 righteousness that's placed about the shoulders of
22 the defendant; and it remains with him and assigns
23 to him that class, that class being the innocent,
24 until that presumptive robe of righteousness is
25 stripped from him by evidence that satisfies you of

1 his guilt beyond a reasonable doubt. Ladies and
2 gentlemen, I cannot emphasize enough that the
3 presumption of innocence is not a mere legal theory;
4 it's not some legal phrase or some nice words that
5 we toss around. It is a substantial right to which
6 every defendant is entitled unless you, the jury,
7 are satisfied from the evidence of his guilt beyond
8 a reasonable doubt.

9 So what is reasonable doubt? The
10 government has the burden of proving each and every
11 element of the crime charged beyond a reasonable
12 doubt. Now some of you may have served as jurors in
13 civil cases in which you were told that it was only
14 necessary that the parties prove that a fact is more
15 likely true than not true. In criminal cases the
16 government's burden is more powerful than that; it
17 must be beyond a reasonable doubt. Proof beyond a
18 reasonable doubt is proof that leaves you firmly
19 convinced of the defendant's guilt. There are very
20 few things in this world that we know with absolute
21 certainty. In criminal cases the law does not
22 require proof that overcomes every possible doubt.
23 If based upon your consideration of all the evidence
24 in this matter you are firmly convinced that the
25 defendant is guilty of the crime charged, then you

1 must find him guilty. If, on the other hand, you
2 think that there is a real possibility that he is
3 not guilty, then you must give him the benefit of
4 that doubt and find him not guilty.

5 The defendant in this case is charged with
6 possession with intent to distribute marijuana. The
7 State must prove beyond a reasonable doubt that the
8 defendant possessed the marijuana with the intent to
9 distribute it. To prove possession the State must
10 prove beyond a reasonable doubt that the defendant
11 had both the power and the intent to control the
12 disposition or use of the marijuana. Possession may
13 be either actual or constructive. Actual possession
14 means that the drug was in the actual physical
15 custody of the defendant. Constructive possession
16 means that the defendant had dominion and control or
17 the right to exercise dominion and control over
18 either the marijuana itself or the property on which
19 the marijuana was found. Mere presence at the scene
20 where the drug is found is not enough to prove
21 possession.

22 Actual knowledge of the presence of the
23 drug is strong evidence of the defendant's intent to
24 control its disposition or use. The defendant's
25 knowledge and possession may be inferred when a

1 substance is found on a property under the
2 defendant's control. However, this is simply --
3 this inference is simply an evidentiary fact to be
4 taken into consideration by you, along with all the
5 other evidence in this case, and to be given the
6 weight that you decide it should have.

7 The State must also prove beyond a
8 reasonable doubt that the defendant intended to
9 distribute the marijuana. Distribute means to
10 deliver other than by administering or dispensing a
11 drug. Intent may be shown by acts and conduct of
12 the defendant and other circumstances from which you
13 may naturally and reasonably infer intent. In
14 determining whether the defendant had the intent to
15 distribute the marijuana, you may consider the
16 circumstances surrounding the defendant's alleged
17 possession. You may consider the amount of the
18 substance alleged to have been possessed, the manner
19 in which it was allegedly possessed, the place where
20 it was allegedly possessed, and other factors which
21 you consider to be important. You must find that
22 the defendant did not have the marijuana solely for
23 his own personal use.

24 More than -- possession of more than
25 28-grams or 1-ounce of marijuana creates an

1 inference that the defendant possessed the marijuana
2 with the intent to distribute it. This inference
3 does not relieve the State from its burden of
4 proving beyond a reasonable doubt that the defendant
5 had the intent to distribute the drug. It is
6 certainly an evidentiary fact to be taken into
7 consideration by you, along with all other evidence
8 that's been presented in this case and to be given
9 the weight that you all decide it should have.

10 If you find that the State has failed to prove
11 beyond a reasonable doubt that the defendant is
12 guilty of possession with intent to distribute
13 marijuana, then you may consider whether the State
14 has proven beyond a reasonable doubt that the
15 defendant is guilty of simple possession of
16 marijuana. Simple possession does not require an
17 intent to distribute the marijuana.

18 The State must prove beyond a reasonable doubt
19 that the defendant knowingly or intentionally
20 possessed the marijuana. Again, knowingly means
21 with knowledge, consciously, not accidentally.
22 Intentionally means willfully, intending the result
23 which actually occurs, not accidentally or
24 involuntarily. Intent may be shown by acts and
25 conduct of the defendant and other circumstances

1 from which you may reasonably and naturally infer
2 intent. To prove possession the State must prove
3 beyond a reasonable doubt that the defendant had
4 both the power and intent to control the disposition
5 or use of the marijuana. And, again, possession may
6 be either actual or possess-- or constructive.

7 Again, I will instruct you as to actual
8 possession. Means that the drug was in the actual
9 physical custody of the defendant. And again,
10 constructive possession means that the defendant had
11 dominion and control or the right to exercise
12 dominion and control over the marijuana itself or
13 the property on which the marijuana was found.

14 Again, mere presence at the scene where the
15 drug was found is not enough to prove possession.
16 Actual knowledge of the presence of the drug is
17 strong evidence of the defendant's intent to control
18 its disposition or use. The defendant's knowledge
19 and possession may be inferred when a substance is
20 found on the property under the defendant's control.
21 Again, this is an inference which is simply an
22 evidentiary fact to be taken into consideration by
23 you, along with all the other evidence in this case
24 and to be given the weight that you think that it
25 deserves.

1 Ladies and gentlemen, when you have considered
2 the law as I've instructed you and you have reviewed
3 the evidence and you have arrived at your verdict,
4 then it will be time for your foreperson to complete
5 the verdict form and I will go over that verdict
6 form with you. This form says: We, the jury, -- I
7 found one error, but we'll correct that. It should
8 say: We, the jury, unanimously find the defendant.
9 There's a box here that says: Guilty, possession
10 with intent to distribute marijuana. There's a
11 second box that says: Guilty possession of
12 marijuana. And then there's a third box that says:
13 Not guilty of all of the above charges in this case.
14 When you complete this form or review the form, your
15 thought process should be this. Did the State prove
16 beyond a reasonable doubt that the defendant is
17 guilty of the possession with intent to distribute
18 the marijuana as I have instructed you? If you find
19 that the State has met that burden, then you would
20 check that box. If, however, you find that the
21 State has failed to prove beyond a reasonable doubt
22 that the defendant was guilty of possession with
23 intent to distribute marijuana, then you may go on
24 to consider whether the State has produced evidence
25 beyond a reasonable doubt that the defendant

1 possessed -- had possession of marijuana. And then
2 if you find that the State has met that burden, that
3 he's guilty of possession of marijuana, then you
4 would check that box. If, however, you find that
5 the State has failed in proving that the defendant
6 is guilty beyond a reasonable doubt of possession of
7 marijuana, then in that case you would check not
8 guilty on all of the above referenced charges.

9 There's no significance to which I put them on
10 the page. I have to put one first; I have to put
11 one second. But if after all of your considerations
12 and your deliberations you have -- you have reviewed
13 the evidence and you have arrived at your verdict,
14 then once you have completed your verdict form, Mr.
15 Foreman, then you may knock on the door at that
16 particular time and tell the bailiff that you've
17 reached a verdict and we will receive you back into
18 court.

19 Ladies and gentlemen, you have been sworn as
20 fair and impartial jurors to determine the facts of
21 this case based upon the evidence that has been
22 presented in this case and based upon the law as I
23 have instructed you. And when you have considered
24 all that evidence and arrived at your verdict and
25 you have analyzed it and determined the facts and

1 applied the law as I've instructed you, then no one
2 can complain about the verdict that you've reached
3 and you would have fully discharged your duty and
4 your responsibility as jurors in this matter.
5 Ladies and gentlemen, again, your verdict should not
6 be based upon sympathy, passion, or prejudice. By
7 your verdict you have no friends to reward and you
8 have no enemies to punish. Your verdict should
9 simply speak the truth.

10 Now, Mr. Foreman, if throughout the course of
11 your deliberations you may have questions that you
12 would like for us to try to answer for you, if you
13 will write the question on a sheet of paper, sign
14 your name, knock on the door and give it to the
15 bailiff, and we'll make an attempt to try to answer
16 your question. If, however, you have no questions,
17 then when you have completed the verdict form, if
18 you will knock on the door at that time and tell the
19 bailiff that you have a verdict and then we will
20 receive you back into court to receive your verdict.

21 So at this time I'm going to ask, ladies and
22 gentlemen, that you retire to the jury room. I'm
23 gonna -- the exhibits, along with the verdict form,
24 will be sent to you. I ask that you wait for a few
25 moments before you begin your deliberations. The

1 law requires that I consult with the attorneys to
2 see if I have omitted anything from my charge or
3 need to make any corrections. If there are no
4 corrections or there are no -- there are no changes
5 that have to be made, then when the exhibits and the
6 verdict form are given to you, then you may begin
7 your deliberations at that particular point.

8 To my alternates, your role has also been
9 extremely important. If one of your fellow jurors
10 had not been able to complete service, then you
11 would have stepped into that person's shoes. I ask
12 that you not go into the jury room with them. If
13 you will wait outside in the hallways, then I will
14 come and excuse you in a few moments. So I ask that
15 you all retire to the jury room and wait further
16 instructions.

17 (WHEREUPON, the jury was removed from
18 the courtroom at 2:19 p.m.)

19 THE COURT: Are there any exceptions to
20 the charge by the State?

21 MS. BELL: No, Your Honor.

22 THE COURT: By the Defense?

23 MR. ROUTZONG: No, Your Honor.

24 THE COURT: I found the error on the
25 verdict form. It did not say unanimously and so

1 I -- we're reprinting that so that it's very clear
2 to them that their verdict has to be unanimous. And
3 once I get and you can take another look at it and
4 see if I missed anything else.

5 MS. BELL: Your Honor, this is just
6 cosmetic; but since you're doing it, when it says in
7 this case, it's not in bold and the rest of the
8 sentence is. You may have intended it to be that
9 way.

10 THE COURT: Okay.

11 MS. BELL: But...

12 THE COURT: We're gonna bold -- we're
13 gonna bold all of it. This is all the evidence.
14 That is the verdict form on top and the rest of the
15 exhibits, and you can tell them they may begin their
16 deliberations. And we'll just stand in recess until
17 we hear from them.

18 (Jury began deliberations at 2:26 p.m.)

19 THE COURT: We have a -- we have a note
20 from the jury. The note says: Has the defendant
21 been previously charged? And so, I know what I
22 would say, but I'll -- I'll consult with you all. I
23 know it's an inappropriate question; I cannot answer
24 the question. But I don't know what else you'd
25 like, if anything that you'd like for me to say.

1 I've done everything for -- that's not -- that -- I
2 cannot answer the question. It's not a question ---

3 MS. BELL: It's not a question before you
4 today or something?

5 THE COURT: Yeah.

6 MS. BELL: Yes, Your Honor. That's fine
7 with me.

8 THE COURT: Is that good?

9 MR. ROUTZONG: I think that's adequate,
10 Your Honor.

11 THE COURT: Okay.

12 MR. ROUTZONG: Thank you.

13 THE COURT: What I wrote is: I cannot
14 answer this question. It is not an issue before you
15 for your consideration.

16 MR. ROUTZONG: That sounds -- that sounds
17 appropriate, Your Honor.

18 MS. BELL: The State concurs, Your Honor.

19 THE COURT: I'll sign my name and I will
20 give this to you. Tell them not to throw it away,
21 to save it.

22 THE CLERK: Yeah.

23 THE COURT: And please ask him the next he
24 sends a note to please sign the note.

25 THE CLERK: Yeah, I told him that.

1 THE COURT: He needs to sign the note. He
2 needs to read it to the jurors and hold on to it, to
3 not throw it away.

4 THE CLERK: Yes, ma'am.

5 THE COURT: Thank you. And we'll just
6 stand in recess until we hear from them.

7 (WHEREUPON, a recess was taken from the
8 proceedings.)

9 THE COURT: Counsel, it's my understanding
10 that the jury has reached a verdict. Is there
11 anything we need to take up before we bring them in?

12 MS. BELL: None, nothing from the State,
13 Your Honor.

14 MR. ROUTZONG: No, Your Honor.

15 THE COURT: Ask them to come in please.

16 (WHEREUPON, the jury was returned to the
17 courtroom at approximately 2:58 p.m., and the
18 following proceedings commenced in open court.)

19 THE COURT: Mr. Foreman, I understand
20 y'all have reached a verdict; is that correct?

21 THE FOREMAN: Yes, ma'am.

22 THE COURT: If you'd please pass it to the
23 bailiff.

24 (Tendered to the Court.)

25 THE COURT: If you'd please publish the

1 verdict.

2 THE CLERK: State of South Carolina,
3 County of Sumter. The State of South Carolina v.
4 William Lee Roseboro, defendant. In general
5 sessions court Third Judicial Circuit, indictment
6 number 2018-GS-43-00364. Verdict: We, the jury,
7 unanimously find the defendant guilty of possession
8 with the intent to distribute marijuana. Signed
9 John Gedding, foreperson, October 27, 2022.

10 THE COURT: Ladies and gentlemen, if this
11 is the verdict of the jury, if you'd please raise
12 your hand.

13 (All jurors complied.)

14 THE COURT: I want to let the record
15 reflect that all the jurors have raised their hand.

16 Ladies and gentlemen, I want to thank you
17 very much for your willingness to serve and your
18 service in this particular matter. The Court is not
19 concerned so much as with the verdict that you
20 reached as I'm concerned with the process by which
21 you reach your verdict. You listened to the
22 evidence as was presented throughout the course of
23 this trial. You then listened to my instructions as
24 to the law. You then apply -- determined the facts
25 as according to your view of what occurred and you

1 applied the law as I instructed you and then you
2 arrived at your verdict; and having done so, then no
3 one can complain about the verdict that you've
4 reached and you've fully discharged your duty and
5 responsibility as jurors in this matter. On behalf
6 of Sumter County -- where am I? On behalf of Sumter
7 County and the Court, I'd like to thank you very
8 much for serving on this particular matter. Your
9 jury service is concluded for the week. I'm sure
10 that the Clerk of Court will be sending you the
11 appropriate compensation for your service this week.
12 With your badge, if you will return your badge to
13 the bailiff you're free to go. If you want to come
14 back in and watch what happens, that's fine. You're
15 entitled to do that, and you certainly may do that.
16 If you do not wish to, then you're free to go.
17 Thank you very much and thank you for your service.

18 (WHEREUPON, the jurors were excused.)

19 THE COURT: Are there any post-trial
20 motions at this time?

21 MS. BELL: Nothing from the State, Your
22 Honor.

23 MR. ROUTZONG: No, Your Honor.

24 THE COURT: Are we ready to go forward
25 with sentencing?

1 MS. BELL: Your Honor, if the -- if I can
2 beg the Court's indulgence to go down and get the
3 defendant's NCIC.

4 THE COURT: Yes, that's fine.

5 MS. BELL: Thank you, Your Honor.

6 (Pause.)

7 (Court's Exhibit No. 3 was marked
8 and made a part of the record.)

9 MS. BELL: We had to pull a current NCIC
10 report which is pulled. We want to make sure that
11 we accurately reflect the prior convictions. So I
12 know we all talked about there was a prior
13 trafficking of marijuana conviction in North
14 Carolina. I believe that was in 2001. But there
15 are some prior convictions out of the state of New
16 York, Your Honor. Your Honor, I guess while we're
17 also waiting, or do you want to just wait till
18 Mr. Tyler comes up?

19 THE COURT: I'd like to wait. I mean, do
20 you have the sentencing sheet already prepared?

21 MS. BELL: He's -- he's preparing that as
22 well for us.

23 THE COURT: I can't do anything before I

24 ---

25 MS. BELL: Okay. Thank you, Your Honor.

1 (Pause.)

2 MS. BELL: Your Honor, may I approach with
3 the sentencing sheet?

4 THE COURT: Yes, ma'am. We ready to
5 proceed with sentencing?

6 MS. BELL: Yes, we are, Your Honor. Your
7 Honor, I'm gonna ask if the Court does not object,
8 that Mr. Brown read off the NCIC report for the
9 prior record.

10 (Attorneys confer.)

11 MR. TYLER BROWN: Your Honor, if it please
12 the Court.

13 THE COURT: Yes, sir.

14 MR. TYLER BROWN: And, Your Honor, I
15 believe I forgot to write the sentencing range.
16 That is 0 to 5-year offense and/or \$5,000, just so
17 the Court does have that at its disposal. Your
18 Honor, the defendant's prior criminal history dates
19 back to multiple states and for an extensive period
20 of time. He had marijuana charge in 1994. It
21 appears that's out of New Jersey. Your Honor, we
22 have selling or furnishing marijuana in 2015,
23 released detention only. It appears actually --
24 Your Honor, Court's indulgence. Your Honor,
25 actually, I believe this is a second offense because

1 in California in 2015 he was convicted of selling,
2 furnishing marijuana or hash. The conviction was
3 certified by the clerk of court. He was given early
4 dismissal from probation in, I believe, 2020 so this
5 would actually be second offense. Can we pass up a
6 different sentencing sheet?

7 THE COURT: Here's the one I have.

8 MR. TYLER BROWN: What's that, Your Honor?
9 If I can have Ms. Bell sign this. This would change
10 the sentencing range to up to 10 years and a \$10,000
11 fine. Permission to approach, Your Honor. So, Your
12 Honor, he was here on probation.

13 (Attorneys confer.)

14 MR. TYLER BROWN: Your Honor, he was on
15 probation at the time this took place.

16 THE COURT: I'm sorry, are you telling me
17 that there's a conviction in 2020?

18 MR. TYLER BROWN: He was released from
19 probation in 2020. The conviction was 2015. This
20 charge was 2018 so it's in the five-year window.
21 That appears to have come out of the state of
22 California. Your Honor, he had a trafficking in
23 marijuana that came out in the state of North
24 Carolina in around 2006. In 1989 there was
25 convictions for criminal possession of a weapon,

1 assault with intent to cause serious injury, and
2 another criminal possession of a weapon where he
3 received 4 years and 12 years concurrent. That was
4 out of the state of New York.

5 Your Honor, it appears there was a
6 disorderly conduct where he was convicted in '93,
7 operating -- well, that's driving offenses. Driving
8 under the influence, that was out of '99.
9 Possession with intent to distribute cocaine in
10 2001. That was out of North Carolina as well. That
11 was around the same time as that trafficking in
12 marijuana which he was convicted of. Again, that
13 was in 2001 in North Carolina. Your Honor, that
14 appears to be the majority of his -- and there was
15 also a possession of marijuana in 2006.

16 Your Honor, that appears to be his
17 criminal history standing over multiple states.
18 Your Honor obviously has seen the original
19 indictment was a trafficking. There were at least
20 inferences in the date that this one occurred.
21 There were multiple deliveries. It looked like he
22 was trying to skirt county jurisdictions by having
23 some delivered in different counties that would have
24 taken it up to trafficking over 10-pounds, but we
25 proceeded just with the stuff that was delivered in

1 Sumter County that particular day. But Ms. Bell
2 inherited this case from me probably a couple of
3 months ago and so I'll turn it over to her. That
4 will be the criminal history the State has, though.

5 THE COURT: So let me make sure that I --
6 this is what I've heard. There's a 1994 marijuana
7 conviction out of New Jersey. There is a '93
8 disorderly conduct, a '99 driving under the
9 influence, a 2001 possession of cocaine --
10 possession with intent to distribute cocaine in
11 North Carolina. In 2006 there is a possession of
12 marijuana, and I -- I assume that's South Carolina.
13 I didn't hear a state.

14 MR. TYLER BROWN: 2006, I believe that is
15 North Carolina as well. And, Your Honor, at the
16 2001 conviction I believe that same time was the
17 trafficking in marijuana he also had in North
18 Carolina. I believe that was 2001 as well.

19 THE COURT: What you gave me on the
20 trafficking is 2006 North Carolina.

21 MR. TYLER BROWN: Okay, my apologies then.

22 THE COURT: And then in Calif-- what I
23 heard was in California there was a distribution or
24 selling of marijuana in 2015. He was released from
25 probation in 2020.

1 MR. TYLER BROWN: That's correct, Your
2 Honor. And my apologies for how scattered that was.
3 Multiple states, they print out differently.

4 THE COURT: Thank you.

5 MR. TYLER BROWN: Thank you, Your Honor.

6 THE COURT: Yes, Ms. Bell.

7 MS. BELL: Thank you, Your Honor. May it
8 please the Court. Your Honor, of course you heard
9 the evidence that was presented today in conjunction
10 with the defendant's criminal history. There -- we
11 proceeded only on the Sumter County charges as far
12 as the possession with intent to distribute because
13 you saw the bag that we had and that was one of the
14 reasons we unsealed it is we wanted to make sure
15 because those other deliveries were not in Sumter
16 County. We believed as a matter of law that there
17 may have been a venue issue. But to Mr. Brown's
18 point, there was certainly on the defendant's part
19 an attempt to skirt by having the marijuana shipped
20 to different places in the State, and we would just
21 be limited by matter of law to only Sumter.

22 Your Honor, also postal inspector Rogers
23 wants to be heard, Your Honor; and of course, he's
24 been here all week, and we would ask that you
25 consider hearing from him on this matter.

1 THE COURT: Yes, sir. I'll hear from him.

2 INSPECTOR ROGERS: Thank you, Your Honor.

3 Just to belabor the point that Mr. Brown has already
4 talked about this afternoon. This case is more
5 about -- more than just PWID, it is trafficking.
6 And as he was indicted for trafficking, as she's
7 already stated out two of the reasons we did not go
8 that route is because strategy issue on our part.
9 We put our best evidence forward for the case here
10 in Sumter alone.

11 That day when he was in California he
12 mailed four parcels. Of course, the jury couldn't
13 hear that because of evidentiary issues and
14 different reasons; but each of those parcels did
15 contain marijuana to a tune of 13-pounds total. So
16 that's -- that alone is trafficking right there,
17 Your Honor. Historically, in federal court we can
18 bring in postal records to show historical weight.
19 Of course, that's a little more difficult in state
20 court because of the evidentiary issues and judges
21 and courts like to have actual marijuana in
22 possession. But because the rules of evidence
23 apply, we can apply those rules a little bit
24 differently in federal court. He was looking at
25 over 100-pounds of trafficking just to his address

1 at Alice Drive, Your Honor.

2 From January of 2017 to January 2018, our
3 postal records indicate from California just to his
4 address in Alice Drive was over 100-pounds. So
5 that's where he -- that's where the initial
6 indictment in this case came from where he's
7 potentially, facing potential 25 to life sentence.
8 But after confirming with the state Attorney's
9 Office here, we felt in the best interest of justice
10 just to focus on the best evidence that we had at
11 the time; and because of the venue issue, that's why
12 we went with just this one parcel.

13 Forget what I just said, forget what
14 everybody else said, all I'd like to tell Your Honor
15 is actions speak louder than words. If all you had
16 is his criminal history, you can look and see that
17 this defendant has a history of not abiding by
18 society rules. He has an extensive history of this;
19 he's not gonna stop. He continues to do it
20 regardless of how many convictions he has. Now that
21 he's facing a potential sentence of up to ten years,
22 we would ask that you give the max because it seems
23 like it's not getting through to him that this needs
24 -- this kind of behavior needs to stop. Thank you.

25 THE COURT: Thank you.

1 Mr. Routzong, I'll be happy to hear from
2 you.

3 MR. ROUTZONG: It's tough to respond to
4 speculation and maybe probabilities, Your Honor,
5 when they talk about 100-pounds. We -- I can
6 understand what their point is and I'm not -- I'm
7 not really trying to criticize it; but what I'm
8 asking the Court, I guess, is to consider whether or
9 not you should really consider that. He mentioned
10 federal court does something different. Well,
11 that's not the court we're in, as you know. And,
12 yes, he has a substantial criminal record. Much of
13 it is dealing with marijuana. We live in a time
14 where there's confusion in different states about
15 whether or not somebody should possess marijuana or
16 be able to use it for medicinal purpose or whatever.
17 Well, here in South Carolina it's breaking the law
18 and so he broke the law, at least that's what the
19 conclusion of the jury is. I hope, Your Honor, that
20 you can find it possible just to consider and
21 confine your thoughts about this matter not to
22 speculation, but what the jury actually convicted
23 him of I guess is the best way of saying it.

24 Your Honor, he has three children. I
25 believe he has six grandchildren. He has a GED. He

1 tells me during his life he's done electrical work
2 and some factory work; but I think he'd probably be
3 the first one to admit that choices he's made along
4 the way has made it impossible to have a normal life
5 because he's -- he's been involved with the law
6 quite a bit, as his record would indicate. And it
7 didn't sound like since these events there's been
8 any problem. He tells me that he's been involved
9 with a nonprofit that he started, and the idea was
10 to -- he wanted to learn how to film, make films,
11 and be able to pass that on to other youth peop--
12 youths that he might encounter through the
13 nonprofit. It's tough to reconcile that with the
14 thought of what the jury has concluded today, and I
15 know -- I guess that's kind of the dual nature that
16 we have as human beings maybe. We do skirt the law
17 perhaps. And maybe I shouldn't say "we" but some
18 people skirt the law maybe to achieve another
19 objective. I'm not saying that's what was going on
20 with Mr. Roseboro; it might have been, I don't know.
21 I can say that that indicates to me that there is a
22 bit of goodness in his heart. I looked on the
23 internet and sure enough there was the non-profit,
24 and his name is right there at the bottom of it as
25 the agent of the nonprofit.

1 He spent 225 days in our detention center
2 on this charge, Your Honor. I know as you've
3 already reviewed his medical records that you
4 already have an idea of the shape he's in today. I
5 notice he came in walking with a cane. He tells me
6 he's legally blind in one eye. I looked at his --
7 the eye that he has that he's not blind in and at
8 least has the best use and it has a large cataract,
9 it appears, on the top of it. He's got plenty of
10 medical issues to deal with. Your Honor, as I said,
11 he's -- he walked in here with a cane. He's a man
12 that was born in 1969 so he's getting older. He's,
13 I guess, 50, 50-years old. And I guess that's the
14 most I can communicate to you about Mr. Roseboro,
15 Your Honor. He does have a terrible record. Is he
16 ready to go to prison for ten years? That's a --
17 that's a good question when you take into
18 consideration his age. Is he gonna stop, as postal
19 inspector Rogers stated that he wouldn't stop?
20 Well, he has stopped apparently for four years, a
21 little over four years. That would tend to be some
22 evidence that that's not true.

23 I wonder, Your Honor, if you would
24 consider perhaps house arrest through the Department
25 of Probation. We had an earlier discussion on that

1 this week considering his health problems,
2 considering. You know, four years is not, as they
3 say, one swallow does not make a spring, and four
4 years does not make a good man necessarily; but it
5 does offer some hope and I know the Court has
6 expressed that often you like to find hope when you
7 can. And I'd ask the Court to consider that, Your
8 Honor.

9 THE COURT: Thank you.

10 MS. BELL: Your Honor, may I just briefly
11 be heard?

12 THE COURT: Yes, ma'am.

13 MS. BELL: Your Honor, I would ask -- and
14 I understand -- I would ask you to just look at the
15 prior record. You know, during the presentation to
16 the jury, my understanding it was like there's not a
17 showing that there's a -- that this individual is a
18 drug dealer. There is ample evidence in the record
19 that he is. And there was also implication that
20 he -- he's not a violent person. His record has
21 reflected that. He has had weapon possession. And
22 I don't know this to be the case, but my
23 understanding -- he has spent a considerable amount
24 of time in prison, Your Honor. Part of a sentence
25 is to show the court and the community that we take

1 these matters seriously. This is not a person who,
2 Your Honor, would -- it's just a small time addict
3 that is struggling with an addiction problem that
4 has a limited prior record. Your Honor, I would
5 suggest to you that I would be the first one to
6 recommend leniency in those circumstances. This is
7 not that kind of situation, Your Honor. There are
8 appropriate ways that he can get medical attention
9 in the Department of Corrections. At the beginning
10 of this trial we mentioned to the Court that we felt
11 that this case was appropriate for jail time because
12 of his extensive prior record and because of what
13 was presented here today; but also, those things
14 that we know occurred, not speculation about,
15 historical weight, and no offense to Mr. Routzong
16 not taking it that way -- we don't have drugs
17 related to those. But that was certainly on their
18 part that's what, as you know, Your Honor, was a
19 basis for. We kept this trial as clean as we
20 possibly could. We did not -- we deliberately did
21 not mention the jail phone call that the defendant
22 had. Your Honor, that information was -- and I'm
23 paraphrasing -- but I don't see they can get me on
24 trafficking, all I had was 13 bricks, or 13 chunks.
25 And we can certainly play it. But what I mean by

1 that, Your Honor, is that just from his own
2 admissions and from the amount of drugs that you
3 saw, the amount that was entered into evidence is
4 not even half. It's about a third of what was
5 shipped during the period of time in question around
6 this incident.

7 So considering all that, Your Honor, those
8 are things we don't have to speculate and guess or
9 surmise about. Those are things that we have in
10 front of us directly along with his prior record,
11 along with the fact that he was on supervised,
12 supervised release, as early, recent as 2020, as the
13 record would reflect. So for all those reasons,
14 Your Honor, we do not feel like house arrest is at
15 all appropriate in this case and that a stringent
16 prison sentence is appropriate. This is a non --
17 because of the way that it's charged, it is a
18 nonviolent offense. Initially, he was looking at,
19 potentially, there were documents in our file for
20 serving life without parole because of his priors
21 with the prior trafficking and then out of New York
22 the violent offense there so. I don't say that
23 lightly, Your Honor, but I think that in this
24 particular case it's appropriate. A ten-year
25 sentence would be nonviolent so let him -- let him

1 show to the Department of Corrections that he's
2 eligible for early release by -- by serving his time
3 appropriately to be considered for such. Thank you,
4 Your Honor.

5 THE COURT: Thank you. I'll tell you --
6 yes, sir.

7 MR. ROUTZONG: I'm sorry, Your Honor.
8 It's unusual for this kind of back and forth, but I
9 have to ---

10 THE COURT: I'll let you have the last
11 word.

12 MR. ROUTZONG: Well, I have to correct
13 something. That's not what he said on the jailhouse
14 call. He said 13 joints. It wasn't chunks, it
15 wasn't bricks, it wasn't bags. It was 13 joints. I
16 have it right here. I can play it if Your Honor --
17 it probably doesn't -- it's probably not that
18 persuasive anyway one way or the other, but I needed
19 to correct that.

20 THE COURT: Thank you. What has caught my
21 attention are several things. Not even considering
22 any charges before 2000, there appears to be a
23 possession with intent to distribute cocaine out of
24 North Carolina in 2001. There appears to be a
25 possession of marijuana in 2006 in South Carolina.

1 The trafficking, I believe it's -- I didn't hear
2 whether it was marijuana, whether it was some other
3 drug out of North Carolina in 2006.

4 MS. BELL: It was marijuana.

5 THE COURT: Okay. Then in 2015 in
6 California there was a conviction for selling
7 marijuana for which he was on probation at the time
8 that this particular incident occurred. In -- what
9 strikes me the most about this case is it appears
10 that he flew to California and mailed the drugs and
11 then came back to South Carolina to pick them up.
12 And given the quantity just in -- just in what we
13 considered in this particular trial which is a
14 little bit more than 6-pounds, I mean, 3-pounds,
15 almost 4-pounds, that conduct of going out to
16 California, securing the drugs and then shipping
17 them to South Carolina and then coming back to South
18 Carolina to receive them, clearly indicates to me
19 that there's some type of -- while he's charged with
20 possession with intent to distribute, that to me
21 that's trafficking behavior because there is the
22 procurement of large quantities of drugs and
23 bringing them back in to South Carolina. And, you
24 know, we don't know what would have happened to it
25 if it hadn't -- if the postal inspector and the

1 police hadn't been present to be able to arrest him
2 at that particular time.

3 And I think -- I think the fact that he
4 was on probation for the marijuana charge when the
5 packages -- when the package was mailed in 2018,
6 does, does speak clearly. I understand that he's --
7 he does have some health issues. I understand that
8 perhaps between 2018 to 2022 when this case came to
9 trial, those four year -- that four-year period,
10 that he doesn't appear to have been involved in any
11 other criminal activity. And that may be
12 coincidence. It may be the fact that maybe he -- he
13 realized the significance of the charges that were
14 being made against him, and his health may have
15 changed all those things; but it still speaks to me
16 that there -- that it's clear that there was some
17 type of -- it was more than just drugs for my
18 personal use or -- and that does concern me in this
19 particular matter based upon these circumstances.

20 I think jail time is appropriate. This is
21 considered to be a second offense here in South
22 Carolina so he's looking up to ten years in jail.

23 MR. ROUTZONG: Before you sentence him,
24 Your Honor.

25 THE COURT: Yes, sir.

1 MR. ROUTZONG: I think he wanted to
2 address the Court.

3 THE COURT: Okay. I'll be happy -- let me
4 just finish my sentence. It's my understanding that
5 the second offense for possession with intent to
6 distribute is must be in prison not more than ten
7 years or fine not more than \$10,000, or both a fine
8 and imprisonment. I'll be happy to hear from you.

9 THE DEFENDANT: Yeah.

10 THE COURT: Yes, sir. Tell me your name
11 please.

12 THE DEFENDANT: Yes. How you doing? My
13 name is William Roseboro. And, yeah, fortunately
14 today I basically being judged in the outcome of
15 something that I don't really approve of, but it
16 happens. I made some choices in life that's not all
17 that great, and I'm pretty much going through it now
18 because of my course I'm affected by it. You know,
19 my health is not all that great. I ain't asking for
20 sympathy or nothing like that. But I think of
21 unheard of and unreal for me pretty much because as
22 much time as there is for something that's legal and
23 it's so much more that's going on. You got people
24 that getting arrested. Fentanyl is probably getting
25 less time than I am for marijuana. You know, it's

1 something that somebody else do. And then not only
2 that, it changed for me. I actually going through
3 something with my health, with my health. My
4 kidneys is failing and things of that nature. I
5 don't want to be in jail and die. I got a mother
6 82-years old. I got kids I'm really trying to do
7 the best of them while I'm here. But it's nobody's
8 fault, you know. I'm basically being judged for
9 something that happened a long time ago. As you can
10 see, something did change; I did change. I know my
11 rights. I know my role. Unfortunately, that's what
12 I did. I want to give back. I pretty much created
13 a nonprofit, and I basically just fighting to try to
14 do something with it. It's certified. You can
15 Google me. But other than that, I just say I'm
16 sorry that, you know, I look like I got a bad
17 history; but my history is not all that bad. I just
18 happened to be around bad company. So when they get
19 caught up in situations, I get caught up in there
20 too. It's not solely on me in making these -- you
21 know, I made the choice of being with other people,
22 but I just choose not to say nothing so I'll be
23 implicating in a lot of other things. But my
24 history is not crazy. I haven't been out there and
25 killed nobody or done nothing and force nobody to do

1 anything, rape nobody, and things of that nature.
2 And for me to get this much time for some marijuana,
3 I think is ludicrous. I mean, this is one of the
4 state's where they pretty much, they didn't want to
5 free -- free slaves. And this is a prime example of
6 being judged with my own damn people, excuse me.

7 THE COURT: Anything further, sir?

8 THE DEFENDANT: That's all I got to say,
9 but, hey, it is what it is.

10 THE COURT: And I thought I heard you say
11 that the marijuana was not -- was not illegal, but
12 ---

13 THE DEFENDANT: You said not illegal?

14 THE COURT: No, I thought that's what I
15 heard you say.

16 THE DEFENDANT: No.

17 THE COURT: Okay.

18 THE DEFENDANT: I'm sorry, but yeah, it's
19 legal in other states. It's just as here. This is
20 the place that they didn't even want to free the
21 slaves. This is the last place. Fourth circuit is
22 where they fought for the civil war. They wanted to
23 keep us conditioned and confined. This is a prime
24 example.

25 THE COURT: And, Mr. Roseboro, we all have

1 to suffer the consequences from our actions.

2 THE DEFENDANT: I understand that. Like I
3 said, we being judged.

4 THE COURT: Yes, sir.

5 THE DEFENDANT: This is my past.

6 THE COURT: All of us -- all of us are
7 judged. And here what I have to do is, you've been
8 found guilty by a jury of your peers. They've made
9 that decision based upon the evidence that the State
10 presented to them and based upon my instructions as
11 to the law and so, you know, sentencing is always a
12 difficult job. And it's -- there are many factors
13 that have to be taken into consideration, but I also
14 try to be fair about what I do. I try to give ev--
15 I try to give people the benefit of the doubt. What
16 I have seen in this particular case based upon the
17 convictions and even some -- even some of what you
18 have to say, indicates that you -- you're not
19 totally accepting the responsibility, and that's
20 something I have a hard time with.

21 I don't -- I don't normally give people
22 the max, and I don't intend to give you the maximum
23 in this particular case. But I, I think that there
24 is -- there is enough evidence and enough reason to
25 provide that jail time be appropriate. And so, Mr.

1 Roseboro, what I'm gonna do is I'm gonna sentence
2 you to the Department of Corrections for a period of
3 eight years. I'm gonna give you credit for the 225
4 years that -- 225 days that you have served, and I
5 hope that you're able to understand and to realize
6 the consequences of your actions. Good luck to you,
7 sir.

8 THE DEFENDANT: Yeah, I truly appreciate
9 it. I don't fault nobody for what's going on.
10 You're right, it's my responsibility. This is my
11 justice.

12
13 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE }

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 10th day of March, 2023.

Frances B. Ray
FRANCES B. RAY, RPR

WITNESSES

Joseph M. Lane
Sumter Police Dept.

ARREST WARRANT NUMBER

2018A4320100017

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 4-5-2018

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-43-0364

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

APRIL TERM 2018

THE STATE

vs.

WILLIAM LEE ROSEBORO JR.

Indictment for

Trafficking in Marijuana



ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR Trafficking in Marijuana

At a Court of General Sessions, convened on April 5, 2018 the Grand Jurors of SUMTER County present upon their oath:

COUNT ONE - TRAFFICKING IN MARIJUANA

That **William Lee Roseboro Jr.** did in **Sumter County** on or about **January 12, 2018**, knowingly, sell, manufacture, cultivate, deliver, purchase or bring into this state, or aid, abet, attempt or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this state, or was knowingly in actual or constructive possession, or knowingly attempted to become in actual and/or constructive possession of a quantity of **Marijuana** in the amount of **one hundred pounds or more but less than two thousand pounds**, Marijuana being a controlled substance under §44-53-110, et. seq., South Carolina Code of Laws (1976, as amended), and in violation of §44-53-0370(e)(1)(b), 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.

Solicitor

Ernest A. Fung III

0313

2/05

\$10000

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

William Lee Roseboro Jr.

AKA:

Race: Black Sex: M Age: 52

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Knott Dr.

City, State, Zip: Eutawville, SC 29048

DL#* [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018-GS-43-0364

AW#: 2018A4320100017

Date of Offense: 1/12/2018

S.C. Code §: 44-53-0370(e)(1)(b)

CDR Code #: 0283

SENTENCE SHEET

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

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

TO: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.t.d. - 2nd

In violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0187

☒ 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. [REDACTED] (def.'s initials)

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

ATTEST

Christa Bell 6886
Solicitor SC Bar # Defendant

Attorney for Defendant

SC Bar #

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

for a determinate term of 8 days/months/years Time Served ☐ Youthful Offender Act not to exceed years

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

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

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

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

225 days/months

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

☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. William Lee Roseboro Jr. INDICTMENT/CASE#: 2018-GS-43-0364

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: _____

☐ 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%)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$12	\$
§56-5-2995 (DUI Assessment)	\$25	\$
§56-1-286 (DUI Breath Test)	\$25	\$ <u>25.00</u>
§14-1-212 (Law Enforce. Funding)	\$150	\$ <u>150.00</u>
§14-1-213 (Drug Court Surcharge)	\$41	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$50	\$
§50-21-114 (BUI Breath Test Fee)	\$40/ea	\$
§56-5-2942(J) (Vehicle Assessment)	TBD	\$ <u>8.25</u>
3% to County (if paid in installments)		

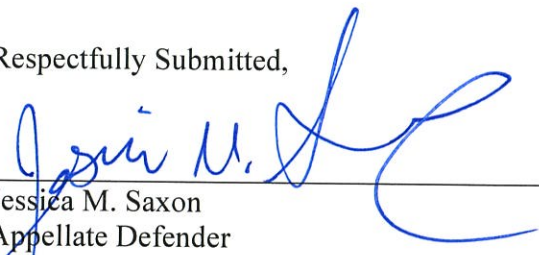
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund
TOTAL \$ 283.25
 Clerk of Court/Deputy Clerk: James C. Campbell
 Court Reporter: Frances Ray
Presiding Judge: Al. Sher LeeJudge Code: 2118Sentence Date: 10/27/2022

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,



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

RECEIVED

ATTORNEY FOR APPELLANT **Jan 27 2026**

This 27th day of February, 2024.

SC Court of Appeals

