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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
General Sessions Court

Jocelyn Newman, Circuit Court Judge

Case No. 2016-GS-28-01123
Appellate Case No. 2024-001890

The State,

Respondent,

v.

Walter Wade Goad,

Appellant.

RECORD ON APPEAL
VOLUME 2 OF 2

Alan M. Wilson
Attorney General

J. Benjamin Aplin
Assistant Attorney General
S.C Bar No. 8729

ATTORNEYS FOR RESPONDENT

Jack B. Swerling
1720 Main Street, Suite 301
Columbia, South Carolina 29201
Telephone: (803) 765-2626
S.C Bar No. 4406

ATTORNEY FOR APPELLANT

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State's Exhibit 13 (CD Phone Calls) ..... Filed Separately

State's Exhibit 13 (CD Phone Calls) is omitted from this printed Record on Appeal and counsel is seeking to have it transported to the South Carolina Court of Appeals pursuant to court order.

within DEA, they combined task officers, local task force officers, from SLED and Kershaw County, Richland County, different -- different law enforcement agencies.

Q. And who were you investigating at that time with Agent Sellers?

A. It was Josh Parnell.

Q. So, I then want to fast-forward a little bit more to September 22nd, 2016.

A. Okay.

Q. Do you remember that day?

A. Yes, ma'am.

Q. And what was happening that day with Mr. Parnell and that investigation?

A. So, on that day we were -- we were going to execute a search warrant at Mr. Parnell's residence, at 135 Ward in Elgin, South Carolina.

Q. Before you execute a search warrant, is it common to conduct surveillance at the location?

A. Yes, it is.

Q. Can you explain why you do that?

A. So, we do that so that, you know, law enforcement officers we know what we're getting into. We had established moving surveillance because it was a two-lane road, and then we had agents set up on either side of the -- of the road for -- for takeaways in case somebody

arrived and then we can follow them out.
Q. So there was somebody on each side so you would know any comings and goings, correct?
A. Correct.
Q. Were you able to establish that someone came to the house that day?
A. Yes.
Q. Who was that?
A. Walter Goad.
Q. And how did you identify Mr. Goad?
A. One of the task force officers assigned to -- to conduct surveillance followed Mr. Goad after leaving the -- Josh Parnell's residence.
Q. And were you and your team able to capture any photos of Mr. Goad's car location on that day?
A. I did not capture any. I don't know if any -- I don't believe they did.
Q. But any photos taken that day, would that have been from stationary vantage point or any photos taken would that have been driving by?
A. It -- it would've had to have been driving -- driving and using the camera. On that two lane --
Q. So it wasn't --
A. -- on that two-lane road would've been very difficult because cars passing it would've been very

difficult.
Q. So not constant photos being taken, just as you -- as team members were able if they were passing by?
A. That is correct.
Q. So, were you expecting someone to come by the house? You said you saw Mr. Goad come and go from the house, were y'all expecting someone to come to the house?
A. No, we weren't expecting somebody to come to the house. We had -- we had ordered up some -- we -- if I remember correctly, we had ordered some cocaine using a DEA source from --
Q. Ordered cocaine from who?
A. Mr. Parnell.
Q. Okay.
A. And -- and Mr. Goad showed up just prior to us receiving a call from the CSA that the -- the drugs had arrived --
Q. As soon as Mr. Goad --
A. -- through Mr. --
Q. -- Goad left, what happened?
A. We executed a search warrant.
Q. Were you present during the execution of that search warrant?
A. I was.
Q. And were there narcotics seized?

A. Yes, there were.
Q. I would like to show you what's been marked State's Exhibit 11. Do you recognize this?
A. Yes, ma'am.
Q. What is that?
A. That is the cocaine that was recovered from inside the residence.
Q. Was anything else significant recovered that day near or around the cocaine?
A. Wrapping, packaging material that was used -- house that cocaine, or package that cocaine.
Q. In your 20 plus years of experience with all of your training in narcotics, was that consistent packaging with other narcotics?
A. Yes. So, a lot of times people who -- yes, it is.
Q. So, cellophane wrap and duct tape, that is often used to wrap cocaine?
A. It is.
Q. And you said that was recovered right next to the drugs?
A. On the floor, correct.
Q. If I show you State's Exhibit 12, does that look like the packaging that was recovered?
A. Yes, ma'am.
Q. That -- that is the packaging that was recovered

that day at Mr. Parnell's house?
A. From inside the residence, yes.
Q. And then I'd like to show you State's Exhibit 29. Can you identify that please, sir?
A. That is a -- it's a scale, digital scale that was found inside the residence.
Q. Now with that size scale, what types of drugs and what weights would you use that scale for?
A. That scale would be used to measure gram and ounce quantities of -- of a -- of an object.
Q. So you wouldn't measure a kilo on that?
A. No, ma'am.
Q. Is that scale and the weight that it's used for consistent with what you learned through your investigation that Mr. Parnell dealt in?
A. Yes, it is.
Q. After the search warrant, Mr. Parnell is given Miranda; is that correct?
A. He was.
Q. And were you able to speak with him?
A. We were.
Q. And through that conversation did you learn who his source of supply was?
A. We did.
Q. And who is that?

A. Walter Goad.
Q. Did you learn that Mr. Goad had been at the house that day?
A. Yes.
Q. And how did you learn that?
A. Through surveillance and through the post-Miranda statement provided by Josh Parnell.
Q. So the statement he gave was corroborated by your surveillance?
A. Yes, ma'am, it was.
Q. Your team, I should say, you and your team?
A. That is correct.
Q. So, we heard testimony throughout and you've been here throughout that, we'd like to move up the chain, why did y'all not try to use Parnell to get some buys in with Mr. Goad?
A. Well we learned that Mr. Parnell was -- was being fronted, and what that means is the drugs are being provided by the source supplied to the person distributing the drugs. It's not consigned, but he will then sell the drugs, and then repay the drugs to the person he -- he received it from -- he or she received it from. The DEA is not in the business of -- of getting into the habit of repaying drug debts.
Q. So if you had given Mr. Parnell drug -- money, it

would've gone towards his debt, not new dope?
A. Correct. And it's a cycle that would continue over and over.
Q. So, you would consider Mr. Parnell a mid-level dealer?
A. Yes.
MR. SWERLING: Objection.
WITNESS: I'm sorry.
JUDGE NEWMAN: I mean, overruled. It's out there now.
BY MS. MCKELLAR:
Q. Is a mid-level dealer in your opinion the face of sales, do they see --
MR. SWERLING: Objection.
JUDGE NEWMAN: Sustained. You're leading.
BY MS. MCKELLAR:
Q. What is a mid-level dealer known for? How do they function?
A. Mid-level dealers distribute the drugs they receive from their source, supply it to other individuals in the community. Typically the people they receive the drugs from are -- are users of those drugs.
Q. So Mr. Parnell in your investigation would deal with users?
A. Yes.

Q. And then if you were to go up to the chain to Mr. Goad, does Mr. Goad deal with users? Does he deal drugs to users?

MR. SWERLING: Objection. Only if he knows first-hand.

JUDGE NEWMAN: Overruled.

BY MS. MCKELLAR:

Q. Through your investigation did you learn that Mr. Goad was dealing to users or was he dealing to other suppliers like Mr. Parnell?

A. Other suppliers.

Q. So he'd be considered source of supply?

A. Yes.

Q. And of course he would have a source of supply as well, correct?

A. That is correct.

Q. But someone at Mr. Goad's level that you established he was during your investigation; does he often expose himself to strangers on the street?

MR. SWERLING: Objection, Your Honor.

JUDGE NEWMAN: Overruled.

THE WITNESS:

A. No, the source supply typically does not expose themself to people on the street, it's more of a mid-level distributor would do that.

Q. So, from your talk with Mr. Parnell you learned that Parnell and Mr. Goad went way back and had an established relationship, correct.

A. That's correct.

Q. And did you use that to your advantage?

A. The relationship they had with each other?

Q. Correct.

A. We didn't use it to our advantage, we just -- we debriefed Mr. Parnell regarding his drug relationship with -- with Mr. Goad and documented that on a DEA-6 report.

Q. Based on that relationship, were you about to set up any recorded phone calls?

A. Yes.

Q. Was one of those phone calls we the one we listened to earlier with Mr. Parnell and Mr. Goad?

A. Yes, it was.

Q. And are all phone calls always recorded?

A. Not all phones are always recorded. It depends on the circumstances surrounding the phone call, other factors that are happening throughout the day. I mean there's just a myriad of problems. I can't catch every phone call that comes to my phone, it's just the nature of the beast.

Q. And are you present necessarily at all phone calls?

A. Not all phone calls.
Q. Recorded or not.
A. Not all phone calls.
Q. But were you present at the one that was played earlier on October 3rd?
A. Yes, ma'am, I was.
Q. So, that phone call was made by Mr. Parnell in your presence?
A. Yes.
Q. And then Mr. Parnell referenced a second call, were you present for that one?
A. Yes, we were.
Q. And that was not recorded, correct?
A. That is correct.
Q. And what did that phone call entail?
A. It was a discussion between Mr. Goad wanting to come -- he was wanting to collect some money and talked about --

MR. SWERLING: Your Honor, my understanding was from Mr. Sellers that they can't hear the other person --

JUDGE NEWMAN: Oh, that's not a valid objection, over ruled.

MR. SWERLING: Well, my objection is first-hand knowledge of what was discussed.

JUDGE NEWMAN: The objection is overruled.

BY MS. MCKELLAR:

Q. Could you hear the conversation on both ends?

A. Yes.

Q. You could hear Mr. Parnell's voice, 'cause you were in the room with him.

A. Yes.

Q. And could you hear Mr. Goad's voice?

A. Yes.

Q. And what did he say?

A. He was -- he had talked about getting -- coming down and putting a gun in somebody's face, and then Mr. Parnell said no, it's not like that. I think you want -- he wanted to get his -- he was trying to insinuate to get his money.

Q. So, based on your investigation and that phone call, law enforcement got a search warrant for Mr. Goad's residence, right?

A. That is correct.

Q. And when you -- were you present at the execution of that search warrant?

A. I was.

Q. Were there any drugs recovered?

A. No, ma'am, there were not.

Q. Were you surprised by that?

A. No.
Q. Can you explain why that was not surprising?
A. I've done a number of search warrants at times and we -- we do a search warrant on a house and sometimes we don't recover drugs from the source supply, they have alternate locations in which they store the drugs.
Q. Did you recover anything else pertinent, any drug paraphernalia or things that you could associate with drug trafficking?
A. We did.
Q. I would like to show you now what's been marked State's Exhibit 25. I got my Vanna White over here; I'm going to give you these gloves so you can put them on. And Your Honor, I ask that he be able to step to the side if need be.
JUDGE NEWMAN: Yes.
BY MS. MCKELLAR:
Q. Can you identify this that's been marked State's Exhibit 25?
A. Yes, it's a black -- it's a black tote container that was discovered in the garage of -- of Walter Goad's residence.
Q. And these are the same -- the same tote that photos were taken of at the execution of the search warrant?
A. Yes, ma'am.

MS. MCKELLAR: Your Honor, we ask that State's Number 25 be moved into evidence.

JUDGE NEWMAN: Any objection?

MR. SWERLING: No.

JUDGE NEWMAN: Okay. State's 25 is admitted.

(State's Exhibit 25
was introduced into evidence)

BY MS. MCKELLAR:

Q. At this time, can you open it and show me the contents of State's 25? You can set it on the ground if you need to. And you can hold it up, if you want to pick up and hold it so the jury can see. What is that in your hands there?

A. This is a digital scale.

Q. Is that -- this might sound redundant, is that bigger than the scale that you saw at Mr. Parnell's house?

A. Yes, it is.

Q. And what kind of things would you use on that -- to weigh that scale with -- you weigh on that scale with.

A. Larger objects, larger objects.

Q. What else is in that box?

A. We had two industrial rolls of saran wrap.

Q. And why did you think that was relevant?

A. Well it's relevant because the search warrant we

conducted at Josh Parnell's residence, the cocaine was wrapped in saran wrap similar to this.

Q. And what else was the drugs -- what were the drugs wrapped in at Mr. Parnell's house?

A. Black industrial tape and tin foil.

Q. Do you have anything in that box representing black Gorilla tape?

A. We -- we do. This is -- this is the remnants of a packaging material which -- which obviously contained black Gorilla tape, black industrial tape, similar to that style that was -- that was discovered at Mr. Parnell's residence.

Q. You can have a seat for now.

A. Okay.

Q. Thank you. Did the K9 alert on that particular box at the search warrant?

A. Yes, ma'am. Yes, ma'am, it did.

Q. And so, taking individually, 'cause each -- could each of these items be explained in a non-criminal way?

MR. SWERLING: Objection.

JUDGE NEWMAN: Sustained. Sustained.

BY MS. MCKELLAR:

Q. What about these items told you that these were involved specifically in drug trafficking?

A. Well, one, the dog had alerted to the -- to the con

-- to the box. Two, the -- the saran wrap was -- was similar to that of the packing material that we received from Josh Parnell's residence that -- that could -- further contained the cocaine. And three, there was black duct tape, packing material, which was similar to that, which we also found in Mr. Parnell's residence.

Q. So, ultimately after the search warrant Walter Goad was arrested, correct?

A. Yes.

Q. And why is that?

A. For trafficking cocaine.

Q. And why did you make the decision to arrest him for that charge?

A. Because of the circumstances surrounding all of the investigation. He -- he had shown up just prior to the execution of the search warrant in which we seized 10 ounces of -- of cocaine, the post-Miranda statement of Josh Parnell indicating that Walter Goad was his source supply, the identification of Walter Goad following his removal -- or following -- leaving the residence of 135 Ward, and then the subsequent search warrant in which we found -- found similar wrapping material inside his residence, and then the phone call that occurred on October 3rd in which he and Mr. Parnell discussed the drug debt.

Q. So, was all the information you obtained through your surveillance, and the search warrant, corroborated by Mr. Parnell's account of the facts?

A. Yes.

MS. MCKELLAR: Thank you. I have no further questions at this time, Your Honor.

JUDGE NEWMAN: Cross-examination?

MR. SWERLING: Yeah, just a couple questions.

CROSS-EXAMINATION

BY MR. SWERLING:

Q. Mr. Hardin?

A. Yes, sir.

Q. Let me ask you a couple questions about what you've testified to. First of all, on September 22nd was the first information you had about Mr. Goad, correct?

A. That's correct.

Q. And you told the Attorney General what led to his arrest, but -- and there was a search done at his house, the thing is as far as that scale's concerned, do you know what the range is on that scale?

A. (Inaudible) I -- I don't.

Q. You told us you could use the weight personally. We have -- people have digital scales at their home.

A. They do have digital scales in their home. I -- I -- personally I don't know that to be a -- a -- a scale

that's inside a residence. I would not weigh myself on that scale but I've never seen one of those inside --

Q. Right. I mean, it's not -- it's not illegal to have a digital scale --

A. Absolutely not, you're correct.

Q. And you don't know what the range is? 'Cause it can't weigh less than a pound, right? You know that? Did you have them double-check that?

A. I don't -- I don't know what the range is on that scale, sir.

Q. You're not going to weigh small quantities of drugs on this?

A. That's correct.

Q. So, it's -- it would be for -- it would be for heavier people or packages or things of that nature?

A. That's correct. It would be for larger objects or larger amounts of controlled substances.

Q. And kilo weighs 2.2 pounds, is that right?

A. 2.2 pounds, 1000 grams.

Q. Pardon?

A. Yes, sir.

Q. But nobody checked to see what the weight range is on that scale, whether it is capable of weighing humans as well?

A. I don't believe so. I think you're correct, sir.

Q. Pardon?
A. You're correct.
Q. Yeah. And cellophane, if I have cellophane at my home am I going to get arrested?
A. Not by me.
Q. Okay. And as I understand the packaging that was in Parnell's house was black duct tape.
A. Yes.
Q. Is that correct?
A. Black -- black tape, industrial tape, correct.
Q. Okay. You didn't find any of that in here?
A. No, the only thing we found at -- at Mr. Goad's house was wrapping material that elephant -- not elephant tape, Gorilla tape, is black -- it's a black like industrial tape.
Q. Right. But not the same tape that Mr. Parnell had?
A. It --
Q. Correct?
A. I don't -- I don't know the answer to that. It was -- it was similar enough for us to take it.
Q. You didn't find any money at his house of any kind of -- couple hundred dollars, correct?
A. No, sir.
Q. You didn't find any cocaine in his house?
A. That's correct.

Q. You didn't find any measurable quantity of -- I think the dog trainer said that he was told that there was drugs on the scale that they found in that container, that tool box, there were no drugs found, correct?
A. No, there were no drugs found at the residence.
Q. It was just the dog alerted to the odor of drugs?
A. That's what he testified to.
Q. But we don't know what kind of drugs the dog alerted to, correct?
A. Correct.
Q. All right. You didn't find anything else in that house or on the property that would be in any way consistent with somebody dealing in drugs, did you?
A. No.
Q. Now in Mr. Parnell's house everything was consistent with dealing with drugs, correct?
A. We -- we found -- would you like me to tell you what --
Q. Sure.
A. -- no -- well, we found -- we found 281 grams of cocaine, some scales and similar things that we discussed earlier in my testimony.
Q. I think there were four scales found that he used in trafficking or dealing drugs? There was -- it wasn't just one quantity of cocaine on that chair in that bag,

but there was cocaine residue in other -- in other places in the house, correct?

A. I believe that's correct.

Q. There was cocaine residue on the scales?

A. I believe that's correct.

Q. I think on a spoon? In plastic baggies?

A. Yes.

Q. Was anybody -- did anybody quantitate or give a quantitative amount as to how much other cocaine was found in that, or do y'all just concentrate on the 280 grams?

A. So I think the 281 grams is the total amount of cocaine that was seized from inside that residence.

Q. Pardon?

A. I think it was a cumulative amount, a total amount of the cocaine that was seized from inside that residence.

Q. And at that time at some point later in October he was charged with 200 to 400 grams in trafficking?

A. Josh Parnell?

Q. Yes.

A. Yes, that was -- that was not done by me, that was done by Mr. Sellers.

Q. At that point did you have anything to do with the charges those at all?

A. No, sir.
Q. Or the negotiation in the reducing the level of trafficking?
A. No, sir, our -- our job to investigate, that is left up to the -- to the prosecutor's office.
Q. So at that point you're out?
A. I'm out of it.
Q. Now, on October 3rd were you aware that there were other phone calls between September 22nd and October 3rd between Mr. Parnell and Mr. Goad just that have not been turned over to us or that have -- if they were recorded have not been turned over to us?
A. Every recorded call, every recorded call that -- that law enforcement has made you should have.
Q. That you were involved?
A. Correct.
Q. Okay. Now, you did hear Mr. Parnell say that he think -- I think -- and I don't want to misstate it, but somewhere two or three phone calls were recorded.
A. That sound -- that sounds about right. Whatever -- whatever you have in discovery was what were the recorded calls that were made.
Q. We just have one, October 3rd.
A. Okay.
Q. So if Mr. Parnell is correct and there were two --

A. Two -- I think you have two. I think you have two, sir. There's -- there's one before the October 3rd call. And that third call was the call that could not be recorded.

Q. That is a call between a confidential source and Mr. Parnell?

A. Correct, correct.

Q. But I'm talking about between Mr. Parnell and Mr. Goad.

A. Just one -- one -- one recorded call.

Q. Just one as far as you know?

A. One recorded call.

Q. If there was another one or another one or two you don't know about?

A. Yeah, everything we have should be --

Q. Pardon?

A. All the recorded calls you should have.

Q. Okay. And they should be turned over, correct?

A. They were turned over.

Q. Now, I just wanted to ask you if there were -- the phone calls made on October 3rd, who was present in the room?

A. Myself, Mickey Sellers, and Josh Parnell.

Q. Okay. Were you all present the entire time from 5:00 -- I think it said was it 5:48, I believe is what's

on the DEA-6; is that correct?
A. If that's the time on the DEA-6 that is correct.
Q. Do you have the DEA-6 here?
A. I believe I do somewhere in there.
Q. I just want to make sure.
A. 5:48.
Q. 5:48. So, the call at 5:48 was consistent with what you have in the DEA-6 form, correct?
A. So that was a call -- that was a call that was written down in the DEA-6 form, but, again, you know, we -- we always put at approximately 5:48 because everybody's clock is different, you know, their cell -- cell phone companies have different times and --
Q. Now have you -- I don't -- I hate phone records, but you're familiar with phone records, I know that.
A. I am, unfortunately. But I try not to look at them as well.
Q. But these are Exhibit Number 1, is there were calls that were made on October 3rd.
A. Okay.
Q. And between 5:48, let me just see if I pinpoint it, there's 5:48 right there.
A. Uh-huh (affirmative).
Q. It's a call and then at 2:36 it appears that would be the length of the call that was made -- recorded, is

that consistent with that?
A. It could be. If -- I mean, if that's -- it does not have a set -- a heading indicating --
Q. Right.
A. -- the time so it's -- it just says 2:36, I suspect that could be seconds, but I'm not sure. And I don't know what the zero indicates, if that's an outgoing call or an incoming call.
Q. Well, these are the outgoing calls, these are the ingoing calls, as far as what we have.
A. Okay.
Q. So, and this is the minutes.
A. Yeah.
Q. Okay? So, the length of that call would that be about consistent with 2:36 -- 236 seconds, I mean.
A. I -- I believe so. But again, I'm -- I'm not a phone expert. I've left that -- that industry to somebody else who can --
Q. I've got it. I know what you're talking about. Let me ask you this, I went through the -- so you were in the courtroom when I went through several phone calls between Mr. Sellers and Mr. Parnell during that period of time. I think 6:08 -- maybe between 5:48 and 6:08, something like that.
A. Okay.

Q. Do you recall that, us discussing that?
A. I remember it -- well, I --
Q. Okay.
A. I was --
Q. If Mr. Sellers was in that room --
A. Uh-huh (affirmative).
Q. -- do you know why there are so many phone calls between Mr. Sellers and Mr. Parnell, but everybody's in the same room? It just -- it's just nagging at me. Why would it be?
A. So I -- I have an explanation. I -- I believe I have an explanation for that, but that's a law enforcement -- that is a technique that -- that we're -- we have that is -- I -- I don't know if we can discuss it at this time.

MS. MCKELLAR: Your Honor, it is proprietary, but I think I'm going to let him give a general overview if that's okay.

WITNESS: Okay.

THE WITNESS:
A. So -- so the government has the ability to mask the calls. So, I could -- I could -- I could have Josh Parnell's phone place an outgoing call to Mr. Goad's phone and record that call remotely. We were present when that call was made, and I suspect, and I don't know

this, but -- 'cause it has been eight years, that the reason there's back and forth communication with -- between Mr. Parnell and Mr. Sellers was because of the bleed over, if we're too close in standing next to the person, there could be some bleed over similar to what happened earlier today with the microphones. And we would not be able to hear the conversation, and it could expose that the call was being recorded. But we were present with -- with Mr. Parnell at the Sheriff's Department when that occurred.

Q. But I guess I'm just still -- the -- if they're sitting right near each other and there are phone calls going back and forth between Mr. Parnell and Mr. Sellers and text messages, you're sitting right in the same room, I -- I just -- I still don't understand.

A. Correct, but if you have -- if you have too many -- too many microphones in one certain area there could be some bleed over. So, the call might've been initiated one -- we might have -- Mickey might have went to another room because of the potential for bleed over in the -- with the proximity of the phones, if that makes sense.

Q. What does bleed over mean? I'm sorry.

A. Similar to what happened earlier today when the mic started squealing.

Q. Uh-huh (affirmative). Okay. Now, there was a

second phone call just a few -- couple of minutes or actually some seconds after the first phone call that was recorded, and that was not recorded, the one that you testified you overhead.

A. Yes, sir, that's correct.

Q. There -- if the equipment is right there and the two law enforcement officers are right there, Mr. Parnell is right there, and the equipment is there, why wasn't that recorded?

A. So a lot of times it -- it's a process to get the equipment going. It is a process. And at times we don't want the person that's cooperating with law enforcement to give any indication to the person he's speaking to that he's cooperating with law enforcement. And in this situation if he did not answer the phone immediately after the call had just been -- it had just discussed, that could have given -- given some concern to Mr. Goad. So we had him answer the phone immediately and put it on speaker phone.

Q. While there were two unanswered calls where Goad called Mr. Parnell prior to that second phone call.

A. I don't --

Q. According to those records.

A. Sir, I -- and it -- again, I'm not an expert in phone (inaudible). I'm -- I'm really not. So I don't --

I don't feel as though I'm qualified to --

Q. Understand okay. But, if in fact the -- you had just recorded a phone call that was played, and very shortly thereafter there's another phone call and it's not recorded, what -- there's got to be some explanation for that.

A. I thought we just -- I'm sorry, I -- I thought I just gave the explanation. It was because the process in getting the -- the equipment up and running --

Q. But it's there.

A. It's a process, Mr. Swerling. It is a process --

Q. Pardon?

A. It's a process. Nothing the government does is easy, trust me.

Q. And so you don't really know then? I mean, what Mr. Sellers was -- the issue with how he was operating the equipment.

A. So, I don't know why there's phone calls going back and forth. I -- I do know that Mickey and I were present on October 3rd when the initial recorded call was made, and the subsequent call was made by Mr. Goad to Mr. Parnell and that call was put on speaker phone.

Q. I just have one more question. Mr. Sellers testified yesterday that you can't hear the other end of the phone conversation, that's what he testified to.

A. Right.
Q. And you're saying you overheard the other end of the conversation.
A. So when we're going through the phone calls today, back and forth with the phone calls, we -- I think the reason because of that was we -- we used the government's -- our recording device and not the recording device that was put in the ear. It was a different type of recording device.
Q. But that doesn't explain how Mr. Sellers said he couldn't hear the conversation, the other end of the conversation.
A. You'd have to ask Mr. Sellers.
Q. Okay. You don't want to speak for him?
A. No, sir, I don't.
Q. Okay. Just one or two more things. I asked Mr. -- is there any question that Mr. Parnell told y'all that he was -- that he got between 10 and 20 pounds a week from Mr. Goad at several different intervals and it came out to 2600 pounds?
A. Yeah, when -- when -- when -- following Mr. Parnell's arrest, we asked him to -- to discuss his involvement in the distribution of controlled substances. And he -- he told law enforcement that he initially got started with selling marijuana for Mr. Goad.

Q. Right. So the low end if it was 10 pounds a week during that period of time -- let me ask you this, he gave you those numbers, right? Not -- not me, I wasn't giving him the numbers, he gave you those numbers?
A. Yes he did.
Q. 2600 pounds.
A. Yes.
Q. And that -- and it was between 10 and 20, so if it was 10 pounds it would be 2600 pounds over that period of time that he talked about, and if it was 20 pounds a week it'd be 5200 pounds. So, you would agree, we talked about somewhere between 1.3 and 2.6 million dollars.
A. Sir, I don't --
Q. According to his calculation.
A. Well, I always go with the low end when I -- whenever I do a debriefing like that. When somebody says that he had purchased between 10 and 20 pounds from an individual or the source supply, I always go out -- out of abundance of caution and -- and calculate the low end of the -- the drug amount so as not to over -- over calculate.
Q. Yeah, no, I -- and I get that, I understand. I'm, you know, involved with a lot of these cases too but, the low end is 10 pounds --
A. Yes.

Q. -- a week, the high end is 20 pounds a week, so there's a range there between 2600 pounds, according to his figures, and 5200 pounds.
A. Yes.
Q. So somewhere between 10 and 20 at $500 a pound comes out to somewhere between 1.3 million and 2.6 million.
A. That's the math.
Q. And let me ask you this, your knowledge of drug dealers, they -- on occasion there are drug dealers who continue to deal drugs even after they're arrested, correct?
A. On occasion that happens, yeah -- yes.
Q. And you've heard testimony today, did you know he was a heroin addict?
A. I did not.
Q. He didn't tell you that?
A. No, sir.
Q. Okay. And were you aware that he was arrested in November of 2017 over a year later with heroin?
A. I -- I do remember hearing that, but I don't know when again it's -- it's been eight -- eight years ago.
Q. And -- and we don't -- I mean, I'm not going to ask you to say he was selling drugs, but in your professional experience there are people who are busted for drugs who continue to use drugs and also continue to sell drugs?

A. Yes.
Q. And they make money selling drugs even after they are busted, correct?
A. Yes.
Q. Okay. And in this case we do know he was a heroin user and was arrested in November of 2017.
A. Yes, I learned that later. But, yes, you're right.
Q. You had -- and I just want to make sure, you had nothing to do with him not being prosecuted for any of these offenses that took place prior to September 22nd?
A. No, sir. Our job is to find the truth and report the truth to the prosecutors, that's all.
Q. And you had nothing to do with his reduction of charges or dismissal of the charges he had after he was arrested?
A. No, sir. You know we never promise anything to --
Q. Thank you.
A. Thank you, sir.

JUDGE NEWMAN: Any redirect?

MS. MCKELLAR: Nothing further, Your Honor.

JUDGE NEWMAN: Wonderful, you may step down. Thank you. Ms. Gatte, Ms. McKellar?

MS. GATTE: Your Honor, at this time the State rests.

JUDGE NEWMAN: Okay. Y'all approach?

(BENCH CONFERENCE)

JUDGE NEWMAN: All right, ladies and gentlemen, there's certain matters of law that I need to discuss with the attorneys outside of your presence. Please return to your jury room and do not discuss the case.

(JURY EXITS)

JUDGE NEWMAN: Okay, several things. I want to start before I forget with Ms. Gatte, Ms. McKellar, I understand that you told law enforcement you wanted to talk to Mr. Parnell before he left; is that correct?

MS. GATTE: I believe he requested to talk to us.

JUDGE NEWMAN: Okay. Do y'all want to talk to him? I mean, that's -- that's keeping him here at this moment. They have not left yet.

MS. MCKELLAR: I'll let her handle this. I'll see if he -- if he actually needs anything from us.

JUDGE NEWMAN: Okay. Okay. All right, while she's doing that, I had asked about potential Defense witnesses and I know I need to advise Mr. Goad of his rights, and he can decide whether to testify. I really am trying to determine whether we're finishing this case tonight or not. If we can

get all testimony done tonight that'd be great. But -- but if not, I don't know. And I guess that might depend -- that depends on whether the Defense has any potential additional witnesses, and whether Mr. Goad intends to testify. So, we'll put a pin in that, but let me ask about motions before we move onto that. Any motions at this point?

MR. SWERLING: The motions you said?

JUDGE NEWMAN: Yes, motions.

MR. SWERLING: Judge, at this time we would ask the Court to entertain a motion for directed verdict. Taking all the evidence in a light most favorable to the State, which is what the standard is, we submit that the State has failed to prove each and every element of trafficking in cocaine. And as we ask the Court to exercise its discretion as the 13th juror, a directed verdict.

JUDGE NEWMAN: That's respectfully denied. Anything else?

MR. SWERLING: Judge, could I -- I just want to put on the record, and I'd like to introduce this as a Court exhibit or this photograph from Facebook. The reason why I thought it was relevant, and my offer of proof is this, if he continued -- this is evidence that he continued to deal drugs after the

fact, even though it's after this event. He shouldn't be doing that. He should -- and now we know he was a heroin addict; he's buying heroin on a daily basis. And it would -- I think this kind of muddying after the fact suggests that he may have continued to be dealing drugs as well, without Mr. Goad. So, that is the purpose of putting this into evidence and I'd like to mark it as an exhibit.

JUDGE NEWMAN: Okay, yeah, we'll mark that as Defendant's --

MR. SWERLING: Court -- Court's Exhibit or Defendant's Exhibit --

JUDGE NEWMAN: Five.

MR. SWERLING: However you want.

JUDGE NEWMAN: Five, yeah, Defendant's 5. Not admitted but for ID only. Anything else Mr. Swerling?

(Defendant’s Exhibit 5
was admitted for identification only)

MR. SWERLING: Judge, you going to instruct him about what the issue is and then --

JUDGE NEWMAN: Absolutely.

MR. SWERLING: Okay.

JUDGE NEWMAN: Okay.

MR. SWERLING: Mr. Goad, stand up.

JUDGE NEWMAN: Mr. Goad, would you stand and let's place him under oath.

THE CLERK: Place your left hand on the Bible and raise your right hand. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

MR. GOAD: Yes, ma'am.

THE CLERK: Thank you.

JUDGE NEWMAN: Did you swear him? I wasn't paying attention.

THE CLERK: I did.

JUDGE NEWMAN: Okay. All right. Mr. Goad, at this time I'm going to explain to you certain of your rights. If you do not understand any -- anything I say, please let me know. I just lost my place. If you want me to explain anything in more detail, please let me know, do you understand?

MR. GOAD: Yes, Your Honor. Yes, Your Honor.

JUDGE NEWMAN: With -- sorry.

MR. GOAD: I'm sorry.

JUDGE NEWMAN: That's --

MR. GOAD: I didn't know.

JUDGE NEWMAN: That's me losing my place. Okay, we have now reached the stage of the trial where you may present your defense. You have the

right to claim the protections given to you by the Fifth Amendment to the Constitution of the United States. This Amendment states in part, no person shall be compelled in any criminal case to be a witness against himself. This means that you cannot be required to testify in this case. You have the right to testify on your own behalf, however, no one can make you testify. This is a personal right, and no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses, and you may be examined and cross-examined on any relevant issue in this case. In addition, if you have any convictions involving dishonesty or false statement or for crimes punishable by imprisonment for more than one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the Attorney General will be able to introduce your record to attack your credibility. If you decide to testify, this decision on your part must be freely, voluntarily, and intelligently made with knowledge of the protections given to you by the Fifth Amendment, and the consequences of your decision to testify. If you decide not to testify, I will instruct the

jurors they cannot give the fact that you did not testify any consideration whatsoever, and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you whether or not you testify. You may talk to your attorneys, your family and friends or anyone else, but the final decision will be left entirely up to you. Do you understand what I have explained to you?

MR. GOAD: Yes, ma'am, except for the part about attacking my credibility. I don't -- I don't know what that meant.

JUDGE NEWMAN: So, if you -- just the -- does he have a criminal record?

MS. GATTE: Yes, ma'am, Your Honor.

JUDGE NEWMAN: Okay. So, if you have -- apparently you have a criminal record, criminal convictions, the prosecution will likely attempt to use evidence of those convictions or ask you about those convictions, if you choose to testify. Whether they are able to, depends on my determination, but -- but if you are -- have been convicted of crimes involving dishonesty or false statement or for crimes punishable by more than one year, and I determine that the jury can hear about

those things, then they will be able to use those things in questioning you to attack your credibility. Do you understand?

MR. GOAD: Yes, ma'am.

JUDGE NEWMAN: Do you have any additional questions about what I have explained to you?

MR. GOAD: No, Your Honor.

JUDGE NEWMAN: Okay. And this is where it comes in, do we have other witnesses? Do you want me to ask him if he's going to testify right now? Can we wrap up this case this afternoon?

MR. SWERLING: Judge, I mean, I'd like to discuss it with him. But is the State contending (inaudible) the charge? I just want to know whether or not that it's admissible under 609

MR. HOUGH: Well, I don't know if -- Your Honor, before I -- I spoke with the Government very briefly after your questioning Mr. Goad regarding his prior record, and I think we might want to review that prior record. I could be wrong; I don't know if it's particularly in the notebook.

JUDGE NEWMAN: Because of course I will give him time to discuss it with whoever he wants to, but I need to know whether that's 10 minutes in the hallway with you all or overnight to talk to friends

and family.

MS. GATTE: Your Honor, I don't believe that there's anything on his criminal history anymore that would qualify.

MR. HOUGH: That's prejudicial.

MS. GATTE: I attached his -- attack his credibility if he testifies.

JUDGE NEWMAN: Okay. So, there are no convictions to consider.

MS. GATTE: No, ma'am, Your Honor.

JUDGE NEWMAN: To attack the credibility.

MS. GATTE: Nothing that carries more than a year.

JUDGE NEWMAN: Okay. And that's what I was explaining to you, Mr. Goad, it's only under certain circumstances for certain kinds of crimes, and it depends on the date of the conviction. But apparently for your record, although you have criminal convictions, none of those can be used in this trial, the prosecution won't even attempt to use them. They're not even asking me to make a determination, they -- they know that those convictions don't qualify to attack your credibility. Okay, where are we?

MR. SWERLING: Judge, I do not believe that we

will be calling any other witnesses. But I would like the opportunity to discuss with him and go back to my office and discuss this with him.

JUDGE NEWMAN: Go back to your office and discuss it with him?

MR. SWERLING: Yes, if we can go back --

JUDGE NEWMAN: So you want overnight?

MR. SWERLING: Please. I think that -- I -- I don't want to compress his testimony in.

JUDGE NEWMAN: Sure.

MR. SWERLING: And I think that if we meet back at my office, Randy, then we can expedite the testimony as well. And I don't believe we are going to call any other witnesses, so we should be able to get to the jury by lunch, I would think.

JUDGE NEWMAN: Yeah. Okay. Wonderful. Let's bring the jury back in so that I can dismiss them.

MR. SWERLING: I appreciate it. It's just I don't want to rush -- I would not want to rush this.

JUDGE NEWMAN: Absolutely. And that's what I said, I didn't want to ask him right now. I always after advising you, want to give you some time to talk to whoever you need to talk to. You can have a seat.

MR. GOAD: Thank you, Your Honor.

JUDGE NEWMAN: I'll ask you in the morning.

MR. HOUGH: Thank you, Your Honor.

JUDGE NEWMAN: Okay.

(JURY ENTERS)

JUDGE NEWMAN: Y'all can pick any seat, this is gonna be quick. Go ahead and sit down wherever. All right, folks, I wasn't sure if we were going to be able to finish this trial tonight. I -- I think that we're not going to be able to, at least not without staying here really late and I don't want to do that to you, or to myself, or court staff or anyone else. So, we're going to have to finish this case in the morning. So I'm going to go ahead and excuse you for the afternoon. I apologize to whoever called their job and -- and said they might not be there at 6:00, but you'll be able to make it now. So that's a good thing. I'll see you tomorrow morning at 9:30. Don't discuss the case amongst yourselves or with anyone else. Don't do any research about the case. Just so you know, I did get a message about someone who wanted to step out and check their phone, but I just wasn't sure if I was letting you go or keeping you, so that's why I didn't respond immediately. But of course now you have your phone and can do whatever you need to do.

So be back in the jury room tomorrow morning at 9:30. Have a good night.

(JURY EXITS)

JUDGE NEWMAN: All right, just before we break, number one, I need to know if the Defense has any proposed jury charges. If so, those need to be emailed to me this evening, to me and my Clerk. I've gotten the State's proposed charges, and my Clerk has begun to put together charges. It is a very, very rough draft but I -- I just ask her to email it to you all so that you can begin to look at it tonight so that hopefully our charge conference goes a little bit faster tomorrow. So, there are probably some things that are duplicates in there, she's mentioned there's some highlighting because there's language from a charge I already had plus language from a charge suggested by the State that probably says the same thing. And we could work on deleting paragraphs and all of that, but we try to start with something that is more full and dilute from it, rather than having to stick things in. So, we will email that to you all this evening. You have something, Mr. Swerling?

MR. SWERLING: Judge, I have some, but I'd like to still edit a couple of these, there are -- I

did it last night and -- but I can send the final copy. It's basic -- this is what we're looking for.

JUDGE NEWMAN: That's a good starting point though. I mean as much as you have that she can do tonight --

MR. SWERLING: And again, these are not exactly what I would want, but I just --

JUDGE NEWMAN: Sure.

MR. SWERLING: -- I did it to give it to the Court.

JUDGE NEWMAN: Okay. And she'll incorporate those before she emails them to you all so that you have a good working copy at least that we can talk about tomorrow morning, okay? See you all at 9:30.

MS. GATTE: Thank you, Your Honor.

JUDGE NEWMAN: Thank you, thank you.

MR. SWERLING: Thank you, Your Honor.

(The proceedings were adjourned until 9:30 a.m., October 31, 2024)

CERTIFICATE OF TRANSCRIBER

I, Jessica Antonucci, a court-approved transcriber, do hereby certify that I transcribed the electronic recording of the foregoing proceedings in Docket No. 2016-GS-28-1123 held on: October 30, 2024 before the Honorable Jocelyn Newman, and that said transcript is true and correct, all to the best of my knowledge and ability.

I further certify that I am not related to nor the employe of any of the parties or witnesses hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

December 12, 2024

Jessica N. Antonucci

Transcriber

CONTINUATION OF PROCEEDINGS - OCTOBER 31, 2024

JUDGE NEWMAN: All right, folks. You've now had the opportunity to review the Court's jury charge. We have made some minor changes, but those are more like typos. I think in the indictment section it refers to multiple indictments, we have to change that to singular, etcetera. So, nothing substantive from what you've received. So, I know that the State objects to the mere presence charge. I am going to charge that over the State's objection, I don't even think I need to hear an argument on that. Just based on the testimony and the cross examination, you know, there is a theory under which Mr. Goad could have just been stopping by the house that day. I mean, I know there's a witness, obviously Mr. Parnell says no, he brought it in and gave it to me, but there's much ado made about not having any photographs of the transaction, you know, even if that's him in his car at the house, how do we know what happened. So, I think the mere presence charge is appropriate. The lesser included charge I'm a little more on the fence about. What evidence is there Mr. Hough to support charging the lesser included of a lesser amount of drugs?

MR. HOUGH: Your Honor, during Agent Hardin's testimony Mr. Swerling was asking him about cocaine throughout the house that was raided, it was Parnell's mother's or grandmother's house, where the large quantity of cocaine was found, and he said it was his understanding, you know, he was brought in to kind of give an overview, it was his understanding that all the cocaine in the house had been gathered and put into the BEST envelope, that all of it -- that, you know, it wasn't just -- just leaving it around, they had put it in the package, the BEST envelope, whatever it's called, to have it tested. Surely I know there's things that can contradict that, but there is evidence from his testimony that all the cocaine in the house was sent to be tested by SLED.

JUDGE NEWMAN: In Parnell's house?

MR. HOUGH: Yes, Your Honor.

JUDGE NEWMAN: I think I'm still not following how that gets us to Mr. Goad potentially being guilty of trafficking a smaller amount.

MR. HOUGH: Your Honor, I think it was well established by the Government's witnesses that there was other cocaine in the Parnell house. And the Government hasn't been trying to prove, beyond a

reasonable doubt, that the other cocaine in the house was delivered and therefore had been in possession of Mr. Goad it just -- the -- the amount that they say was brought in to the house by him. So, there was all the coke -- the testimony from Agent Hardin was, this is his understanding, it was all retrieved, all taken together, all tested. So that amount tested by SLED could indeed be all the cocaine in the house, not just the cocaine that they allege was delivered by Mr. Goad on that day.

JUDGE NEWMAN: Well, I don't think the evidence bears that out because, you know, only -- huh. Give me -- let me hear from Ms. Gatte. I'm gonna walk down, but keep talking.

MS. GATTE: Your Honor, I don't know that Mr. Hough is restating Agent Hardin's testimony accurately. I think that the only real evidence that there was any other cocaine in the house may have been residue in plastic baggies, which Agent Sellers said could not be weighed or tested. So, the cocaine that was delivered by Mr. Goad was sent in a BEST kit, and there's no undisputed testimony, Your Honor. The case law is clear when the undisputed evidence is that the amount of the drugs involved exceeds the minimum trafficking amount then

the only trafficking -- then only the trafficking charge should be submitted to the jury.

MR. HOUGH: And Your Honor, I'm not disputing what Agent Sellers may have said. All the testimony is not 100 percent consistent is always the case despite every trial, I'm talking about what Agent Hardin said at the end.

MS. GATTE: Agent Hardin's testimony was that the cocaine found on the chair was placed into a BEST kit, and there were additional paraphernalia items found, the spoon with residue, scales with residue, baggies with residue. The residue cannot be weighed, and therefore the undisputed evidence shows the weight exceeds the trafficking threshold, which means that the lesser included charge should not be given.

JUDGE NEWMAN: So, is there some theory, Mr. Hough, that Mr. Goad delivered a lesser amount?

MR. HOUGH: I -- I think the jury could believe that based on the evidence. If the jury believes the Government tested the evidence, their argument that he delivered some cocaine to the house, but there was cocaine throughout the house. And I understand the statement by the Government about the residue, but when Mr. Swerling -- on

cross-examination, I believe, it was less clear, oh, it's just residue and we didn't do anything about it. He said, it's my understanding all the cocaine in the house throughout the house was gathered up and placed -- you know, sent to be tested. I mean, it's -- if we were looking for -- you know, it was in response to a question by Mr. Swerling.

MS. GATTE: And Mr. Parnell indicated he took the brick, he cut it up to separate what he was going to give to the CI, it was in the same location, and then that was placed into a BEST kit.

MR. HOUGH: Well, I'm not addressing ---

MS. GATTE: Mr. Parnell --

MR. SWERLING: I'm sorry, I didn't mean to interrupt you.

MS. GATTE: Mr. Parnell also testified that any cocaine that was in the house would've come from Mr. Goad, because all of his cocaine came from Mr. Goad.

MR. HOUGH: Well, I don't think the Court limits itself to what Mr. Parnell said. I mean, that's --

MS. GATTE: Well you're trying to limit it to what Agent Hardin said.

MR. HOUGH: No, I'm -- there is some evidence.

A jury can believe -- I mean, Mr. Parnell said to the jury, he talks about how he lied. I mean, the jury can believe some -- you know, all, or part of the witness's testimony, it's not a question of what Parnell said. I know -- I understand that contradicts things. It's a contradiction to the theory that we believe the evidence given to the testimony of Agent Hardin was presented to the jury that would make it appropriate to say, you know, to charge the jury with the lesser included amount. I mean, I think -- it's not a question of, you know, if Sellers said this or Parnell said that, I mean, there is evidence presented by, you know, in the Government's case that there was cocaine throughout the house, it was all gathered up, and sent to SLED.

MS. GATTE: Your Honor, I just really believe that Mr. Hough is misstating the testimony that came in. And also the threshold amount was met, clearly in this case, the trafficking amount was met. And so there's no undisputed evidence as to the 281 grams of cocaine.

JUDGE NEWMAN: Yeah, and I think that's sort of the problem that either the jury believes that or they don't. There may have been some other cocaine, let's say there was a little bit of powder

somewhere. First off, there's no testimony -- there's no evidence -- well, no, Mr. Parnell would've said -- he said that that would have come from Mr. Goad, but there's no evidence of what that looked like, what the weight is. There's not sufficient evidence to find him guilty of trafficking some lesser amount. That could've been some little pinch that, you know, Parnell was about to use or something, right; on a table, I don't know. But that's the point, I don't know and nobody knows, there's no photograph of it. There's no weight of it. I mean, in fact if he were to be charged with trafficking a lesser amount, I think that's a not guilty verdict because you don't have any weight on any lesser amount. It might even be a directed verdict had he been charged with something other than bringing this brick to the house. There's no competent evidence, there's insufficient evidence from which a jury could conclude that he's guilty of trafficking any lesser amount. In fact had it been a pinch on the table, that would be a distribution, not a trafficking. Or if, you know, Mr. Goad had been sitting next to it, it'd be a possession, or a possession for Mr. Parnell, or something like that. But there's no evidence to

meet the elements of trafficking a lesser amount.

MR. HOUGH: Thank you, Your Honor. May I have a moment on a factual issue? Your Honor, I've said -- and again, I believe the standard is not -- you know, there could be evidence in the Government's case that contradicts other evidence presented. That's a normal thing. But I believe also through the testimony elicited from the SLED chemist that there were two -- we can say it's one package, it was actually two pieces, and testimony elicited could indicate that it took the two of them together to get beyond 200 grams and, you know, therefore lesser included.

JUDGE NEWMAN: The larger piece alone is -- weighs in at more than 200 grams.

MR. HOUGH: Well, by the same token then, Your Honor, the smaller piece was, and I don't have it in front of me, so if the smaller piece is also over 200 grams, then I think that does --

JUDGE NEWMAN: The smaller piece is not.

MR. HOUGH: So if smaller piece -- the jury believes based on the evidence presented that it -- you know, well we think you took something in there. We think you took, you know, something more than just an ounce, but we're not convinced beyond a

reasonable doubt that it was the bigger of the two, given that Mr. Parnell is a big drug dealer and there's cocaine everywhere, that it -- if it was a smaller brick or block or whatever we call it, then they should have the ability to deliver a lesser included offense or --

JUDGE NEWMAN: Yeah, there's no evidence of that though. Either they believe what Mr. Parnell said he brought this brick or they don't. But there's nothing nowhere, anyone -- they would have to completely speculate that, you know, make up their own story that Mr. Goad brought in this smaller piece. And frankly if that's what they do, then he's just not guilty.

MR. HOUGH: Your Honor, I take that as the ruling of the Court, so I won't say anything more about the two --

JUDGE NEWMAN: Okay.

MR. HOUGH: -- bricks.

JUDGE NEWMAN: Thank you.

MR. HOUGH: Thank you, Your Honor.

JUDGE NEWMAN: The other question before I get to you, Ms. Gatte, the other question I had is in reviewing the charge. I realize we included the language about giving the jury a copy of the charge,

that was just in there from a previous jury charge. I don't -- what is the State's position on them having a copy of the charge?

MS. GATTE: I don't know that they need a copy of the charge, but I'll leave that in the Court's discretion.

JUDGE NEWMAN: Defense position?

MR. SWERLING: I concur, Your Honor.

JUDGE NEWMAN: Okay, we'll take that out. We'll not give them a copy of the charge, that's fine. You had something else, Ms. Gatte?

MS. GATTE: Your Honor, the State also objects after reviewing to the identification charge. I don't think that identification is an issue in this case. I think we've had ample testimony that law enforcement and Mr. Parnell all identified the defendant and then any identification issue was cured by the repeated identification within the courtroom. So we would object to that one as well. I don't think that his identification is at issue in this case at all.

JUDGE NEWMAN: What says the Defense?

MR. SWERLING: Your Honor, part of the identification charge is they have to prove it's him beyond a reasonable doubt. It certainly would be

something I think would be appropriate, so I think you ought to leave it in. But I do like that -- I do -- I do agree with that language, that they have to prove his identity beyond a reasonable doubt. And that he's the person who actually committed the crime, so.

MS. GATTE: I just don't think there was any testimony or any cross-examination tending to lead the jury to believe that it was not him. There was no line of questioning, questioning whether it was him there. All the questioning was about whether he carried the drugs into the house or not, whether he physically delivered the drugs. And so it wasn't a question of identity, it was a question of the act.

JUDGE NEWMAN: There were questions regarding identity because, you know, obviously they see the vehicle, checked the registration, it's registered to Mr. Goad's wife, they allegedly see him and take photographs, I mean, they did drive up -- you know, you'd have to believe the accuracy of all of that. I did think about removing it actually, I -- I wondered the same thing as you, Ms. Gatte, but I mean there could be an argument that, yeah they saw a guy but it wasn't me. I -- I don't know. But I'm going to leave it in. That's -- it's usually a more

difficult decision for me to make at least when -- when the defendant doesn't testify or doesn't present a case, you know, it's one thing for him to have testified and said yeah, I was there but I didn't deliver any drugs, then I take out identity all together because, you know -- but, without that it's a little dicier, so I will leave it in. And you'll just have to make a strong argument that who else was it? I don't know. Okay, anything else?

MS. GATTE: Not from the State.

MR. HOUGH: Yes, Your Honor, it's -- discussion leads me to this, it's not specific about a jury charge, but we just wanted to make sure that the jury's going to have, you know, the ability to listen to the audios that were entered into evidence. 'Cause I -- honestly I think the quality in here is not the best in this cavernous courtroom.

JUDGE NEWMAN: This -- the Kershaw County Clerk of Court in this regard is better than some other clerk's of court, in that there is a flat screen TV on the wall that has a -- it has a disc drive? Or is it just a flash drive? In the jury room. Yeah, is there -- like for a CD?

THE CLERK: Yeah, we've got -- if they've got a flash drive.

JUDGE NEWMAN: Oh, okay, I'm sorry.

THE CLERK: (Inaudible) CD.

JUDGE NEWMAN: Yeah, right, that's what I thought. Yeah, it's actually in the jury room, for the jury's use. I know you don't get that in Richland or a lot of other places, but that exists here. We don't have to take any devices or wipe the computer and bring it in there. They are able to watch videos, listen to audio on CD's, flash drives, etcetera, without any assistance from court staff.

MR. HOUGH: Thank you, Your Honor.

JUDGE NEWMAN: Okay.

MR. SWERLING: Your Honor, would somebody tell them how they do that? Is there some instructions that need to be done, listening or video?

JUDGE NEWMAN: I've never had a problem. I've never had them ask. Usually between the 12 of them, one of them knows how to do that. You know, if they ask, I mean, they'll send a note out if they have issue. But --

MR. SWERLING: But you'll let them know there is -- the equipment is in there, I guess.

JUDGE NEWMAN: Sure.

MR. SWERLING: Yeah, okay.

JUDGE NEWMAN: Okay. I'll do that.

MR. SWERLING: Judge, as far as -- I'm fine with the charge, the only part of the charge that I would ask Your Honor to -- other than what we've already talked about, is on page -- and I've objected to this for 40 something years -- 50 years. On page eight, about the defendant's election not to testify, I'd ask Your Honor to strike out the sentence the defendant has the constitutional right to remain silent. I -- I've always asked for that to be struck. It's always been granted. It's because -- and I don't -- it's a negative implication to me that you're asserting a constitutional right to remain silent. Sounds like you're -- could be somebody taking the Fifth Amendment in Congress, a mobster or something. So I've always objected to that and most lawyers that I know do object to it.

JUDGE NEWMAN: So it's the word constitutional?

MR. SWERLING: Pardon?

JUDGE NEWMAN: The word constitutional?

MR. SWERLING: Yeah, the defendant has the constitutional right to remain silent.

JUDGE NEWMAN: The right, you --

MR. SWERLING: And the assertion of that right

must not be considered by you in any delib -- that whole sentence.

JUDGE NEWMAN: The whole sentence?

MR. SWERLING: Yeah, 'cause it refers to the constitutional right.

JUDGE NEWMAN: Well, and that's why I'm asking, can we just take out the word constitutional? The defendant has the right to remain silent?

MR. SWERLING: I'm sorry you're saying take out the word constitutional --

JUDGE NEWMAN: Just the word constitutional.

MR. SWERLING: -- right to remain silent?

JUDGE NEWMAN: Just the word constitutional.

MR. SWERLING: I'd like to take out the constitutional right to remain silent. 'Cause I think your other parts of the charge there explain that they are not to consider that. Or we -- or you can frame it that he has a right to remain silent. I -- I just -- it's the constitutional right to remain silent.

JUDGE NEWMAN: What says the State?

MS. GATTE: Your Honor, the State has no position. If Mr. Swerling wants to take out the defendant's constitutional right, then that is fine

with the State, I guess.

MR. SWERLING: Judge, just so you know, I've always objected to that.

JUDGE NEWMAN: Yeah. We'll take out the sentence at defendant's request. Okay. Anything else?

MS. GATTE: Not from the State, Your Honor.

JUDGE NEWMAN: All righty.

MR. SWERLING: Excuse me, Your Honor, one -- Your Honor, I think that's covered in other parts of your charge on the right to remain -- the right not to testify. The only other question I have is the order of argument.

JUDGE NEWMAN: Y'all tell me.

MS. GATTE: The order of argument?

MR. SWERLING: Yeah. Since we didn't put up any testimony.

MS. GATTE: But the Defense put in an exhibit so the State intends to reply.

MR. SWERLING: Okay. I tried. Good catch, good catch.

JUDGE NEWMAN: Yes. Okay.

MR. SWERLING: I just wanted to see if they, you know, learned anything of (inaudible) or something.

JUDGE NEWMAN: Keeping them on their toes. Anything else?

MS. GATTE: No, ma'am, Your Honor.

JUDGE NEWMAN: Okay, we're gonna make those last couple adjustments, take five minutes or whatever, 10 minutes, and then we'll come back with the jury to argue and charge.

MR. SWERLING: Judge, under Beaty though they have to open in full and only reply.

JUDGE NEWMAN: Yes, open in full and then -- yeah, okay. Be back in about 10 minutes.

MR. SWERLING: And I guess -- I apologize, we can -- I just need to rest, I guess, so I'll rest in front of the jury. However, I would like to renew the motions that we made, ask the Court to renew those at this point, and incorporate in whatever argument I made at the conclusion at the State's case just for the record.

JUDGE NEWMAN: Absolutely. My rulings remain the same. All right. I'll see y'all in a few minutes.

(BREAK)

JUDGE NEWMAN: All right, we can -- go ahead.

MS. GATTE: Your Honor, if there was one we could take up just really quickly --

JUDGE NEWMAN: Sure.

MS. GATTE: -- before the jury comes in. I conferred with the Clerk of Court, and we are unsure if that TV screen works for discs. We do have a clean laptop that's been wiped that the Defense is more than -- I mean, we can have them look through it. There are no documents on it. It's a clean laptop that we've borrowed from the Solicitor's office. We have the evidence disc with the disc player, it's available for review, so.

JUDGE NEWMAN: Any objection to that going into the jury room? Do you want to look at it?

MR. SWERLING: You say the evidence disc, is it just the recording?

MS. GATTE: It's just the disc that will go back and there's no other documents physically on the laptop.

MR. SWERLING: That's what I mean, it's what 13?

MS. GATTE: Uh-huh (affirmative).

MR. SWERLING: Exhibit 13?

MS. GATTE: Yes, sir.

MR. SWERLING: I don't have any problem with it.

JUDGE NEWMAN: Okay, we'll send that back with

the jury then.

MR. HOUGH: As long as it's the Fifth Circuit (inaudible) we trust.

JUDGE NEWMAN: The fighting Fifth. All right, let's bring the jury then.

(JURY ENTERS)

JUDGE NEWMAN: Good morning. I'm sorry, again, I've done it again. I kept you back there in the room for longer than I anticipated but that happens sometimes with trials. I will tell you when you left yesterday, before you left you heard that the State rested its case. This morning while you were outside of the courtroom the Defense also rested its case, meaning they're not going to offer any witnesses. So, all of the testimony you've heard and all the evidence that's in right now is all that will be for this trial. So, all that remains is the closing arguments of the attorneys and then my charge to you on the law. After that, you will retire to deliberate and continue to deliberate until you have reached a verdict. So, at this point I'm going to ask you to give the State your undivided attention for their closing argument. Ms. Gatte?

MS. GATTE: Thank you, Your Honor. Good

morning, ladies and gentlemen. Happy Halloween. I want to start this morning by thanking you sincerely for your service. Thank you for bearing with us this week, I know it was a long week. But we can't do our jobs without y'all, so thank you very much for showing up every day and being here, and giving us your attention. We are all here. We have been here all week because that man is a drug trafficker. That's why we're here. Because on September 22nd, 2016, Walter Goad delivered more than 200 grams of cocaine to 135 Ward Road in Lugoff, here in Kershaw County. When we started this case we told you that it was important, but it was simple. This is a simple case. Drugs were delivered, that's drug trafficking. In a few minutes the Judge is going to instruct you on the law. She's going to give you a bunch of instructions. Whatever she says, that's the rule, okay. So, if anything differs from what I tell you, listen to her. But when she reads you the instruction for drug trafficking, it's long, I want you to pay attention, pay very close attention to two words, sold, delivered. Sold, delivered. In order to find the Defendant guilty, the State has to prove to you beyond a reasonable doubt that the Defendant either sold or delivered this cocaine to

Joshua Parnell at Ward Road on that day. We only have to prove one of those, but ladies and gentlemen, I submit to you we have already proven both. Beyond a reasonable doubt is the standard of proof that the prosecution has to use to prove a case to you. Beyond a reasonable doubt is a very high legal standard. We welcome that high legal standard. We welcome it because we want to be sure when a jury goes to the jury room that their verdict is constitutional, okay. We welcome that high burden. But beyond a reasonable doubt does not mean certainty. There are very few things in life that we can know with absolute certainty. What it means is that you have to be firmly convinced that that man delivered drugs on September 22nd. Firmly convinced. And if you are firmly convinced that Walter Goad brought this cocaine to Joshua Parnell, then you must find him guilty. In criminal trials there are typically two types of evidence, we have direct evidence, we have circumstantial evidence. And again, the Judge is going to instruct you on those. Direct evidence is testimony that tends to prove a fact, eyewitness accounts if you will, eyewitness testimony. There is also what we call circumstantial evidence. Circumstantial evidence is

more of a chain of facts and circumstances that lead to a conclusion, that lead to a factual determination. A chain of facts and circumstances. And again, I'll submit to you, ladies and gentlemen, we have both in this case. We have both eyewitness accounts and we have a chain of facts and circumstances that prove the defendant's guilt beyond a reasonable doubt. The eyewitness testimony, you as the jury, it is your determination to decide the credibility of the witnesses that you heard from, that is within your discretion. You determine how credible you find their testimony; how credible you find them. But I want to talk about the chain of facts and circumstances in this case that show that the defendant is guilty. This case was initiated by the DEA and the Kershaw County Sheriff's Office in August of 2016. There were three controlled purchases done on Joshua Parnell. The first one was for one ounce of cocaine, $950. The second one was for one ounce of cocaine $1,000. On September 7th of 2016, they attempted to purchase four ounces of cocaine, and y'all heard what happened there. Joshua Parnell told you where the cocaine was, he had it. He was stopped. The Sheriff's Office, the DEA, they didn't find it that

day. September 13th, our third controlled purchase, two ounces for $2,000. Every ounce cost approximately $1,000. That's corroborated by the testimony that was given in this case. Search warrant day, September 22nd, 2016, law enforcement is going to execute a search warrant to try to get the cocaine that Joshua Parnell is selling. They set up surveillance, they watched the house, and who pulls up? Who pulls up to the house? On the day of the search warrant, who's car is that? Silver Saturn VUE registered to a Jennifer Goad, white male driving, single occupant in the vehicle. They follow after he stays for a short amount of time. Law enforcement physically follows his car. They pull up next to his car and they looked at him. They get close, they make eye contact, so that they can be sure that they identify who is driving, who has just been at the house. Then they execute the search warrant. What do they find? Cocaine. And in this case, the reason why it's so simple is because the only decision that you have to make is whether the defendant delivered the cocaine. You don't have to determine how much it weighed, here's the weight, 281 grams, on this scale. And the SLED report, the actual lab analysis, tells you what the

lab weight is. The actual lab weight of the cocaine. It's more than 200 grams. So that's not something that y'all have to decide, there's undisputed evidence of that. You also luckily don't have to decide that Walter Goad is the one who was there that day, because guess what, we have his car, we have him, and then they figured out where he lived, and there's his car in the driveway. In order to get to the search warrant at Walter Goad's house, law enforcement wanted to be sure that this was someone that they needed to pay attention to. And so, they approach Josh Parnell, and they ask him to make a recorded call to his supplier Walter Goad, who he's already told them delivered the drugs that day. He tried to give him his nickname, Ethan, but law enforcement didn't buy it. He gave them Walter Goad's name. They record a phone call with him, talking about the money that Josh Parnell owed to Walter Goad. They reference in the call the word dope, and they call it the good stuff, or the good one. And you heard testimony about what that means. There's a subsequent call almost immediately after, not recorded, but witnessed by two law enforcement agents. Two DEA agents who witnessed this subsequent call, who told you about it, where the

defendant asked Josh Parnell if he needed to get people to come put guns in people's faces so that they could pay their drug debt. Witnessed by two law enforcement officers, and then testified to on the stand by Josh Parnell eight years later. A chain of facts and circumstances that tend to prove a fact. After all of this, then law enforcement executes a search warrant at the Goad residence. When they get there, knock and announce, knock and announce, door's not opened. They make entry into the home, law enforcement does, and at that time search is conducted. And what happens? A K9 trained specifically to detect the odor of narcotics alerts on this bin in the garage. K9 alert on the odor of narcotics in the Goad residence. No drugs found there. But as you heard, that's not abnormal. You've heard testimony that individuals that move large amounts of narcotics have other places where they store them, that's not abnormal. And the packaging that's found inside of the bin, law enforcement decided it was important to bring that with them when they left the resident also -- residence also. Why? Because the packaging that was found at Walter Goad's house is very consistent, if it doesn't match almost exactly, the packaging

found at Joshua Parnell's house. We've got industrial size saran wrap, and we've got black Gorilla tape; the packaging, industrial saran wrap, black duct tape. A chain of facts and circumstances. Now, the Defense is going to highlight -- try to highlight inconsistencies for you. You as jurors come into this room with a lifetime of experience. And one thing that you possess that is the most important quality that you have is common sense. You do not leave your common sense at the door when you take this seat. And so, I'm asking you to use your common sense in this case. I'd like to talk about some of the differences that we've seen in this case. Not inconsistencies, but differences. Let's talk about the difference in packaging. You heard testimony that Joshua Parnell when he sold drugs, because he's a drug dealer, he told you that, he sells drugs in sandwich bags, okay. A sandwich bag similar to one that you pull out of a kitchen, okay. This is actually larger than the bags that he would use. What does Walter Goad sell his cocaine in? Industrial sized packaging. Let's talk about the discrepancy in these ledgers. Joshua Parnell's ledger has one, two, three, four, five, six, seven,

eight, nine, 10 names on it at one time. On the next page it's got one, two, three, four, five, six names on it at one time. What does Walter Goad's have? You'll have all of this evidence back in the jury room with you when you deliberate, so you can review it more thoroughly there. Let's talk about Joshua Parnell's little drug kit that he had, that you've seen the picture of. He told you why it was camouflaged. He told you he kept his cocaine in here. He would throw it up in the tree if the police were coming so it would hide up in the trees. This is Walter Goad's drug kit. If we're talking about differences, these are the differences that I want you to pay attention to. In this case, even if you don't believe 100 percent of the eyewitness testimony that you've heard, ladies and gentlemen, I submit to you that the chain of facts and circumstances proves well beyond a reasonable doubt that Walter Goad is guilty. I would like to talk about Joshua Parnell for a second. Because eight years after this crime took place, he came and testified. And a lot of questions were asked about why. Why are you here? What did they promise you? When he was arrested eight years ago, did he want to help himself? Sure. He cooperated with the police,

because he was scared and he was trying to get himself out of trouble. And we know that because he told you that. He's been convicted of this crime. He has been serving a sentence for seven years because he told you he's guilty of drug trafficking. That means that Walter Goad is guilty of drug trafficking. What does he stand to gain now seven years into his sentence when he is almost done? Y'all we spent half of this trial reconvicting Joshua Parnell. This is not Joshua Parnell's trial. This is Walter Goad's trial. Joshua Parnell could not have distributed cocaine but for Walter Goad delivering it to him. Walter Goad is the supplier. Joshua Parnell is the sales rep, he's the dealer. That's the supplier. And the reason why drugs aren't found in that house is because that's not a drug addict. That's not a user. That's a business man. That was a drug addict; a recovering drug addict. That was a user. That was a dealer. Sold, delivered. Sold, delivered. Law enforcement spent hours, many agents, they conducted surveillance, they used government money to purchase cocaine. They executed a search warrant, they got cocaine. And they were able to determine where the cocaine came from. Not just who was dealing it here in

Kershaw County, but where it was coming from all the way in Lexington County. Walter Goad is guilty of trafficking cocaine more than 200 grams. I am asking you as the jury to find him guilty. Thank you.

JUDGE NEWMAN: Mr. Swerling?

MR. SWERLING: Thank you, Your Honor. If I could just -- there's a couple things here I wanted to -- excuse me one moment, ladies and gentlemen. I'm sorry, I'm looking -- there's a picture I had here this morning that I set out, I don't see it (inaudible). Okay. Good morning. Hope everybody's well and again, I just wanted to thank you, as I said in my opening remarks, I appreciate you being here and spending the week with us and really showing attention to everything and every detail. We look at the jury just like you probably look at us, you know, we can tell that you are listening and nobody drifted off, everybody was concentrating and I do appreciate that, and so does Mr. Goad, and so does Mr. Hough. Unfortunately, this is my last opportunity to talk to you, which you're probably happy about that, but the State gets to reply to anything I say. So, I've got to cover a little bit more territory than Ms. Gatte just did because I

don't have another chance. They get to listen to me and then they get to respond to it. So, I've got to cover a little bit more. This is -- you know, we're going to vote next week, it's most -- one of the most important rights that we have as Americans. We have the greatest system of democracy in the world and we get to choose who our leaders are, remove the leaders, elect new leaders. It is a privilege in this country to be able to vote. It's also a privilege to serve on a jury, the right to a jury to a jury trial, and a right to empanel the jury from the community and sit between the government and the citizens of the community to go ahead and well and truly try in true deliverance make, that's the oath that you took, between the State and the Defendant who's at trial. It's the greatest system ever devised in the history of the world, the right to a jury trial. And, it is -- the Judge is going to give you the law on it, and that law has been developed over hundreds of years, going back to the Common Law of England. And it's most important, there's a couple of principles that are really important, we talked about that in my opening remarks. I'm not going to go into that detail again, but just -- I -- I know you understand that

we -- the right to a jury trial by a defendant, the right to sit on a jury, the right to vote, we're unique in the world, folks. And we have to preserve that. And we're asking you to go ahead and preserve that and render a true verdict in this case. As we said before verdict means to speak the truth in Latin, to speak the truth. To speak the truth would be a not guilty verdict in this case because as the Judge will tell you, the evidence in the case has to be beyond a reasonable doubt. The proof has to be beyond a reasonable doubt. And as we talked earlier in my opening remarks, in the outside world when you -- and common sense, I agree with Ms. Gatte about it, it's all about -- it's common sense. But in the outside world if you have a reasonable doubt about something you can still do whatever you want. But in this courtroom when you are on a jury and when you are a person accused of a crime, the law is that the reasonable doubt, if you have one, a real possibility that the person is not guilty or is innocent, is the fact that you have to in the jury as a juror in the courtroom, you have to resolve that doubt in favor of the person accused of a crime. That is what makes us unique among the world in the judicial system, reasonable doubt, proof

beyond a reasonable doubt. And if they don't prove it beyond a reasonable doubt a person accused of a crime whether it's shoplifting, trafficking, or whatever the crime might be, is entitled to a verdict of not guilty as a foundation of our system. Presumption of innocence, the Judge will instruct you, and I'm not telling you anything the Judge is not gonna tell you, but the presumption of innocence that we talked about earlier, is the -- right now, actually, you are supposed to consider him innocent, under that presumption of innocence, and when you go in the jury room to deliberate. And until 12 of you agree that the State has proven guilt beyond a reasonable doubt, that presumption of innocence is enough to go ahead and -- as far as justification of a not guilty verdict, if the presumption of innocence is not removed. And the only way it can be removed after you deliberate, the 12 of you, is to go ahead and find did the State prove their case beyond a reasonable doubt. So, the Judge will instruct you and tell you what reasonable doubt is about, but that is what I agree with Ms. Gatte about, reasonable doubt is a doubt from which you can get a reason, if you are not satisfied beyond a reasonable doubt, if you're hesitating as a result

of the evidence or the lack of evidence as to whether or not they proved the case beyond a reasonable doubt, you must resolve that in favor of Mr. Goad. And that's what we submit to you is the situation here. When the evidence or lack of evidence, he is entitled to a not guilty verdict. And he's pled not guilty. Credibility witnesses, the Judge will instruct you on that. You are entitled to look at the demeanor, how the witness testified, motive, interest, bias, prejudice, what he's getting, what he got, what he may expect to get. You are entitled to go ahead and consider all that in determining whether or not to believe him or not. And let's face it, this case comes down to Joshua Parnell, okay, that's whether you believe him or not, that is the evidence in this case and you have to believe that evidence beyond a reasonable doubt, that what he's telling you. It'd be a sad state of affairs if anyone was to be convicted under testimony by an individual like Joshua Parnell. And I'm going to go through a few things that I'd like you to consider about that. Looking at him on the witness stand, he's argumentative behavior, his lack of answers, his vagueness, his inconsistencies, these all go to credibility of that particular

witness. And just would anyone want their future to depend upon that man's credibility. When you talk about an individual who is not believable, it's Joshua Parnell who is sitting on that stand. The Judge is going to instruct you on what trafficking is. And that's what he's charged with. He's charged with trafficking in cocaine 200 to 400 grams of cocaine. The Judge will also -- and go through the elements of it, and they have to prove that beyond a reasonable doubt. But the Judge will also tell you that merely being present, merely being associated with individuals who commit crimes, of merely being present at the scene of a crime, is not sufficient in and of itself to convict a person of trafficking in cocaine, or any other crime. Mere presence, mere association, is not sufficient in and of itself. I'm getting dry; Randy can you get me just some water. I apologize. It's some medicine I'm on; I don't know what it is. Mr. Goad has not testified in this case. The Judge will tell you that the State must prove guilt beyond a reasonable doubt. A defendant, a person accused of a crime, no matter what the magnitude of the crime is, is never required to prove their innocence. That is a foundational principle in our judicial system. No

one has to come forward and prove their innocence. The State must prove guilt beyond a reasonable doubt. That principle of law goes all the way back to England that a person does not have to come forward and prove innocence. The State must prove guilt. And that's the way it's been set up. That is such an important principle of law that the Judge will instruct you that the fact that Mr. Goad didn't testify cannot be discussed in the jury room. Cannot be part of your consideration in whether he's innocent or guilty. It is absolutely prohibited to consider the fact that Mr. Goad did not testify, because that's his right not to testify. His right is to rely on whether the Government proved his guilt beyond a reasonable doubt, and we submit that they have not done that. So, the judge -- you just listen to the judge's instructions on the law. It is a foundation -- another foundational principle in our system of justice. And Mr. Goad, the fact that he did not take the stand, did not testify, you will be instructed by the Court that you cannot even consider that or discuss it and cannot draw any inference from it whatsoever. All right, let me move on. They started talking about -- obviously this case is about Joshua Parnell, it -- it -- you

know, I mean, I agree with Ms. Gatte, with a lot of the things she said, but I don't agree that with all the conclusions that Ms. Gatte came to about this. And, by the way, what I say and what she said or what Ms. McKellar may say in response, is not evidence. We are advocates. They're advocates for the State. I'm an advocate for the person accused of a crime. I would never misstate anything in the evidence. I would never misstate the law. However, I may make mistakes, because I'm standing up here examining the witnesses and not writing everything down. So, if my recollect -- or your recollection is different than my recollection, you go with your recollection, and I would apologize for any misstatement or misunderstanding that I may bring to you about what I submit the evidence is. You go with what you remember, okay. The prosecution and Mr. Hough and I, we've known each other for years, anything that's happening in this courtroom is not a person thing. It's all about our perspective positions in this case. They're advocates for the State. Again, we are advocates for Mr. Goad and we're all doing our job. When they object or I object, we're all doing our job, and it's up to the Judge go ahead and rule about the law. It's up to

you to decide the facts. So, let's talk about Mr. Parnell for a minute. This is all about for him getting right with the Lord. I will submit to you that every prisoner sitting in the Department of Corrections will tell you the same thing, that they're sorry, they shouldn't have gotten involved in this, and they want to get right. And do you know what they're sorry about? They're sorry they got caught. They're not sorry about the fact that they're in prison or that they have some debt to society they need to pay. I submit to you that it's all about them, them. It's not about anything else. Mr. Parnell saw an opportunity to get out from under that 25-year mandatory minimum with no parole, 'cause that's what he was charged with. And I want you to consider that when you decide his credibility. So, I want you -- I'd like you to submit -- to consider his demeanor. I'd like you to consider his consistency in his testimony. I'd like you to consider what he told law enforcement eight years ago and what he told you yesterday. I'd like you to consider his motive, which is the getting the reduction in the 200 to 400 grams of cocaine and getting a sentence of 10 years instead of a mandatory 25 years. Why did he get that? He

wouldn't -- he couldn't even admit on the witness, could not even admit, that he was getting some benefit from this case. You remember his testimony, and in -- is that a benefit folks? You bet it is. There's a big difference between serving 25 years and serving 10. And is he going to expect anything now, who knows what he expects. He told you he didn't expect anything way back then, back eight years ago, but he's got -- still got 27 months to serve in prison. And I submit to you that he's still hoping, he's hoping, I didn't say he got promised anything, but he's still hoping for some benefit. He said way back then that he was not even -- there was no deals, he wasn't promised anything, he wasn't given any hope or reward or any way, that's just not believable. You have to decide his credibility. Is that believable that 25 -- I mean, eight years ago he was not hoping to get some benefit from it, from his cooperation of pointing the finger at Mr. Goad? The first thing a drug dealer does, the first thing a drug dealer does, is point their finger at somebody else, and that's what Mr. Goad did. Not later, but the same day that he was busted with all the cocaine in his house. The same -- very same day he sat down with law

enforcement and gave them a statement. What's interesting about that statement however, and the explanation you can buy it or not, is he first named somebody named Ethan. Now who's Ethan? You have to decide whether or not he's telling you the truth about who Ethan is. But then he directs himself at Mr. Goad. Mr. Goad becomes the object of his cooperation. So he's not promised anything. He's getting right with the Lord. But let's look at what the benefits are. He's been a drug dealer since July of 2016. Started dealing cocaine back then. The State had, and Mr. Sellers, who is one of the investigating officers, maybe the chief investigating officer from Kershaw County and with the DEA, set up several drug buys. Now, you heard Mr. Sellers testify about the care and consideration they go through to go ahead and do these buys. They get a confidential source, someone who wants to help himself and get some benefit. They have him make phone calls to the supplier who's gonna buy -- they're gonna buy from. They search them before so there's -- they know that there's nothing on him except for the money they give him, and they give him some money. They send him out with audio and video equipment according to him, and they make a

purchase of coke -- cocaine, from somebody, in this case Joshua Parnell. Let's -- let's -- no doubt about it. Joshua Parnell was the one who was selling the dope. Then afterwards, the confidential source goes back to law enforcement, he's searched again to make sure there's nothing else on him, other than what they gave him, and the dope that he gets from the dealer, Joshua Parnell. Joshua Parnell did that actual sales at least three times in August and September. He was doing it back in July, but they didn't catch him then. So we don't know how many other -- I think there was a list that came out that we went through yesterday about the amount of drugs. I think it was like 82 ounces of cocaine he dealt in July, August, September. They -- so they go ahead and they -- they search the informant again, and then they send him out again another week or two later, under the same circumstances with the audio/visual equipment, with the marked money that they -- by the way when the informant comes back, those numbers on the dollars and -- or $20, whatever it may be, are recorded so they can actually see what money was given to Mr. Parnell and they know exactly what was recorded and they also have the cocaine. So, they -- they --

it's a real -- it's called a controlled buy, that's why it's a controlled buy. Before, during, and after it's under the supervision of law enforcement. And it's marked money, so they can recover it, if they find it, they can recover it. They also have the dope. They also have the audio/visual equipment that records the conversation. They listen to the conversation. So we have at least three. There was a fourth attempt with four ounces that the police did not find. Mr. Parnell hid it in a bucket. Now if you think that Mr. Parnell was stupid, just look at what he was able to do over that period of time. Let me drift back a little bit -- by the way, Mr. Parnell told you that he was involved in the marijuana business. And he wouldn't even admit what was in the debriefing, the DEA-6, which is their formal report, about the amount of marijuana. I had to dig; I had to keep pushing him a little bit. He originally told them that over a period of years it was 10 to 20 pounds a week that he got from Mr. Goad, no evidence of that, by the way. That's just his testimony. 2,600 pounds, 10 to $20 -- 10 to 20 pounds a week, adding up to the 2600 pounds, he's making $500 a pound. Now, if you remember how it took for me to pull that out of him, please consider

that about his credibility. He couldn't even admit that. And up to 56 -- I mean, up to 5200 pounds, so it was 10 to 20 pounds, which either would be 20 -- I'm sorry, I had the numbers but it was either 2600 or the 5200, I'm sorry. So he made somewhere between 1.3 million and 2.6 million dollars. That man made 1.3 million to 2.6 million dollars. That is a drug dealer. That is a drug dealer. So I pinned him down, if you recall, and asked him where the money is. I mean, that's a lot of money that anybody would make over, you know, a long period of time, a lot of money. Well, he spent it on boats and cars and luxury items, whatever it was. But remember how difficult it was to pull that out of him, how he was resistant to go ahead and answer the questions, how he was vague and was not consistent in his answers. So, here we have a man who's in the drug business for a number of years, made a million or more dollars, we don't know exactly what it was. But then he starts into the cocaine business. Not only does he start in the cocaine business but after he gets arrested on this charge, and he's out on bond, he continues in the business of drugs, because he's a heroin addict, and he is dealing in heroin, he's taking heroin. He's an addict, he doesn't -- I

can't even imagine what being on heroin is like. But it is a very -- it's probably the most serious drug you can possibly have. So he's a heroin addict, he continues to deal in drugs, using drugs. He's -- he's a user too, now we're not talking about just somebody who sells it, he's a user of drugs. And he's using heroin on a consistent basis. And even after he's arrested on this charge, in 2017, 2018, he gets arrested for possession of heroin. He gets arrested for two counts of shoplifting. He gets arrested for resisting arrest. This is a man who's trying to help himself, who says he was trying to help law enforcement, but he can't stop committing crimes and at the time that he was arrested on the heroin, he was an addict, he had been to rehab, and this is the person that the State wants you to believe in this case. That's the person that they want you to believe; a heroin addict and someone who did not stop dealing in drugs. And I'll talk about Walter Goad in a minute. But, I'd just like for you to consider that. So, Mr. Sellers went through all the careful things they go through for a controlled buy. Now why did they do a controlled buy? Why did they go ahead and do that? They do it because a controlled buy is proof

positive that someone committed a crime. You have audio. You have video. You have the phone call. You have the money. You have the drugs. You have surveillance. And there's no doubt that Mr. Parnell, whoever is selling drugs like Mr. Parnell, there is evidence against him enough to convict him. Not one, not two, not three, not -- and four, the fourth time, but also in July where they didn't do the controlled buys. And I'm going to ask you in a moment to consider why didn't they do that in this case? At the time on September 22nd, Mr. Goad was a cooperating individual. Mr. Goad did not know about the arrest, the search warrant executed on September 22nd at Mr. Parnell's house because they have conversations supposedly according to the State. He doesn't know that Mr. Parnell has been arrested and cooperating with law enforcement. Ask yourself this, Mr. Parnell -- I mean, Mr. Sellers told you that controlled buys are the most effective way to go ahead and nail a drug dealer. And at that point you have a cooperating individual, Mr. Parnell, but they don't set up a controlled buy. They do a phone call. But they don't do any controlled buys. Now, that in and of itself should raise a reasonable doubt in your mind as to why they didn't do that.

Because they had the ability to do it. They do it in a regular basis. They do it with confidential informants. They do it with confidential sources. They wire them up, they give them money, they send them out to get the drugs, they bring it back, they record the numbers of the -- of the bills. They did not do that with Mr. Goad. And you have to ask yourself why. And I submit to you the reason they did not do what they do in every other case, with confidential informants and confidential sources, is because they did not believe they would get Mr. Goad to be doing a controlled buy with Mr. Parnell because Mr. Goad was not a drug dealer. That's why they didn't do it. There's no other explanation. Mr. Sellers told you that they deal with confidential sources all the time. This is a regular thing. And Mr. -- at that point Mr. Parnell would've been a confidential source and he could've made, if they believed he could, could've made some kind of buy, a controlled buy, from Mr. Goad. They didn't go that route. You have to ask yourself why. Does that raise a reasonable doubt? I submit to you it does. So, Mr. Goad, on September 22nd, what does he have in his house? He has a drug ledger. Drug dealers have ledgers about what people owe them, and

this to do list which is State's Exhibit 14, has his to do list on the first page. But then it has lists of all the people who owe him money for dealing drugs. They didn't find anything like this about who owed Mr. Goad money in his house. But they found it in a drug dealer's house, someone who deals drugs. Budda owes him $250. Ty S. owes him $800. Casper owes him 500. Folks, these are people that owed him money. There's no such list about people owing him money and the amounts here that's found in Mr. Goad's house. This is a drug dealer. This is who the State prosecuted and rightfully so. And rightfully so he's in prison. Interestingly enough, Mr. Goad's name, even though this a list of people that owe him, Mr. Parnell, there's nowhere here that you find Mr. Goad's name on -- for any reason. Nothing. Mr. Goad's name is not -- there's nothing in Mr. Parnell's house that ties, other than what the State says, and Mr. Parnell says, about the cocaine. There's nothing there that indicates that Mr. Goad had any relationship with Mr. Parnell in the drug business. His name's not on anything. There's no paper there showing that he owes Mr. Goad any money. There's nothing to connect Mr. Goad to Mr. Parnell in the drug business at his house. But

there's an awful lot of cocaine there folks. It's everywhere in the house. It you remember on the return from the search warrant and the testimony, they found cocaine in various places, in plastic baggies, on a spoon, on four digital scales, small scales that he weighed the cocaine on. They found cocaine everywhere. That's a drug dealer. You find cocaine in his place. You find the list of who owes him money, compared to what Mr. Goad and we'll go through that in a few minutes. The offensively -- this is offensive, Mr. Parnell, put his mother, his mother, in the middle of a drug deal. He's not dealing out of his trailer. He's dealing out of his mother's home. Putting her in jeopardy. There's cocaine everywhere. It's his mother's home. Can you imagine putting your mother in that kind of situation. That'd be -- Parnell did. He put -- he did. Put his mother in it. Put his brother in it. Originally he said well, you know, my brother didn't have anything to do with it, but after cross-examination he testified that he was giving his brother cocaine, selling him cocaine. He puts his girlfriend in it. Now, I think the question was asked did you charge Hailey. No, 'cause mere presence. Well, Mr. Goad was merely present, but

he's getting prosecuted and Hailey didn't get present -- didn't get prosecuted. Was that part of the deal when Mr. Parnell made his deal with the Government? You have to consider that. She was driving him around. Should she have been prosecuted? Absolutely. Could she have been prosecuted? Absolutely. You're driving the individual to drug deals and she could've been prosecuted, believe that. She's also got her child with her. What kind of people are these, that Goad is having his girlfriend drive him around to drug deals with her child? She's exposed. His brother is in the house. He's selling him dope. In his mother's home. That's Mr. Parnell. Mr. Parnell at one time worked for Mr. Goad, so there was a relationship there, going back a long time. He worked for him in the vinyl siding business; he also as a roofer. And I would submit to you that whatever they found in Mr. Goad's house is consistent with industrial -- I think Ms. Gatte used the word industrial sized plastic, cellophane, scale, whatever it may be. He's in the construction business. Is it unusual for him to have those kind of items in his home? I submit to you it's not. We'll go in a little bit further in that. They've

known each other for a long time. He has known Luther, his brother a long time, he's known Hailey for a long time. And Mr. Parnell actually worked for him, so there's a relationship there besides the drug business. The list that, and I'm sorry, I don't want to repeat myself, but the list that you found -- or in Mr. Goad's -- I mean, Mr. Parnell's house, there's no -- it's a lot different than the list you find in Mr. Goad's house. And we've talked about that briefly. Let me just go through this part. At some point -- and by the way, Mr. Parnell says that Mr. Goad came in the house when he arrived there that day. That he came in the house. That's contradicted by every other witness in the case. Believability, credibility, absolutely not. Mr. Parnell told you there were other recordings that were made. Did you hear any other recordings that he made with Mr. Goad? No. Why? Where are they? They texted each other back and forth, where are they? Where are the text messages? They called each other. They knew each other. Where are the other recordings is the question I ask you. But according to Mr. Parnell he came in the house. According to Mr. Parnell, the -- Mr. Goad never went -- they never went around to the back of house.

You've heard testimony from one of the law enforcement officers that they walked in the back of the house. So, you have Mr. Parnell saying that Mr. Goad came in the house, and that's inconsistent with some of the other testimony we're going to talk about briefly. Was the coke there that he gave the informant or was going to give the informant? Was it there or -- or in here -- it was already there? Or did he bring it with him when he was driving to his mother's house? 'Cause that's his -- that's the area where he deals in drugs. The testimony was that he was telling the informant that he was already at his mother's house and the stuff had arrived, I got the stuff in my hand. Then on the witness stand he said he lied to the informant that -- about whether he was at his mother's house. He was on the way. He was 10 minutes away and he needed some time to go ahead and break it down. You listened to the audio in that case. You have -- you will have the benefit of being able to listen to that audio recording between Mr. Parnell and the informant in the jury room. You -- just listen to it, you can't hear it sometimes in a courtroom 'cause it's a big room, but in there I suggest to you that Mr. Parnell is actually driving to the

location of his mother's house at the time he's talking to the informant. So he's lying initially. He's lying from the witness stand and he lied to the informant as well. And he lied to the police. He was on his way to his mother's house and he was going on his way to his mother's house with the drugs and some unidentified way that he got there. You remember that testimony? I don't remember how I got there. I don't remember who was with me. Was Mr. Goad with you? No. But, as I recall the testimony, you'll have to recall what you heard, I believe -- I submit that he said to the extent something that he did not know how he got there but somebody drove him there and there was somebody else with him. Who is that person that was with him? Is that the person who brought the dope to him? Did Mr. Parnell get the dope from his trailer and bring it to his mother's house? Was it already at his mother's house? Was the person in the car with him the person who gave him the dope and they're blaming it on Goad; 'cause Goad is conveniently there that day? You have to decide these issues as to whether or not it raises a reasonable doubt in your mind. Whether or not it convinces you beyond a reasonable doubt or it's something that nags at you that you

cannot find proof beyond a reasonable doubt. I suggest to you that either the dope was already there at his mother's house, or he was bringing it in the car and the person he was riding with that he can't remember who was the person that had the dope and gave him the dope. And I'll tell you why I submit that. Mr. Sellers testified that he was observing the residence. Mr. Goad came by himself, drove up, got out, stayed in front of the house, never went in, and according to the first time Mr. Sellers testified about it, he said well I witnessed a drug transaction. And then when he was pressed under cross-examination, which is the real search for the truth, he said, no, I didn't witness a transfer, he misspoke. Now, folks, he's a law enforcement officer. He's a man who has been involved with law enforcement for years. He misspoke about something like that. The fact of the matter is, neither he or anybody else saw a transfer of drugs at Mr. Parnell's house by Mr. Goad. It -- it just doesn't happen. There's nobody there. And they've got surveillance all over the place. Now, they say, well, you know, we were too far away. Well, I show you State's Exhibit -- first of all, this is the -- Exhibit Number 30 is an overview, a

Google overview of the residence and why they say he was dealing out of his mother's house, 'cause it's a little bit more remote. But they were able to get on a drive-by, on Exhibit Number 2, that kind of picture; a drive-by. Now, the drive-by has to be on Ward Road. It's not going to be in the property and right in front of the house. They had the ability that day under -- and if you look at State's Exhibit Number 2 and 1, they had the ability for telephoto lenses. Those pictures are taken with telephoto lenses. Now, if Mr. Goad made a transfer of cocaine to Mr. Parnell, number one, why does Mr. Sellers say he never went in the house? Why does Mr. Sellers say I never saw a transfer? Why do all the surveillance officers say I never saw a transfer? And why are there no pictures? There's not one picture of Mr. Goad being there that day. Now, we don't deny he was there. I mean, this is his car, but that also raises some kind of issue. And I submit to you that you need to consider this, this picture or telephoto pictures that they could've taken Mr. Goad there when he was there, and the car is on different sides of the house. How did that happen? Why is there a picture of the car -- Mr. Goad's car being on the left side of the house, but

why is there a picture of Mr. Goad being -- car being on the right side of the house? Something is not right. Something's just not right. And those photos, according to the -- they said the testimony was, the drive-by had to be with telephoto lenses and that they had the ability to take pictures of his car with the telephoto lens, they had the ability to take a picture of Mr. Goad there transferring drugs. So -- and remember the difference between what Mr. Goad said -- I mean, Mr. Parnell says and what Mr. Sellers says. Mr. Parnell says Mr. Goad came in the house. Mr. Sellers says he didn't go in the house. And he didn't see any transfer. No surveillance officer saw a transfer of drugs from Mr. Goad to, again, Mr. Parnell. I submit to you, again, that the person who took Mr. Parnell from his home to his mother's home, and the reason he lied to the informant about where he was, because he told the informant he was on his way, but he was already at his mother's house, but he had gotten to his mother's house by somebody driving him there, somebody else, that the dope was either at his mother's house already or he brought it with that other individual when he went to his mother's house that day. There's no evidence, none, no

cameras, no audio, no video, that Mr. Goad brought any cocaine there that day. And that's what he's charged with. That's what the State's arguing to you. So, Mr. Parnell, when he goes up for sentencing, now not these folks, 'cause they were not involved in the case at that time, and I'm not pointing the finger at them, but somebody made a deal with Mr. Parnell. You cooperate, you plead guilty, we're gonna go ahead and reduce your charges to 28 to 100 grams of cocaine so the sentence is only going to be seven to 25 years, a lot different than 25 years minimum, no parole. Do you think a fellow like Mr. Parnell would go ahead and make that kind of deal? You betcha he would. You betcha he would. There's no doubt that Mr. Parnell grabbed onto that and he took that deal, and he pled guilty and he got 10 years. The insulting part about it all is this, he wasn't prosecuted for any of the deliveries that he made to the confidential sources in July, August, and September. He wasn't prosecuted, Hailey wasn't prosecuted, Luther wasn't prosecuted. I'm not suggesting his mother should be prosecuted, 'cause God forbid she even knew about it; but he put her in jeopardy. But then he gets arrested on two shoplifting, possession of heroin,

and also resisting arrest. They don't even go ahead and prosecute him for that. They dismiss those charges. A man who continues the criminal enterprise that he was involved with marijuana, then the cocaine, and then the heroin. Somebody made this guy a deal with the devil, and that he is the devil. They made a deal with the devil. And you better believe that Mr. Parnell would lie to go ahead and get that deal to benefit from it. The problem is, he's lying about that man sitting right over there, Mr. Goad, who the State keeps pointing at. Again, it wasn't these folks that made that deal. Somebody did though. Otherwise, how he is only serving 10 years. Let's talk about Mr. Goad for a minute. They go to his residence. He's got a family that's sitting right over there on the front row. They lived in Lexington. His lifestyle was certainly not that of a drug kingpin like the State wants to point him out to. He was living in a home. There's no riches. There's no really excessive items, items that -- you know, like Mr. Parnell said he bought, it's not there. They didn't find any money in the house. I think there was a few hundred dollars, they didn't even seize that. They didn't find any drugs there, this drug kingpin. They

didn't find any drugs there. There were -- the surveillance, they did surveillance, if you recall, they didn't see him do anything wrong. They didn't try and do a controlled buy on him. Interestingly enough Ms. Gatte keeps pointing to this -- this stuff. Folks, our state of science in the United States with the labs that we have, the FBI, SLED, every other law enforcement agency, why didn't they test this for prints to see whether or not Mr. Goad's prints were on it? That should nag at you a little bit. Why? You all head about touch DNA, they didn't touch -- they didn't process this for DNA to see if Walter Goad was connected to this. They had the baggie. They had the packaging. None. Nothing. The two techniques that we have, the fingerprints and the DNA, -- and by the way, it's never even been explained to you why they didn't do that. Would that have conclusively prove it? Well, you bet your life it would've. But they didn't do that. No DNA. No fingerprints. Again, does that raise a reasonable doubt? We have no ledgers in the house that owes money. We have this list, that I think I had it over here, it's phone numbers. It's not about people that owed him money. It's phone numbers. Mr. Parnell was presented with his list.

It's a lot different than his list, by the way. And he said, well I recognize some names on there. Guess what, I was thinking about it last night when I was thinking about my closing remarks, he didn't identify who they were. You know why he couldn't identify -- or he didn't identify why they were -- who they were? Because none of these people on here were drug dealers or was getting cocaine from Walter Goad. He never mentioned a name of anybody. And if you notice, the State didn't ask him that. They said, are there names on here that you're familiar with? Yes. Which ones? He never answered that question. He was never asked that question. Reasonable doubt. The dog alerted in Mr. Goad's house to a box. He's in the construction business. All that thing in that box, that's a tool box. Those things in there could just as easily have been used in the construction business, the vinyl siding business, or the roofing business by Mr. Goad. The dog alerted to what? What drugs? When? Who? None of those questions could be answered by the dog. The dog detects odors, a drug. What was it? Have you heard any testimony about that, what was in there? 'Cause there was no drugs in there. It was an odor. And I submit to you that that raises a

reasonable doubt. When was it -- when was the odor put there? When was the narcotic put there or when the drug was put there. Who put it there? Where has it been? How long has it been? None of those questions have been answered for you. As a matter of fact I remember -- I submit to you that the Lieutenant who's in charge of the dog, changed his testimony three or four times about what was found in there. He told you originally, I was told that they found drugs in there. Where? How? There were no drugs there. And when I challenged him on that he changed it, he said, well, I think there were drugs on there, residue. Well, that's not true. They didn't do any chemical test for that. And then he said well, I don't remember. Nice guy. Great dog. But they're trying to rely -- they're trying to use this as testimony to convict Walter Goad and it raises the reasonable doubt. There was no other detection in the house, in the closets, in the clothes. There was no detection in the car, which if he had taken the cocaine over there, you'd find I believe there would be an odor there. He said they can smell through the plastic bag. This is a lot different than Mr. Parnell's situation. A lot different. And most important, most important, you

don't hear any evidence after September 22nd or after Mr. Goad was arrested, I believe on October 12th, that he did anything wrong after that. Nothing. He wasn't arrested for anything. There's no testimony at all that he committed and continued in a criminal enterprise like Mr. Parnell. So Mr. Parnell gets 10 years instead of the 25 years mandatory minimum for everything he did. Mr. Goad, Mr. Parnell had completely different lifestyles. There's no evidence that Mr. Goad had any drugs at his house, or money in his house, or any luxuries, or anybody owed him money. None. But not Mr. Parnell, he has all that. I think I've covered Mr. Sellers a little bit. Again, couple things I'd just like to ask you to consider. No controlled buys that they could have done, because at that point Mr. Parnell could have been used as a confidential source. And he could have made, if Mr. Goad was really selling the dope, he could have made a controlled buy. Why didn't the State try that? Mr. Sellers said, well Mr. Parnell was arrested the next day and didn't start -- he started cooperating at that point. That's not true. He was -- he was taken into custody on September 22nd, that's when he started to cooperate. He wasn't arrested as we

pointed out until October 29th, a full month later, even after Mr. Goad was arrested. He turned over -- by the way, Mr. -- they went ahead and extracted the text messages and cell phone of Mr. Goad and his wife. Where are they? Where are the text messages? Why didn't the State go into those text messages? Why didn't they go into those phone calls that they extracted from the cell phone? And by the way folks, sometimes when you extract information from a cell phone you'd be surprised, it can be a stack of paper that high, 'cause it takes everything out of your phone, everything, pictures, phone calls, texts, Facebook Messenger, everything. They did that with Mr. Goad and Mr. -- his wife. You haven't seen any of that. I submit to you that the reason they didn't do that is to make something favorable possibly in there. How about that. Something favorable. Mr. Parnell on September 27th, he gave permission. He signed a consent to search and to look into the phone by -- with Mr. Sellers to go ahead and extract my phone, the same way they did with Mr. Goad. Now, where is it? Where is the extraction from Mr. Parnell's phone that could actually prove that Mr. Goad didn't do anything? That they had no drug relationship. We haven't

heard or seen any of it. You know why? Because remember what Mr. Sellers said, we didn't do it. We didn't do it. I looked through the phone, which doesn't give you a whole lot of information, because there's stuff in the phone that's extracted by one of these programs, it gets everything out of the phone. But, all he did was look through the phone. They did not extract the information from that phone that could have been very important in this case, could've been very favorable in this case, could've shown who the real drug dealers were, but they didn't bother to do that. Mr. Sellers, as I said before, said that Mr. Goad never went in the house, never saw any drug transaction. Now, Mr. Sellers was also the one that set up the situation with the phone calls. And I hate phone records, and I'm sorry, it was a little bit discombobulated yesterday trying to go through those. But you're going to have Exhibit Number 1, Defense Exhibit Number 1, in the jury room. It's a one page from the telephone records that was subpoenaed from Mr. Parnell's Verizon account. If somebody can remember this, because I had a problem yesterday, Mr. Parnell's number ended in 2316. Mr. Goad's number ended in 5606. Mr. Sellers number ended in 6707 -- or 6702.

This one page, you can go starting at, let's see, 17:48 -- or actually it starts at 17:46, what's significant about 17:48? That is what they testified to was in the DEA report on the debriefing -- or the recording, I'm sorry, of what took place on October 3rd, 17:48, 6:48, matches exactly with what Mr. Sellers testified to. But, at 6:46 Mr. Parnell calls Mr. Sellers. At -- there's a call made, which is the recorded call from an unknown number, I guess that was the three-way conversation they made. At 5:53 Mr. Parnell calls Mr. Sellers. At 17:53, Parnell calls and there's three different times at 17:53, I cannot explain that, but Sellers calls Parnell. At 17:53 Sellers calls Parnell again. At 17:56, which is again military time, 5:56, Mr. Goad calls Mr. Parnell, which turns over quickly to Mr. Sellers calling Mr. Parnell at 17:56. At 18:00 Mr. Parnell is calling -- I'm sorry, Mr. Goad is calling Parnell. At 18:07, which is 6:07, the -- Mr. Parnell is calling Mr. Goad and then after the phone call is 2316, Mr. Parnell is calling Mr. Sellers. According to Mr. Sellers, he was sitting right in the room, right there. And if you remember what Mr. Sellers said, he could not hear the other person on the conversation. That's not

the way the equipment worked. Of course, Mr. Hardin told you he could hear the conversation, y'all have to figure that out. But Mr. Sellers said he could not. You can't hear the person on the other end. What's interesting though is it's unexplainable because Mr. Sellers didn't explain it. Didn't offer a reasonable explanation how he's getting phone calls from Mr. Parnell or making phone calls to Mr. Parnell and he's sitting right there. How do you explain that? You can't explain it. Mr. Sellers didn't explain it. I heard Mr. Hardin, was that a satisfactory explanation as to how the phone call has been made, and why they were made that way. But most important about these phone calls, and I'd like you to consider, is not on the phone calls going back and forth between Mr. Sellers and Mr. Parnell sitting next to each other, supposedly, but he said we couldn't record the second conversation because we didn't have time. Folks, they had seven minutes to go ahead -- they knew Mr. Parnell was trying to reach -- they knew Mr. Goad was trying to reach Mr. Parnell. They had seven and a half minutes, according to this sheet that you'll see in Defense Exhibit 1, to go ahead and set up that phone again. Why didn't they record that second phone? Why

didn't they record the other phone calls? Why haven't they produced the other phone calls? You have to evaluate all that folks, not me, not the Judge, you have to evaluate it. Remember, Mr. Sellers also said Mr. Parnell and Mr. Goad walked around the house. There's no other testimony about that. There's no testimony about any surveillance agent -- even though they had the ability to take a picture this close up -- how many agents were up there? Eight, 10, agents? Several have testified from the surveillance team. That's how they had the ability to record any transaction that took place in front of that house. They didn't do it. Ladies and gentlemen, there's probably another hour worth of stuff I could cover with you, but I think you get the picture. They have a system of dealing in how to get drug dealers. It's been in place for many, many, years. You make controlled buys. You don't rely on the interpretation of what's on a phone call as to who's saying what. If you listen to that phone call from October 3rd, there's no mention of drugs. There's no mention of amount of money. There's no mention of September 22nd. There's no mention of Mr. Goad supplying Mr. Parnell any drugs. And remember what Mr. Parnell said -- or Mr. Sellers

might have said too, this is a planned phone call. Don't you think that if they're planning a phone call, and they're gonna get Mr. Goad on the phone, and he's the drug dealer or the drug supplier, don't you think there would've been some phone calls or some language in there or some conversation in there about money, about September 22nd, about drugs, it's all vague. And who's doing the talking? Most of the talking is done by Mr. Parnell. Ask you to consider that as well. The most unreliable witness who has ever sat in that witness chair and put his hand on the Bible. Burn the Bible. This is serious business. It's not a game. It's not a contest. We American's love to have a winner. We want our teams to win. We don't like ties. We don't like them to lose. And everybody complains when somebody loses. And everybody cheers when somebody wins. That's not what happens in our courtroom. In a courtroom the goal is to seek justice, to render a true verdict based on the evidence, using the standards of beyond a reasonable doubt, truth beyond a reasonable doubt, and the presumption of innocence. And the reasonable doubt can come from evidence or lack of evidence. In this situation, I submit to you that the State failed to bring you sufficient evidence to

go ahead and convict Mr. Goad. There's plenty of evidence on Mr. Parnell. Plenty on evidence on that man. Comparatively speaking what did they do with Mr. Goad? Nothing. They did nothing. They make one phone call, which is subject to interpretation, 'cause it's Mr. Parnell doing the talking. Again, there's no mention of drugs, money, the date of September 22nd, or future deliveries or anything like that. One other thing that Mr. Parnell never addressed, I don't believe, was what happened on October 4th. No recording there. No pictures there about him delivering money or Mr. Goad going to pick up money. Why is that important? According to Mr. Parnell, he owed for 10 ounces of cocaine to Mr. Goad, $10,000. What did he give him? $950. The money does not add up to what was expected. The money does not add up to what Mr. Goad supposedly gave Mr. Parnell. This case is full of holes. I submit to you that those are the issues that raise reasonable doubt, but most important the man that sat on that witness stand, who put his hand on the Bible, who put his mother in jeopardy, put his brother in jeopardy, he even said his brother was a drug dealer by the end of it, his girlfriend in jeopardy, the child in the middle of a drug deal,

that's the man the State wants you to believe. The man who got from 25 year minimum to a 10-year sentence, and he's getting out in two and a half years, and I submit to you he still has some hope of having something happen for him. If you don't think that man up there has some hope that some benefit's going to come to him, from doing this, then that -- we just -- I -- I don't know. It -- that reasonable doubt doesn't mean anything, it really doesn't. I -- I really thank you. I love Camden. I love coming over here. I come over for Court here. I go to the restaurants. I do shooting over in (inaudible) place. It's a great town, great juries. I've always enjoyed being here. I look forward to coming again. But in this particular case, not a game, not a contest, the winner is society. And how does society win in this? If you find Mr. Goad not guilty, 'cause that would speak the truth, verum dico, speak the truth. Thank you.

JUDGE NEWMAN: Ms. Gatte?

(PLAYS AUDIO RECORDING)

MS. GATTE: No discussion of drugs?

MR. SWERLING: Pardon? I couldn't --

MS. GATTE: No discussion of drugs?

MR. SWERLING: Okay.

MS. GATTE: Ms. McKellar, could you play the clip of the defendant?

(PLAYS AUDIO RECORDING)

MS. GATTE: One more time, please.

(PLAYS AUDIO RECORDING)

MS. GATTE: Ladies and gentlemen, I don't need to say anything else. The evidence in this case speaks for itself. The Defendant is guilty. The Defendant is a drug trafficker. We're asking that you find him guilty. Thank you.

JUDGE NEWMAN: All right, folks, it's now time for me to charge you on the law which applies to this case. I remind you that during this trial you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case, and I also have the duty to rule on the admissibility of the evidence offered during this trial. You are to consider only the competent evidence before you, including the testimony which has been presented from this witness stand, any exhibits which have been made a part of the record in this case, and any stipulations of counsel. I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case, and it is

your duty as jurors to accept and apply the law as I now state it to you. If you already have any idea as to what the law is or what the law ought to be, and it does not agree with what I now tell you the law is, you must abandon this idea because you are sworn to accept the law and apply the law exactly as I state it to you. In every case tried in this Court before a jury, the jury becomes the sole and exclusive judges of the facts. A trial judge cannot intimate, state, comment on or make any statement to a trial jury about the facts in a case. Since you, the jury, are the sole judges of the facts in this case, do not infer from anything that I have said during the progress of this trial, or anything that I say now during the course of this instruction to you that I have any opinion about the facts in the case. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you, the jury, to determine. The indictment charges the defendant with trafficking cocaine 200 to 400 grams. I remind you that the fact that defendant was arrested, charged and indicted is not evidence in this case and cannot be considered by you as evidence of guilt in this case. Nor does it create any presumption or inference of

guilt. This document is simply the formal written instrument which contains the charge made against the defendant. It is the formal document by which this case is brought into this Court. The defendant has pled not guilty to this indictment and that plea puts the burden on the State to prove the Defendant guilty of the of the offense charged in this indictment. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that as an important rule of the law that the Defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued, unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt. The presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial, until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt. The presumption of innocence is like a robe of righteousness, placed about the shoulders of the defendant, which remains with the defendant until it has been stripped from the him by evidence

satisfying you of the defendant's guilt beyond a reasonable doubt. The presumption of innocence is not a mere legal theory. It's not just a legal phrase. It is a substantial right to which every defendant is entitled, unless you the jury, are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt. A reasonable doubt is the kind of doubt that will cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the preponderance or greater weight of the evidence. In criminal cases the State's proof must be more powerful than that, it must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcome every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant

guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty. There are two types of evidence generally presented during a trial, direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge a fact, such as an eyewitness. It is evidence which immediately establishes the main fact to be proved. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred.

Circumstantial evidence is based on inference, and not on personal knowledge or observation. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. However, to the extent that the State relies on circumstantial evidence, the circumstances must be consistent with each other, and when taken together, point conclusively to the defendant's guilt beyond a reasonable doubt. If

these circumstances merely portray the defendant's behavior as suspicious, the proof has failed. The burden of proof rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two. You should weigh all of the evidence in the case. After weighing all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty. Necessarily, you must determine the credibility of witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence, and determine which evidence convinces you of its truth. In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe a part of the testimony of a witness, and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety, or you may reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice, or

other motive in this case. You may also consider the appearance and manner of a witness while on the witness stand. There has been evidence presented that the witnesses have made prior statements which are not consistent with the witness's present testimony. You may use this evidence to decide whether to believe the witness. You may also use evidence of the earlier contradictory statements to determine the truth of those statements. It is up to you to decide whether to believe the earlier statements or the testimony given at trial. If a witness has shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness's testimony as to other matters. You may reject all that -- the testimony of that witness or give all or part of the testimony of that witness the weight you think it deserves. A person who has a past criminal record is competent to testify during a trial. A past record does not affect the ability of that witness to testify. The past record may only be considered by you, if at all, in determining the witness's believability. Remember, you are the sole judges of the facts in this case, and of the believability of any and all witnesses.

The Rules of Evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call expert witnesses. A witness who by education and experience has become an expert in some art, science, profession, or calling, may state an opinion as to relevant and material matter in which the witness claims to be an expert, and may also state the reasons for the opinion. You should consider any expert opinion received in evidence in this case, and like any other evidence, give it the weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witnesses' testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Also, you are not required to accept an expert's opinion, even though it is not contradicted. I instruct you and emphasize that the fact that the defendant did not testify is not a factor to be considered by you, in any way, in your deliberation,

and in your consideration of the question of the guilt or innocence of the defendant. It must not be considered by you in any manner whatsoever. I repeat, under your oath, you are to draw no conclusion whatsoever from the fact that the defendant in this case did not testify. The fact that this defendant did not testify should not even be discussed in the jury room. The burden of proof, as I have stated to you, is on the State. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt. An issue in this case is the identification of the defendant as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant before you may convict the defendant. Identification testimony is an expression of belief or impression by a witness. You must determine the accuracy of the identification of the defendant. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness had an adequate opportunity to

observe the offender at the time of the offense. This will be affected by things like how long or short a time was available, how far or close the witness was, the lighting conditions, and whether the witness had the chance to see or know the person in the past. Once again, I instruct you the burden of proof on the State extends to every element of the crime charged, and this specifically includes the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the crime. If after examining the testimony you have a reasonable doubt as to the accuracy of the identification, you must find the defendant not guilty. Mere presence at the scene of a crime is not sufficient to prove someone guilty of that crime. A defendant's presence where a crime is being committed, or mere association with a person who commits a crime, does not make the defendant an accomplice or an aider and abettor of the person committing the crime, nor does it prove him guilty of a crime. The burden is on the State to prove every element of the crime charged. If after reviewing all of the evidence you find that the State has proven the defendant was only present at the scene of a crime, and that they have not proved

beyond a reasonable doubt any other participation in the crime, then you must find the defendant not guilty. The law is that proof of the defendant at the scene of a crime by itself is not sufficient to find someone guilty. In order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness, or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty. There is no way that medical science can dissect a person's brain and determine what the person had in mind. So, the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination of whether or not the element requiring intent was present. It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all of the

facts and circumstances of the case. Criminal intent is a mental state. A conscious wrongdoing. It is up to you to determine what the defendant intended to do, based on the circumstances shown to have existed. You have heard testimony concerning the penalty a person can serve for the crime alleged in the indictment. In determining the guilt or innocence of the defendant, you cannot consider any possible penalty for any particular crime. The punishment for the crime is a matter for me to determine, and should never be considered by you in any way whatsoever in arriving at an impartial verdict as to the guilt or innocence of the defendant. The defendant is charged with trafficking cocaine. The State must prove beyond a reasonable doubt that the defendant knowingly sold, manufactured, cultivated, delivered, purchased, brought into this State, provided financial assistance, or otherwise aided, abetted, attempted, or conspired to sell, manufacture, cultivate, deliver, purchase, or bring into this State was knowing -- let's see, was knowingly an actual or constructive possession or knowingly and attempted to become an actual or constructive possession of cocaine. The State must also prove beyond a

reasonable doubt that the amount of cocaine, or any mixture containing cocaine, was 200 grams or more, but less than 400 grams. To deliver, means to actually constructively or attempt to transfer the drug. Distribute means to deliver, other than by administering or dispensing a drug. There are two possible verdicts which you may reach in this case, guilty or not guilty. There is no significance whatsoever in the order in which I state those verdicts, it's simply that one must be stated first. Now you have been chosen and sworn to give the parties in this case a fair and impartial trial. When you have done so, you will have complied with your oath and no one will have a right to criticize your verdict. You must not be influenced by opinions or expressions of opinion you may have heard outside of the courtroom, but should rather base your verdicts solely on the testimony of the sworn witnesses who took the stand, the exhibits received into evidence, and the law which I have stated. You should not be swayed by caprice, passion, prejudice, or improper sympathy for or against anyone in this case. Remember, you have no friends to reward or enemies to punish, and all parties are entitled to a fair and impartial trial.

It is your duty as jurors to consult with one another, and to deliberate in an effort to reach an agreement. As I stated earlier, you are judges, judges of the facts. Your verdict must represent the considered judgment of each juror. In other words, your verdict must be unanimous. Now, you may have noticed that I have read these instructions to you. I do so to give you the law as accurately as possible. It'll be the foreperson's duty to preside over the deliberations of the jury. And when I excuse you from the courtroom, the first thing I'm going to have you do when you return to the jury room is select your foreperson. You'll write that juror's number on a piece of paper, and just knock on the door and let -- we don't have a bailiff today. Let -- okay, let someone -- someone will be sitting outside of the jury room. You'll knock on the door and let them know that you've selected the foreperson. It'll be that foreperson's duty to preside over the jury deliberations. If during deliberations you should desire to communicate with the Court, please reduce your message or question to writing signed by the foreperson, and the foreperson alone, and pass the note to whoever is outside the door, who will bring it to my attention, and I will

respond as promptly as possible, either in writing or by having you return to the courtroom. I caution you, however, with regard to any message or question that you might send that you should never state or specify your numerical division, if you've taken a vote or something, you know, three guilty, nine not guilty, or whatever, don't -- I don't need to know that. Please do not put that in the note. Now, you have heard the evidence, and you've heard the law. Whatever your verdict, the foreperson will indicate it on the indictment, and sign it on behalf of the jury. So, this is the indictment, it will be in the jury room with you. On this side it describes the offense that's charged. If you flip it over in the bottom left-hand corner there is a place to write the verdict. You'll simply write guilty or not guilty, and sign and date it by the foreperson, and then you'll whoever is outside the jury room door know that you have reached a verdict. The foreperson is not authorized to write the verdict until it is unanimous, until all 12 of you have agreed on the verdict. So, at this point I'm going to excuse you from the courtroom. A couple things, like I said, when you get back there, select a foreperson and write that juror's number down.

Don't begin to discuss the case yet, this is the last time I'll tell you not to discuss the case, and that's simply because we need to bring you the evidence and the indictment. As soon as you receive the evidence and the indictment, that is your signal to begin deliberating, and you'll continue to deliberate until you've reached a verdict. We're gonna pile all that stuff up and bring it to you. As you may recall, one of the exhibits is a CD-ROM that contains the audio recording of those phone calls. We are also going to bring you a laptop with -- is it an external disc drive, so that you can play that recording at your leisure, if you choose to do that. Finally, I know it's lunchtime. The Clerk has ordered lunch for you. It's here? Okay. The lunch is here. We just got boxed lunches from Chick-fil-A, so those will go back in the jury room with you so that you're not starving during your deliberations. So, please step to your jury room, select a foreperson, let us know who that is, and in just a few minutes we'll bring you the evidence and the indictment.

(JURY EXITS)

JUDGE NEWMAN: Any objections to the jury charge from the State?

MS. GATTE: No, Your Honor.

JUDGE NEWMAN: From the Defense?

MR. SWERLING: No, Your Honor.

JUDGE NEWMAN: Okay. If y'all get that evidence together so it can go back to the jury room.

MS. GATTE: Your Honor, before we go off the record.

JUDGE NEWMAN: Sure.

MS. GATTE: The State would request that the Defendant be taken into custody because he is facing a mandatory 25 years, we're concerned he's a flight risk. We have information that he actually lives out of state now, and so we would ask that he be taken into custody while the jury deliberates.

JUDGE NEWMAN: What says the Defense?

MR. SWERLING: Judge, it's been eight years. He's still here. He comes when he's asked. I just don't see the necessity.

JUDGE NEWMAN: Yeah, unfortunately I do, 'cause this is the moment. So, yeah, we'll take him into custody while the jury deliberates.

MS. GATTE: Thank you, Your Honor.

MR. SWERLING: Yes, ma'am.

JUDGE NEWMAN: Okay. All right. They're

going to take him into custody. Y'all make sure the evidence is there. I'm gonna run out to the restroom real quick.

(BREAK)

JUDGE NEWMAN: All right, folks, I understand the jury has reached a verdict. If we could please, bring the jury.

(JURY ENTERS)

JUDGE NEWMAN: All right, Madam Foreperson, has the jury reached a verdict?

JURY FOREPERSON: We have, Your Honor.

JUDGE NEWMAN: Is it unanimous?

JUROR FOREPERSON: Yes, it is.

JUDGE NEWMAN: Madam Clerk, if you would, hand -- get that indictment from the Foreperson. All right, Madam Clerk, would you publish the verdict?

THE CLERK: Can you please stand, Mr. Goad? The State versus Walter Wade Goad, docket number 2016GS2801123, the verdict is guilty, signed by the Foreperson. Madam Forelady, ladies and gentlemen of the jury, if this is your verdict, could you please signify by raising your right hand? Thank you.

JUDGE NEWMAN: All hands are raised. Anything from the Defense before the jury is released?

MR. SWERLING: Your Honor, we request a poll.

JUDGE NEWMAN: Madam Clerk, would you please poll the jury.

THE CLERK: Juror Number 17, was this your verdict?

JUROR NO. 17: Yes, ma'am.

THE CLERK: Is this still your verdict?

JUROR NO. 17: Yes, ma'am.

THE CLERK: Juror Number 13, is this your verdict?

JUROR NO. 13: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 13: Yes, ma'am.

THE CLERK: Juror Number 126, is this your verdict?

JUROR NO. 126: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 126: Yes, ma'am.

THE CLERK: Juror Number 38, is this your verdict?

JUROR NO. 38: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 38: Yes, ma'am.

THE CLERK: Juror Number 195, is this your verdict?

JUROR NO. 195: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 195: Yes, ma'am.

THE CLERK: Juror Number 120, is this your verdict?

JUROR NO. 120: Yes.

THE CLERK: Is it still your verdict?

JUROR NO. 120: Yes, it is.

THE CLERK: Juror Number 59, is this your verdict?

JUROR NO. 59: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 59: Yes, ma'am.

THE CLERK: Juror Number 37, was this your verdict?

JUROR NO. 37: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 37: Yes, ma'am.

THE CLERK: Juror Number 147, is this your verdict?

JUROR NO. 147: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 147: Yes, ma'am.

THE CLERK: Juror Number 127.

JUROR NO. 127: Yes.

THE CLERK: Is this your verdict?

JUROR NO. 127: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 127: Yes, ma'am.

THE CLERK: Juror Number 100, is this your verdict?

JUROR NO. 100: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 100: Yes, ma'am.

THE CLERK: Juror Number 121.

JUROR NO. 121: Yes, ma'am.

THE CLERK: Is this your verdict?

JUROR NO. 121: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR NO. 121: Yes, ma'am.

THE CLERK: The jury has been polled.

JUDGE NEWMAN: Thank you. Ladies and gentlemen, thank you for your time, your patience, your attention, your jury service is now complete. We can't do what we do without people like you showing up and doing what you have done. And as I told you during my instructions, you know, when you have done your job and complied with your oath, no one will have the right to criticize your verdict. It is what it is. I hope that -- I've tried to

minimize the inconvenience to you this week, and work around your personal scheduling matters as best as I could, and I hope that I have done that to your satisfaction. I hope that the experience has at least been educational. I know we pull you from your daily lives and sort of force you to serve jury duty. But, as I said, we can't do what we do without you showing up and doing what you have done. And I appreciate that. On behalf of the judiciary, the attorneys, the parties, the citizens of Kershaw County, and so I hope you found it as least educational, and not at all a waste of your time in any regard. You're now free to discuss the case with whoever you want to discuss it with, anyone, everyone, or no one. It does not matter to me. You can talk to the attorneys. You can talk to the parties, anyone in the courtroom, everyone, no one, it does not matter. The next phase of this process is going to be sentencing the defendant. You're not required to stay for that. Your service is now complete. But, in South Carolina, unlike a lot of other places, we do the sentencing immediately. So, as soon as I release you, and they get their paperwork together for me to write down the sentence, I will be sentencing Mr. Goad. And so,

I'm going to release you. You can go and get your leftovers, if you have any, get your cell phone. If you're interested in the sentencing, 'cause it is going to take a minute or two for them to get me paperwork, you can come on back in the courtroom. If not, you're free to go and you can go on home. You're no longer -- it's kind of late in the year, but you're no longer eligible to serve on a jury in Circuit Court for the remainder of 2024. If you are summoned for jury duty in 2025 or 2026, you can exercise an exemption. There's one of those questions if you served on a jury in the past three calendar years, you may have to show up that Monday morning, I'm not sure how the Clerk's office does it in this county, in particular, but -- but even if you do show up you'll let the judge know that you served on a jury this week, and you can choose to serve or choose not to serve. What else do you want me to tell them? Madam Clerk, anything? Work excuses? Pay?

THE CLERK: Work excuses, right across the hall here, Room 313.

JUDGE NEWMAN: Go to room 313, the Clerk's office if you need a work excuse. Otherwise, you are free to go. Thank you very much for your

service. Have a good week, weekend.

(JURY EXITS)

JUDGE NEWMAN: And do we have a sentencing sheet yet?

MS. GATTE: Yes, ma'am, Your Honor.

JUDGE NEWMAN: Oh, okay. You can hand it up.

MS. GATTE: I just need Mr. Swerling to sign it.

JUDGE NEWMAN: Okay. And I'm going to pause just for a moment in case any of the jurors do want to come back into the courtroom. I don't want them to miss it if that's what they're going to do. You can hand it up when you're ready so I can start signing all that. All right, let's proceed with the sentencing. Let me hear first from the State.

MR. SWERLING: Judge, could I just note -- and ask you to note for the record, a motion for a new trial.

JUDGE NEWMAN: I'm sorry, I skipped that.

MR. SWERLING: That's all right. Based upon the evidence -- I mean, the objections that were sustained, overruled, or against or not against -- I'm sorry, not in our favor, and any kind of motions that were made, if I could just renew those herein and ask you to incorporate them in a motion for a

new trial.

JUDGE NEWMAN: Yes, sir, that motion is respectfully denied.

MR. SWERLING: Yes, ma'am.

JUDGE NEWMAN: Let me hear from Ms. Gatte.

MS. GATTE: Your Honor, the Defendant was convicted of trafficking cocaine 200 to 400 grams. The statute mandates 25 years. We're asking the Court to impose that mandatory sentence. The Defendant was in jail for two days, the State will consent to two days time served, but that is the only credit that the State will consent to. The defendant did have an ankle monitor at some point during his bond in the beginning, however, he was not on strict house arrest and so therefore that does not qualify for time served in the State's understanding of the way the statute reads, and so Your Honor, we would ask that you impose the mandatory 25-year sentence.

JUDGE NEWMAN: Mr. Swerling, Mr. Hough? Mr. Goad, would you stand with your counsel?

MR. GOAD: Yes, yes, Your Honor.

JUDGE NEWMAN: Gentlemen.

MR. SWERLING: Judge, I'd just -- I understand it's a mandatory minimum. There's not a whole lot

to say. I'd ask you to impose obviously the mandatory minimum, 'cause there's no discretion. I would like his mother and his wife and son in the first row, they do live in Las Vegas now and been -- he grew up here in Kershaw County, he's a resident of Kershaw County for many years. His father and mother had a construction business, which he basically took over when his father died some years ago, even Mr. Parnell testified he worked for them for some period of time. And I would say that in the last eight years there's been no problem with him at all. He's been here whenever he's been asked to be here, and he's got two children, one of them actually at the University of Las Vegas right now, so it's -- you know, the family is doing well, and I just ask you to consider the minimum sentence -- minimum in the case.

JUDGE NEWMAN: Anything from you Mr. Hough?

MR. HOUGH: No, Your Honor, thank you.

JUDGE NEWMAN: Mr. Goad, would you like to say anything?

MR. GOAD: Yes, Your Honor.

JUDGE NEWMAN: Yes, sir.

MR. GOAD: I'd just like to say that I -- I trust you, Your Honor, and your -- your expertise to

-- to do what you think is right, and I just only want to say to my family, I love you guys.

JUDGE NEWMAN: Well, this will be relatively quick. I -- you know, I've heard all of the testimony, seen the evidence, it -- it is what it is at this point. It's my understanding, and I'm reviewing the statute right now, but -- and it's been referred to as a mandatory minimum of 25 years, but I don't believe there to be any upper level, it is just a mandatory term of 25 years, no part of which may be suspended, nor probation granted, and a fine of $100,000. There is no range, that just is the penalty.

MR. SWERLING: Right.

JUDGE NEWMAN: And so, in this case I sentence Mr. Goad to 25 years in the South Carolina Department Corrections, and require Mr. Goad to pay a fine of $100,000. There is no discretion that I have in this. You'll get credit for the two days that you served in jail. Good luck to you, sir.

MR. GOAD: Thank you, Your Honor.

JUDGE NEWMAN: Thank you.

MR. HOUGH: Thank you, Your Honor.

MS. GATTE: Thank you, Your Honor.

(The proceedings were concluded.)

CERTIFICATE OF TRANSCRIBER

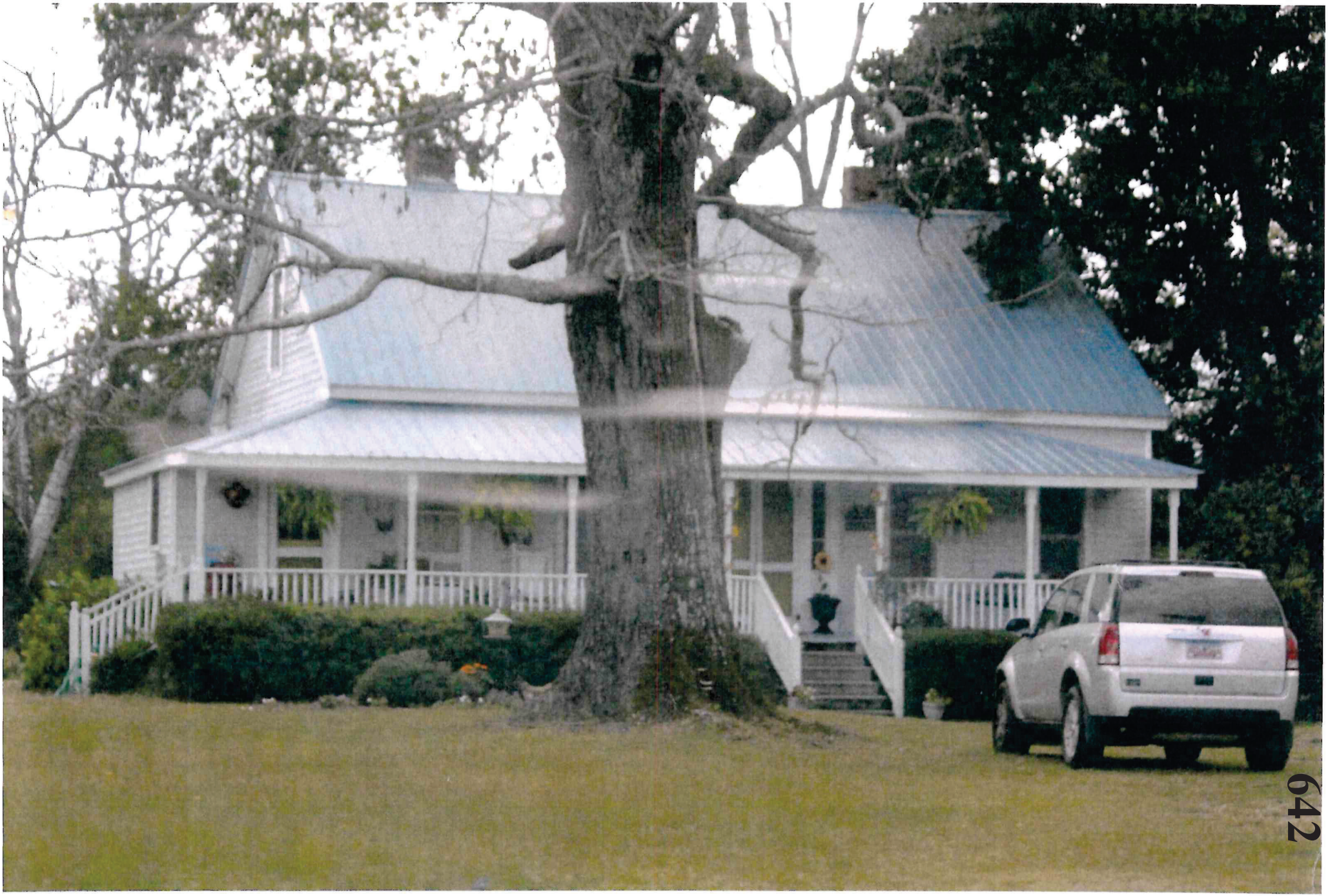
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I further certify that I am not related to nor the employe of any of the parties or witnesses hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

December 12, 2024

Jessica N. Antonucci

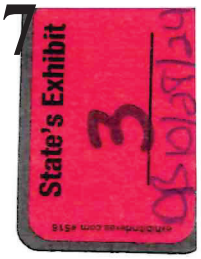
Transcriber


642


State's Exhibit


State's Exhibit
2


DEPUTY SHERIFF
CLG 403


State's Exhibit
3


State's Exhibit
4


dollies


State's Exhibit
5

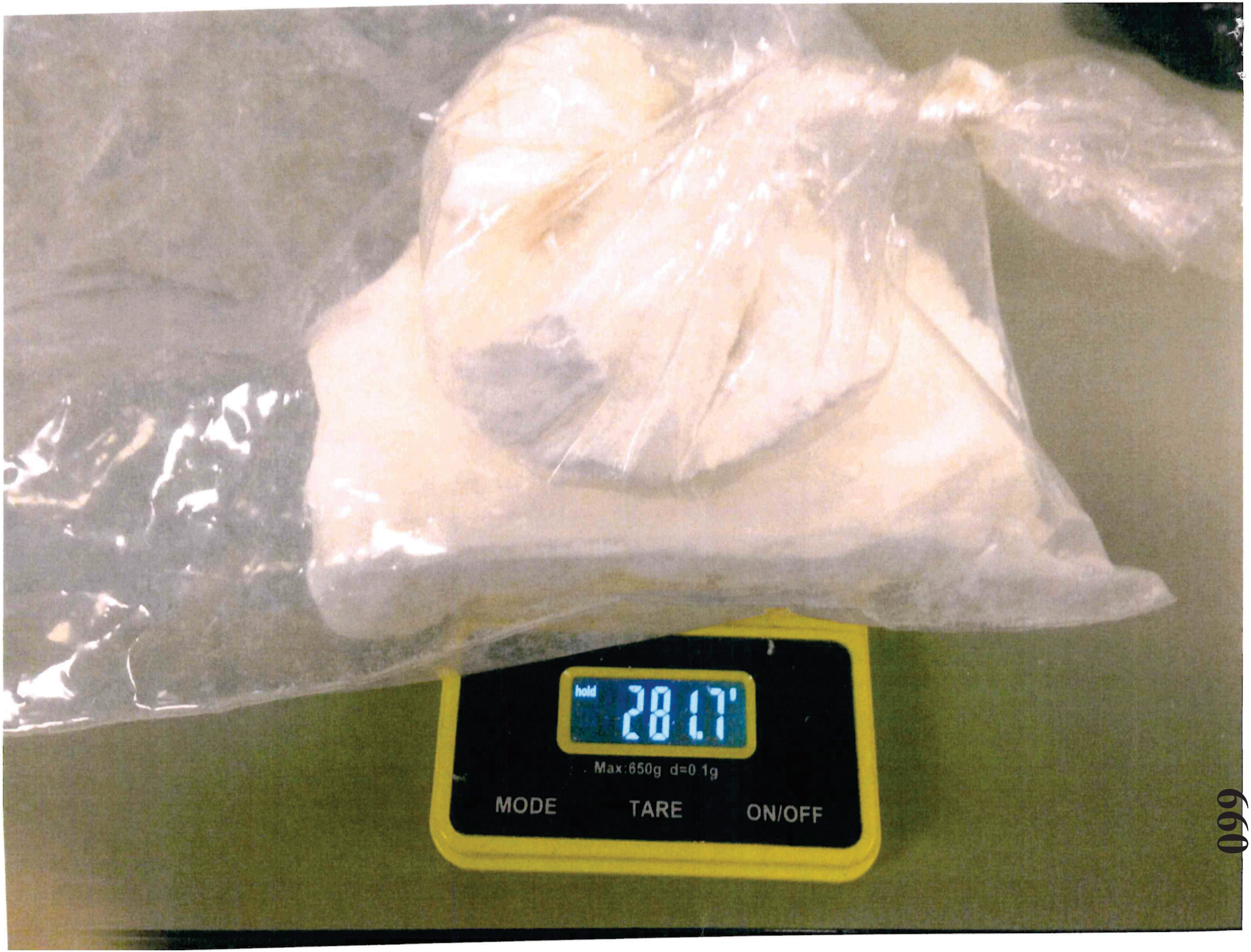

State's Exhibit
9


Simple
FOLD TOP
SANDWICH

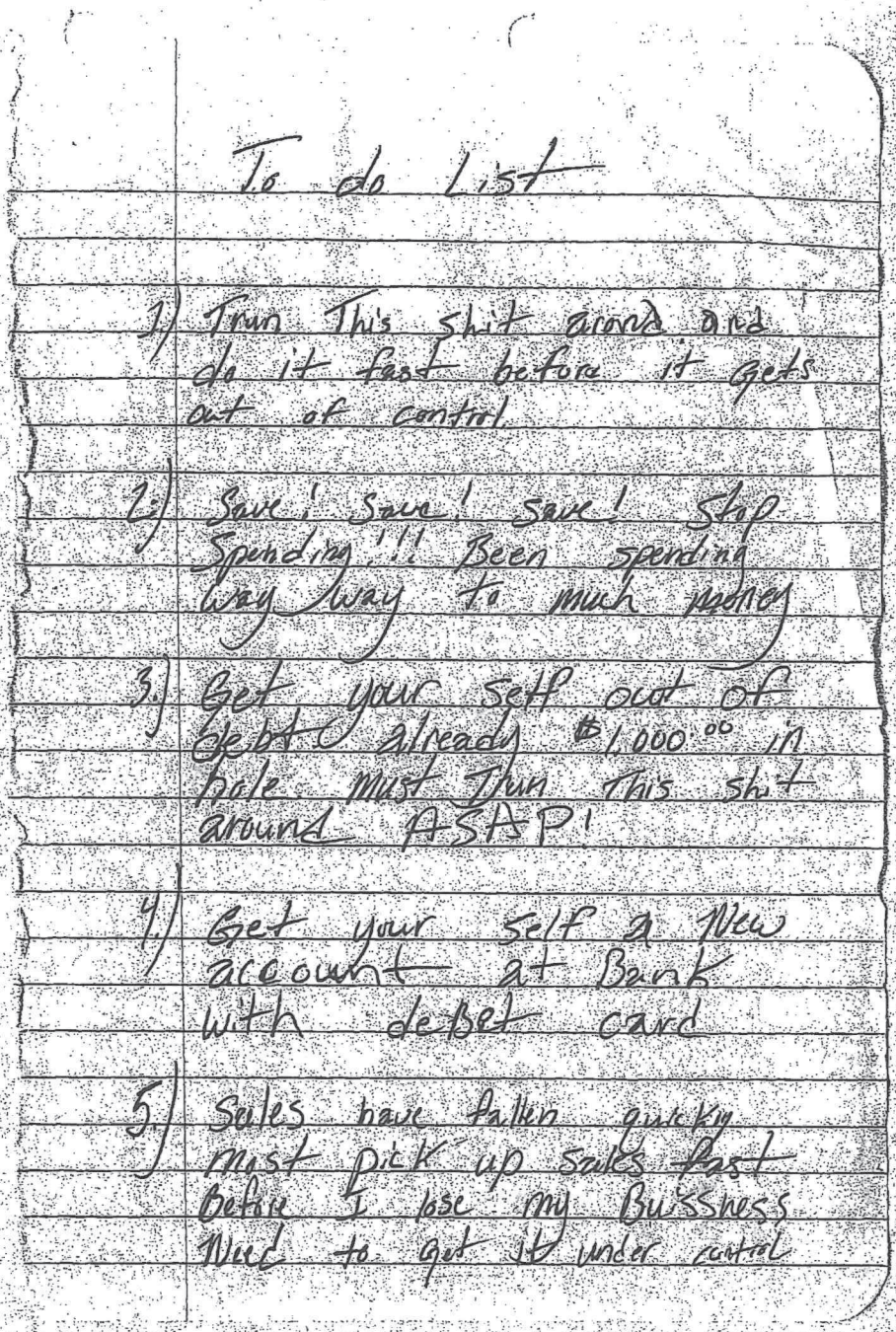

State's Exhibit
7


State's Exhibit
8


State's Exhibit
9


hold
281.7
Max:650g d=0.1g
MODE
TARE
ON/OFF


State's Exhibit
10



To do List

1) Turn This shit around And do it fast before it gets out of control

2) Save! Save! Save! Stop Spending!!! Been spending way way to much money

3) Get your self out of debt already $1,000.00 in hole. Must Turn this shit around ASAP!

4) Get your self a New account at Bank with debet card

5) Sales have fallen quicky must pick up sales fast Before I lose my Bussness Need to get it under control

COPY

Buddha $250.00
Ty S. $800.00
Casper S. $540.00
Tank $350.00
Marces H. $500.00
Jerry H. $50.00
Will $900.00
Butt $1800
Steven S.

** $8840.00 **
*

* ALEX ROSE.

COPY

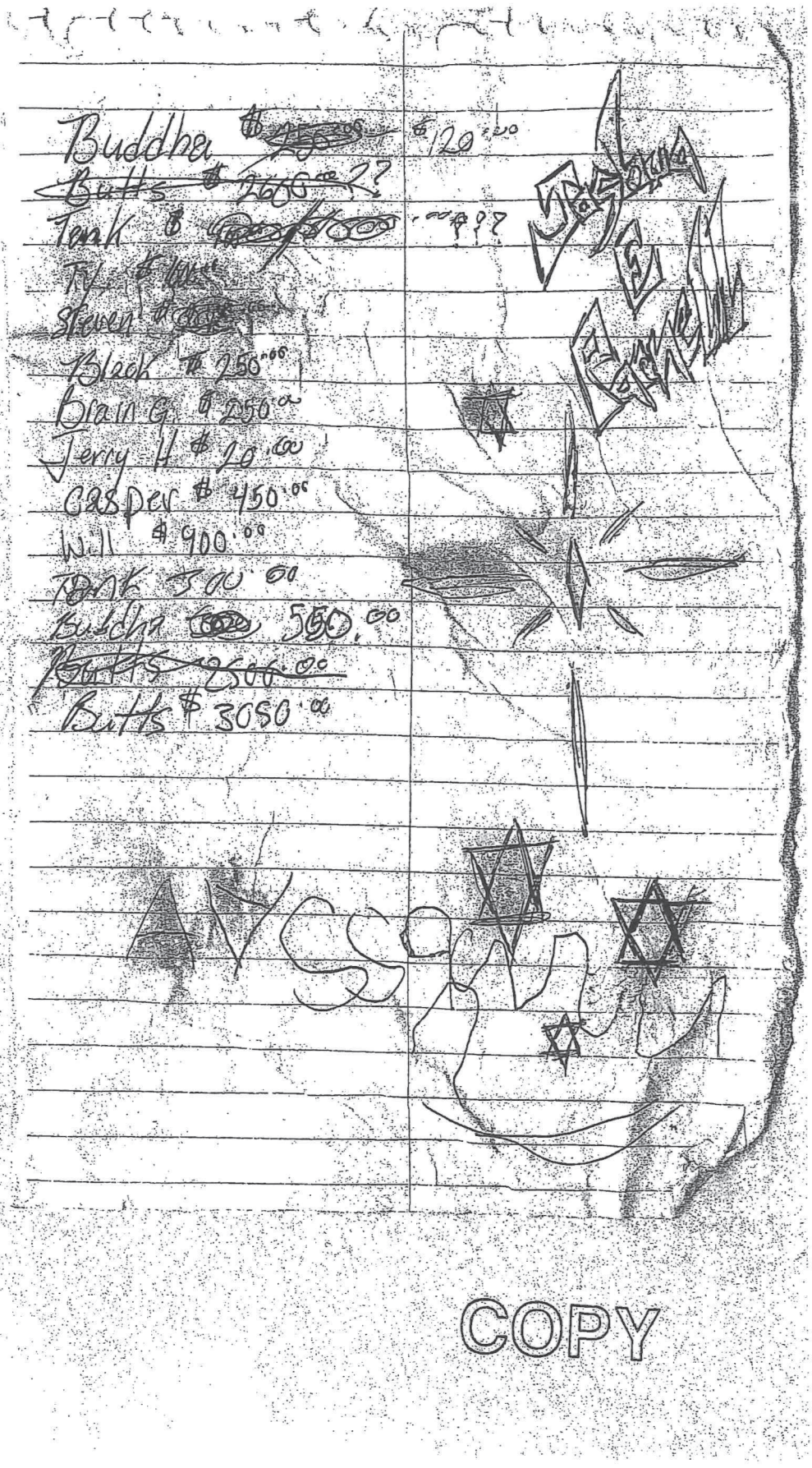
2200

Marcus $500.00
Casper S. $500.00
Buddha $500.00
TJ S ~~$500.00~~ $550.00
Jerry H. ~~$500.00~~ $50.00
Butts ~~$1400.00~~ $1200.00

Butts 2500.00
Casper S. 350.00
Buddha 200.00 / 1600.00
Jerry H. 50.00
TJ 100.00
Marcus H. 500.00

10400.00
2200.00
$12600.00

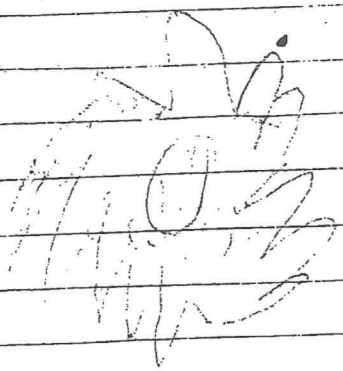
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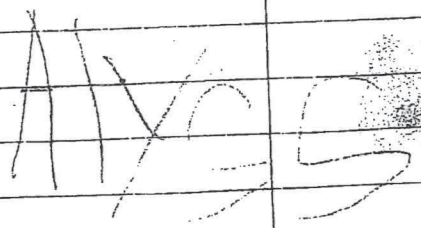

Buddha $120.00
Butts $2500.00??
Tank $ 400.00 ??
TV $ 400.00
Steven $ 250.00
Black $ 250.00
Brain G $ 250.00
Jerry H $ 10.00
CASPER $ 450.00
Will $ 900.00
Tank $ 400.00
Buddha 550.00
Butts $2500.00
Butts $3050.00
COPY

12,000
- 5,000
7,000

16,000
+ 2,000 +
18,000
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-4,000
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7
15





COPY


State's Exhibit
14