

Volume II of II

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Oconee County

R Lawton McIntosh, Circuit Court Judge

RECEIVED

FEB 01 2012

S.C. Supreme Court

TIMOTHY BLASSINGAME,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT

A P P E N D I X

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1 (WHEREUPON, THE CONTINUATION OF THE TRIAL OF
2 THE STATE OF SOUTH CAROLINA VERSUS TIMOTHY
3 LEE BLASSINGAME RESUMED ON TUESDAY, OCTOBER
4 27TH, 2009, AT APPROXIMATELY 10 14 A M)
5 (STATE'S EXHIBIT 1, D V R DISK 1, 2-24-09,
6 WAS MARKED FOR IDENTIFICATION)
7 (STATE'S EXHIBIT 2, C D DISK 2, 2-24-09, WAS
8 MARKED FOR IDENTIFICATION)
9 (STATE'S EXHIBIT 3, PICTURE OF DEFENDANT IN
10 CAR, WAS MARKED FOR IDENTIFICATION)
11 (STATE'S EXHIBIT 4, PICTURE OF CAR ON ROAD,
12 WAS MARKED FOR IDENTIFICATION)
13 (STATE'S EXHIBIT 5, DRUGS AND PAPERWORK FOR
14 DRUGS, WAS MARKED FOR IDENTIFICATION)
15 **THE COURT** ALL RIGHT IS THERE ANYTHING FROM THE
16 STATE BEFORE WE BEGIN THE TRIAL OF *THE STATE OF SOUTH*
17 *CAROLINA VERSUS TIMOTHY LEE BLASSINGAME, 2009-GS-37-820?*
18 **MS SIMMONS** NO, YOUR HONOR
19 **THE COURT** ANYTHING FROM THE DEFENDANT?
20 **MR SPROUSE** NOTHING, YOUR HONOR
21 **THE COURT** VERY GOOD ASK THE JURY TO JOIN US,
22 PLEASE
23 (THE JURY ENTERED THE COURTROOM AT
24 APPROXIMATELY 10 17 A M)
25 **THE COURT** LET THE RECORD REFLECT THE JURY AND THE

1 ALTERNATE ARE IN THE JURY-BOX

2 I'LL NOW ASK THE CLERK OF COURT TO SWEAR YOU FOR
3 THIS CASE

4 (WHEREUPON, THE JURY WAS SWORN)

5 THE CLERK PLEASE BE SEATED

6 PRELIMINARY INSTRUCTIONS BY COURT TO JURY

7 THE COURT MADAM FORELADY, LADIES AND GENTLEMEN OF
8 THE JURY, I'M SURE THAT EACH OF YOU NOW FULLY APPRECIATES
9 THAT THIS COURT, THE COURT OF GENERAL SESSIONS FOR OCONEE
10 COUNTY, EXISTS FOR THE PURPOSE OF RESOLVING QUESTIONS OF
11 ALLEGED CRIMINAL CONDUCT ARISING BETWEEN THE STATE OF
12 SOUTH CAROLINA AND THE DEFENDANT

13 IT IS A GUARANTEED RIGHT OF EVERY CITIZEN THAT A
14 CHARGE OF CRIMINAL CONDUCT BE PRESENTED IN OPEN COURT
15 ACCORDING TO CERTAIN RULES OF CRIMINAL PROCEDURE THE
16 STATE NOT ONLY HAS THE RIGHT BUT THE DUTY TO PRESENT A
17 CHARGE OF CRIMINAL CONDUCT IN OPEN COURT ACCORDING TO THE
18 SAME RULES OF PROCEDURE EACH OF THE PARTIES, THEREFORE,
19 BOTH THE STATE AND THE DEFENDANT, THEN HAVE AN EQUAL
20 RIGHT AND AN OPPORTUNITY TO THESE JUDICIAL PROCEEDINGS TO
21 HAVE YOU AS THE JURY SELECTED AND NOW SWORN FOR THE TRIAL
22 OF THIS CASE

23 ONE OF THE MOST IMPORTANT ASPECTS OF YOUR DUTY AS A
24 JURY LIES ESSENTIALLY IN THE OATH THAT YOU HAVE NOW
25 TAKEN, TO WELL AND TRULY TRY AND DETERMINE THE FACTS OF

1 THIS CASE THAT OATH IN A VERY ESSENTIAL WAY SAYS THAT
2 YOU ARE THE JUDGES OF THE FACTS IN THE CASE

3 OBVIOUSLY, ANY CASE TRIED IN COURT WOULD INVOLVE A
4 QUESTION ABOUT WHAT HAPPENED OR HOW SOMETHING CAME TO
5 HAPPEN OR WHOM, IF ANYONE, DID ANYTHING IN A PARTICULAR
6 CIRCUMSTANCE FROM THIS POINT FORWARD, THEN, NO ONE HAS
7 A RIGHT TO DECIDE ANY QUESTION OF FACT IN THIS TRIAL, OR
8 THE TRUTH OF IT, EXCEPT YOU, THE JURY THE FACTS THEN
9 ARE FOR YOUR RESOLUTION AND DECISION AND YOURS ALONE

10 AND AFTER YOU HEAR ALL THE EVIDENCE IN THE CASE,
11 THEN IT WILL BE YOUR DUTY BY YOUR MUTUAL AND JOINT
12 DISCUSSIONS TO DETERMINE THE TRUTH OF THE CASE BY
13 DECIDING THE WEIGHT AND THE BELIEVABILITY OF EACH PART OF
14 THE EVIDENCE AND BY APPLYING THE LAW OF THE CASE AS I
15 GIVE IT TO YOU

16 AND AS TRIAL JUDGE I AM THE JUDGE OF THE LAW IN THE
17 CASE IT IS MY RESPONSIBILITY AMONG OTHER DUTIES TO
18 PRESIDE OVER THIS TRIAL, TO RULE OVER THE ADMISSIBILITY
19 OF EVIDENCE PRESENTED DURING THE PROCESS OF THE TRIAL,
20 AND ALSO TO STATE TO YOU, THE JURY, THE LAW APPLICABLE TO
21 THE CASE

22 THE CONSTITUTION OF SOUTH CAROLINA MANDATES THAT I
23 AS A TRIAL JUDGE, HOWEVER, CANNOT DIRECTLY OR INDIRECTLY
24 COMMENT ABOUT THE FACTS IN THIS CASE THE PROCESS OF A
25 VERDICT IS SIMPLY THAT YOU, THE JURY, FIRST DETERMINE

1 WHAT IS THE TRUTH OF THE FACTS AND THEN APPLY TO THAT
2 TRUE STATE OF FACTS THE PRINCIPLE OF LAW APPLICABLE, AND
3 BY THAT PROCESS TO DETERMINE AND REPORT TO THIS COURT
4 YOUR FINAL VERDICT IN THE CASE, SPEAKING THE TRUTH OF THE
5 CASE AS YOU DETERMINE IT

6 AS THE COURT, I WILL MORE FULLY AND COMPLETELY STATE
7 TO YOU THE PRINCIPLES OF LAW APPLICABLE TO THE ISSUES IN
8 THIS CASE BEFORE IT IS SUBMITTED TO YOU, THE JURY, FOR
9 YOUR DECISION HOWEVER, THERE ARE CERTAIN PRINCIPLES OF
10 LAW APPLICABLE TO THE FRAMEWORK OF EVERY CASE IN GENERAL
11 SESSIONS COURT

12 FIRST, THE DEFENDANT HAS ENTERED A PLEA OF GUILTY TO
13 THE CHARGES CONTAINED IN THE INDICTMENT NOW, THE
14 INDICTMENT IS NOT EVIDENCE, IT IS SIMPLY THE WRITTEN
15 INSTRUMENT THAT CONTAINS THE CHARGE OR CHARGES AGAINST
16 THE DEFENDANT AND IT SERVES AS THE FORMAL DOCUMENT BY
17 WHICH THIS CASE IS PROCESSED INTO THIS COURT

18 THE PLEA OF NOT GUILTY PLACES UPON THE STATE THE
19 BURDEN OF PROOF IN THIS CASE SO WHAT IS MEANT BY THE
20 TERM "BURDEN OF PROOF"? THE DEFENDANT IS PRESUMED IN THE
21 LAW INNOCENT OF ALL CHARGES CONTAINED IN THE INDICTMENT
22 THE BURDEN OF PROOF REQUIRES THE STATE TO PROVE GUILT
23 BEYOND A REASONABLE DOUBT, AND, THEREFORE, CONSISTENT
24 WITH THAT BURDEN THE DEFENDANT OR THE ACCUSED PARTY SHALL
25 BE PRESUMED INNOCENT, AND THAT PRESUMPTION OF INNOCENT IS

1 SUFFICIENT TO COMPEL A VERDICT OF NOT GUILTY OR A VERDICT
2 OF ACQUITTAL UNLESS YOU, THE JURY, CONCLUDE THAT THE
3 STATE HAS SATISFIED ITS OBLIGATION TO PROVE THE DEFENDANT
4 GUILTY BEYOND A REASONABLE DOUBT NOW, THE TERM
5 "REASONABLE DOUBT" MEANS THE KIND OF DOUBT THAT WOULD
6 CAUSE A REASONABLE PERSON TO HESITATE TO ACT

7 THIS CASE WILL BE OPENED BY THE SOLICITOR, AFTER
8 WHICH THE SAME OPPORTUNITY WILL BE AFFORDED TO THE
9 DEFENDANT TO MAKE AN OPENING STATEMENT WHEN ALL THE
10 EVIDENCE HAS BEEN RECEIVED BY THE COURT, COUNSEL FOR THE
11 STATE AND COUNSEL FOR THE DEFENDANT WILL STATE TO THE
12 JURY PANEL THEIR RESPECTIVE POSITIONS, AFTER WHICH THE
13 COURT WILL FULLY STATE THE APPLICABLE LAW IN THE CASE

14 OBVIOUSLY, ALL PARTS OF THE CASE ARE IMPORTANT YOU
15 DO NOT KNOW WHICH WITNESS IN A CASE WILL MOST IMPRESS
16 YOU, WHETHER THE FIRST WITNESS OR THE LAST WITNESS

17 IN REACHING YOUR FINAL CONCLUSION, YOU WILL NEED THE
18 GUIDANCE AND JUDGMENT OF THE OTHER JURORS AND YOU WILL
19 NEED THE GUIDANCE OF THE PRINCIPLES OF LAW THAT WILL BE
20 STATED TO YOU BY THE COURT

21 FOR ALL THESE REASONS, THEN, IF WE HAVE A RECESS
22 PERIOD WHEN YOU RETIRE TO YOUR JURY ROOM OR DURING AN
23 OVERNIGHT OR MEAL RECESS, I INSTRUCT YOU THAT YOU MUST
24 NOT UNDERTAKE DISCUSSION OF THIS CASE AMONG YOURSELVES
25 UNTIL IT IS FINALLY GIVEN TO YOU FOR YOUR DELIBERATION,

1 NOR ARE YOU TO DISCUSS THE CASE WITH ANYONE OR PERMIT
2 ANYONE TO DISCUSS THE CASE WITH YOU IF ANYONE SHOULD
3 TRY TO DISCUSS THE CASE WITH YOU OR ANY CASE PENDING
4 DURING THIS TERM OF COURT, YOU ARE TO REPORT THEM
5 IMMEDIATELY SO I MIGHT TAKE THE APPROPRIATE ACTION

6 BY THE WAY, THE VERDICT IN THIS CASE MUST BE A
7 UNANIMOUS VERDICT, THAT MEANS ALL 12 MUST AGREE TO THE
8 VERDICT, WHICHEVER VERDICT YOU REACH

9 THERE ARE A FEW OTHER THINGS I NEED TO MENTION
10 BEFORE WE BEGIN FIRST, AS I SAID EARLIER, ALTHOUGH I AM
11 THE ONLY PERSON THAT CAN TELL YOU WHAT THE LAW IS, YOU
12 AND YOU ALONE ARE THE ONLY ONES WHO CAN DETERMINE THE
13 FACTS I DO NOT HAVE A RIGHT TO INDICATE HOW I MAY FEEL
14 ABOUT THE EVIDENCE PRESENTED, AND MY INTENT WILL BE TO
15 ACT IMPARTIALLY TOWARD EACH PARTY

16 SECOND, FROM TIME TO TIME AN ATTORNEY MAY OBJECT TO
17 SOME BIT OF TESTIMONY OR EVIDENCE THE OTHER SIDE IS
18 SEEKING TO PRESENT AS IN SPORTS OR BUSINESS OR ANY
19 OTHER STRUCTURED ACTIVITY, THERE ARE CERTAIN RULES WHICH
20 BOTH SIDES MUST OBEY IN PRESENTING EVIDENCE THESE RULES
21 HAVE A DEFINITE PURPOSE THEY ENSURE THAT THE
22 INFORMATION YOU RECEIVE IS THE MOST TRUSTWORTHY AND
23 RELIABLE EVIDENCE AVAILABLE

24 AN OBJECTION IS A PROCEDURE WE USE FOR AN ATTORNEY
25 TO CALL A POSSIBLE VIOLATION OF THOSE RULES TO THE

1 COURT'S ATTENTION, AND FOR THIS REASON YOU SHOULD NOT
2 HOLD AN ATTORNEY'S OBJECTION AGAINST HIS OR HER CLIENT,
3 NOR SHOULD YOU CONCLUDE FROM MY RULING ON THE OBJECTION
4 THAT I FAVOR ONE SIDE OR THE OTHER

5 FINALLY, I WOULD ASK THAT YOU PAY THE CLOSEST
6 ATTENTION TO THE EVIDENCE PRESENTED TO YOU I'LL ASK
7 THAT YOU DO NOT TAKE NOTES, FOR IF THE NOTE-TAKER MAKES
8 AN ERROR, THOSE NOTES CAN BE MORE DETRIMENTAL THAN
9 HELPFUL DURING YOUR DELIBERATIONS THE TIME-TESTED
10 SYSTEM IS FOR EACH OF YOU TO LISTEN CAREFULLY, AND I'M
11 CONFIDENT THAT YOU WILL DO THAT

12 THE REASON I SUGGEST THE JURY DOES NOT TAKE NOTES,
13 IT IS MY EXPERIENCE WE HAVE A TENDENCY TO CONCENTRATE ON
14 THE NOTE, IN OTHER WORDS, WE WANT TO BE CERTAIN THAT WE
15 PUT DOWN WHAT WE THINK WE HEAR, EVEN THE SPELLING OR
16 SOMETIMES JUST THE WORDING OF IT AND IN DOING THAT, OUR
17 ATTENTION IS DISTRACTED FROM THE WITNESS TESTIFYING AT
18 THE TIME OR THE EXHIBIT OR THE OTHER EVIDENCE BEING
19 INTRODUCED IN THE COURTROOM

20 ALSO, AS I SAY, IF WE MAKE AN ERROR, THEN THOSE
21 NOTES CAN ACTUALLY BE MORE HARMFUL THAN HELPFUL I USE
22 FOR AN EXAMPLE IF WE MISS A WORD WHEN WE'RE TAKING THE
23 NOTE, IT CAN CHANGE THE NOTE OR THE MEANING ENTIRELY I
24 USE ONE WORD NOT IF WE PUT IN "NOT" WHEN IT'S NOT
25 THERE, OR YOU DON'T HEAR IT WHEN IT IS THERE, IT CHANGES

1 THE WHOLE TENOR AND THE MEANING OF THE NOTE

2 THE BETTER COURSE IS TO USE, AS I SAY, IT MUST BE
3 UNANIMOUS VERDICT, IS ALL 12 OF YOU WHEN IT COMES TIME TO
4 REACH A VERDICT, IF YOU HAVE A QUESTION ABOUT THE
5 TESTIMONY, ASK THE OTHER MEMBERS OF THE JURY, WELL, HOW
6 DO YOU RECALL IT? AND IN THAT WAY DECIDE WHAT THE
7 EVIDENCE WAS AS I SAY, OTHERWISE YOU MIGHT MAKE AN
8 ERROR

9 NOW, HAVING SAID ALL THAT, I DO TAKE NOTES THIS IS
10 NOT ONE OF THOSE THINGS, DO AS I SAY, NOT AS I DO I
11 TAKE NOTES JUST TO KEEP UP WITH WHAT'S GOING ON IN THE
12 COURT AS TO WHAT THE LAW REQUIRES I'M JUST JOTTING DOWN
13 WHAT HAPPENS, NOT THE SIGNIFICANCE OF IT

14 YOU ARE THE ONLY ONES THAT CAN WEIGH OR DETERMINE
15 THE VALUE OF THE EVIDENCE, WE CALL IT CREDIBILITY OR
16 BELIEVABILITY AND THAT IS YOUR AND YOURS ALONE
17 RESPONSIBILITY I AM NOT CONCERNED ABOUT THE VALUE OR
18 THE MEANING OR THE WEIGHT OF THE EVIDENCE I'M ONLY
19 CONCERNED IF SOMETHING WAS DONE THAT WAS SUPPOSED TO BE
20 DONE ACCORDING TO THE RULES OF OUR LAW

21 SO, THEREFORE, PLEASE UNDERSTAND WE HAVE DIFFERENT
22 PURPOSES IN THIS COURTROOM YOU ARE THE ONLY ONES WHO
23 CAN DETERMINE THE TRUTH, I CAN ONLY DETERMINE SOMETHING
24 HAS HAPPENED AS IT SHOULD

25 WITH THAT I'LL RECOGNIZE THE SOLICITOR FOR HER

1 OPENING STATEMENT

2 MS SIMMONS THANK YOU, YOUR HONOR, MAY IT PLEASE
3 THE COURT

4 THE COURT MS SIMMONS

5 OPENING STATEMENT ON BEHALF OF THE STATE

6 MS SIMMONS GOOD MORNING, LADIES AND GENTLEMEN
7 AS I TOLD YOU YESTERDAY, MY NAME IS LINDSEY SIMMONS, AND
8 I WORK FOR YOUR ELECTED SOLICITOR, CHRISSY ADAMS WHEN
9 SOLICITOR ADAMS WAS ELECTED BACK IN 2005, SHE GAVE ME THE
10 OPPORTUNITY TO COME BACK TO THE TOWN WHERE I WAS BORN AND
11 RAISED TO PRACTICE LAW, AND IT IS A PLEASURE TO SERVE
12 HERE

13 FIRST OF ALL, I WANT TO TELL YOU WHAT YOU'RE GONNA
14 HEAR TODAY IS NOT LIKE CSI, IT'S NOT LIKE LAW & ORDER,
15 IT'S NOT LIKE FORENSIC FILES MY LIFE AND THE CRIMINAL
16 JUSTICE SYSTEM IN OCONEE COUNTY IS NOTHING LIKE THAT
17 CASES DON'T GO TO TRIAL IN 30 MINUTES AND I JUST WANTED
18 TO LET YOU KNOW THAT THINGS WILL BE A LITTLE DIFFERENT,
19 MOVE A LITTLE SLOWER, BUT WE'RE GONNA DO OUR BEST TO MOVE
20 THINGS ALONG AND MAKE THIS AS QUICK AS WE POSSIBLY CAN

21 THIS DEFENDANT IS CHARGED WITH DISTRIBUTION OF CRACK
22 COCAINE THAT IS SOMETHING I EXPECT THAT MOST OF YOU
23 DON'T KNOW VERY MUCH ABOUT, AND YOU WILL LEARN A LITTLE
24 BIT ABOUT IT TODAY

25 IN NARCOTICS CASES WE USE CONFIDENTIAL INFORMANTS

1 CONFIDENTIAL INFORMANTS ARE USED TO OBTAIN ILLEGAL DRUGS
2 FROM OTHER -- FROM DEFENDANTS

3 CONFIDENTIAL INFORMANTS ARE NOT YOUR NEIGHBOR,
4 PROBABLY, THEY'RE NOT NURSES, THEY'RE NOT DOCTORS,
5 THEY'RE NOT TEACHERS THEY ARE PEOPLE YOU DON'T KNOW
6 BUT THEY ARE PEOPLE WHO ARE AVAILABLE AND WILLING TO
7 ENGAGE IN DRUG TRANSACTIONS TO ASSIST THE POLICE
8 CONFIDENTIAL INFORMANTS ARE OFTEN COMPENSATED WITH MONEY
9 FOR THEIR PARTICIPATION IN A DRUG TRANSACTION

10 YOU WILL HEAR FROM THE INFORMANT IN THIS CASE TODAY,
11 JAMES WILLIE WALKER, THAT ON FEBRUARY 24TH, 2009, IN THE
12 CITY OF SENECA HE MET UP WITH SERGEANT JOHN CRUM AND
13 OFFICER TIM HUNNICUTT FROM THE SENECA POLICE DEPARTMENT
14 HE'S GONNA TELL YOU THAT HE WAS SEARCHED AND WIRED AND
15 SENT TO ENGAGE IN A DRUG TRANSACTION WITH THIS DEFENDANT,
16 TIM BLASSINGAME YOU ARE GONNA HEAR AN AUDIOTAPE OF THAT
17 TRANSACTION THERE'S GONNA BE SOME DRUG LINGO YOU'RE NOT
18 QUITE GONNA UNDERSTAND, BUT WE'LL EXPLAIN IT TO YOU, AND
19 JUST LISTEN CAREFULLY

20 THERE IS ALSO A VIDEOTAPE OF THAT TRANSACTION, AND
21 YOU WILL SEE THE DEFENDANT'S LIKENESS AND IMAGE ON THAT
22 VIDEOTAPE YOU ARE ALSO GOING TO HEAR CORROBORATING
23 EVIDENCE FROM OTHER LAW ENFORCEMENT SOURCES YOU'RE
24 GONNA HEAR EVIDENCE TYING THIS DEFENDANT TO THE VEHICLE
25 IN THE VIDEO, THE PHONE NUMBER THAT WAS CALLED TO SET UP

1 THE TRANSACTION

2 YOU'RE GONNA HEAR INDEPENDENT LAW ENFORCEMENT
3 EVIDENCE, LAW ENFORCEMENT WITNESSES, EVIDENCE THAT WILL
4 CORROBORATE WHAT MR WALKER IS GOING TO TELL YOU

5 AT THE END OF THE DAY, I HAVE TO PROVE TO YOU BEYOND
6 A REASONABLE DOUBT THAT TIMOTHY BLASSINGAME DISTRIBUTED
7 CRACK COCAINE ON FEBRUARY 24TH, 2009 THAT IS A BURDEN I
8 READILY ACCEPT, AND AT THE END OF THE EVIDENCE I WILL ASK
9 YOU TO FIND HIM GUILTY OF DISTRIBUTION OF CRACK COCAINE

10 THANK YOU

11 THE COURT MR SPROUSE?

12 MR SPROUSE MAY IT PLEASE THE COURT, YOUR HONOR

13 THE COURT MR SPROUSE

14 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

15 MR SPROUSE GOOD MORNING, LADIES AND GENTLEMEN
16 I'M SCOTT SPROUSE AS I INTRODUCED MYSELF YESTERDAY, I
17 REPRESENT THE YOUNG MAN SEATED AT THE TABLE WITH ME, TIM
18 BLASSINGAME

19 THE SOLICITOR IS ABSOLUTELY CORRECT HE STANDS
20 BEFORE YOU ACCUSED OF A CRIME AND WE HEAR DISTRIBUTION
21 OF CRACK COCAINE THAT IS A VERY SERIOUS OFFENSE AND
22 HE'S PLED NOT GUILTY

23 NOW, WHEN A PERSON IN OUR COUNTRY IS ACCUSED OF A
24 CRIME, THEY ARE INNOCENT UNTIL PROVEN GUILTY THE STATE
25 AND ONLY THE STATE HAS TO PRESENT EVIDENCE TO PROVE THAT

1 THE JUDGE INSTRUCTED YOU AS TO WHAT A REASONABLE DOUBT
2 IS NOW, THE STATE WILL HAVE TO PROVE TO YOU BEYOND A
3 REASONABLE DOUBT TODAY THAT IN SENECA THESE OFFICERS SET
4 UP THIS UNDERCOVER BUY AND THAT TIM BLASSINGAME
5 DISTRIBUTED CRACK COCAINE THEY'RE GONNA HAVE TO PROVE
6 THAT BEYOND A REASONABLE DOUBT THEY HAVE TO PROVE EVERY
7 ELEMENT OF THAT BEYOND A REASONABLE DOUBT

8 WE'RE GONNA HEAR A LOT OF TESTIMONY WE'RE GOING TO
9 SEE VIDEOS, OR A VIDEO WE'RE GOING TO HEAR AN
10 AUDIOTAPE YOU'RE GOING TO SEE STILL PHOTOS THAT THE
11 STATE IS GOING TO INTRODUCE

12 BUT WHEN YOU CUT THROUGH ALL THAT, LADIES AND
13 GENTLEMEN, THIS CASE IS GOING TO BOIL DOWN TO ONE THING,
14 AND THAT IS THE RELIABILITY OF JAMES WILLIE WALKER
15 THAT'S WHAT THIS CASE IS GOING TO REST ON

16 WHEN YOU HEAR THIS EVIDENCE AND WHEN YOU WEIGH IT,
17 THE FOUNDATION OF THE STATE'S CASE IS NOT VERY STRONG
18 THE RELIABILITY OF THE PERSON MAKING THE ACCUSATION IS
19 CENTRAL TO THIS CASE,

20 NOW, AS THE TRIAL GOES ON -- AND THE SOLICITOR IS
21 ABSOLUTELY CORRECT THEY ARE LONG THINGS THESE VIDEOS
22 ARE PROBABLY 45 MINUTES LONG BUT I ASK YOU TO PLEASE
23 PAY CLOSE ATTENTION TO THEM BECAUSE, THE OLD SAYING, A
24 PICTURE IS WORTH A THOUSAND WORDS WHAT CAN BE PROVEN BY
25 WHAT'S ON TAPE? WHAT CAN BE PROVEN? HOW DOES THAT BACK

1 UP WHAT MR WALKER SAYS?

2 AND AGAIN, THIS IS NOT A SITUATION WHERE A POLICE
3 OFFICER SAW AN INDIVIDUAL COMMITTING A CRIME POLICE
4 OFFICERS ARE RELYING ON THE WORD OF AN INDIVIDUAL AND
5 WHEN THE DAY IS DONE LADIES AND GENTLEMEN, THIS IS A
6 SHAKY FOUNDATION THEY WILL NOT BE ABLE TO PROVE THEIR
7 CASE BEYOND A REASONABLE DOUBT

8 I THANK YOU FOR YOUR ATTENTION AND MR BLASSINGAME
9 THANKS YOU THIS IS HIS DAY IN COURT LIKE ANY OTHER
10 INDIVIDUAL CHARGED WITH A CRIME, THIS IS HIS DAY IT'S
11 IN YOUR HANDS NOW, LADIES AND GENTLEMEN THANK YOU

12 **THE COURT** MADAM SOLICITOR, YOU MAY CALL YOUR FIRST
13 WITNESS

14 **MS SIMMONS** THE STATE CALLS SERGEANT JOHN CRUM
15 WHEREUPON,

16 JOHN MICHAEL CRUM,
17 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS
18 DIRECT EXAMINATION BY MS SIMMONS

19 **THE COURT** IF YOU WOULD, SIR, GIVE US YOUR FULL
20 NAME FOR THE RECORD, SPELLING YOUR LAST NAME

21 **THE WITNESS** JOHN MICHAEL CRUM, C-R-U-M

22 **THE COURT** VERY GOOD THANK YOU, SIR

23 YOU MAY PROCEED

24 BY MS SIMMONS

25 Q GOOD MORNING, SERGEANT CRUM

1 A GOOD MORNING

2 Q WHERE ARE YOU CURRENTLY EMPLOYED?

3 A SENECA POLICE DEPARTMENT

4 Q AND HOW LONG HAVE YOU BEEN THERE?

5 A JUST UNDER FIVE YEARS

6 Q IN WHAT CAPACITY HAVE YOU WORKED AT SENECA POLICE
7 DEPARTMENT?

8 A I STARTED OUT ON THE ROAD AND THEN I MOVED INTO
9 NARCOTICS

10 Q OKAY TELL ME A LITTLE BIT ABOUT YOUR EDUCATIONAL
11 BACKGROUND

12 A I HAVE A BACHELOR OF SCIENCE DEGREE FROM ANDERSON
13 COLLEGE, AND THEN I COMPLETED NINE-WEEK ACADEMY TRAINING
14 FROM THE SOUTH CAROLINA CRIMINAL JUSTICE

15 Q AND YOU RECEIVED NARCOTIC AND DRUG INTERDICTION IN
16 YOUR EMPLOYMENT?

17 A YES I PROBABLY HAVE 200 HOURS OR MORE EXTRA

18 Q WHAT ARE YOUR DUTIES AS A NARCOTICS OFFICER WITH
19 THE SENECA POLICE DEPARTMENT?

20 A TO ENFORCE THE DRUG LAWS WITHIN OUR STATE AND
21 WITHIN THE CITY

22 Q AND EXPLAIN TO US, HOW DO UNDERCOVER DRUG
23 TRANSACTIONS WORK?

24 A USUALLY WE MEET WITH A CONFIDENTIAL INFORMANT
25 THAT INFORMANT SOMETIMES MAKES US AWARE OF THINGS THAT WE

1 ARE NOT KNOWING THAT'S GOING, TAKING PLACE WITH PEOPLE
2 INVOLVED IN THE CITY OR JUST THROUGHOUT THE COUNTY, I
3 MEAN, THAT WILL DELIVER TO THE CITY, AND THEY ARE
4 SEARCHED, WIRED, THEY'RE BRIEFED, PROVIDED WITH MONEY AND
5 WE STAY THERE AND GO OUT TO THE CITY UNDER A CONTROLLED
6 SETTING AND MAKE A BUY FROM THE INFORMANT -- OR FROM THE
7 INDIVIDUAL

8 Q SO WHEN YOU SEND THESE INFORMANTS OUT INTO THE
9 COMMUNITY, IT IS A CONTROLLED ENVIRONMENT THAT YOU ARE
10 CONTROLLING?

11 A CORRECT

12 Q HOW DO YOU GET INFORMANTS FOR DRUG CASES?

13 A SOME OF THEM HAVE PENDING CHARGES OVER THEM AND
14 THEY'RE WANTING TO WORK TRYING TO GET HELP WITH THEIR
15 CHARGES AND THE OTHERS JUST COME FOR MONEY, THEY DON'T
16 HAVE A JOB, IT'S A WAY TO MAKE MONEY FOR THEMSELVES

17 Q DO YOU GENERALLY HAVE PEOPLE WITH NO CRIMINAL
18 RECORDS COMING AND VOLUNTEERING TO BE CONFIDENTIAL
19 INFORMANTS?

20 A NO, MA'AM

21 Q WERE YOU WORKING ON FEBRUARY 24TH, 2009?

22 A YES, MA'AM

23 Q WHAT AREA OF SENECA WERE YOU IN?

24 A AT THAT TIME WE WERE WORKING SOUTH SIDE OF [REDACTED]

25 [REDACTED] STREET

1 Q AND WHO WERE YOU WORKING WITH THAT DAY?

2 A OFFICER HUNNICUTT

3 Q DID YOU SUPERVISE AN UNDERCOVER TRANSACTION
4 INVOLVING THIS DEFENDANT ON THAT DAY?

5 A YES

6 Q WHO WAS THE INFORMANT?

7 A JAMES WILLIE WALKER

8 Q AND HAD YOU USED JAMES WILLIE WALKER AS AN
9 INFORMANT BEFORE?

10 A YES

11 Q HOW MANY TIMES WOULD YOU ESTIMATE YOU HAVE YOU
12 USED HIM?

13 A 30, 40, 50 TIMES, MAYBE

14 Q HAVE YOU FOUND HIM TO BE RELIABLE AND PROVIDE
15 RELIABLE INFORMATION IN THE PAST?

16 A YES, MA'AM

17 Q HAS HE EVER PROVIDED UNRELIABLE INFORMATION?

18 A NO, MA'AM

19 Q DID YOU MAKE HIM ANY PROMISES IN EXCHANGE FOR HIS
20 COOPERATION?

21 A NO, MA'AM

22 Q WHAT DID HE RECEIVE FOR COOPERATING THAT DAY?

23 A HE GOT \$20 FOR IT

24 Q OKAY AND BASED ON -- I'M SURE YOU ALWAYS CHECK
25 THIS ON AN INFORMANT -- BUT BASED ON YOUR TRAINING AND

1 EXPERIENCE, DID HE APPEAR TO BE UNDER THE INFLUENCE OF
2 DRUGS OR ALCOHOL THAT DAY?

3 A NO HE WAS VERY COHERENT

4 Q OKAY TELL ME ABOUT THE WIRING PROCESS OF THE
5 UNDERCOVER TRANSACTION

6 A WE HAVE AN AUDIO DEVICE THAT'S PLACED ON THEIR
7 BODY IN SOME FORM IT TRANSMITS BACK TO A SCREEN IN OUR
8 CAR THAT WAS PLACED ON HIM THAT DAY AS WELL AS A VIDEO
9 CAMERA THAT WAS PLACED ON HIS BODY

10 Q AND ARE YOU SIMULTANEOUSLY LISTENING TO EVERYTHING
11 THAT'S GOING ON?

12 A YES, WE CAN LISTEN TO IT, BUT WE CANNOT SEE IT
13 THE VIDEO CAMERA IS AN INTERNAL RECORDING DEVICE

14 Q HOW MUCH MONEY DID YOU PROVIDE HIM ON THAT DAY?

15 A \$40

16 Q AND DID YOU DOCUMENT THOSE FUNDS BEFORE YOU GAVE
17 THEM TO HIM?

18 A YES, THEY WERE

19 Q WERE THEY RECOVERED?

20 A YES, THEY WERF

21 Q HOW DID THAT HAPPEN?

22 A THE INFORMANT BROUGHT IT BACK TO US THEY -- HE
23 ACTUALLY DID NOT HAVE TO PURCHASE THE CRACK IT WAS
24 GIVEN TO HIM

25 Q OKAY WHO WAS THE TARGET OF THIS TRANSACTION?

1 A TIMOTHY BLASSINGAME

2 Q AND IS THAT SOMEONE YOU -- DID YOU ALREADY KNOW
3 MR BLASSINGAME?

4 A I WAS AWARE OF HIM, YES

5 Q OKAY AND SO YOU MONITOR THE TRANSACTION VIA
6 SIMULTANEOUS TRANSMISSION AS IT OCCURRED?

7 A YES, I DID

8 Q AND YOU ACTUALLY DID THE WIRING OF THIS DEFENDANT
9 FOR VIDEO AND AUDIO?

10 A I DID THE INFORMANT

11 Q I'M SORRY YOU WIRED THE INFORMANT FOR VIDEO AND
12 AUDIO?

13 A YES

14 Q HAVE YOU REVIEWED STATE'S EXHIBITS 1 AND 2, THAT
15 BEING THE AUDIO AND VIDEOTAPE OF THIS TRANSACTION?

16 A YES, MA'AM

17 Q IS IT A FAIR AND ACCURATE REPRESENTATION OF WHAT
18 OCCURRED THAT DAY?

19 A YES, MA'AM

20 MS SIMMONS JUDGE, AT THIS TIME WE WOULD MOVE IN
21 STATE'S 1 AND 2 AND ASK TO PUBLISH THEM TO THE JURY

22 THE COURT ANY OBJECTION TO STATE'S EXHIBITS 1 AND
23 2? HAVE YOU SEEN THEM?

24 MR SPROUSE I HAVE SEEN THEM, YOUR HONOR, AND I
25 DON'T HAVE ANY OBJECTION

1 **THE COURT** STATE'S EXHIBITS 1 AND 2 ARE ADMITTED

2 (STATE'S EXHIBIT 1, VIDEO RECORDING OF

3 TRANSACTION, WAS RECEIVED IN EVIDENCE)

4 (STATE'S EXHIBIT 2, RECORDED TRANSACTION, WAS

5 RECEIVED IN EVIDENCE)

6 **THE COURT** STATE'S 1 IS WHAT?

7 **MS SIMMONS** STATE'S 1 IS A VIDEO RECORDING OF THIS

8 TRANSACTION STATE'S 2 IS THE RECORDED TRANSACTION

9 **THE COURT** ALL RIGHT STATE'S 1, A VIDEO, AND
10 STATE'S 2, A VIDEO, ARE ADMITTED

11 **MS SIMMONS** I'M GOING TO PUBLISH STATE'S 2 TO THE

12 JURY, IT'S FROM THE POCKET RECORDER

13 BY MS SIMMONS

14 Q CAN YOU EXPLAIN HOW THERE CAME TO BE TWO AUDIOS IN
15 THIS CASE?

16 A THE VIDEO RECORDER HAS AN AUDIO RECORDING ON IT,
17 AS WELL, AND IT DOES NOT TRANSMIT BACK TO THE RECEIVER
18 SO WE HAVE TO USE AN AUDIO DEVICE WHICH TRANSMITS BACK TO
19 THE RECEIVER WHICH WE HAVE IN OUR CAR SO WE HAD TWO ON
20 THE INFORMANT THIS DAY THE ONE ON THE VIDEO IS NOT VERY
21 CLEAR, IT'S SENSITIVE TO NOISE, SO WE ALSO LIKE ANOTHER
22 ONE THAT RECORDS INTERNAL THAT IS MUCH CLEARER THAN WHAT
23 THE VIDEO WOULD BE

24 (D V D AUDIO ONLY PLAYED FOR THE JURY FROM
25 APPROXIMATELY 10 40 A M UNTIL APPROXIMATELY

1 11 18 A M)

2 BY MS SIMMONS

3 Q SERGEANT CRUM, CAN YOU EXPLAIN FOR US WHAT
4 HAPPENED TO THE POINT WHEN HE GOT IN THE CAR WITH YOU AND
5 KIND OF THE DRUG LANGUAGE THAT WAS USED IN THAT DRUG
6 TRANSACTION?

7 A WE DO OUR BRIEFING, OUR WIRING, FROM KIND OF
8 SOMEWHERE DIFFERENT FROM WHERE WE'RE GONNA DO OUR
9 PURCHASE FROM, FROM ANOTHER SIDE OF TOWN OR SOMETHING OF
10 THAT NATURE SO WE INITIALLY WIRED HIM UP AND SEARCHED
11 THEN WE DROVE ACROSS TOWN TO WHERE WE DROPPED HIM OFF
12 SOMEWHERE IN THE VICINITY OF WHERE HE'S GONNA MEET THE
13 DEFENDANT SO I'D SAY ROUGHLY EIGHT OR NINE MINUTES HE
14 HAS TO WALK TO WHERE HE WAS GOING

15 NEARER TO THAT TIME I MADE A COUPLE PHONE CALLS TO
16 HIM WE HEARD THE CELL PHONE RINGING THAT HE WAS GETTING
17 BY ME SOMETIMES WE HAVE TO MAKE CHANGES DURING THE
18 COURSE OF THINGS GOING ON SO I MADE A PHONE CALL TO HIM
19 AND WE MADE SOME CHANGES AS TO HOW THE DEAL WAS GONNA GO,
20 SO HE STAYS IN THAT CONTROLLED ENVIRONMENT UNDER US

21 HE GETS IN THE CAR, OR HE MAKES A PHONE CALL,
22 FINDS OUT IF HE'S CLOSE, HE GETS IN THE CAR AND ASKS HIM
23 FOR A 40 IN DRUGS TERMS THAT MEANS \$40 WORTH OF CRACK
24 HE DOESN'T HAVE THAT, SO HE ASKS FOR A 20 TWENTY
25 DOLLARS' WORTH OF CRACK IS A DUB, THAT'S \$20 WORTH OF

1 CRACK IN DRUG TERMS

2 HE CONTINUED TO ASK FOR ANOTHER PIECE AND THEN HE
3 GOES DOWN AND ASKS FOR \$10 GIVE ME A 10, \$10 WORTH OF
4 CRACK HE JUST GOES DOWN, HE ASKS HIM FOR SOME KIND OF
5 CRACK

6 THEY RIDE AROUND, AND WHEN IT GETS TO WHERE HE
7 STARTS SAYING, THANK YOU, THANK YOU, I APPRECIATE THAT,
8 HE HAD THE DOPE AT THAT POINT

9 THEN HE'S DROPPED OFF HE HAS TO HANG AROUND THE
10 APARTMENT THERE MOMENTARILY TO LET THE DEFENDANT LEAVE,
11 TO GET OUT, SO HE CAN SAFELY WALK BACK AND MEET US
12 WITHOUT BLOWING HIS COVER ONCE HE GOT BACK TO US, HE
13 WAS DEBRIEFED AGAIN

14 ACTUALLY, PRIOR TO HIM MEETING US HE GAVE US A
15 DESCRIPTION OF THE DEFENDANT WE DO THAT THAT WAY IT'S
16 FRESH IN HIS MIND AND HE CAN EASILY TELL US WHAT THE
17 DEFENDANT LOOKED LIKE, WHAT THE TARGET LOOKED LIKE

18 THEN HE GOT BACK IN THE CAR WITH US, WE PICKED HIM
19 UP WE DO ANOTHER DEBRIEF I RECEIVED THE DOPE FROM
20 HIM, THE CRACK FROM HIM, AND THE WIRE WAS TAKEN OFF OF
21 HIM AT THAT TIME

22 Q AND WHERE WAS THE WIRE PLACED ON HIM? BECAUSE I
23 KNOW WE ALL HEARD A LOT OF BACKGROUND NOISE EXPLAIN
24 THAT

25 A WE HAD TWO WIPES ON HIM WE ALWAYS PUT A BACKUP

1 ON IN CASE SOMETHING GOES BAD AND ONE WAS IN HIS COAT
2 POCKET AND ONE WAS ON HIS SIDE, WHICH WAS NOT A VERY
3 CLEAR ONE THAT DAY, AND THEN WE HAD THE VIDEO CAMERA ON
4 HIM ALSO

5 Q SO THESE ARE TINY LITTLE RECORDING DEVICES?

6 A YES THEY'RE VERY TINY THEY'RE EASY TO HIDE ON
7 AN INDIVIDUAL

8 Q OKAY YOU'VE LOOKED AT STATE'S EXHIBIT 1 BEFORE

9 A CORRECT

10 Q AND TELL ME WHAT THAT IS

11 A THAT'S THE DVD, THE VIDEO OF THE, THE CAMERA THAT
12 WAS ON HIM IT, IT SHOWS THAT, THE THING THAT'S PULLING
13 UP, THE AUDIO ON THIS ONE IS VERY -- NOT VERY CLEAR. IN
14 MY EXPERIENCE SINCE THE NOISE, AND THE AIR NOISE
15 ESPECIALLY, AND I BELIEVE IT PICKED UP A LOT OF AIR NOISE
16 ON THAT DAY

17 Q AND TO GO BACK TO THE AUDIO A LITTLE BIT, THE ONLY
18 PERSON HE KEEPS TALKING TO OTHER THAN THE DEFENDANT IS
19 YOU

20 A CORRECT HE DOES MAKE A CALL I BELIEVE TO HIS
21 GIRLFRIEND AS HE'S WALKING BACK AFTER THE DEAL WAS
22 FINISHED

23 MS SIMMONS JUDGE AT THIS TIME WE MOVE TO
24 PUBLISH WHAT'S PREVIOUSLY ADMITTED AS STATE'S EXHIBIT 1,
25 THE VIDEOTAPE

1 **THE COURT** LET'S SEE THE JURY HAS BEEN SITTING
2 THERE FOR ABOUT AN HOUR, AND I SUGGEST WE TAKE A VERY
3 SHORT BREAK BEFORE WE TAKE THE BALANCE OF THE CASE
4 AGAIN, PLEASE DO NOT UNDERTAKE DISCUSSION OF THE CASE
5 AMONG YOURSELVES IN ANY WAY MADAM FORELADY, WHEN YOU
6 ARE READY TO COME BACK, JUST KNOCK ON THE DOOR

7 (THE JURY LEFT THE COURTROOM AT APPROXIMATELY
8 11 23 A M)

9 **THE COURT** ALL RIGHT ANYTHING FROM THE STATE
10 BEFORE WE TAKE A BREAK?

11 **MS SIMMONS** NO, YOUR HONOR

12 **THE COURT** FROM THE DEFENSE?

13 **MR SPROUSE** NO, SIR

14 **THE COURT** VERY GOOD

15 OFFICER, YOU ARE UNDER OATH SO YOU CANNOT DISCUSS
16 YOUR TESTIMONY WITH ANYBODY, ATTORNEYS OR ANYONE ELSE,
17 BUT YOU MAY TAKE A BREAK

18 (A RECESS WAS TAKEN)

19 **THE COURT** ANYTHING FROM THE STATE BEFORE WE BRING
20 THE JURY BACK?

21 **MS SIMMONS** NO, YOUR HONOR

22 **THE COURT** FROM THE DEFENSE?

23 **MR SPROUSE** NOTHING AT THIS POINT

24 **THE COURT** ASK THE JURY TO JOIN US

25 SERGEANT, YOU UNDERSTAND YOU ARE STILL UNDER OATH?

1 **THE WITNESS** YES, SIR

2 **THE COURT** VERY GOOD

3 (THE JURY ENTERED THE COURTROOM AT
4 APPROXIMATELY 11 42 A M)

5 **THE COURT** LET'S SEE WE MIGHT NEED TO MOVE DOWN
6 ON THE BACK ROW THERE ONE OF THE PROBLEMS WITH THIS
7 COURTROOM IS THAT IF YOU SIT IN THE END CHAIR, YOU ARE
8 LOOKING AT THE BACK OF THE WITNESS RATHER THAN THE
9 WITNESS'S FACE, SO THAT'S WHY I WANT TO BE SURE EVERYBODY
10 HAS A CHANCE TO VIEW THE WITNESS

11 ALL RIGHT YOU MAY PROCEED WITH YOUR CASE

12 OH, LET THE RECORD REFLECT THAT THE JURY AND
13 ALTERNATES ARE IN THE JURY-BOX

14 YOU MAY PROCEED WITH YOUR CASE

15 **MS SIMMONS** THANK YOU, JUDGE

16 BY MS SIMMONS

17 Q SERGEANT CRUM, THE VIDEO WE'RE GETTING READY TO
18 WATCH, WHERE WAS THE CAMERA LOCATED ON THE INFORMANT?

19 A THE CAMERA WAS LOCATED RIGHT ON THE CENTER ON A
20 BUTTON, IT'S LIKE A BUTTON CAMERA

21 Q SO IT'S GONNA BE A LITTLE LIGHT

22 A YEAH

23 Q AS YOU WALK AND IS THIS SIMILAR IN THE AUDIO
24 THAT TAKES, THAT GOES FROM THE POINT OF BRIEFING TO THE
25 POINT OF DEBRIEFING?

1 A CORRECT

2 (AUDIO AND VIDEO PLAYED FOR JURY FROM

3 APPROXIMATELY 11 44 UNTIL 12 21 P M)

4 THE COURT YES, MA'AM

5 BY MS SIMMONS

6 Q SERGEANT CRUM, WHAT NUMBER WAS CALLED ALONG THE
7 WAY TO THE INFORMANT, TO THE DEFENDANT'S NUMBER, WHAT
8 NUMBER WAS CALLED?

9 A [REDACTED]

10 Q WERE YOU LATER ABLE TO CONNECT THAT NUMBER TO THE
11 DEFENDANT?

12 A YES, MA'AM, THROUGH HIS GIRLFRIEND

13 Q DID THE DRUG TRANSACTION OCCUR IN OCONEE COUNTY IN
14 THE CITY OF SENECA?

15 A YES

16 Q ON THAT TAPE WHO DID WE SEE?

17 A YOU SAW THE VEHICLE APPROACH, YOU SAW THE
18 DEFENDANT IN THE DRIVER'S SEAT

19 Q YOU HAVE SEEN WHAT'S BEEN PREVIOUSLY MARKED AS
20 STATE'S EXHIBITS 3 AND 4 ARE THESE STILL PHOTOS THAT
21 YOU OBTAINED FROM THE VIDEOTAPE?

22 A YES, MA'AM

23 Q AND ARE THESE THAT A FAIR AND ACCURATE
24 REPRESENTATION OF WHAT IS IN THAT TAPE IN THEIR STILL
25 FORM?

1 A YES, MA'AM

2 MS SIMMONS JUDGE, WE WOULD MOVE TO ADMIT STATE'S
3 EXHIBITS 3 AND 4, PREVIOUSLY PROVIDED TO THE DEFENSE AND
4 ASK TO PUBLISH THEM

5 MR SPROUSE I HAVE NO OBJECTION

6 THE COURT ALL RIGHT WITHOUT OBJECTION, STATE'S 3
7 AND 4 ARE ADMITTED INTO EVIDENCE

8 (STATE'S EXHIBIT 3 WAS RECEIVED IN EVIDENCE)

9 (STATE'S EXHIBIT 4 WAS RECEIVED IN EVIDENCE)

10 MS SIMMONS BEG THE COURT'S INDULGENCE FOR ONE
11 MINUTE

12 BY MS SIMMONS

13 Q SERGEANT CRUM, IS THIS THE VEHICLE THAT WAS IN THE
14 VIDEOTAPE?

15 A YES, MA'AM, IT IS

16 Q AND WHAT -- HOW WOULD YOU DESCRIBE THAT VEHICLE?

17 A A GOLD, SILVER-COLORED NISSAN ALTIMA

18 Q OKAY AND THROUGH THE COURSE OF FURTHER
19 INVESTIGATION WERE YOU ABLE TO DETERMINE -- HIS
20 GIRLFRIEND CHARLOTTE, WHAT'S HER LAST NAME?

21 A CHARLOTTE REED

22 Q ON FEBRUARY 24TH, 2009, WAS A NISSAN ALTIMA
23 REGISTERED TO CHARLOTTE REED WITH THE SOUTH CAROLINA
24 DEPARTMENT OF MOTOR VEHICLES?

25 A YES, IT WAS

1 Q AND I'M SHOWING YOU STATE'S EXHIBIT 3, THE STILL
2 PHOTO OF HIM APPROACHING, WHO WAS THAT?

3 A THAT WAS THE DEFENDANT, TIMOTHY LEE BLASSINGAME

4 Q AND THE PERSON THAT IS IN THAT VIDEO, IS THAT THE
5 PERSON SEATED AT THE DEFENSE TABLE TODAY?

6 A YES, MA'AM, IT IS

7 Q AND HOW MANY TIMES HAVE YOU SEEN TIMOTHY
8 BLASSINGAME BEFORE?

9 A THROUGH THE COURSE OF MY DUTIES, SEVERAL TIMES

10 Q AND YOU ARE SURE THAT'S TIMOTHY BLASSINGAME?

11 A YES, MA'AM, I AM

12 Q DURING THE TRANSACTION THERE ARE -- THERE'S A
13 NUMBER OF DISCUSSIONS TELL ME AGAIN ABOUT WHAT A 40 IS?

14 A IT'S REFERRING TO \$40 WORTH OF CRACK

15 Q OKAY AND WHEN HE SAID, "I ONLY GOT PIECES," WHAT
16 DOES THAT MEAN?

17 A HE JUST GOT A VERY LITTLE BIT, SMALL LITTLE
18 AMOUNT

19 Q OKAY PIECES AT THE END OF YOUR BATCH, KIND OF?

20 A YES

21 Q DID YOU MAINTAIN AUDIO SURVEILLANCE OF HIM ONCE
22 YOU -- ONCE HE HAD GOTTEN OUT OF THE CAR WITH THE
23 DEFENDANT?

24 A YES, MA'AM, WE DID

25 Q AND HE WAS MET -- AND HE WAS DROPPED OFF WHERE?

1 A AT THE [REDACTED] [REDACTED] AT THE APARTMENT COMPLEX

2 Q AND HE STARTED MAKING HIS WAY BACK TO YOU?

3 A YES, HE HAD TO GO INTO THE COMPLEX FOR A MOMENT
4 HE HAD THE DEFENDANT BELIEVE THAT HE WAS COMING FROM HIS
5 SISTER'S HOUSE AS YOU CAN SEE FROM THE VIDEO, HE WAS
6 STUCK BEHIND THE SCHOOL BUS, SO HE WOULDN'T HAVE BEEN
7 ABLE TO DRIVE AWAY, SO THE INFORMANT HAD TO STALL FOR
8 JUST A MOMENT BEFORE COMING BACK TO MEET US

9 Q SO WHEN WE SEE HIM LOOK AT THAT DOOR AND THAT
10 WINDOW, IS THAT HIS SISTER'S PLACE?

11 A YES, MA'AM

12 Q OKAY WHO DID THE INFORMANT TURN THE NARCOTICS IN
13 TO?

14 A IN THE BUILDING HE WOULD HAVE INITIALLY HANDED IT
15 TO OFFICER HUNNICUTT, AND I OBTAINED IT BECAUSE I WAS
16 DRIVING

17 Q OKAY BUT YOU SAW THAT HAPPEN?

18 A YES

19 Q OKAY I'M GONNA SHOW YOU WHAT HAS BEEN PREVIOUSLY
20 MARKED AS STATE'S EXHIBIT 5 IS THIS WHAT WAS TURNED
21 OVER TO YOU THAT DAY (HANDING)?

22 A YES, MA'AM, IT IS

23 Q OKAY AND HOW DO YOU, HOW DO YOU GO ABOUT MARKING
24 AND IDENTIFYING WHEN DRUGS ARE TURNED IN?

25 A WE GIVE THEM A LITTLE PLASTIC BAG TO PUT THE DRUGS

1 IN, AND THEN WHEN I OBTAIN THAT, GET BACK TO MY OFFICE, I
2 PUT THE DATE ON IT AND MY INITIALS ON IT, ON THE BAG

3 Q AND THAT WAS PRESENTED TO YOU AS A CRACK ROCK?

4 A YES, MA'AM

5 Q WHEN DID YOU TURN IT INTO EVIDENCE AT THE SENECA
6 POLICE DEPARTMENT?

7 A ON FEBRUARY 24TH

8 Q OKAY WHERE DO YOU ALL PUT EVIDENCE WHEN YOU TURN
9 IT IN?

10 A WE SEAL IT UP IN A BAG THAT GOES TO THE DRUG LAB
11 AND THEN I PUT IT INTO AN EVIDENCE LOCKER, A LOCKED
12 EVIDENCE LOCKER AT THE POLICE DEPARTMENT

13 Q WHO-ALL HAS KEYS TO THAT LOCKER?

14 A JUST THE EVIDENCE TECHNICIAN

15 Q OKAY AND YOU WERE ABLE TO TIE, JUST SO I
16 UNDERSTAND, YOU WERE ABLE TO TIE CHARLOTTE REED AND THAT
17 PHONE NUMBER TO THIS DEFENDANT THROUGH A FURTHER
18 INVESTIGATION?

19 A CORRECT

20 MS SIMMONS BEG THE COURT'S INDULGENCE FOR ONE
21 SECOND

22 (WHEREUPON, MS SIMMONS AND THE COURT
23 REPORTER CONFERRED OFF THE RECORD)

24 MS SIMMONS I HAVE NO FURTHER QUESTIONS AT THIS
25 TIME WITH THIS WITNESS

1 **THE COURT** CROSS-EXAMINE?

2 **MR SPROUSE** MAY IT PLEASE THE COURT, YOUR HONOR
3 CROSS-EXAMINATION BY MR SPROUSE

4 Q OFFICER CRUM, YOU STATED YOU HAVE BEEN EMPLOYED
5 WITH THE CITY OF SENECA FOR APPROXIMATELY FIVE YEARS, IS
6 THAT CORRECT?

7 A JUST UNDER, YES, SIR

8 Q AND PART OF YOUR TRAINING AS A POLICE OFFICER, AND
9 PARTICULARLY AS A NARCOTICS OFFICER, IS IN HOW TO CONDUCT
10 BUYS THROUGH CONFIDENTIAL INFORMANTS, IS THAT CORRECT?

11 A CORRECT

12 Q NOW, YOU TAKE ON A CONFIDENTIAL INFORMANT AND SET
13 UP ONE OF THESE BUYS FOR THE SPECIFIC PURPOSE OF HAVING
14 THE COURT CASE, MAKING AN ARREST, DO YOU NOT?

15 A CORRECT

16 Q NOW, YOU WANT TO HAVE A BUY AND HAVE A
17 CONFIDENTIAL INFORMANT THAT YOU BELIEVE WILL BE RELIABLE,
18 IS THAT CORRECT?

19 A YES, SIR

20 Q BECAUSE IF IT'S NOT RELIABLE, THEN IT'S USELESS TO
21 YOU?

22 A CORRECT

23 Q NOW, YOU HAVE PEOPLE THAT YOU USE INSIDE THE CITY
24 OF SENECA, A NUMBER OF INFORMANTS, DO YOU NOT?

25 A YES, SIR

1 Q YOU HAVE PEOPLE WHO TRY TO EXPLOIT YOUR OFFICE
2 BECAUSE THEY ARE ON DRUGS OR HAVE PENDING CRIMINAL
3 CHARGES AND TRY TO WORK FOR YOU UNDER THE GUISE OF BEING
4 AN INFORMANT, DO THEY NOT?

5 A OF COURSE

6 Q AND YOU SHOULD ALWAYS AS A POLICE OFFICER TAKE A
7 SKEPTICAL EYE TOWARDS SOMEONE LIKE THAT WHO HAS INCENTIVE
8 TO WORK FOR YOU, SHOULD YOU NOT?

9 A YES

10 Q NOW, IN THIS PARTICULAR CASE YOU WERE CONTACTED BY
11 MR WALKER, IS THAT CORRECT?

12 A YES, SIR

13 Q YOU DIDN'T CONTACT HIM, HE CONTACTED YOU?

14 A CORRECT

15 Q IN WHICH HE WAS ACCUSING TIM BLASSINGAME OF TRYING
16 TO SELL HIM CRACK COCAINE, IS THAT NOT CORRECT?

17 A THAT'S CORRECT

18 Q AND WHAT WAS COMMUNICATED TO YOU FROM MR WALKER
19 WAS THAT A \$40 SALE OF CRACK COCAINE WAS GOING TO TAKE
20 PLACE, IS THAT NOT CORRECT?

21 A HE SAID HE COULD BUY WE DID NOT HAVE A PRICE
22 RANGE AT THAT TIME

23 Q BUT THAT HE WAS GOING TO BUY CRACK COCAINE?

24 A YES

25 Q NOW, WHEN YOU SET UP YOUR BUYS, YOU TESTIFIED

1 EARLIER THAT YOU WIRE PEOPLE IN A DIFFERENT AREA THAN YOU
2 ACTUALLY LET THEM OUT TO MAKE THE BUY, IS THAT CORRECT?

3 A CORRECT

4 Q NOW, THIS PARTICULAR AREA OF SENECA, [REDACTED] [REDACTED]
5 STREET, IS A HIGH CRIME AREA, IS IT NOT?

6 A FOR THE MOST PART, YES, SIR

7 Q IN FACT, YOU MADE SEVERAL ARRESTS OF DRUG
8 DEFENDANTS IN THIS PARTICULAR AREA?

9 A YES, SIR

10 Q THIS APARTMENT COMPLEX, [REDACTED] HAS HAD
11 CRIMINAL ACTIVITY ON A REGULAR BASIS, HAS IT NOT?

12 A YES, SIR

13 Q AND THE [REDACTED] APARTMENTS THAT'S NEXT DOOR?

14 A YES, SIR

15 Q NOW, YOU LET MR WALKER OUT OF YOUR VEHICLE IS
16 THAT THE DEPARTMENT'S VAN?

17 A YES THAT'S MY ISSUED VEHICLE

18 Q YOU AND SERGEANT HUNNICUTT ARE A TEAM AND Y'ALL
19 SET UP IN THAT VAN?

20 A YES

21 Q SO YOU LET HIM OUT AND WAS THERE A SPECIFIC SPOT
22 WHERE THE TRANSACTION WAS SUPPOSED TO GO DOWN?

23 A NO, SIR JUST IN THE AREA OF [REDACTED] STREET

24 Q [REDACTED] STREET NOW, WHEN YOU SET UP A BUY
25 WITH A CONFIDENTIAL INFORMANT -- LIKE WE TALKED ABOUT,

1 RELIABILITY IS KEY -- YOU HAVE TO MAKE SURE THAT THAT
2 INFORMANT DOESN'T ALREADY HAVE DRUGS ON THEM?

3 A CORRECT

4 Q NOW, IN THIS PARTICULAR CASE, THIS WAS FEBRUARY,
5 WAS IT NOT?

6 A YES, IT WAS

7 Q IT WAS COLD OUTSIDE?

8 A YES, SIR

9 Q YOU CAN SEE THE VIDEO, THE LEAVES AREN'T ON THE
10 TREES YET, IT WAS STILL WINTER MR WALKER HAD A HEAVY
11 COAT, DID HE NOT?

12 A HE HAD A HEAVY COAT ON, YES, SIR

13 Q AND HE HAD BAGGY PANTS?

14 A BAGGY I DON'T REMEMBER, BUT HE HAD BLUE JEANS ON

15 Q AND YOU WIRED HIM DID YOU MAKE HIM TAKE HIS
16 CLOTHES OFF OR CONDUCT ANY KIND OF STRIP SEARCH BEFORE --

17 A OFFICER HUNNICUTT DID A SEARCH OF HIM PRIOR TO ANY
18 WIRING GOING ON

19 Q WHAT KIND OF SEARCH, A PAT-DOWN?

20 A HE EMPTIED HIS POCKETS WE PROVIDED HIM WITH A
21 SHIRT THAT DAY WITH A CAMERA, SO HE REMOVED HIS SHIRT HE
22 HAD, HE TOOK HIS SHOES OFF WE CHECK HIS SOCKS WE
23 CHECK BASICALLY ANY POCKET, ANYWHERE ANY DOPE HE CAN HIDE
24 WITHOUT INVADING SOMEBODY'S PRIVACY

25 Q NOW, YOU DID NOT PUT THE SEARCH IN THIS CASE ON

1 TAPE, IS THAT NOT CORRECT?

2 A CORRECT

3 Q AND YOU DID NOT PUT MR WALKER'S APPEARANCE WHEN
4 HE CAME TO YOU THAT DAY ON TAPE?

5 A CORRECT

6 Q NOW, MR WALKER IS A DRUG USER, IS HE NOT?

7 A HE HAS BEEN KNOWING HIS PAST HISTORY, YES, SIR

8 Q AND YOU TESTIFIED THAT YOU DIDN'T BELIEVE THAT HE
9 WAS UNDER THE INFLUENCE AT THE TIME BUT CAN YOU ATTEST
10 AS TO THE LAST TIME HE HAD USED DRUGS PRIOR TO THIS
11 TRANSACTION?

12 A NO, SIR, I CANNOT

13 Q YOU SAY THAT YOU SEARCHED HIM AND YOU GAVE HIM A
14 SHIRT HOW LONG WAS THIS SEARCH? HOW LONG DID IT LAST?

15 A 30 SECONDS IT JUST DEPENDS ON HOW MUCH CLOTHING
16 THEY HAVE ON, THE TYPE OF CLOTHING AS WE SAID, IT WAS
17 COLD THAT DAY, WE HAD HIM CHANGE SHIRTS WE PROVIDED HIM
18 WITH A SHIRT THAT DAY

19 Q NOW, WHEN YOU CONDUCT A BUY, MOST TIMES YOU HAVE A
20 SPECIFIC TARGET FOR THAT INVESTIGATION, DO YOU NOT?

21 A CORRECT

22 Q YOU HAVE AN INDIVIDUAL IDENTIFIED THAT YOU WANT TO
23 CATCH, IS THAT RIGHT?

24 A FOR THE MOST PART, YES, SIR

25 Q BUT YOU DON'T NORMALLY GO SEND AN INFORMANT OUT ON

1 A STREET CORNER AND SAY "GO SELL SOME DRUGS"?

2 A THAT'S RIGHT

3 Q SO THE MORE YOU CAN DEFINE THE PARAMETERS OF THE
4 BUY, THE BETTER YOUR CASE?

5 A RIGHT IT'S MORE OF A CONTROLLED ENVIRONMENT

6 Q SO IN THIS CASE YOU HAD TIM BLASSINGAME AS YOUR
7 PARTICULAR TARGET?

8 A AT THAT TIME, YES

9 Q NOW, THE REASON THAT YOU HAD TIM BLASSINGAME AS
10 YOUR TARGET WAS THE STATEMENT OF JAMES WALKER?

11 A CORRECT

12 Q NOW, AT THAT TIME -- YOU HAVE DEALT WITH
13 MR BLASSINGAME SINCE THEN, BUT AT THAT TIME YOU WOULD
14 NOT HAVE RECOGNIZED TIM BLASSINGAME HAD YOU SEEN HIM ON
15 THE STREET?

16 A I MIGHT -- NO, SIR I'VE DEALT WITH HIM IN THE
17 PAST WOULD I HAVE BEEN A HUNDRED PERCENT SURE? NO, BUT
18 I WOULD HAVE HAD MY THOUGHTS THAT THAT'S WHO HE WAS

19 Q YOU WOULD NOT HAVE BEEN ABLE TO, UNDER OATH,
20 TESTIFY ABOUT HIS IDENTITY?

21 A NO CORRECT

22 Q NOW, SO THE I D IN THIS CASE -- WELL, LET'S BACK
23 UP THE TARGET IN THIS CASE WAS TOTALLY RELIANT ON THE
24 INFORMATION PROVIDED TO YOU BY JAMES WALKER?

25 A CORRECT

1 Q OKAY NOW, YOU FILMED THE TRANSACTIONS THAT'S
2 SOMETHING ELSE THEY TEACH YOU IN THE ACADEMY IN THE
3 COURSE THAT --

4 A CORRECT

5 Q -- FILM IS THE BEST WAY TO RECORD THIS?

6 A AS MUCH AS WE CAN.

7 Q AND WE HAVE AN AUDIO HERE BECAUSE OF PROBLEMS WITH
8 THE MICROPHONE, BUT YOU HAVE THE TRANSACTION ON FILM
9 NOW, THE ACTUAL ALLEGED TRANSFER OF THE SUBSTANCE IS NOT
10 ON FILM, IS THAT NOT CORRECT?

11 A YES

12 Q WHICH WE SPENT AN HOUR AND A HALF LISTENING TO THE
13 TAPE AND LISTENING TO THE AUDIO AND WATCHING THE VIDEO,
14 AND THERE IS NOTHING ON ANY OF THOSE WHICH POINTS TO A
15 SPECIFIC TIME WHEN THE SUBSTANCE WAS TRANSFERRED?

16 A CORRECT

17 Q NOW, YOU DON'T KNOW -- I MEAN YOU KNOW THAT THE
18 INDIVIDUAL THAT WAS SERVING AS YOUR CONFIDENTIAL
19 INFORMANT, MR WALKER, GOT INTO THIS VEHICLE THAT'S UP ON
20 THE SCREEN AT APPROXIMATELY 16 50 ON THE TAPE, YOU KNOW
21 THAT?

22 A YES, SIR

23 Q AND YOU KNOW THAT HE EXITED THAT VEHICLE AT THE
24 APARTMENTS APPROXIMATELY AT THE 20-MINUTE MARK ISN'T
25 THAT SOMEWHERE IN THERE?

1 A YES

2 Q SO YOU KNOW THAT THEY WERE IN THE VEHICLE AROUND,
3 A LITTLE OVER THREE MINUTES DRIVING AROUND?

4 A THAT'S RIGHT

5 Q AND YOU KNOW THAT SEVERAL TURNS WERE MADE?

6 A CORRECT

7 Q YOU ARE UNABLE THROUGH YOUR INVESTIGATION TO TELL
8 US EXACTLY WHEN AND WHERE THE TRANSACTION ALLEGEDLY
9 OCCURRED?

10 A WITH THIS INFORMANT I KNOW HIS, HIS LANGUAGE FROM
11 WORKING WITH HIM, I KNEW WHEN THAT TRANSACTION WAS MADE

12 Q NOW YOU TESTIFY -- WHAT STATEMENT DID HE MAKE THAT
13 MAKES YOU THINK THE TRANSACTION HAD HAPPENED?

14 A "THANK YOU I APPRECIATE IT THANK YOU THANK
15 YOU "

16 Q WHEN DOES HE SAY THAT?

17 A RIGHT BEFORE HE PULLS UP TO THE APARTMENT COMPLEX

18 Q THERE IS NO REFERENCE TO DRUGS IN THE STATEMENT?

19 A CORRECT CORRECT AS FAR AS DIRECT STATEMENT,
20 YES

21 Q NOW, YOU PUT IN YOUR REPORT, WHEN YOU SEIZE
22 NARCOTICS, YOU HAVE TO LIST THE TIME THAT YOU ARRIVED AND
23 THE TIME OF PURCHASE YOU PUT IN YOUR REPORT UNABLE TO
24 DETERMINE, DID YOU NOT?

25 A CORRECT DUE TO THE AUDIO I HAD TO GO BACK AND

1 LISTEN TO THE AUDIO

2 Q YOU WERE UNABLE TO DETERMINE ---

3 A IN MY FIELD NOTES, YES

4 Q AND YOU CANNOT UNDER OATH TESTIFY AS TO THE EXACT
5 LOCATION WHERE IT WAS?

6 A CORRECT

7 Q NOW, YOU DO NOT KNOW, BASED ON THIS VIDEO, WHETHER
8 THE DRUGS OR WHETHER THE SUBSTANCE WAS IN THE HAND OF THE
9 INDIVIDUAL ON THE SCREEN OR IN THE CONSOLE OF THE CAR, DO
10 YOU?

11 A NO, SIR

12 Q IT'S ENTIRELY POSSIBLE THAT MR WALKER PICKED THIS
13 SUBSTANCE UP FROM THE CONSOLE OF THE CAR, ISN'T THAT
14 POSSIBLE?

15 A IT'S POSSIBLE

16 Q NOW, WHEN MR WALKER EXITED THE VEHICLE, THE DOOR
17 WAS SHUT, THE VEHICLE -- THERE WAS A SCHOOL BUS STOPPED,
18 AND THE VEHICLE WITH THE OTHER PARTY DROVE OFF, IS THAT
19 CORRECT?

20 A CORRECT

21 Q NOW, ONE IMPORTANT THING IN A CONTROLLED BUY IS TO
22 MAKE SURE THAT THE TRANSACTION IS NOT TAINTED BY THIRD
23 PARTIES, IS THAT NOT CORRECT?

24 A WE TRY TO, YES

25 Q BECAUSE IF A THIRD PARTY IS ALLOWED TO INTERVENE

1 IN THE TRANSACTION BETWEEN THE TIME THAT YOU SET IT UP
2 AND THE TIME THE CONFIDENTIAL INFORMANT GETS BACK TO YOU,
3 THEN IT'S WORTHLESS ISN'T THAT CORRECT?

4 A I WOULDN'T SAY WORTHLESS, NO IT THROWS A KINK IN
5 IT BUT IT DOESN'T MAKE THE DEAL WORTHLESS

6 Q IF IT -- YOU WANT TO BE ABLE TO TESTIFY WITH
7 CERTAINTY IN COURT THAT A THIRD PARTY COULD NOT HAVE
8 GIVEN THE DRUGS TO THE CONFIDENTIAL INFORMANT, DO YOU
9 NOT?

10 A CORRECT

11 Q NOW, IN THIS PARTICULAR CASE, MR WALKER EXITED
12 THE VEHICLE AND WENT INTO AN APARTMENT COMPLEX WHERE
13 THERE WERE PEOPLE SITTING OUTSIDE, DID HE NOT?

14 A CORRECT CORRECT

15 Q THESE ARE PEOPLE THAT HE KNEW OBVIOUSLY FROM
16 TALKING TO THEM, DID HE NOT?

17 A I WOULD ASSUME SO

18 Q THIS IS AN APARTMENT COMPLEX, AS YOU TESTIFIED
19 EARLIER, IS A REGULAR DRUG ACTIVITY SITE?

20 A CORRECT

21 Q ALSO IN THE VIDEO MR WALKER WALKS UP TO A
22 WINDOWSILL IN APARTMENT [REDACTED] DOES HE NOT?

23 A UH-HUH

24 Q YOU NEED TO SAY YES OR NO FOR THE COURT REPORTER
25 SHE'S TYPING UP WHAT WE'VE GOT HERE

1 A YES

2 Q AND AT THE 20 47 MARK OF THE VIDEO, MR WALKER
3 REACHES UP ON THE WINDOWSILL WITH HIS HANDS, DOES HE NOT?

4 A I DIDN'T CATCH THAT

5 Q COULD WE REPLAY THE C D TO THE 20 47 MARK?

6 MS SIMMONS JUST HIT PLAY I'LL DO IT FOR YOU

7 MR SPROUSE THANKS JUST TO SAVE TIME

8 (DISCUSSION OFF THE RECORD)

9 MR SPROUSE I'LL GO AHEAD WE'LL COME BACK TO
10 THAT

11 BY MR SPROUSE

12 Q YOU ARE NOT AWARE -- YOU HAVEN'T WATCHED THE VIDEO
13 TO SEE IF HE PUT HIS HANDS UP ON THE WINDOW?

14 A HE WATCHED THROUGH THE WINDOW, I DO KNOW THAT I
15 DIDN'T WATCH IT CLOSE ENOUGH TO SEE IF HE RAISED HIS
16 HANDS

17 Q HE ALSO WALKED UP TO AT LEAST TWO INDIVIDUALS WHO
18 WERE SEATED OUTSIDE OF THE APARTMENT WITHIN HANDSHAKE
19 RANGE, DID HE NOT?

20 A HE WALKED UP IN THE VICINITY HANDSHAKE, I DON'T
21 KNOW

22 Q BUT HE WALKED UP TO THE POINT WHERE, IF THEY ARE
23 SITTING ON THE FRONT STEP AND THE CAMERA IS ON HIS SHIRT,
24 YOU LOSE SIGHT OF THEM --

25 A YES

1 Q -- AS HE'S STANDING OVER THEM?

2 A HIS BODY HAS TO -- THE CAMERA POINTS UP A LITTLE
3 BIT BUT TO SAY THAT HE'S TWO FEET FROM THEM OR FOUR
4 FEET, I CAN'T SAY

5 Q NOW, THERE IS -- WELL, LET ME ASK YOU THIS IT IS
6 PHYSICALLY POSSIBLE FOR HIM TO HAVE GOTTEN A QUANTITY OF
7 NARCOTICS WHILE AT THIS RESIDENCE, IS IT NOT?

8 A IT'S A POSSIBILITY, YES

9 Q AND IF YOU ARE SAYING HE DID NOT GET NARCOTICS AT
10 THIS LOCATION, YOU ARE HAVING TO RELY ON MR WALKER'S
11 WORD TO BELIEVE THAT, IS THAT CORRECT?

12 A CORRECT

13 Q BECAUSE THERE'S NOTHING -- YOU CAN'T SEE HIS HANDS
14 ON THE VIDEO ---

15 A CORRECT

16 Q --- EXCEPT FOR THE WINDOWSILL AND YOU CAN'T SEE
17 WHAT HE'S DOING WITH HIS HANDS WHEN HE'S NEAR THOSE
18 INDIVIDUALS?

19 A CORRECT

20 Q OKAY NOW, MR WALKER TOLD YOU THAT THEY RODE
21 AROUND THE BLOCK?

22 A CORRECT

23 Q YOU SEE IN THE VIDEO POWER LINES AND YOU SEE THEY
24 ARE TURNING AND THEY'RE IN THE CAR OVER THREE MINUTES
25 YOU CAN DRIVE A SIGNIFICANT DISTANCE IN THREE MINUTES IF

1 YOU'RE GOING 35 OR 45 MILES AN HOUR WHAT'S THE SPEED
2 LIMIT IN THAT AREA?

3 A I'D SAY 35

4 Q DOES IT LOOK LIKE IN THE VIDEO THAT HE'S DRIVING
5 AT AN EXCESSIVE RATE OF SPEED?

6 A NO, SIR

7 Q NOW, AGAIN, YOU DON'T KNOW EXACTLY WHAT
8 TRANSACTION TOOK PLACE OTHER THAN IT WAS IN THE [REDACTED]
9 [REDACTED] STREET AREA?

10 A CORRECT

11 Q NOW, PART OF [REDACTED] STREET IS NOT IN THE CITY
12 LIMITS OF SENECA, IS THAT NOT CORRECT?

13 A THE VERY END OF IT, YES

14 Q AND YOU DON'T KNOW IF THEY DROVE DOWN THERE OR
15 NOT, DO YOU?

16 A YES, I DO YOU CAN TELL IN THE VIDEO

17 Q HOW CAN YOU TELL IN THE VIDEO?

18 A HE APPROACHED ,FROM THE SOUTH WHICH IS WHERE, THE
19 SOUTH END IS WHERE THE PART THAT'S OUT OF THE CITY
20 LIMITS, HE CONTINUES NORTH AND HE COMES BACK INTO THE
21 APARTMENT COMPLEX, WHICH HE IS FACING SOUTH NOW

22 Q BUT, OFFICER CRUM, IF YOU LOOP, IF YOU GO TO THE
23 SOUTH END AND MAKE A BIG LOOP AROUND, YOU WILL STILL END
24 UP BY THE RIGHT SIDE OF THE APARTMENT COMPLEX, WOULD YOU
25 NOT?

1 A NO, SIR

2 Q IT'S NOT POSSIBLE TO GO DOWN [REDACTED] [REDACTED] TURN
3 LEFT AND MAKE A LOOP BACK AROUND TO THE APARTMENT
4 COMPLEX?

5 A WELL, YES BUT YOU'RE STILL IN THE CITY LIMITS
6 FAIRFIELD DRIVE TO WHERE YOU ARE TALKING ABOUT, YOU'RE
7 STILL WITHIN THE CITY LIMITS

8 Q THERE IS A TRIANGULAR SHAPED PIECE OF PROPERTY
9 DOWN AT THE END OF [REDACTED] BEFORE YOU WOULD MAKE THAT
10 TURN THAT'S OUTSIDE THE CITY LIMITS, IS IT NOT?

11 A YES BUT HE WAS NOT GOING THAT DIRECTION, HE WAS
12 GOING NORTH

13 Q LET'S SEE IF I CAN GET THIS TO WORK

14 (DISCUSSION OFF THE RECORD)

15 (COUNSEL CONFER)

16 BY MR SPROUSE

17 Q OFFICER CRUM, I'M LOOKING AT THE ZONING MAP FOR
18 THE CITY OF SENECA DO YOU RECOGNIZE [REDACTED] STREET
19 HERE?

20 A YES, SIR

21 Q AND YOU SEE THE -- IT LOOKS LIKE HALF OF AN
22 ARROWHEAD PIECE OF PROPERTY THAT'S OUTSIDE THE CITY
23 LIMITS?

24 A THAT'S CORRECT

25 Q NOW IT IS POSSIBLE FOR HIM TO HAVE DRIVEN DOWN

1 HERE, TURNED BACK AND MADE A LOOP BACK AROUND TO THE
2 APARTMENT COMPLEX, IS IT NOT?

3 A NO HE APPROACHED FROM THE -- IF WHERE THE ARROW
4 IS ON THE SCREEN THERE, HE CAME FROM THE SOUTH SIDE
5 THERE THEY CONTINUED STRAIGHT AND THEN HE CIRCLED THE
6 BLOCK ON UP AND CAME BACK FACING THE DIRECTION OF THE
7 ARROW THERE

8 Q HE WOULD HAVE HAD TO -- IF HE WENT THE ROUTE THAT
9 I AM SUGGESTING, HE WOULD HAVE HAD TO HAVE MADE FIVE
10 TURNS, FOUR OR FIVE TURNS, DEPENDING ON THAT LAST CURVE,
11 WOULD HE NOT?

12 A YES

13 Q AND THERE ARE AT LEAST FOUR TURNS IN THE VIDEO?

14 A CORRECT

15 Q AND IF HE MADE THOSE FOUR TURNS THE WAY I SUGGEST,
16 HE STILL WOULD HAVE ENDED UP ON THE RIGHT SIDE OF THE
17 ROAD WHERE THE APARTMENT COMPLEX IS ON HIS RIGHT SIDE, IS
18 THAT NOT CORRECT?

19 A HE WOULD HAVE HAD TO TURN AROUND TO HAVE DONE
20 THAT, YES

21 Q AND THREE MINUTES IN A CAR AT 35 MILES AN HOUR, HE
22 HAD AMPLE TIME TO HAVE MADE THAT LOOP?

23 A CORRECT

24 Q SO IN A NUTSHELL, OFFICER CRUM, IF JAMES WALKER
25 ISN'T TELLING YOU THE TRUTH, THEN YOU CAN'T PROVE TIM

1 BLASSINGAME COMMITTED THIS CRIME?

2 A THAT ROADWAY ON [REDACTED] IS IN THE CITY THE
3 PROPERTY IN THE WHITE IS NOT THE CITY LIMITS SO ONLY IF
4 IT WAS THERE ON THE ROADWAY AND IT WAS DONE INSIDE THE
5 CITY LIMITS

6 Q OKAY NOW YOU DIDN'T ANSWER MY QUESTION IF TIM
7 BLASSINGAME IS TO BE PROVEN GUILTY, YOU HAVE TO HAVE
8 JAMES WALKER TELLING YOU THE TRUTH?

9 A CORRECT

10 Q THANK YOU

11 THE COURT RE-EXAM?

12 MS SIMMONS THANK YOU, JUDGE

13 REDIRECT EXAMINATION BY MS SIMMONS

14 Q SERGEANT CRUM, YOU INDICATED THAT BASED ON YOUR
15 DEALING WITH THIS INFORMANT, HE SAID, "THANK YOU, I
16 APPRECIATE IT, MAN," AT THE END OF THE DEAL?

17 A CORRECT, YES, MA'AM

18 Q AND THAT, THAT STATEMENT FOLLOWS WHAT DISCUSSION?

19 A THAT A PURCHASE HAS BEEN MADE OR A DISTRIBUTION
20 HAS BEEN MADE

21 Q I DON'T THINK I WAS CLEAR THAT STATEMENT FOLLOWS
22 WHAT DISCUSSION BETWEEN THE DEFENDANT AND THE INFORMANT
23 REGARDING THAT?

24 A ASKING FOR SOME CRACK, THE 40, THE DUB, THE 10,
25 THROUGH THE CONVERSATION THEY HAD

1 Q OKAY SO "THANK YOU, I APPRECIATE IT" FOLLOWS THE
2 CONVERSATION ABOUT 40'S, DUBS, PIECES AND TAKING A RIDE?

3 A CORRECT

4 Q THE THIRD PARTIES THAT THE INFORMANT ENCOUNTERED
5 WHEN HE GOT OUT OF THE CAR, DID HE HAVE ANY CONVERSATION
6 REGARDING 40'S, DUBS, PIECES OR CRACK COCAINE WITH THOSE
7 PEOPLE?

8 A NO, MA'AM, NOT AT ALL

9 Q AND HOW MANY TIMES WOULD YOU ESTIMATE YOU HAVE
10 PATROLLED THE STREETS OF SENECA?

11 A NUMEROUS TIMES I MEAN, IN FOUR YEARS, JUST
12 CONSISTENTLY

13 Q AND IT'S YOUR TESTIMONY THAT THE ROUTE THAT WAS
14 TAKEN IN THIS CASE IS IN THE CITY LIMITS OF SENECA?

15 A OH, MOST DEFINITELY

16 MS SIMMONS NOTHING FURTHER

17 THE COURT ALL RIGHT YOU MAY STEP DOWN

18 (WITNESS LEAVES STAND)

19 THE COURT WILL COUNSEL APPROACH?

20 (DISCUSSION AT SIDEBAR)

21 THE COURT MADAM FORELADY, LADIES AND GENTLEMEN OF
22 THE JURY, OBVIOUSLY THIS IS A GOOD TIME TO TAKE A LUNCH
23 BREAK IT'S TEN OF ONE NOW BUT I WOULD SUGGEST WE GO
24 TO LUNCH, I DON'T KNOW WHAT'S AVAILABLE, BUT THE THING IS
25 I'M GOING TO SUGGEST THAT WE COME BACK AT 2 15 THAT

1 WILL GIVE US A LITTLE MORE THAN AN HOUR OF COURSE, WE
2 CAN'T START WITHOUT YOU, SO LET'S TRY TO BE BACK BY 2 15
3 AGAIN, DO NOT UNDERTAKE THE DISCUSSION OF THE CASE
4 AMONG YOURSELVES IN ANY WAY

5 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
6 FROM THE COURTROOM

7 (THE JURY LEFT THE COURTROOM AT
8 APPROXIMATELY 12 50 P M)

9 THE COURT ALL RIGHT IS THERE ANYTHING ELSE FROM
10 THE STATE BEFORE WE TAKE A BREAK?

11 MS SIMMONS NO, YOUR HONOR

12 MR SPROUSE NOTHING FROM THE DEFENSE, YOUR HONOR

13 THE COURT ALL RIGHT, VERY GOOD WE'LL SEE YOU
14 BACK AT 2 15

15 (A LUNCHEON RECESS OCCURRED)
16
17
18
19
20
21
22
23
24
25

1 **AFTERNOON PROCEEDINGS**

2

3 **THE COURT** ANYTHING FROM THE STATE BEFORE WE BRING

4 THE JURY BACK?

5 **MS SIMMONS** NO, YOUR HONOR

6 **THE COURT** FROM THE DEFENDANT?

7 **MR SPROUSE** NOTHING, YOUR HONOR

8 **THE COURT** ALL RIGHT ASK THE JURY TO JOIN US

9 (THE JURY ENTERED THE COURTROOM AT

10 APPROXIMATELY 2 26 P M)

11 **THE COURT** ALL RIGHT LET THE RECORD REFLECT THE

12 JURY AND ALTERNATE ARE IN THE JURY-BOX

13 MADAM SOLICITOR, YOU MAY PROCEED

14 **MS SIMMONS** THANK YOU, YOUR HONOR THE STATE

15 CALLS JAMES WILLIE WALKER

16 WHEREUPON,

17 JAMES WILLIE WALKER,

18 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS

19 DIRECT EXAMINATION BY MS SIMMONS

20 **THE COURT** IF YOU WOULD PLEASE, SIR, GIVE US YOUR

21 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME

22 **THE WITNESS** JAMES WILLIE WALKER, W-A-L-K-E-R

23 **THE COURT** VERY GOOD THANK YOU, SIR

24 BY **MS SIMMONS**

25 Q GOOD AFTERNOON, JAMES WILLIE HOW ARE YOU?

1 A ALL RIGHT HOW ARE YOU?

2 Q GOOD HOW OLD ARE YOU?

3 A THIRTY-SIX

4 Q AND DID YOU GRADUATE FROM HIGH SCHOOL?

5 A NO, MA'AM

6 Q WHERE DO YOU LIVE, WHAT CITY?

7 A SENECA

8 Q YOU LIVED THERE YOUR WHOLE LIFE?

9 A YES, MA'AM

10 Q HAVE YOU BEEN CONVICTED OF ANY CRIMES WITHIN THE

11 LAST TEN YEARS?

12 A YES, MA'AM

13 Q WOULD IT BE FAIR TO SAY THAT YOU HAVE PRIOR

14 CONVICTIONS FOR RECEIVING STOLEN GOODS, FINANCIAL

15 TRANSACTION CARD THEFT, SHOPLIFTING, FORGERY, PETIT

16 LARCENY AND FRAUDULENT CHECKS?

17 A YES, MA'AM

18 Q AND YOU HAVE TAKEN RESPONSIBILITY FOR ALL THOSE

19 THINGS?

20 A YES, MA'AM

21 Q HAVE YOU WORKED AS A CONFIDENTIAL INFORMANT FOR

22 THE CITY OF SENECA?

23 A YES, MA'AM

24 Q HOW MANY TIMES DO YOU THINK YOU HAVE DONE THAT?

25 A IT'S BEEN OVER, OVER 40 TIMES, MAYBE 50

1 Q DID YOU COOPERATE FOR MONEY USUALLY?

2 A YES, MA'AM

3 Q HOW DO YOU KNOW TIM BLASSINGAME?

4 A WE'RE COUSINS

5 Q HOW ARE YOU COUSINS?

6 A SEMI-COUSINS HIS GRANDMOTHER AND MY DADDY WAS
7 BROTHERS AND SISTERS

8 Q OKAY IS TIM BLASSINGAME PRESENT HERE IN COURT
9 TODAY?

10 A YES, MA'AM

11 Q CAN YOU POINT HIM OUT TO ME?

12 A (POINTS)

13 MS SIMMONS YOUR HONOR, PLEASE LET THE RECORD
14 REFLECT THAT HE'S POINTING TO THE DEFENDANT

15 THE COURT VERY WELL

16 BY MS SIMMONS

17 Q WOULD YOU RECOGNIZE A PICTURE OF TIM BLASSINGAME
18 IF YOU SAW IT?

19 A YES, MA'AM

20 Q IS THAT TIM BLASSINGAME?

21 A YES, MA'AM

22 Q DID YOU MEET WITH THE SENECA POLICE DEPARTMENT ON
23 FEBRUARY 24TH OF 2009 FOR THE PURPOSE OF DOING A DRUG
24 DEAL WITH THIS DEFENDANT?

25 A YES, MA'AM

1 Q HOW DID THAT GET SET UP?

2 A I CALLED JOHN WHEN I WOKE UP, I WAS ACTUALLY IN
3 MY, I NEEDED SOME MONEY SO I CALLED HIM AND SAID THAT I
4 HAVE SOME MONEY THAT I CAN GET FOR THEM AND EVERYTHING

5 I MET WITH THEM FOR ABOUT AN HOUR LATER AND I TOLD
6 HIM I COULD GET THEM TIM BLASSINGAME I MET WITH THEM,
7 THEY SEARCHED ME AND WIRED ME UP AND I CALLED TIM AND
8 ASK HIM COULD WE MEET, I ASKED COULD HE COME BY AND HE
9 WAS, YEAH HE WAS TAKING A SHOWER GETTING READY TO GO
10 OVER TO HIS SISTER'S HOUSE HE SAID HE WAS GETTING READY
11 TO PUT WORK CLOTHES ON AND TO CALL HIM BACK WHERE I WAS
12 OVER BY [REDACTED] STREET AT [REDACTED]

13 I TOLD HIM, I TOLD HIM I NEEDED A 40, THAT WOULD
14 BE LIKE A 40 OF DOPE, OF ROCK, AND HE SAID HE DIDN'T HAVE
15 THAT

16 SO I TOLD HIM JUST SELL ME A 20 OF CRACK AND HE
17 SAID HE HAD A PIECE ON HIM

18 AND I SAID, WELL, SELL ME A DIME

19 HE SAID, HERE'S MY LAST PIECE OF IT

20 WE RODE AROUND THE BLOCK AND CAME BACK, AND WHEN I
21 GOT OUT OF THE CAR, HE GAVE ME A PIECE OF DOPE

22 Q WHEN YOU SAY "A PIECE," IS THAT LIKE THE CRUMBS
23 THAT ARE LEFT FROM YOUR, FROM BIGGER STUFF?

24 A REALLY, YEAH, JUST A LITTLE NICK THAT HE GAVE ME,
25 A LITTLE PIECE OF DOPE THAT HE, DRUG THAT HE GAVE ME

1 Q OKAY YOU SAID THAT YOU CALLED HIM AND SET UP
2 THIS DEAL, RIGHT?

3 A YES, MA'AM

4 Q DO YOU REMEMBER THE NUMBER THAT YOU CALLED?

5 A [REDACTED]

6 Q OKAY AND THAT WAS THE NUMBER THAT YOU KNEW TO BE
7 HIS?

8 A YES, MA'AM

9 Q WHO DID THAT PHONE ACTUALLY BELONG TO?

10 A IT BELONGED TO CHARLOTTE, HIS GIRLFRIEND AT THE
11 TIME

12 Q OKAY DO YOU KNOW CHARLOTTE'S LAST NAME?

13 A CHARLOTTE REED

14 Q OKAY WHAT KIND OF CAR DID CHARLOTTE DRIVE AT
15 THAT TIME?

16 A IT WAS A, THE ONE THAT SHOWED IN THAT VIDEO RIGHT
17 THERE, IT'S AN ALTIMA, NISSAN ALTIMA

18 Q OKAY I'M GOING TO SHOW YOU THROUGH THE PICTURE
19 IS THAT CHARLOTTE'S CAR?

20 A YES, MA'AM

21 Q IS THAT TIM BLASSINGAME DRIVING IT?

22 A YES, MA'AM

23 Q OKAY SO WHEN YOU MET UP WITH LAW ENFORCEMENT,
24 YOU WERE SEARCHED AND THEY GAVE YOU A SHIRT, RIGHT?

25 A YES, MA'AM

1 Q OKAY HOW THOROUGHLY DID THEY SEARCH YOU?

2 A OFFICER HUNNICUTT, HE DID THE SEARCH AND TOOK MY
3 COAT OFF, AND I HAD TO TAKE MY SHIRT OFF BECAUSE I PUT ON
4 ANOTHER SHIRT AND HE TOOK EVERYTHING OUT OF MY POCKETS,
5 MY SHOES OFF AND HE CHECKED MY SOCKS AND EVERYTHING

6 Q OKAY WHEN YOU CALLED THE DEFENDANT ON YOUR WAY
7 TO THE DRUG DEAL, WHAT DID YOU ALL TALK ABOUT?

8 A WE WERE TALKING ABOUT HIM, AS I GOT IN THE CAR
9 WITH HIM, WE TALKED ABOUT HIM, THAT ALL HE HAD WAS THAT
10 ONE LITTLE PIECE OF CRACK ROCK HE SAID HE WAS GOING
11 DOWN THE ROAD TO GET SOME MORE I'M LIKE, NO, I DON'T
12 WANT TO GO I GOT TO GO TO WORK I SAID I HAD TO BE
13 THERE LIKE 3 00 OR 4 00 SO

14 Q AND SO WHEN HE IN THE VIDEO IN STREET LINGO WHEN
15 HE ASKS YOU TO TAKE A RIDE, THAT'S WHAT HE MEANT, THAT
16 Y'ALL WERE GOING TO GET -- HE WAS ASKING YOU TO GO GET
17 MORE?

18 A YES, MA'AM

19 Q OKAY AND THEN ON THE VIDEO THERE'S TALK OF
20 CHARLOTTE IS HE TALKING ABOUT CHARLOTTE REED?

21 A YES, MA'AM I ASKED HIM WAS THAT HIS GIRL, THE
22 ONE THAT MONGO USED TO GO WITH, AND I WAS TELLING HIM I
23 KNOW HER FROM THE PAST, THAT SHE WAS A BAD INFLUENCE

24 Q YOU WERE TRYING TO TELL HIM TO WATCH OUT FOR HER?

25 A YES, MA'AM

Handwritten: State v. Blasingame

1 Q OKAY YOU HAVE BEEN HERE IN COURT ALL MORNING
2 THE VIDEO AND THE AUDIOTAPE THAT YOU LISTENED TO, IS THAT
3 A FAIR REPRESENTATION OF WHAT HAPPENED?

4 A YES, MA'AM

5 Q OKAY WHEN YOU GOT IN THE CAR, WERE YOU ALL IN
6 THE CITY LIMITS OF SENECA?

7 A YES, MA'AM WE WENT AROUND THE BLOCK FROM [REDACTED]
8 STREET AROUND TO -- I DON'T KNOW THE STREET NAMES BACK
9 THERE BUT WE JUST WENT AROUND THE BLOCK IT DIDN'T
10 TAKE ABOUT JUST TWO OR THREE MINUTES TO GET BACK WHERE WE
11 WERE WHEN I FIRST GOT UNDERCOVER, AND THAT WAS IN THE
12 CITY OF SENECA

13 Q OKAY WHEN HE GAVE YOU THE DRUGS, DID HE SAY
14 ANYTHING? I KNOW YOU ALL TALKED ABOUT 40'S AND DUBS AND
15 DIMES AND ALL THAT, BUT

16 A ALL I SAID WAS, I APPRECIATE YOU LOOKING FOR THAT,
17 CUZ, AND HE SAID ALL RIGHT, AND I GOT OUT OF THE CAR

18 Q SO YOU SAY CUZ?

19 A YES, MA'AM

20 Q AND THAT'S BECAUSE HE'S YOUR COUSIN?

21 A YES, MA'AM

22 Q I'M GONNA SHOW YOU WHAT'S BEEN PREMARKED FOR
23 IDENTIFICATION AS STATE'S EXHIBIT 5 IS THIS THE CRACK
24 COCAINE THAT YOU GAVE BACK TO SERGEANT CRUM?

25 A YES MA'AM

1 Q IS THAT THE LITTLE BAGGIE HE GAVE YOU TO PUT IT
2 IN?

3 A YES, MA'AM

4 Q OKAY AND THAT WAS -- WHAT DATE WAS THAT ON?

5 A THE 24TH OF FEBRUARY OF '09

6 Q OKAY DID YOU -- I KNOW THAT AFTER YOU GOT OUT OF
7 THE CAR, YOU DID TALK TO SOME PEOPLE AT THE APARTMENTS
8 THERE, RIGHT?

9 A YES, MA'AM

10 Q HOW CLOSE DID YOU GET TO THOSE FOLKS?

11 A ABOUT FROM HERE, OVER HERE TO I'D SAY RIGHT ABOUT
12 THERE WHERE THE FIRST LADY IS SITTING THERE

13 Q (TAKES STEPS) RIGHT HERE?

14 A YES, MA'AM FOUR STEPS AND I JUST WALKED UP TO
15 THE WINDOW TO SEE WHAT WAS GOING ON

16 Q OKAY SO YOU JUST PUT YOUR HANDS UP TO YOUR FACE
17 AND YOU LOOKED THROUGH THE WINDOW LIKE THAT
18 (DEMONSTRATING)?

19 MR SPROUSE OBJECT TO THE LEADING, YOUR HONOR

20 THE COURT ALL RIGHT

21 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
22 THE OBJECTION WAS TO THE LEADING A LEADING QUESTION IS
23 A QUESTION THAT SUGGESTS AN ANSWER, IN OTHER WORDS, IN
24 EFFECT THAT THE LAWYER IS TESTIFYING AND THE WITNESS IS
25 ONLY AGREEING WITH THE LAWYER BUT WHEN IT'S YOUR

1 WITNESS YOU CAN'T LEAD THE WITNESS, IN OTHER WORDS, YOU
2 WANT TO HEAR FROM THE WITNESS

3 NOW, ON CROSS-EXAMINATION YOU CAN LEAD THE OTHER
4 WITNESS, SOMEBODY ELSE'S WITNESS OR THE OTHER SIDE'S
5 WITNESS

6 NOW, THESE RULES APPLY BOTH TO THE STATE AND TO THE
7 DEFENDANT

8 SO RESTATE YOUR QUESTION

9 BY MS SIMMONS

10 Q CAN YOU SHOW ME HOW YOU LOOKED IN THE WINDOW?

11 A I JUST WALKED UP TO THE GLASS AND JUST DID LIKE
12 THAT (DEMONSTRATING)

13 Q DID YOU PUT YOUR HANDS ON THE SILL?

14 A NO, MA'AM

15 Q WHOSE APARTMENT WAS THAT THAT YOU WERE LOOKING AT?

16 A IT WAS MY SISTER'S APARTMENT

17 Q WHY DID YOU STALL KIND OF AT THE APARTMENTS THERE?

18 A BECAUSE I TOLD HIM I WAS AT MY SISTER'S APARTMENT
19 AND I DIDN'T WANT HIM TO THINK THAT I WAS DOING WHAT I
20 WAS DOING, AS IN TRYING TO, YOU KNOW, BUST HIM OR
21 SOMETHING LIKE THAT SO I HAD TO WAIT BECAUSE THE SCHOOL
22 BUS WAS RIGHT THERE AND HE WAS RIGHT BEHIND THE SCHOOL
23 BUS SO I HAD TO WALK THAT WAY TO STALL HIM A LITTLE BIT
24 BEFORE I WENT BACK TO SERGEANT CRUM

25 Q HAVE YOU SEEN THE DEFENDANT SINCE THIS DEAL TOOK

1 PLACE IN FEBRUARY?

2 A YEAH, IN THE COUNTY JAIL

3 Q OKAY TELL ME WHAT HAPPENED WHEN Y'ALL WERE

4 TOGETHER AT THE COUNTY JAIL

5 A I WENT TO THE COUNTY JAIL FOR, STAYING THERE LIKE

6 TWO MONTHS AND A HALF AND THE WHOLE TIME I LEFT THE

7 HALF MONTH, HE CAME TO "A" CELL WE WAS IN "A" CELL

8 TOGETHER AND WE WAS TALKING, AND HE TOLD ME TO TELL HIM

9 THAT IT WASN'T HIM HE WAS GONNA WRITE A STATEMENT AND

10 HE WANTED ME TO COPY IT DOWN AND SIGN IT

11 SO I DID BECAUSE I KNEW THAT HE KNEW I HAD DONE

12 GOT HIM ON DRUG CHARGES AND HE KNEW WHY HE WAS ARRESTED

13 WAS BECAUSE OF ME SO I DIDN'T WANT TO LAY IN THE CELL

14 KNOWING THAT MY LIFE COULD BE IN DANGER THAT'S WHY I

15 DID IT

16 Q SO YOU WERE -- THE JAIL PUT YOU ALL IN A CELL

17 TOGETHER?

18 A YES, MA'AM

19 Q HOW LONG WERE YOU IN THERE WITH HIM?

20 A PROBABLY ABOUT TWO WEEKS

21 Q ANY STATEMENT -- THE STATEMENT YOU ARE TALKING

22 ABOUT THAT YOU GAVE TO HIM, SAYING IT WASN'T HIM -- IS

23 THAT WHAT YOU ARE SAYING?

24 A YES, MA'AM

25 Q IS THAT TRUE?

1 A NO, MA'AM

2 Q YOU KNOW WHO TIM BLASSINGAME IS?

3 A YES, MA'AM

4 Q WHY DO YOU KNOW WHO HE IS?

5 A WE'RE SECOND COUSINS

6 Q ARE YOU TELLING THE TRUTH HERE TO THIS JURY TODAY?

7 A YES, MA'AM

8 Q AND DID YOU RECEIVE DRUGS, DID HE ACTUALLY HAND
9 YOU DRUGS ON FEBRUARY 24TH OF 2009?

10 A YES, MA'AM

11 MS SIMMONS BEG THE COURT'S INDULGENCE ONE MOMENT
12 NOTHING FURTHER AT THIS TIME

13 THE COURT CROSS-EXAMINE

14 MR SPROUSE MAY IT PLEASE THE COURT, YOUR HONOR
15 CROSS-EXAMINATION BY MR SPROUSE

16 Q MR WALKER, WHEN DID YOU START WORKING AS A
17 CONFIDENTIAL INFORMANT?

18 A I THINK IT WAS '07 I THINK IN 2007 I'M NOT FOR
19 SURE

20 Q DO YOU REMEMBER WHAT MONTH IN '07?

21 A OCTOBER OF '07

22 Q OCTOBER SO IT'S BEEN TWO YEARS?

23 A YES, MA'AM [SIC]

24 Q 24 MONTHS?

25 A YES, MA'AM [SIC]

1 Q AND YOU'VE DONE, ACCORDING TO YOUR TESTIMONY, 40
2 CASES?

3 A YES, MA'AM -- YES, SIR

4 Q AND YOU GET PAID \$20 A POP FOR THEM?

5 A THERE'S A LITTLE MORE -- IT CAN BE MORE THAN THAT
6 THE TIMES I DO, BUT, I MEAN, IT DEPENDS ON HOW MUCH THE
7 BUY IS

8 Q SO YOU GET A PERCENTAGE ON IT? HOW IS YOUR PAY
9 FIGURED OUT?

10 A I WOULDN'T SAY A PERCENTAGE AT THE TIME I WASN'T
11 DOING NO WORK AND I JUST HAD A NEWBORN BABY, SO I HAD TO
12 DO ANYTHING TO SUPPORT HIM

13 Q EXCUSE ME? I DIDN'T UNDERSTAND

14 A I SAID, AT THE TIME I DIDN'T HAVE A JOB, SO I HAD
15 TO DO WHAT I HAD TO DO TO SUPPORT HIM, MY CHILD

16 Q SO YOU WERE CALLING UP PEOPLE, ASKING THEM TO SELL
17 YOU DRUGS, AND THEN THE SENECA POLICE DEPARTMENT WAS
18 PAYING YOU FOR THAT?

19 A YES, SIR

20 Q OKAY AND IT'S TRUE THAT IN THIS CASE, THEY DID
21 NOT -- BY "THEY" I MEAN THE SENECA POLICE DEPARTMENT --
22 DID NOT APPROACH YOU ABOUT TIM BLASSINGAME, YOU
23 APPROACHED THEM?

24 A YES, SIR

25 Q YOU CALLED UP OFFICER CRUM ON FEBRUARY 24 AND TOLD

1 HIM, I GOT A DRUG SALE SET UP WITH TIM BLASSINGAME, IS
2 THAT WHAT YOU ARE TESTIFYING TO?

3 A YES, SIR YES, SIR

4 Q NOW, THE WAY THAT IT TURNED OUT, IT WAS NOT A DRUG
5 SALE, WAS IT?

6 A NO I WAS GIVEN THE DRUGS

7 Q SO THE INFORMATION YOU GAVE OFFICER CRUM THAT
8 MORNING WAS INACCURATE?

9 A I BRUNG [SIC] HIS MONEY BACK I MEAN, I DIDN'T
10 BUY IT I MEAN, HE GAVE IT TO ME

11 Q THE SENECA POLICE DEPARTMENT ANTICIPATED THAT
12 THERE WOULD BE A DRUG SALE BASED ON WHAT YOU TOLD THEM?

13 A YES, SIR

14 Q NOW, YOU STARTED WORKING FOR THE SENECA POLICE
15 DEPARTMENT AND MS SIMMONS, THE SOLICITOR, ASKED YOU
16 ABOUT YOUR RECORD NOW, YOU HAVE A LONG HISTORY OVER THE
17 LAST TEN YEARS OF CRIMINAL VIOLATIONS

18 A YES, SIR

19 Q YOU HAVE A LONG HISTORY OF VIOLATIONS THAT
20 INVOLVED DISHONESTY OF SOME SORT, DO YOU NOT?

21 A NO, I DON'T

22 Q IS FRAUDULENT CHECK A CHARGE THAT INVOLVES
23 DISHONESTY?

24 A I MEAN, IT WASN'T MY CHECK, SIR, BUT I PLEADED
25 GUILTY TO THEM

1 Q WERE YOU LYING WHEN YOU PLED GUILTY?

2 A NO, I WAS TELLING THE TRUTH I MEAN, I DID IT

3 Q OKAY SO YOU WROTE A FRAUDULENT CHECK?

4 A YES, SIR

5 Q AND THAT'S NOT BEING DISHONEST?

6 A IT WOULD HAVE BEEN DISHONEST ABOUT WRITING A CHECK
7 THAT WASN'T MINE

8 Q OKAY WHEN YOU WERE CONVICTED OF FORGERY IN
9 OCTOBER OF 2005, DID THAT INVOLVE DISHONESTY?

10 A YES, SIR

11 Q YOU SIGNED SOMEBODY ELSE'S CHECK?

12 A YES, SIR

13 Q THEN, WHEN YOU WERE CONVICTED OF ONE, TWO, THREE,
14 FOUR, FIVE, SIX -- SIX SHOPLIFTING OFFENSES DURING THAT
15 PERIOD OF TIME, FROM 2005 TO THE TIME OF THIS OFFENSE,
16 DID THAT INVOLVE DISHONESTY?

17 A YES, SIR

18 Q THAT WAS STEALING

19 A IT WAS STEALING, YEAH

20 Q TAKING SOMEBODY ELSE'S STUFF

21 A EXACTLY

22 Q AND YOU WERE CONVICTED OF EVERY ONE OF THEM?

23 A YES, SIR

24 Q YOU ALSO WERE DISHONEST WHEN YOU GAVE FALSE
25 INFORMATION AND WAS CONVICTED OF THAT DO YOU REMEMBER

1 THAT ONE?

2 A FALSE INFORMATION? I CAN'T RECALL, NO

3 Q YOU DON'T REMEMBER DECEMBER THE 2ND, 2005, IN A
4 CHARGE BY THE CLEMSON UNIVERSITY POLICE DEPARTMENT?

5 A YES, SIR

6 Q THAT INVOLVED DISHONESTY, TOO?

7 A YES, SIR

8 Q THESE OFFICERS FROM THE OCONEE COUNTY SHERIFF'S
9 OFFICE ARE HERE YOU HAD A NUMBER -- A NUMBER OF THESE
10 CHARGES WERE FOR THE OCONEE COUNTY SHERIFF'S OFFICE, WERE
11 THEY NOT?

12 A YES, SIR

13 Q YOU HAVE PETIT LARCENY, AS WELL, DID YOU NOT?

14 A YES, SIR

15 Q AND YOU ALSO HAVE HAD SEVERAL CHARGES FROM THE
16 SENECA POLICE DEPARTMENT, THE VERY AGENCY YOU WERE
17 WORKING FOR IN THIS TRANSACTION --

18 A YES, SIR

19 Q -- HAVE YOU NOT?

20 NOW, MR WALKER, YOU HAVE PENDING CHARGES, DO YOU
21 NOT?

22 A YES, SIR, I DO

23 Q AND YOU HAVE ASKED FOR HELP ON THE PENDING CHARGES
24 IN RETURN FOR YOUR COOPERATION IN THIS CASE, HAVE YOU
25 NOT?

1 A YES, SIR

2 Q NOW, THIS IS YOUR COUSIN?

3 A YES, SIR

4 Q AND YOU GOT ON THE VIDEO, YOU GOT TO WATCH THE
5 VIDEO WHILE YOU WERE HERE YOU THOUGHT THIS WAS FUNNY
6 AFTER, AFTER YOU DID THIS TRANSACTION, DID YOU NOT?

7 A NOT REALLY THE FIRST TIME I EVER SEEN SOMEBODY
8 GET CHARGES IN MY CAPEER I DIDN'T THINK IT WAS FUNNY

9 Q WELL, YOU WERE CALLING, YOU WERE CALLING -- WHO
10 WERE YOU TALKING TO ON THE TELEPHONE WHEN YOU WERE SAYING
11 "HE GAVE IT TO ME"?

12 A I WAS TALKING TO OFFICER CRUM

13 Q I MEAN, IT WAS A BIG JOKE TO YOU, WASN'T IT?

14 A IT WASN'T A JOKE LIKE I WAS SAYING, I AIN'T
15 NEVER SEEN NOBODY GET CHARGES JUST GIVING DRUGS TO
16 SOMEBODY

17 Q SO DID YOU THINK THERE WAS ANYTHING WRONG WITH
18 WHAT HAPPENED?

19 A NO I MEAN

20 Q NOW, WHEN YOU WERE IN JAIL BACK IN SEPTEMBER, YOU
21 SAY YOU WERE IN JAIL TWO MONTHS?

22 A YES, SIR

23 Q DID YOU WRITE A DOCUMENT SAYING THAT THE REPORT
24 THAT YOU HAD GIVEN WAS NOT TRUE?

25 A YES, SIR I WROTE -- I DIDN'T WRITE IT BUT I

1 COPIED IT DOWN FROM WHERE HE WROTE

2 Q IS THAT YOUR SIGNATURE ON IT?

3 A YES, SIR

4 Q AND THAT'S IN YOUR HANDWRITING?

5 A YES, SIR

6 Q AND DOES THAT HAVE SEPTEMBER THE 28TH?

7 A YES, SIR

8 Q AND YOU SAID (READING) I, JAMES WALKER --

9 MS SIMMONS YOUR HONOR, I OBJECT TO HIM READING
10 SOMETHING HE'S NOT GONNA OFFER AS AN EXHIBIT

11 MR SPROUSE I'LL MOVE ON TO SOMETHING ELSE, YOUR
12 HONOR

13 BY MR SPROUSE

14 Q MR WALKER, THE NOTE THAT YOU TESTIFIED ABOUT WAS
15 IN YOUR HANDWRITING?

16 A YEAH, BUT THOSE WORDS, I MEAN, ARE COPIED FROM
17 WHAT HE WROTE

18 Q AND IT'S TRUE THAT AS A RESULT OF THAT INCIDENT
19 THERE WAS NO COMPLAINT BY YOU TO THE JAIL AUTHORITIES?

20 A YEAH THEY GOT COMPLAINTS I MEAN, ROGER FROM
21 THE JAIL ON SECOND SHIFT SUPERVISOR, HE GOT A COMPLAINT,
22 MS GILLISPIE (PHONETIC), BEVERLY ALL OF THEM, ROGER
23 AND ALL OF THEM GOT COMPLAINTS ALL YOU GOT TO DO IS ASK
24 THEM AND THEY'LL TELL YOU THE MAJOR GOT THEM, TOO YOU
25 CAN ASK HIM, TOO

1 Q DID YOU NOT TELL THE STATE SOMETHING DIFFERENT
2 THAN YOU SAID IN THIS STATEMENT?

3 A I DON'T UNDERSTAND WHAT YOU ARE SAYING -- ASKING
4 ME

5 Q WHAT DID YOU TELL TIM?

6 A WHAT DID I TELL TIM?

7 Q YEAH

8 A WHAT DID I TELL TIM? I TOLD HIM TO GET SOME REST
9 AND EVERYTHING WOULD BE ALL RIGHT I MEAN, I DID THAT --
10 I AIN'T GONNA KILL MYSELF

11 Q NOW, YOU WENT UP TO APARTMENT [REDACTED] --

12 A YES, SIR

13 Q -- WHEN YOU GOT THERE?

14 A YES, SIR

15 Q AND THERE WERE PEOPLE SITTING OUT FRONT?

16 A YES, SIR

17 Q AND YOU WENT UP TO THE WINDOWSILL?

18 A YES, SIR

19 Q AND THE PEOPLE KNEW YOU?

20 A YES, SIR

21 Q YOU SPOKE TO THEM?

22 A YES, SIR

23 Q AND THEN YOU MADE ANOTHER PHONE CALL AS YOU WALKED
24 UP THE ROAD CALLED LAW ENFORCEMENT AND WHO WAS THE
25 OTHER PHONE CALL TO, WAS THAT TO YOUR GIRLFRIEND?

1 A YES, SIR

2 Q OKAY WHERE DID YOU PUT THIS SUBSTANCE THAT YOU
3 ALLEGE WAS GIVEN TO YOU?

4 A I HANDED IT OVER WHEN I GOT BACK TO THE JEEP WITH
5 CRUM, MR CRUM HE PUT IT IN A PLASTIC BAG

6 **MR SPROUSE** I ASK THE COURT'S INDULGENCE
7 (THE DEFENDANT CONFERRED WITH COUNSEL OFF THE
8 RECORD)

9 BY MR SPROUSE

10 Q MR WALKER, YOU USE COCAINE, DO YOU NOT?

11 A YES, SIR

12 Q AND YOU WERE USING CRACK AT THE TIME THIS OFFENSE
13 HAPPENED?

14 A NOT AT THE TIME THE OFFENSE HAPPENED PROBABLY A
15 COUPLE DAYS EARLIER

16 Q IF YOU HAD BEEN SENT FOR A DRUG TEST, DO YOU
17 BELIEVE THAT YOU WOULD HAVE SHOWED UP POSITIVE FOR
18 COCAINE?

19 A I KNOW I'M SURE I'M POSITIVE FOR COCAINE THERE
20 AIN'T NO DOUBT

21 **MR SPROUSE** OKAY THANK YOU

22 **THE COURT** REDIRECT?

23 REDIRECT EXAMINATION BY MS SIMMONS

24 Q JAMES WILLIE, JUST A COUPLE FOLLOW-UPS HAVE WE
25 MADE YOU ANY PROMISES IN RETURN FOR YOUR -- YOU DO HAVE

1 PENDING CHARGES HAVE YOU BEEN MADE ANY PROMISES
2 REGARDING THOSE PENDING CHARGES FOR YOUR TESTIMONY?

3 A NO, MA'AM

4 Q THOSE PENDING CHARGES OCCUR AFTER THIS?

5 A YES, MA'AM

6 Q HOW MANY TIMES DID YOU SAY YOU WORKED WITH
7 SERGEANT CRUM?

8 A IT WOULD HAVE BEEN OVER 40 OR 50 TIMES

9 Q HAVE YOU ALWAYS BEEN HONEST AND TRUTHFUL WITH HIM?

10 A ALWAYS

11 Q WHEN WE TALKED ABOUT THIS INCIDENT BETWEEN YOU AND
12 THE DEFENDANT AT THE JAIL AND HE APPROACHED YOU WITH THIS
13 LETTER, WAS HE ASKING YOU TO LIE FOR HIM?

14 A YES, HE WAS

15 Q AT THAT -- DURING THAT CONVERSATION OR EXCHANGE
16 THAT YOU HAD, DID HE EVER TELL YOU "IT WASN'T ME, I
17 DIDN'T DO IT"?

18 A YEAH HE TOLD ME TO SAY IT WASN'T HIM, BUT I KNOW
19 HIM I KNOW WHO IT WAS I MEAN, I WAS THERE

20 MS SIMMONS NOTHING FURTHER

21 THE COURT ALL RIGHT YOU MAY STEP DOWN

22 MS SIMMONS JUDGE, MAY I ASK THAT THIS WITNESS BE
23 EXCUSED?

24 MR SPROUSE NO OBJECTION

25 THE COURT WITHOUT OBJECTION YOU MAY BE EXCUSED

1 (WHEREUPON, THE WITNESS WAS EXCUSED)

2 THE COURT CALL YOUR NEXT WITNESS

3 MS SIMMONS WE CALL SOUTH CAROLINA D N R AGENT

4 BENNY OWENS

5 WHEREUPON,

6 BENJAMIN R OWENS,

7 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS

8 DIRECT EXAMINATION BY MS SIMMONS

9 THE COURT IF YOU WOULD, SIR, PLEASE GIVE US YOUR
10 FULL NAME FOR THE RECORD, SPELLING YOUR LAST

11 THE WITNESS YES BENJAMIN R OWENS MY LAST NAME
12 IS O-W-E-N-S

13 THE COURT VERY GOOD, THANK YOU

14 YOU MAY PROCEED

15 MS SIMMONS THANK YOU, JUDGE

16 BY MS SIMMONS

17 Q OFFICER OWENS, WHERE ARE YOU EMPLOYED?

18 A I'M EMPLOYED WITH THE SOUTH CAROLINA DEPARTMENT OF
19 NATURAL RESOURCES AS A LAW ENFORCEMENT OFFICER, AND I
20 WORK ANDERSON COUNTY

21 Q HOW LONG HAVE YOU BEEN WITH D N R ?

22 A TEN YEARS

23 Q WHAT DO D N R OFFICERS DO?

24 A WE ENFORCE GAME AND FISH LAWS AND BOATING

25 REGULATIONS AND ANY OTHER STATE LAW OR FEDERAL LAW THAT

1 WE MAY INCUR IN THOSE DUTIES

2 Q DO YOU ALSO HAVE JURISDICTION TO CONDUCT WHAT ARE
3 COMMONLY KNOWN AS UNIFORM TRAFFIC STOPS?

4 A YES, MA'AM, I'M THE SAME AS ANY OTHER LAW
5 ENFORCEMENT OFFICER

6 Q WERE YOU WORKING ON FEBRUARY 26, 2009?

7 A I WAS

8 Q WHEFE WERE YOU WORKING THAT DAY?

9 A I WAS IN THE PENDLETON AREA OVER NEAR CLEMSON

10 Q AND DID YOU CCNDUCT A TRAFFIC STOP THAT DAY ON
11 VANCE GROVE ROAD?

12 A I DID

13 Q AND CAN YOU DESCRIBE THE VEHICLE THAT YOU STOPPED?

14 A A SMALL ALTIMA, SILVER TYPE IN COLOR

15 Q BEHIND YOU YOU WILL FIND STATE'S EXHIBIT 4 IS
16 THAT PHOTOGRAPH OF THAT VEHICLE THE SAME OR SUBSTANTIALLY
17 SIMILAR TO THE VEHICLE YOU STOPPED ON THAT DAY?

18 A YEAH, IT IS

19 Q WHO DID YOU STOP DRIVING THAT CAR?

20 A TIMOTHY BLASSINGAME

21 Q AND TIM BLASSINGAME, WOULD THAT BE THE DEFENDANT
22 SEATED AT THE TABLE TODAY?

23 A YES, MA'AM

24 Q AND WHO WAS DRIVING -- WAS HE DRIVING THAT
25 VEHICLE?

1 A HE WAS DRIVING IT

2 Q WAS THERE A FEMALE PASSENGER WITH HIM?

3 A THERE WAS

4 Q COULD YOU IDENTIFY HER?

5 A HER NAME WAS CHARLOTTE REED

6 Q AND WHO -- WERE YOU ABLE TO GET ANY INFORMATION
7 ABOUT THE OWNER OF THE VEHICLE THAT MR BLASSINGAME WAS
8 DRIVING AND MS REED WAS A PASSENGER OF?

9 A IT WAS -- THE VEHICLE BELONGED TO CHARLOTTE REED

10 Q AND WAS THAT VEHICLE SUBSEQUENTLY RETURNED TO
11 MS REED?

12 A IT WAS

13 MS SIMMONS NOTHING FURTHER

14 THE COURT CROSS-EXAMINE?

15 CROSS-EXAMINATION BY MR SPROUSE

16 Q OFFICER OWENS, YOU DON'T HAVE ANY KNOWLEDGE ABOUT
17 THE EVENTS THAT LED TO THIS PARTICULAR CASE, DO YOU?

18 A NO, I DON'T

19 MR SPROUSE THANK YOU THAT'S ALL I HAVE

20 THE COURT RE-EXAM?

21 MS SIMMONS WE ASK THIS WITNESS BE EXCUSED, YOUR
22 HONOR

23 MR SPROUSE NO OBJECTION

24 THE COURT WITHOUT OBJECTION YOU MAY BE EXCUSED
25 THANK YOU

1 (WHEREUPON, THE WITNESS WAS EXCUSED)

2 THE COURT YOU MAY CALL YOUR NEXT WITNESS

3 MS SIMMONS I CALL OFFICER TIM HUNNICUTT

4 WHEREUPON,

5 TIMOTHY GERALD HUNNICUTT,

6 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS

7 DIRECT EXAMINATION BY MS SIMMONS

8 THE COURT GIVE US YOUR FULL NAME FOR THE RECORD,

9 SPELLING YOUR LAST NAME, PLEASE

10 THE WITNESS TIMOTHY GERALD HUNNICUTT,

11 H-U-N-N-I-C-U-T-T

12 THE COURT THANK YOU, JUDGE

13 BY MS SIMMONS

14 Q OFFICER HUNNICUTT, WHERE ARE YOU EMPLOYED?

15 A SENECA POLICE DEPARTMENT

16 Q HOW LONG HAVE YOU BEEN THERE?

17 A I'VE BEEN THERE A LITTLE OVER, A LITTLE OVER A
18 YEAR

19 Q AND WERE YOU IN LAW ENFORCEMENT BEFORE THAT?

20 A YES PRIOR TO THAT I WORKED AT THE OCONEE
21 SHERIFF'S OFFICE

22 Q HOW LONG WERE YOU THERE?

23 A SINCE 2001

24 Q WHAT TRAINING AND EDUCATION HAVE YOU HAD INVOLVING
25 LAW ENFORCEMENT AND NARCOTICS?

1 A I HAD SOME CRIMINAL JUSTICE AT TRI-COUNTY TECH AND
2 ALSO CRIMINAL JUSTICE ACADEMY, COMPLETED THE NINE-WEEK
3 ACADEMY

4 Q SINCE YOU WERE WORKING IN NARCOTICS, HAVE YOU
5 GOTTEN ANY NARCOTICS TRAINING?

6 A YES SOME AT THE SHERIFF'S OFFICE AND THEN SOME
7 THERE, A LITTLE OVER 200-AND-SOME HOURS

8 Q IS PART OF THAT TRAINING IN DRUG TERMINOLOGY, DRUG
9 LINGO?

10 A EXCUSE ME?

11 Q IS PART OF THAT TRAINING IN DRUG TERMINOLOGY, DRUG
12 LINGO?

13 A YES, IT IS

14 Q ARE YOU FAMILIAR WITH THE TERMS "DUB" AND "40"?

15 A YES

16 Q WHAT ARE THOSE?

17 A 40 IS \$40 WORTH AND THEN DUB IS \$20 WORTH OF
18 CRACK

19 Q AND PIECES?

20 A JUST LITTLE SMALL PIECES, WHAT YOU GOT

21 Q WHAT DRUG IS "PIECES" USUALLY REFERRED TO?

22 A CRACK

23 Q IS IT COMMON FOR SOMETIMES IN DRUG DEALS FOR THE
24 INFORMANT TO RECEIVE DRUGS FOR FREE?

25 A IT IS COMMON SOMETIMES THEY CAN FRONT IT TO THEM

1 TO KEEP THEM COMING BACK

2 Q WERE YOU WORKING IN SENECA ON FEBRUARY 24TH OF
3 2009?

4 A YES, I WAS

5 Q WERE YOU INVOLVED IN THE UNDERCOVER TRANSACTION
6 INVOLVING THIS DEFENDANT?

7 A YES, MA'AM

8 Q WHERE DID THAT TRANSACTION OCCUR?

9 A IT WAS THE SOUTH PART OF TOWN CLOSE TO [REDACTED]

10 [REDACTED]

11 Q HAVE YOU ACTUALLY DRIVEN THE ROUTE THAT THIS
12 TRANSACTION TOOK?

13 A YES

14 Q IS THAT ROUTE WITHIN THE CITY LIMITS OF SENECA?

15 A YES, IT IS

16 Q DO YOU KNOW THIS DEFENDANT?

17 A YES

18 Q WHEN YOU LOOK AT STATE'S EXHIBIT 3, WHICH HAS BEEN
19 PREVIOUSLY ADMITTED, WHO IS THAT?

20 A TIMOTHY BLASSINGAME

21 Q WHO WAS THE INFORMANT IN THE CASE?

22 A JAMES WALKER

23 Q HOW DID THE PROCESS -- WERE YOU INVOLVED IN THE
24 SEARCHING OF HIM?

25 A YES

1 Q EXPLAIN TO ME HOW THE SEARCH PROCESS OF AN
2 INFORMANT WORKS?

3 A WE CHECK ALL THEIR POCKETS, ANY POCKETS THEY HAVE,
4 TAKE THEIR SHOES OFF, CHECK AROUND THEIR SOCKS, JUST MAKE
5 SURE THEY DON'T HAVE ANY KIND OF DOPE OR ANYTHING ON
6 THEM WE CHECK THEM EXTREMELY WELL

7 Q WHEN YOU TALK ABOUT CHECKING THEIR POCKETS, ARE
8 YOU PULLING THE POCKETS OUT?

9 A WE ACTUALLY PULL THEM OUT, YES

10 Q DO YOU DO THAT BEFORE AND AFTER THE TRANSACTION?

11 A YES

12 Q IS THE SEARCH THAT THOROUGH ON BOTH TIMES?

13 A YES, IT IS

14 Q WERE YOU PART OF MONITORING THE TRANSACTION IN
15 THIS CASE?

16 A YES

17 Q HOW DID YOU MONITOR IT?

18 A AUDIO

19 Q WAS THAT WITH SERGEANT CRUM?

20 A YES

21 Q WHAT DID THE DEFENDANT -- WAS -- THE DEFENDANT
22 GIVE TO THE INFORMANT?

23 A EXCUSE ME?

24 Q WHAT DID THE DEFENDANT GIVE TO THE INFORMANT?

25 A A SMALL CRACK ROCK

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1 Q AFTER THE DEAL DID THE INFORMANT TURN THE
2 NARCOTICS IN TO YOU AND SERGEANT CRUM?

3 A YES

4 Q HOW DID THAT TAKE PLACE?

5 A HE ENDED UP -- SERGEANT CRUM WAS DRIVING, SO I
6 KIND OF JUST TOOK IT AND HANDED IT STRAIGHT TO SERGEANT
7 CRUM

8 Q LET ME SHOW YOU WHAT'S BEEN PRE-MARKED STATE'S
9 EXHIBIT 5 IS THIS THE SMALL BAGGIE THAT WAS HANDED TO
10 YOU?

11 A YES

12 Q AND THAT OCCURRED ON FEBRUARY 24TH?

13 A YES, MA'AM

14 Q AND WHO DID YOU SAY YOU GAVE IT TO?

15 A (NO RESPONSE)

16 Q WHO DID YOU SAY YOU GAVE IT TO?

17 A I PASSED IT ON TO SERGEANT CRUM

18 Q OKAY DID YOU LATER ENCOUNTER THIS DEFENDANT ON
19 OR ABOUT MARCH 5TH, 2009, THAT WOULD BE A COUPLE WEEKS
20 LATER?

21 A YES

22 Q WAS THAT DURING THE COURSE OF YOUR EMPLOYMENT AT
23 THE SENECA POLICE DEPARTMENT?

24 A YES, IT WAS

25 Q DID YOU OBTAIN ANY PERSONAL INFORMATION FROM THE

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1 DEFENDANT AT THAT TIME?

2 A YES, I DID

3 Q DID YOU DISCUSS PHONE NUMBERS WITH HIM?

4 A YES I GIVE HIM MY PAGER NUMBER AND IN EXCHANGE
5 HE GAVE ME HIS PHONE NUMBER

6 Q WHAT PHONE NUMBER DID HE PROVIDE TO YOU?

7 A [REDACTED]

8 Q AND DID YOU COPY THAT NUMBER DOWN AT THE TIME HE
9 GAVE IT TO YOU?

10 A I PUT IT IN MY PHONE

11 Q IS THAT THE SAME NUMBER THAT WAS CALLED BY JAMES
12 WILLIE WALKER TO SET UP THE DRUG DEAL ---

13 A IT WAS

14 Q --- ON FEBRUARY 24TH, 2009?

15 A YES

16 MS SIMMONS NOTHING FURTHER OF THIS WITNESS AT
17 THIS TIME

18 THE COURT CROSS-EXAMINE

19 CROSS-EXAMINATION BY MR SPROUSE

20 Q OFFICER HUNNICUTT, YOU WILL AGREE THAT THE VIDEO
21 IN THIS CASE MAKES IT IMPOSSIBLE FOR YOU TO FOLLOW THE
22 EXACT ROUTE THE CAR TOOK ONCE THE TWO PEOPLE WERE IN IT
23 TOGETHER?

24 A IT WILL SHOW THE EXACT ROUTE IF YOU ARE LOOKING
25 TURN BY TURN, YOU CAN KIND OF TELL BY THE, HOW CLOSE THEY

1 TURN AND WHICH ROADS THEY WERE TURNING ON

2 Q BUT YOU CAN'T SEE ANY SIGNS?

3 A NO

4 Q AND ALL YOU CAN SEE ARE POWER LINES AND TREES?

5 A RIGHT

6 Q AND PART OF THAT HAS TO DO WITH WHERE THE CAMERA
7 WAS, IS THAT RIGHT?

8 A YES

9 Q AND THE CAMERA IS IN THE SHIRT, THE PERSON SITTING
10 THERE, THE CAMERA IS GONNA LOOK STRAIGHT UP TO THE
11 WINDSHIELD?

12 A YES

13 Q SO THE ROUTE THAT YOU THINK THAT THEY TOOK, IN
14 LARGE PART, IS BASED ON THE STATEMENTS MR WALKER MADE TO
15 YOU, IS THAT NOT CORRECT?

16 A THAT'S A BIG PART OF IT, YES

17 Q AND YOU WILL AGREE THAT IT IS POSSIBLE FOR THEM TO
18 HAVE GONE AN ALTERNATIVE ROUTE AND ENDED UP AT THE SAME
19 LOCATION IN THE SAME AMOUNT OF TIME?

20 A THERE'S A LOT OF STREETS AROUND THERE SO IT'S
21 POSSIBLE

22 Q NOW, WHEN YOU SEARCHED MR WALKER, HE DID NOT
23 REMOVE HIS PANTS, DID HE?

24 A NO

25 Q AND THE AMOUNT OF THE SUBSTANCE THAT YOU HAVE

1 IDENTIFIED HERE IN EVIDENCE IS NOT SOMETHING THAT WOULD
2 HAVE SHOWN UP, FOR INSTANCE, IF YOU HAD PATTED HIM DOWN?

3 A THE WAY I PAT HIM DOWN, IF SOMETHING WERE THAT
4 LITTLE, IT WOULD HAVE FELL OUT

5 Q BUT IF YOU PATTED LIKE YOU ARE TRAINED TO DO AT
6 THE ACADEMY, IF YOU ISSUE A PAT-DOWN OF SOMEONE, AND YOU
7 HAVE A SUBSTANCE THAT MINUTE, YOU'RE NOT GONNA FEEL THAT
8 THROUGH THE FABRIC, RIGHT?

9 A YOU DON'T FEEL IT THROUGH THE FABRIC, NO

10 Q IF YOU HAD ENCOUNTERED A CRACK ROCK THE SIZE OF AN
11 ENGLISH PEA OR SOMETHING OF THAT NATURE, YOU WOULD FEEL
12 THAT WITH A PAT-DOWN, WOULD YOU NOT?

13 A PROBABLY SO, YES, SIR

14 Q NOW, YOU WILL AGREE THAT THE SUBSTANCE THAT WAS
15 HANDED YOU IS ALMOST POWDER, 'IT'S A VERY MINUTE AMOUNT'?

16 A CORRECT

17 Q NOW, DO YOU AGREE OR DISAGREE WITH THE PREVIOUS
18 TESTIMONY THAT THE SEARCH TOOK 30 SECONDS?

19 A I DON'T KNOW EXACTLY I MEAN, IT COULD HAVE TOOK
20 A LITTLE MORE THAN THAT I WOULD SAY IT WAS A LITTLE BIT
21 MORE THAN 30, BUT CLOSE -- IT WAS A GOOD THOROUGH SEARCH
22 I ALWAYS DO A GOOD

23 Q OKAY NOW, YOU BELIEVED PRIOR TO THIS INCIDENT
24 HAPPENING THAT THIS WAS GOING TO BE A SALE OF CRACK
25 COCAINE, DID YOU NOT?

1 A YES

2 Q AND YOU BASED THAT ON THE INFORMATION PROVIDED TO
3 YOU BY MR WALKER, ISN'T THAT CORRECT?

4 A WELL, HE'S THE ONE WHO PURCHASED CRACK COCAINE,
5 YES

6 Q JAMES WALKER CALLED YOU ALL UP, SAID, "I GOT A
7 DEAL SET UP, WIRE ME 'UP " IS THAT THE GIST OF THE
8 CONVERSATION?

9 A YES

10 Q AND IT TURNED OUT IT WAS NOT A SALE OF CRACK
11 COCAINE?

12 A IT WAS STILL A DISTRIBUTION

13 Q I DIDN'T ASK YOU THAT IT WAS NOT A SALE, WAS IT?

14 A HE DIDN'T GIVE HIM NO MONEY, NO

15 Q SO THE INFORMATION THAT MR WALKER GAVE YOU TO
16 START WITH WAS INACCURATE?

17 A IT WAS I GUESS DIFFERENT

18 Q DIFFERENT OKAY NOW, YOU ARE AWARE THAT
19 MR WALKER'S ALIAS IS J DUB?

20 A YES

21 Q AND "DUB" REPRESENTS WHAT IN DRUG LINGO?

22 A DOPE

23 Q SO HE'S KNOWN BY J DUB IN THE COMMUNITY?

24 A THAT'S CORRECT

25 Q OKAY THANK YOU

1 **THE COURT** REDIRECT?

2 **MS SIMMONS** BEG THE COURT'S INDULGENCE FOR ONE
3 MOMENT

4 (THERE WAS A PAUSE IN THE PROCEEDINGS)

5 **MS SIMMONS** NOTHING FURTHER FROM THIS WITNESS

6 **THE COURT** ALL RIGHT YOU MAY STEP DOWN THANK
7 YOU, SIR

8 (WITNESS LEAVES STAND)

9 **THE COURT** YOU MAY CALL YOUR NEXT WITNESS

10 **MS SIMMONS** WE WOULD CALL RANDY SMITH
11 WHEREUPON,

12 CHARLES RANDALL SMITH,
13 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS
14 DIRECT EXAMINATION BY MS SIMMONS

15 **THE COURT** IF YOU WOULD, SIR, GIVE US YOUR FULL
16 NAME FOR THE RECORD, SPELLING YOUR LAST NAME

17 **THE WITNESS** CHARLES RANDALL SMITH, S-M-I-T-H

18 **THE COURT** VERY GOOD THANK YOU, SIR

19 BY MS SIMMONS

20 Q GOOD AFTERNOON, MR SMITH

21 A HELLO

22 Q WERE YOU EMPLOYED AT THE SENECA POLICE DEPARTMENT
23 FEBRUARY AND MARCH OF 2009?

24 A YES, MA'AM

25 Q HOW LONG DID YOU WORK FOR THE SENECA POLICE

1 DEPARTMENT?

2 A 16 YEARS

3 Q WHAT CAPACITY WERE YOU EMPLOYED THERE?

4 A I BEGAN AS A DISPATCHER AND WENT TO ROAD PATROL,
5 AND FOR THE LAST 12 YEARS I WORKED AS A CRIME SCENE
6 INVESTIGATOR

7 Q WHAT IS THE TRAINING AND EDUCATION NECESSARY FOR
8 CRIME SCENE INVESTIGATIONS AND EVIDENCE?

9 A I HAD ADVANCE EVIDENCE AND STORAGE TECHNIQUES OUT
10 OF, HOW TO TAKE CARE OF A STORAGE FACILITY ALSO SEARCH
11 AND SEIZURE JUST THE USUAL THAT YOU WOULD SEE WITH THE
12 CRIME SCENES CRIME SCENE RECONSTRUCTION, ADVANCED
13 CLASSES THROUGH THE D E A , THE F B I , AND SUCH AS THAT

14 Q DURING THE COURSE OF YOUR EMPLOYMENT AT THE SENECA
15 POLICE DEPARTMENT, WAS PART OF YOUR DUTIES DRUG EVIDENCE
16 STORAGE AND COLLECTION?

17 A YES, MA'AM

18 Q I SHOW YOU WHAT'S BEEN PREMARKED AS STATE'S
19 EXHIBIT 5 RIGHT IN FRONT OF YOU CAN YOU IDENTIFY THIS
20 ITEM?

21 A YES THIS IS A B E S T PACK THAT WAS COMPLETED
22 BY SERGEANT JOHN CRUM, TURNED INTO EVIDENCE AND INSIDE
23 THE B E S T PACK IS A PLASTIC ENVELOPE OR A PLASTIC
24 BAGGIE WITH WHAT APPEARS TO BE, IT'S A WHITE POWDER
25 SUBSTANCE OR A ROCK-LIKE SUBSTANCE

1 Q DOES CRACK COCAINE USUALLY START AS A ROCK AND
2 THEN KIND OF DETERIORATE? YOU SAID POWDER SUBSTANCE ---

3 MR SPROUSE I OBJECT TO THAT QUESTION IT
4 REQUIRES AN OPINION WITHOUT THE PROPER FOUNDATION

5 THE COURT RESTATE YOUR QUESTION
6 BY MS SIMMONS

7 Q YOU HAVE HAD EXTENSIVE TRAINING IN EVIDENCE
8 COLLECTION REGARDING DRUG EVIDENCE?

9 A YES, MA'AM

10 Q DOES CRACK COCAINE OFTEN PRESENT, WHEN TURNED IN
11 TO EVIDENCE, AS A CRACK ROCK?

12 A YES, MA'AM, IT DOES

13 Q DOES IT SOMETIMES LOOK LIKE POWDER WHEN IT GETS
14 BACK FROM ANALYSIS?

15 A YES AND SOMETIMES WHEN IT'S TURNED IN, JUST
16 THROUGH THE HANDLING OF IT, IT WILL BREAK APART AND COME
17 IN LITTLE PIECES WHICH WOULD BE, A LOT OF TIMES WE REFER
18 TO THEM AS CRUMBS

19 Q WHEN DID YOU RECEIVE STATE'S EXHIBIT 5?

20 A IT WOULD HAVE BEEN FEBRUARY THE 25TH SERGEANT
21 CRUM PLACED IT INTO THE EVIDENCE LOCKER AGAIN HE DID
22 THE, FILLED OUT THE B E S T PACK, HE SEALED IT AND PUT
23 IT INTO THE SEALED LOCKED EVIDENCE BOX AND THE NEXT
24 MORNING WHEN I CHECKED EVIDENCE, I OPENED THE LOCK BOX,
25 TOOK THE DRUGS OUT, AND ENTERED IT INTO EVIDENCE AND PUT

1 IT INTO OUR EVIDENCE HOLDING UNTIL I COULD TAKE IT TO THE
2 LAB

3 Q EXPLAIN TO ME THE SECURITY OF EVIDENCE HOLDING

4 A WE DON'T HAVE ANYONE WORKING EVIDENCE 24 HOURS A
5 DAY AND SO OFFICERS WHO COLLECT EVIDENCE THROUGH THE
6 NIGHT SHIFT, OR EVEN SOMETIMES DURING THE DAY, WE HAVE
7 HOLDING LOCKERS THAT THEY CAN PLACE EVIDENCE AND THEY CAN
8 PUT A LOCK ON IT THAT IS KEYED TO ONE KEY ALL THE LOCKS
9 ARE KEYED TO ONE KEY THAT WE HAD SPECIALLY MADE SO WE
10 WOULDN'T HAVE ANY JUST WAL-MART LOCKS OR ANYTHING LIKE
11 THAT

12 AND WE HAVE A SEPARATE BOX, WHICH IS AN OLD
13 MAILBOX, STANDUP MAILBOX, THAT WE HAVE LOCKED WITH THE
14 SAME TYPE OF LOCK THAT WE USE, ESPECIALLY FOR DRUGS AND
15 MAINLY FOR THE NARCOTICS

16 Q AND THAT IS THE BOX YOU ARE REFERRING TO?

17 A YES, MA'AM, IT IS

18 Q AND YOU HAD A KEY TO GET YOURSELF BACK OUT OF THAT
19 BOX?

20 A YES, MA'AM

21 Q DID YOU SUBSEQUENTLY STORE THE ITEM ONCE YOU
22 RECEIVED IT FROM THE BOX ON FEBRUARY 25TH OF 2009?

23 A YES DOWN IN THE EVIDENCE STORAGE, OR DOWN IN THE
24 EVIDENCE ROOM WE HAVE A SEPARATE LOCKED DOOR INTO ANOTHER
25 ROOM THAT IS A LAB, WE HAVE OUR OWN LAB FOR MARIJUANA

1 ANALYSIS, AND THERE WE HAVE AN AREA THAT WE CAN LOCK UP
2 OUR DRUGS, OUR HARD DRUGS, WHAT I WOULD SAY IS CRACK,
3 COCAINE, METH, ANY OF THAT NEEDS TO GO TO THE FORENSICS
4 LAB IN ANDERSON AND THAT'S WHERE THAT WAS STORED

5 Q AND DID YOU STORE IT UNTIL THE TIME YOU DELIVERED
6 IT TO THE FORENSICS LAB?

7 A YES, MA'AM

8 Q WHEN DID YOU DELIVER IT TO THE FORENSICS LAB?

9 A IT WAS MARCH 11TH I WROTE IT DOWN

10 Q MARCH 11TH OF 2009?

11 A YES, MA'AM

12 Q WHO DID YOU DELIVER IT TO?

13 A MEREDITH LANFORD OF THE ANDERSON-OCONEE FORENSICS
14 LAB

15 Q WAS STATE'S EXHIBIT 5 IN YOUR CARE, CUSTODY, AND
16 CONTROL FROM THE TIME YOU RECEIVED IT FEBRUARY 25TH,
17 2009, TO THE TIME IT WAS DELIVERED TO MEREDITH LANFORD ON
18 MARCH 11TH, 2009?

19 A YES, MA'AM

20 Q DID YOU ALTER IT OR CHANGE IT IN ANY WAY?

21 A NO, MA'AM

22 Q IS THE ITEM IN SUBSTANTIALLY THE SAME CONDITION AS
23 WHEN YOU RECEIVED IT, EXCEPT --

24 A THE BEST THAT I REMEMBER IT MAY HAVE BROKEN UP A
25 LITTLE BIT MORE, BUT YES

1 Q BECOME CRUMBS, AS YOU SAID?

2 A YES

3 Q AND YOU SUBMITTED THIS TO THE LAB ON MARCH 11TH?

4 A YES, MA'AM

5 MS SIMMONS NOTHING FURTHER FROM THIS WITNESS AT
6 THIS TIME

7 THE COURT CROSS-EXAM?

8 CROSS-EXAMINATION BY MR SPROUSE

9 Q OFFICER SMITH, OTHER THAN WHAT YOU TESTIFIED TO,
10 YOU DON'T HAVE ANY PERSONAL KNOWLEDGE ABOUT THIS CASE, DO
11 YOU?

12 A NO, SIR, I DON'T

13 MR SPROUSE THAT'S ALL I HAVE

14 THE COURT RE-EXAM?

15 MS SIMMONS NOTHING FURTHER FOR THIS WITNESS I
16 WOULD ASK THAT HE BE EXCUSED

17 THE COURT ANY OBJECTION?

18 MR SPROUSE NO OBJECTION

19 THE COURT OKAY WITHOUT OBJECTION YOU MAY BE
20 EXCUSED

21 (WHEREUPON, THE WITNESS WAS EXCUSED)

22 THE COURT LADIES AND GENTLEMEN, I'M GOING TO ASK
23 YOU TO TAKE A SHORT BREAK RIGHT NOW BEFORE WE PROCEED
24 YOU MIGHT USE THIS AS YOUR AFTERNOON BREAK IF YOU WOULD
25 LIKE, AND WHEN YOU ARE READY TO COME BACK, JUST KNOCK ON

1 THE DOOR AND WE WILL PROCEED AT THAT TIME AGAIN, DO NOT
2 UNDERTAKE THE DISCUSSION OF THE CASE AMONG YOURSELVES IN
3 ANY WAY

4 (THE JURY LEFT THE COURTROOM AT
5 APPROXIMATELY 3 11 P M)

6 **THE COURT** THE BAILIFF PASSED THIS NOTE TO ME
7 (READING) WILL WE BE ABLE TO SEE THE EVIDENCE UP CLOSE
8 (THE DRUGS)? JENNIFER COBB I THINK SHE'S THE SECOND
9 ALTERNATE
10 I'LL INSTRUCT THEM WHEN THEY COME BACK THAT THEY
11 WILL HAVE AVAILABLE ALL EVIDENCE THAT'S ADMITTED I WILL
12 MAKE A CAVEAT THERE, THOUGH, AS FAR AS THE AUDIO AND
13 VIDEO, I DO NOT SEND AUDIO AND VIDEOS BACK TO THE JURY
14 ROOM BUT I CONSIDER THOSE TESTIMONIAL, AND IF THEY WANT
15 THEM REPLAYED, WE'LL BRING THEM BACK AND REPLAY IT IN THE
16 COURTROOM

17 I DO THAT NOT ONLY TO BE SURE THAT THEY PLAY IT
18 CORRECTLY AND DO WHAT THEY NEED TO HAVE DONE, BUT ALSO WE
19 DON'T HAVE ANY -- WAS IT MARIE WOOD, SOME 16 MINUTES OF
20 TAPE BEING LOST?

21 SO WITH THAT, ANYTHING FROM THE STATE?

22 **MS SIMMONS** NO, SIR

23 **THE COURT** FROM THE DEFENSE?

24 **MR SPROUSE** NOTHING FURTHER

25 **THE COURT** VERY GOOD I'LL GIVE THEM THAT

1 INSTRUCTION WHEN THEY COME BACK THANK YOU

2 ALL RIGHT WE'RE OFF THE RECORD

3 (A RECESS WAS TAKEN FROM 3 13 P M UNTIL
4 APPROXIMATELY 3 30 P M)

5 **THE COURT** ARE YOU READY TO PROCEED FROM THE STATE?

6 **MS SIMMONS** YES, YOUR HONOR

7 **THE COURT** FROM THE DEFENDANT?

8 **MR SPROUSE** YES, SIR

9 **THE COURT** ASK THE JURY TO JOIN US, PLEASE

10 (THE JURY ENTERED THE COURTROOM AT
11 APPROXIMATELY 3 30 P M)

12 **THE COURT** LET THE RECORD REFLECT THE JURY AND
13 ALTERNATES ARE IN THE JURY-BOX

14 LADIES AND GENTLEMEN OF THE JURY, I RECEIVED A NOTE
15 FROM A MEMBER OF THE JURY WILL WE BE ABLE TO SEE THE
16 EVIDENCE UP CLOSE (THE DRUGS)?

17 YES, MA'AM, YOU WILL SEE ALL OF THE EVIDENCE THAT IS
18 ADMITTED NOW, SOME THINGS MIGHT NOT BE ADMITTED FOR
19 SOME REASON OR ANOTHER BUT IF THEY ARE NOT ADMITTED,
20 THAT'S USUALLY BECAUSE IT'S NOT AS DEPENDABLE AS IT
21 SHOULD BE BECAUSE YOU HAVE TO MEET CERTAIN REQUIREMENTS
22 IN ORDER TO HAVE EXHIBITS TO QUALIFY AS THE WHOLE POINT
23 IN ISSUE BUT, NO, YOU WILL

24 NOW I MIGHT NOTE THAT, AS I EXPLAINED THIS TO THE
25 ATTORNEYS, THAT THAT'S ALL THE EVIDENCE EXCEPT FOR THE

1 VIDEO AND AUDIO EXHIBITS THE REASON FOR THAT, THEY WILL
2 NOT GO BACK TO THE JURY ROOM WITH YOU, BUT IF YOU WANT TO
3 SEE THEM, EITHER THEIR ENTIRETY OR A PORTION OF THEM,
4 THEN WE'LL BRING YOU BACK AND PLAY THEM FOR YOU

5 THERE ARE ABOUT TWO REASONS FOR THAT ONE, I WANT
6 TO BE SURE THAT YOU SEE WHAT YOU WANT TO SEE, IN OTHER
7 WORDS, THAT I KNOW WHAT YOU ARE INTERESTED IN AND THAT IS
8 WHAT IS PROVIDED FOR YOU BUT THE MORE IMPORTANT THING
9 IS THAT IF, I'M NOT SURE HOW MANY OF YOU ARE OLD ENOUGH
10 TO REMEMBER A LADY NAMED MARIE WOOD, BUT SHE WAS THE
11 SECRETARY OF A PRESIDENT OF THE UNITED STATES, AND SHE
12 WAS SUPPOSED TO BE TRANSCRIBING SOME TAPES, AND SHE SAID
13 SHE HIT THE WRONG BUTTON AND IT ELIMINATED ABOUT 16
14 MINUTES OF TAPES SO I DON'T WANT TO TAKE A CHANCE OF
15 SOMEBODY MISSING -- OR IF SOMEBODY DOES HIT THE WRONG
16 BUTTON, IT WILL BE US, NOT ANYONE ELSE FOR THOSE TWO
17 REASONS, THEN, YOU WILL NOT HAVE THE AUDIO AND VIDEO IN
18 THE JURY ROOM BUT YOU WILL HAVE ALL THE OTHER EXHIBITS

19 ALL RIGHT WITH THAT, MADAM SOLICITOR, YOU MAY
20 PROCEED

21 MS SIMMONS THE STATE CALLS AGENT MEREDITH
22 LANFORD
23 WHEREUPON,

24 MEREDITH LANFORD,
25 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS

1 DIRECT EXAMINATION BY MS SIMMONS

2 THE COURT IF YOU WOULD PLEASE, MA'AM, GIVE US YOUR
3 FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME

4 THE WITNESS MEREDITH LANFORD, L-A-N-F-O-R-D.

5 THE COURT VERY GOOD THANK YOU

6 ALL RIGHT YOU MAY PROCEED

7 MS SIMMONS THANK YOU, JUDGE

8 BY MS SIMMONS

9 Q GOOD AFTERNOON, AGENT LANFORD

10 A GOOD AFTERNOON

11 Q WHERE ARE YOU EMPLOYED?

12 A I'M EMPLOYED WITH THE ANDERSON-OCONEE REGIONAL
13 FORENSICS LABORATORY

14 Q IN WHAT CAPACITY?

15 A I AM A FORENSIC CHEMIST

16 Q WHERE IS THE LAB LOCATED?

17 A IT'S LOCATED IN ANDERSON RIGHT AROUND THE CIVIC
18 CENTER

19 Q WHAT ARE YOUR DUTIES AT THE LAB?

20 A MY PRIMARY JOB FUNCTION IS TO ANALYZE EVIDENCE
21 THAT'S BROUGHT TO OUR LAB FOR CONTROLLED OR PRESCRIPTION
22 SUBSTANCES

23 Q WHAT IS YOUR EDUCATIONAL BACKGROUND?

24 A I GRADUATED FROM CLEMSON UNIVERSITY WITH A DEGREE
25 IN CHEMISTRY, A BACHELORS IN SCIENCE DEGREE I COMPLETED

1 THE FORENSICS CERTIFICATE PROGRAM AT GREENVILLE TECHNICAL
2 COLLEGE I WAS CERTIFIED AND TRAINED AS A FORENSIC
3 CHEMIST WITH THE CHAPLESTON CITY POLICE LABORATORY AS
4 WELL AS WITH MY CURRENT EMPLOYER I WAS CERTIFIED IN THE
5 AREA OF MARIJUANA ANALYSIS BY THE STATE LAW ENFORCEMENT
6 DIVISION

7 I RECEIVED TRAINING IN THE AREA OF FORENSIC DRUG
8 CHEMISTRY FROM THE DRUG ENFORCEMENT ADMINISTRATION, AND I
9 AM A MEMBER OF THE AMERICAN CHEMICAL SOCIETY AS WELL AS
10 THE CLANDESTINE LABORATORY OF INVESTIGATING CHEMISTS

11 Q HOW OFTEN DO YOU ANALYZE CONTROLLED SUBSTANCES IN
12 AN AVERAGE YEAR?

13 A AVERAGE YEAR?

14 Q (NODDED HEAD)

15 A WE USUALLY DO OVER 600 CASES IN A YEAR, SO
16 PROBABLY WELL OVER A THOUSAND TIMES

17 Q AND HOW MANY TIMES HAVE YOU TESTIFIED IN COURT AS
18 AN EXPERT IN FORENSIC DRUG CHEMISTRY?

19 A FOUR TIMES

20 MS SIMMONS YOUR HONOR, WE WOULD MOVE TO DECLARE
21 THIS WITNESS AS AN EXPERT IN FORENSIC DRUG CHEMISTRY

22 THE COURT ANY VOIR DIRE?

23 MR SPROUSE WE DON'T HAVE ANY OBJECTION

24 THE COURT ALL RIGHT WITHOUT OBJECTION THE
25 WITNESS WILL BE RECOGNIZED AS AN EXPERT IN --

1 FORENSIC CHEMISTRY ANALYSIS?

2 **THE WITNESS** FORENSIC DRUG CHEMISTRY ANALYSIS

3 **THE COURT** MADAM FORELADY, LADIES AND GENTLEMEN OF
4 THE JURY, AS YOU HAVE NOTED, MOST WITNESSES -- OR ALL
5 WITNESSES EXCEPT EXPERTS ARE PERMITTED TO ONLY TESTIFY
6 WHAT THEY KNOW OF THEIR OWN KNOWLEDGE, IN OTHER WORDS,
7 WHAT THEY SEE, HEAR, TASTE, AND FEEL, THE EXERCISE OF
8 THEIR OWN SENSES

9 HOWEVER, IF A WITNESS HAS PARTICULAR EXPERTISE IN AN
10 AREA BY REASON OF THEIR BACKGROUND, TRAINING OR
11 EXPERIENCE, THEN THEY CAN BE QUALIFIED AS AN EXPERT, AND
12 WHEN THEY ARE SO QUALIFIED, THEY ARE PERMITTED TO GIVE
13 THEIR OPINIONS AND SO THIS WITNESS HAS BEEN QUALIFIED
14 AS AN EXPERT IN FORENSIC DRUG ANALYSIS, AND FOR THAT
15 REASON SHE WILL BE ABLE TO GIVE HER OPINION IN THAT AREA

16 HOWEVER, ALL WITNESSES' TESTIMONY, EXPERT OR LAY
17 WITNESSES, THE VALUE OF THAT TESTIMONY IS FOR YOUR
18 EVALUATION

19 VERY GOOD YOU MAY PROCEED

20 **MS SIMMONS** THANK YOU, JUDGE

21 BY MS SIMMONS

22 Q AGENT LANFORD, CAN YOU TELL ME ABOUT THE
23 COMPOSITION OF CRACK COCAINE?

24 A CRACK COCAINE USUALLY COMES TO US IN THE
25 LABORATORY IN A ROCK FORM, AND ONCE I START THE ANALYSIS,

1 ONCE I TAKE A SCALPEL TO IT, IT USUALLY CAN BREAK UP INTO
2 LITTLE CRUMBS

3 Q I WANT TO SHOW YOU WHAT IS UP THERE WITH YOU AS
4 STATE'S EXHIBIT 5 DO YOU RECOGNIZE THAT ITEM?

5 A YES, I DO

6 Q HOW?

7 A THIS ITEM IS WHAT WE CALL A B E S T KIT THIS IS
8 WHAT THE EVIDENCE TECHNICIANS WILL SUBMIT TO OUR
9 LABORATORY WITH EVIDENCE INSIDE WHEN IT COMES TO THE
10 LAB, I CHECK OFF THE CONTROL NUMBER AND I APPLY OUR
11 LABORATORY, A LABORATORY-ISSUED NUMBER TO IT AS WELL AS
12 MY INITIALS AND THE DATE THAT I TOOK IT IN

13 Q WHEN WAS THE ITEM RECEIVED IN THE LABORATORY?

14 A IT WAS RECEIVED ON MARCH 11TH, 2009

15 Q FROM WHOM?

16 A FROM RANDY SMITH

17 Q DID THIS ITEM REMAIN IN YOUR CARE, CUSTODY, AND
18 CONTROL DURING THE PERIOD OF TIME WHEN IT WAS ANALYZED AT
19 THE LAB?

20 A YES, IT WAS

21 Q AND WHEN DID YOU RETURN IT TO THE SENECA POLICE
22 DEPARTMENT?

23 A I RETURNED IT ON JUNE 26, 2009

24 Q DID YOU CONDUCT CHEMICAL ANALYSIS ON STATE'S
25 EXHIBIT 5?

1 A YES, I DID

2 Q HOW DOES THAT PROCESS WORK?

3 A THE FIRST THING I DO FOR AN ANALYSIS IS I REMOVE
4 ANY PACKAGING THAT THE SUBSTANCE MAY BE IN AND I TAKE A
5 WEIGHT OF JUST THE SUBSTANCE THEN I PERFORM TWO
6 SCREENING TESTS ON THE SUBSTANCE TO HELP ME NARROW DOWN
7 WHAT CONTROLLED SUBSTANCE MAY BE PRESENT I THEN PERFORM
8 TWO CONFIRMATORY TESTS ON INSTRUMENTS IN OUR LAB TO
9 IDENTIFY WHAT CONTROLLED SUBSTANCE IS PRESENT, IF THERE'S
10 A SUBSTANCE PRESENT AT ALL

11 Q AND FROM YOUR TESTING WERE YOU ABLE TO FORM AN
12 EXPERT OPINION AS TO WHAT STATE'S EXHIBIT 5 IS?

13 A YES, I WAS

14 Q AND WHAT WOULD THAT BE?

15 A I FOUND THAT THE ITEM CONTAINED COCAINE BASE,
16 WHICH IS ALSO WHAT WE CALL CRACK COCAINE, I FOUND IT TO
17 BE 0.04 GRAMS

18 Q AND WHAT DO YOU BASE YOUR OPINION ON THAT IT IS
19 CRACK COCAINE, WHAT DO YOU BASE THAT ON?

20 A I BASE THAT ON THE SCIENTIFIC TESTS THAT I
21 PERFORMED IN THE LABORATORY

22 Q AND DURING THE COURSE OF SCIENTIFIC TESTING, YOU
23 SAID SOMETHING ABOUT A SCALPEL CAN YOU EXPLAIN THAT?

24 A ALL RIGHT WHEN I'M TAKING SAMPLES IN THIS CASE I
25 PERFORMED ALL THE LABORATORY TESTS ON THIS PARTICULAR

1 ITEM SO I HAD TO TAKE ABOUT SIX DIFFERENT SAMPLES SO,
2 YOU KNOW, IF I HAVE JUST A TINY, TINY LITTLE ROCK, IT
3 WILL USUALLY, ONCE I TAKE THOSE SAMPLES, IT WILL BREAK UP
4 INTO ALMOST LIKE A POWDER FORM

5 Q AND WHEN YOU TAKE YOUR SAMPLES, DO THEY GET PUT
6 BACK IN THE BAG?

7 A WHATEVER IS LEFT OVER IS PUT BACK IN THE BAG THE
8 ACTUAL SAMPLES THAT I TAKE ARE NOT PUT BACK IN THE BAG
9 BECAUSE BY THAT POINT THEY'RE DESTROYED BASICALLY

10 Q SO THE REMAINDER OF WHAT IS LEFT OF THAT CRACK
11 ROCK IS IN THE BAG?

12 A CORRECT

13 MS SIMMONS OKAY JUDGE, WE WOULD MOVE TO ADMIT
14 STATE'S EXHIBIT 5 INTO EVIDENCE AND AGENT LANFORD'S
15 ACCOMPANYING REPORT WHICH HAS BEEN PREVIOUSLY PROVIDED TO
16 THE DEFENSE

17 THE COURT ANY OBJECTION?

18 MR SPROUSE NO OBJECTION, JUDGE

19 THE COURT WITHOUT OBJECTION, STATE'S EXHIBIT 5
20 WILL NOW BE ADMITTED INTO EVIDENCE ALONG WITH THE
21 ACCOMPANYING REPORTS

22 IS THAT PART OF 5, OR IS IT 6?

23 MS SIMMONS I HAVE NO OBJECTION TO THE CHAIN OF
24 CUSTODY DOCUMENTS AND THE REPORT BEING PART OF STATE 5

25 THE COURT ALL RIGHT

1 (STATE'S EXHIBIT 5, DRUGS, REPORT, AND
2 CHAIN-OF-CUSTODY DOCUMENTS, WAS RECEIVED IN
3 EVIDENCE)

4 MS SIMMONS AGENT LANFORD, PLEASE ANSWER ANY
5 QUESTIONS THE DEFENSE MAY HAVE
6 CROSS-EXAMINATION BY MR SPROUSE

7 Q AGENT LANFORD, WHEN YOU PUT ON THE REPORT TIMOTHY
8 LEE BLASSINGAME, THAT'S JUST MERELY THE CASE NUMBER, IS
9 THAT CORRECT?

10 A YES

11 Q WHEN YOU HAD "S" BESIDE IT, IS THAT SUBJECT?

12 A YES, THAT'S SUBJECT

13 Q THAT WOULD BE IN THE CASE NUMBER BUT OTHER THAN
14 THE INFORMATION PROVIDED TO YOU BY LAW ENFORCEMENT AS TO
15 THE CASE NAME, YOU DON'T HAVE ANY PERSONAL KNOWLEDGE
16 ABOUT THE FACTS OF THE CASE?

17 A CORRECT

18 Q YOU DON'T KNOW WHO GAVE WHOM WHAT DRUGS OR WHAT
19 HAPPENED AT THE SCENE?

20 A THAT'S RIGHT

21 MR SPROUSE OKAY, THANK YOU

22 THE COURT ANY REDIRECT?

23 MS SIMMONS NO, YOUR HONOR WE WOULD ASK THIS
24 WITNESS BE EXCUSED

25 THE COURT ALL RIGHT ANY OBJECTION?

1 **MR SPROUSE** NO OBJECTION

2 **THE COURT** ALL RIGHT WITHOUT OBJECTION YOU MAY BE
3 EXCUSED THANK YOU, MA'AM

4 (WHEREUPON, THE WITNESS WAS EXCUSED)

5 **MS SIMMONS** AT THIS TIME THE STATE WOULD REST

6 **THE COURT** MR FOREMAN, LADIES AND GENTLEMEN OF THE
7 JURY, I NEED TO TAKE UP SOME MATTERS WITH THE ATTORNEYS,
8 SO I'M GONNA ASK YOU TO RETIRE TO THE JURY ROOM FOR A
9 SHORT WHILE UNTIL I COMPLETE THAT AND THEN I'LL ASK YOU
10 TO COME BACK AND SEE HOW WE WILL PROCEED AT THAT TIME
11 AGAIN, DO NOT UNDERTAKE DISCUSSION OF THE CASE AMONG
12 YOURSELVES IN ANY WAY

13 (THE JURY LEFT THE COURTROOM AT
14 APPROXIMATELY 3 44 P M)

15 **THE COURT** ANYTHING ELSE FROM THE STATE?

16 **MS SIMMONS** NO, YOUR HONOR

17 **THE COURT** ANYTHING FROM THE DEFENDANT?

18 MOTION FOR DIRECTED VERDICT ON BEHALF OF DEFENDANT

19 **MR SPROUSE** YES, SIR YOUR HONOR, AT THIS POINT I
20 WOULD MOVE FOR A DIRECTED VERDICT OF NOT GUILTY ON
21 SEVERAL GROUNDS THE FIRST GROUND IS FAILURE OF THE
22 STATE TO PROVE JURISDICTION OFFICERS WERE NOT ABLE TO
23 TESTIFY WITH GREAT CERTAINTY AS TO THE EXACT LOCATION OF
24 THE TRANSACTION AND, YOUR HONOR, I BELIEVE THE MOST
25 FUNDAMENTAL ELEMENT OF ANY CRIMINAL CASE IS JURISDICTION

1 IF THIS IS OUTSIDE THE LIMITS OF SENECA, THE SENECA
2 POLICE DEPARTMENT DID NOT HAVE JURISDICTION ---

3 **THE COURT** NOW, WHERE DOES IT SAY THAT? AS FAR AS
4 I KNOW, ALTHOUGH WE HAVE SOME DISCUSSION AMONG LAW
5 ENFORCEMENT OFFICERS WHEN THE SHERIFF HAS JURISDICTION IN
6 WALHALLA, I THINK THAT'S BEEN RESOLVED BUT ALSO, LAW
7 ENFORCEMENT OFFICERS IN SOUTH CAROLINA ACTUALLY HAVE
8 STATE-WIDE JURISDICTION AS FAR AS WHETHER OR NOT THEY
9 CAN PURSUE PEOPLE BEYOND THE CITY LIMITS OR SOMETHING
10 LIKE THAT, THEN THAT'S ANOTHER THING BUT I THINK THAT
11 THE LAW ENFORCEMENT OFFICER IN SOUTH CAROLINA IS ALWAYS
12 AUTHORIZED

13 MORE IMPORTANTLY, IN THIS CASE THERE IS EVIDENCE
14 THAT THEY WERE IN FACT, THE ONLY THING THAT WE'VE BEEN
15 ABLE TO DO IS MAYBE CREATE A QUESTION AS TO WHETHER OR
16 NOT THEY ARE IN THAT LITTLE, I THINK IT'S BEEN REFERRED
17 TO AS ARROW POINT BUT APPARENTLY IT TOOK TWO OR THREE
18 MINUTES TO GET AROUND, AND SOMEWHERE IN THAT TIME ALL THE
19 TESTIMONY HAS BEEN THAT IT WAS IN THE CITY LIMITS BY THAT
20 ARROW POINT

21 AND, OF COURSE, AS YOU MENTIONED, I MUST TAKE THE
22 TESTIMONY AND EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE
23 NON MOVING PARTY, SO I FIND THAT THERE IS SUFFICIENT
24 EVIDENCE TO GO TO THE JURY AS FAR AS JURISDICTION. PLUS
25 I WILL HAVE TO RESEARCH, BUT I DON'T THINK JURISDICTION

1 IS AN ISSUE HERE SO YOUR MOTION FOR A DIRECTED VERDICT
2 ON JURISDICTION IS DENIED
3 SECOND MOTION FOR DIRECTED VERDICT ON BEHALF OF DEFENDANT
4 MR SPROUSE YOUR HONOR, I WOULD ALSO MOVE FOR A
5 VERDICT OF NOT GUILTY ON FAILURE TO STATE THE PROOF THE
6 FUNDAMENTAL EVIDENCE OF DISTRIBUTION IS THAT THE
7 SUBSTANCE WAS ACTUALLY HANDED FROM ONE PARTY TO THE
8 OTHER, AND THERE IS NO DEFINITIVE EVIDENCE ON THAT THE
9 OFFICERS -- IT'S NOT ON VIDEO, THERE'S NO DEFINITIVE
10 MOMENT ON TAPE THAT CAN BE POINTED TO, AND WE FEEL THE
11 STATE HAS FAILED TO MEET ITS BURDEN OF PUTTING EVIDENCE
12 IN THE RECORD SUPPORTING GOING TO THE JURY

13 THE COURT ALL RIGHT WHAT DO YOU SAY ABOUT THAT,
14 MADAM SOLICITOR?

15 MS SIMMONS JUDGE, MR WALKER DURING HIS TESTIMONY
16 SAID HE RECEIVED CRACK COCAINE FROM THE DEFENDANT AFTER I
17 THINK ONE OF MY LAST QUESTIONS TO HIM I SAID DID HE
18 HAND YOU OR DELIVER TO YOU CRACK COCAINE? AND HE SAID
19 YES AND THAT COMPLETES THE STATUTORY DEFINITION OF
20 DISTRIBUTION IS THE DELIVERY ---

21 THE COURT IS TRANSFER

22 MS SIMMONS --, IS TRANSFER, AND IT WAS TRANSFER,
23 THEREFORE, BETWEEN THE PARTIES, YOUR HONOR EVEN
24 HYPOTHETICALLY IF THIS DEFENDANT LAID IT ON THE CONSOLE
25 FOR MR WALKER TO PICK UP, AS THE DEFENSE WOULD ASSERT,

1 THAT WOULD STILL BE TRANSFER OR DELIVERY TO ANOTHER
2 PERSON

3 **THE COURT** MR SPROUSE, ANYTHING ELSE ON THAT
4 POINT?

5 **MR SPROUSE** YOUR HONOR, AGAIN, WE SIMPLY, OTHER
6 THAN TESTIMONY FROM MR WALKER, WHICH CERTAINLY IS NOT
7 CREDIBLE, THAT THE ARRESTING OFFICER, THE OFFICER MAKING
8 THE CHARGE, WOULDN'T GIVE ANY INFORMATION REGARDING
9 TRANSFER, AND I FEEL THAT IS A FUNDAMENTAL BURDEN OF
10 PROOF THAT THEY HAVE AND I WOULD DISAGREE THAT IF IT
11 WERE IN THE CONSOLE AND MR WALKER SIMPLY PICKED IT UP,
12 THAT CONSTITUTES A TRANSFER FROM ONE PARTY TO ANOTHER
13 THE COURT'S RULING ON MOTION

14 **THE COURT** WELL, AGAIN, AT THIS STAGE IN THE CASE,
15 I'M ONLY CONCERNED WITH THE EXISTENCE OR NON-EXISTENCE OF
16 THE EVIDENCE AND NOT THE WEIGHT I THINK IT COMES DOWN
17 TO THE CREDIBILITY OF THE WITNESSES AND SO I'LL DENY
18 YOUR MOTION FOR A DIRECTED VERDICT ON WHETHER OR NOT
19 THERE IS CREDIBLE EVIDENCE ON THE TRANSFER OF THIS
20 DISTRIBUTION

21 NEXT?

22 **MR SPROUSE** THOSE ARE MY TWO MOTIONS, YOUR HONOR

23 **THE COURT** VERY GOOD ALL RIGHT THOSE MOTIONS
24 ARE ADDRESSED UNDER RULE 19 OF THE RULES OF CRIMINAL
25 PROCEDURE

1 ALL RIGHT IT'S TEN OF FOUR, OR TEN TO FOUR IS THE
2 TIME IT'S MY POLICY NOT TO KEEP A JURY BEYOND 5 00
3 I'LL EXPLAIN THAT TO THEM

4 I DON'T KNOW WHAT THE DEFENSE CASE IS, AND IF THE
5 DEFENDANT PLANS TO PUT UP ANY CASE AT ALL, BUT I WOULD
6 THINK THAT EVEN CLOSING ARGUMENTS AND CHARGES THAT WE'LL
7 PROBABLY NOT GET TO THE JURY BEFORE 5 00, WHICH MEANS, OF
8 COURSE, THAT THEY MIGHT BE UNDER SOME PRESSURE TO REACH A
9 VERDICT AND I WOULD RATHER THEY HAVE PLENTY OF TIME TO
10 DELIBERATE EVEN IF THEY HAVE TO COME BACK TOMORROW

11 ONE OF THE THINGS, AS I SAY, I ALSO THINK IT WOULD
12 BE GOOD THAT I ADVISE THE DEFENDANT, AFTER I RELEASE THE
13 JURY FOR THE DAY, AS TO HIS RIGHTS TO TESTIFY AND HIS
14 RIGHT NOT TO TESTIFY SO HE WILL HAVE AN OPPORTUNITY TO
15 CONSIDER THAT OVER THE EVENING --

16 **MR SPROUSE** YES, SIR

17 **THE COURT** -- AND ADVICE IN THE MORNING

18 SO WITH THAT, IS THERE ANYTHING FROM THE STATE AS TO
19 WHETHER OR NOT -- I MEAN, AS FAR AS THE COURT'S INTENTION
20 TO DISMISS THE JURY FOR THE DAY AND HAVE THEM REPORT BACK
21 AT 10 00 IN THE MORNING?

22 **MS SIMMONS** YOUR HONOR, WE'LL FOLLOW WHATEVER
23 SCHEDULE YOU DICTATE

24 **THE COURT** THANK YOU

25 MR SPROUSE, DOES THE DEFENDANT HAVE ANYTHING AS FAR

1 AS FOLLOWING THAT SCHEDULE?

2 MR SPROUSE NO

3 THE COURT I WILL SAY THIS, THOUGH I'M GOING TO
4 GIVE THE JURY THE OPTION TO COME BACK AT 9 00, 9 30 OR
5 10 00, BUT IT WOULDN'T BE ANY LATER THAN 10 00

6 NOW, AS I SAY, THIS WILL BE ONLY THE STATE'S CASE,
7 AND THE DEFENSE CAN DECIDE WHAT THEY WANT TO DO I MEAN,
8 I'LL GIVE THE ADVICE -- I MEAN THE ADMONITION TO THE,
9 GUIDANCE TO THE DEFENDANT ABOUT HIS TESTIMONY AND THE
10 RIGHT TO TESTIFY OR NOT TO TESTIFY

11 ALL RIGHT ANYTHING ELSE FROM THE STATE?

12 MS SIMMONS NO, YOUR HONOR

13 THE COURT DEFENSE?

14 MR SPROUSE NO, YOUR HONOR

15 THE COURT ASK THE JURY 'TO JOIN US, PLEASE

16 (THE JURY ENTERED THE COURTROOM AT
17 APPROXIMATELY 3 52 P M)

18 THE COURT ALL RIGHT MADAM FORELADY, LADIES AND
19 GENTLEMEN OF THE JURY, THE STATE HAS RESTED THAT DOES
20 NOT MEAN THAT'S THE COMPLETION OF THE TRIAL, OF THE WHOLE
21 TRIAL ITSELF WE STILL HAVE OTHER PARTS OF THE TRIAL,
22 SUCH AS THE CLOSING ARGUMENTS AND THE CHARGE ON THE LAW
23 BEFORE THE CASE IS GIVEN TO YOU FOR YOUR DELIBERATION
24 EVEN WITH THAT ABBREVIATED PROCEDURE, WE PROBABLY WILL
25 NOT, THE CASE WOULD NOT BE GIVEN TO YOU BEFORE 5 00

1 AND IT IS MY POLICY, BASED ON WHAT I'VE BEEN DOING
2 FOR THE LAST DECADE AND A HALF, NOT TO KEEP A JURY BEYOND
3 5 00 SOMETIMES I HAVE TO GO A LITTLE BIT FURTHER TO
4 FINISH A WITNESS'S TESTIMONY, OR SOMETIMES EVEN STOP
5 BEFORE 5 00, AND THIS IS GONNA BE A LITTLE BIT EARLIER
6 THAN THAT, SO I DON'T BREAK A WITNESS'S TESTIMONY

7 BUT IN THIS CASE, BECAUSE WE ARE AT THAT STAGE IN
8 THE CASE IT CAN'T BE COMPLETED TODAY WITHOUT GOING BEYOND
9 5 00 AND MY EXPERIENCE, AS I SAY, IS THAT WE HAVE TWO
10 WORLDS ONE BEGINS IN THE MORNING AND GOES TO 5 00 AND
11 THEN ANOTHER ONE BEGINS AT 5 00 AND SEEMS TO GO ON
12 FOREVER SO I'M GOING TO EXCUSE YOU FOR THE BALANCE OF
13 THE DAY TO TAKE UP MATTERS OF LAW WITH THE ATTORNEYS SO
14 THAT YOU CAN GET THE CASE TOMORROW SO I'M GOING TO ASK
15 YOU TO RETIRE FOR THE DAY

16 NOW, AGAIN, YOU HAVEN'T HEARD THE WHOLE CASE SO YOU
17 HAVE TO FOLLOW THE ADMONITION NOT TO DISCUSS THE CASE
18 AMONG YOURSELVES NOR PERMIT ANYBODY TO DISCUSS IT WITH
19 YOU

20 NOW, MADAM FORELADY, THIS IS GONNA BE YOUR FIRST
21 DUTY OR FIRST RESPONSIBILITY YOU HAVE TO EXERCISE I
22 WANT YOU TO CONSULT WITH THE JURY AS TO WHAT TIME THEY
23 WOULD LIKE TO START IN THE MORNING I WOULD SUGGEST
24 ANYWHERE FROM LIKE 9:00, 9 30 OR 10 00 NOW, THIS IS NOT
25 A UNANIMOUS VERDICT, JUST A CONSENSUS YOU CAN JUST

1 CHECK WITH THE JURY WHERE THEY ARE SITTING NOW TO FIND
2 OUT WHAT TIME THEY'D LIKE TO START

3 (JURY CONFERS IN JURY-BOX)

4 THE FORELADY 9 00

5 THE COURT 9 00? VERY GOOD I'LL TELL YOU, IT'S A
6 LOT EASIER FOR ME AT HOME THAN IT IS WHEN I'M SOMEWHERE
7 ELSE IT TAKES AN HOUR OR SO TO GET TO SO I'M HAPPY WITH
8 9 00, TOO SO THAT WILL BE FINE SO I'LL SEE YOU IN THE
9 MORNING AT 9 00 JUST COME BACK TO THE JURY ROOM THAT
10 WE'RE IN TODAY AND WE'LL COMPLETE THE TRIAL TOMORROW
11 VERY GOOD THANK YOU VERY MUCH

12 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
13 FROM THE COURTROOM

14 (THE JURY LEFT THE COURTROOM AT
15 APPROXIMATELY 3 56 P M)

16 THE COURT ALL RIGHT MADAM SOLICITOR, IS THERE
17 ANYTHING FURTHER AT THIS TIME BEFORE I ADVISE THE
18 DEFENDANT OF HIS RIGHTS?

19 MS SIMMONS NO, YOUR HONOR AT THE APPROPRIATE
20 TIME I WILL BE HAPPY TO INFORM THE COURT OF HIS
21 IMPEACHABLE OFFENSES

22 THE COURT ALL RIGHT BUT YOU HAVE PROVIDED HIS
23 ATTORNEY WITH THE OFFENSES YOU FEEL THAT WOULD BE SUBJECT
24 TO IMPEACHMENT?

25 MS SIMMONS ABSOLUTELY, YOUR HONOR WE HAVE

1 PROVIDED HIM WITH COPIES OF THE CERTIFIED CONVICTIONS FOR
2 PURPOSES OF ENHANCEMENT, IF WE SHOULD NEED THAT, AND HIS
3 RAP SHEET HAS BEEN PROVIDED

4 **THE COURT** WELL, THE MAIN THING IS FOR IF HE SHOULD
5 TESTIFY

6 **MR SPROUSE** YOUR HONOR, THEY HAVE PROVIDED THAT
7 INFORMATION

8 **THE COURT** ALL RIGHT VERY GOOD
9 COURT'S QUESTIONING OF DEFENDANT RE TESTIFYING OR NOT

10 **THE COURT** MR BLASSINGAME, IF YOU WOULD PLEASE
11 STAND RAISE YOUR RIGHT HAND

12 (WHEREUPON, THE DEFENDANT WAS SWORN BY THE
13 COURT)

14 **THE COURT** AT THIS TIME I'M GOING TO EXPLAIN TO YOU
15 CERTAIN OF YOUR RIGHTS IF YOU DO NOT UNDERSTAND
16 ANYTHING I SAY, PLEASE LET ME KNOW IF YOU WANT ME TO
17 EXPLAIN ANYTHING IN MORE DETAIL, PLEASE LET ME KNOW DO
18 YOU UNDERSTAND?

19 **THE DEFENDANT** YES

20 **THE COURT** WE HAVE NOW REACHED OR ARE APPROACHED
21 THE STAGE OF THE TRIAL WHERE YOU MAY PRESENT YOUR
22 DEFENSE YOU HAVE A RIGHT TO CLAIM THE PROTECTIONS GIVEN
23 TO YOU BY THE FIFTH AMENDMENT OF THE CONSTITUTION OF THE
24 UNITED STATES THIS AMENDMENT READS IN PART

25 FIFTH AMENDMENT NO PERSON SHALL BE COMPELLED IN

1 ANY CRIMINAL CASE TO BE A WITNESS AGAINST THEMSELVES
2 NOW, THIS MEANS THAT YOU CANNOT BE REQUIRED TO TESTIFY IN
3 THIS CASE YOU HAVE A RIGHT TO TESTIFY ON YOUR OWN
4 BEHALF, HOWEVER, NO ONE CAN MAKE YOU TESTIFY THIS IS A
5 PERSONAL RIGHT THAT NO ONE CAN WAIVE, AND THIS RIGHT CAN
6 ONLY BE WAIVED -- EXCUSE ME -- NO ONE CAN WAIVE THIS
7 RIGHT EXCEPT YOU DO YOU UNDERSTAND THIS?

8 THE DEFENDANT YES, SIR

9 THE COURT IF YOU DECIDE TO TESTIFY, YOU WILL BE
10 SUBJECT TO THE SAME RULES THAT GOVERN OTHER WITNESSES,
11 AND YOU MAY BE EXAMINED AND CROSS-EXAMINED ON ANY
12 RELEVANT ISSUE IN THE CASE

13 IN ADDITION, IF YOU HAVE ANY CONVICTIONS INVOLVING
14 DISHONESTY OR FALSE STATEMENT OR CRIMES PUNISHABLE BY
15 IMPRISONMENT FOR MORE THAN ONE YEAR, AND THIS COURT
16 DETERMINES THAT THE PROBATIVE VALUE OF ADMITTING THE
17 EVIDENCE OUTWEIGHS ITS PREJUDICIAL VALUE OR EFFECT TO
18 YOU, THE SOLICITOR WILL BE ABLE TO INTRODUCE YOUR RECORD
19 AND ATTACK YOUR CREDIBILITY DO YOU UNDERSTAND?

20 THE DEFENDANT YES, SIR

21 THE COURT IF ANY PRIOR OFFENSES THAT THE COURT
22 FINDS WOULD BE RELEVANT TO THE ISSUES OF CREDIBILITY AND
23 THEIR PROBATIVE VALUE OUTWEIGHS ON ANY PREJUDICIAL EFFECT
24 TO YOU, THEN YOU WOULD BE CROSS-EXAMINED DO YOU
25 UNDERSTAND?

1 **THE DEFENDANT** YES

2 **THE COURT** IF YOU DECIDE TO TESTIFY, THIS DECISION
3 ON YOUR PART MUST BE FREELY, VOLUNTARILY, AND
4 INTELLIGENTLY, WITH KNOWLEDGE OF THE PROTECTIONS GIVEN TO
5 YOU BY THE FIFTH AMENDMENT AND THE CONSEQUENCES OF YOUR
6 DECISION TO TESTIFY

7 IF YOU DECIDE NOT TO TESTIFY, I WILL INSTRUCT THE
8 JURORS THAT THEY CANNOT GIVE THE FACT THAT YOU DID NOT
9 TESTIFY ANY CONSIDERATION WHATSOEVER, AND THERE IS TO BE
10 NO PREJUDICE TO YOU BECAUSE YOU DID NOT TESTIFY

11 IT IS LEFT ENTIRELY UP TO YOU WHETHER OR NOT YOU
12 TESTIFY YOU MAY TALK WITH YOUR ATTORNEY, YOUR FAMILY
13 AND FRIENDS, AND ANYONE ELSE, BUT THE FINAL DECISION IS
14 LEFT ENTIRELY UP TO YOU DO YOU UNDERSTAND WHAT I HAVE
15 EXPLAINED TO YOU?

16 **THE DEFENDANT** YES, SIR

17 **THE COURT** DO YOU HAVE ANY QUESTIONS ABOUT WHAT I
18 HAVE EXPLAINED?

19 **THE DEFENDANT** NO, SIR

20 **THE COURT** ALL RIGHT I'M GOING TO LET YOU
21 CONSIDER THE QUESTION OF WHETHER YOU WISH TO TESTIFY OR
22 NOT OR OFFER ANY EVIDENCE AT ALL OVER THE EVENING, AND IF
23 YOU WOULD BE GOOD ENOUGH TO ADVISE ME AS TO WHAT YOUR
24 DECISION IS AS I SAY, YOU CAN TALK WITH YOUR ATTORNEY
25 OR ANYONE ELSE, BUT IT HAS TO BE YOUR DECISION VERY

1 GOOD THANK YOU

2 THE DEFENDANT THANK YOU, YOUR HONOR

3 MR SPROUSE THANK YOU, YOUR HONOR

4 THE COURT I WOULD LIKE TO SEE THE ATTORNEYS IN THE
5 CONFERENCE ROOM TO GO OVER POTENTIAL CHARGES

6 (WHEREUPON, THE TRIAL IN THE CASE OF THE
7 STATE OF SOUTH CAROLINA VERSUS TIMOTHY LEE
8 BLASSINGAME ADJOURNED AT 4 02 P M , TO BE
9 CONTINUED ON WEDNESDAY, OCTOBER 28, 2009, AT
10 APPROXIMATELY 9 00 A M)
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1 (THE TRIAL OF THE STATE OF SOUTH CAROLINA
2 VERSUS TIMOTHY LEE BLASSINGAME RESUMED ON
3 WEDNESDAY, OCTOBER 28TH, 2009, AT
4 APPROXIMATELY 9 11 A M)

5 THE COURT ALL RIGHT WE'RE BACK ON THE CASE OF
6 THE STATE OF SOUTH CAROLINA VERSUS TIMOTHY LEE
7 BLASSINGAME, 2009-GS-37-820

8 IS THE STATE READY TO PROCEED?

9 MS SIMMONS YES, YOUR HONOR

10 THE COURT IS THE DEFENSE READY TO PROCEED?

11 MR SPROUSE YOUR HONOR, I'M CUEING THE DISK

12 THE COURT ALL RIGHT

13 (DISCUSSION OFF THE RECORD)

14 MR SPROUSE WE'RE READY, YOUR HONOR

15 THE COURT ALL RIGHT IS THE STATE READY?

16 MS SIMMONS YES, SIR

17 THE COURT ALL RIGHT JUST FOR THE RECORD, PRIOR
18 TO TRIAL THE SOLICITOR APPROACHED THE BENCH WITH

19 MR SPROUSE AND ADVISED ME OF AN INCIDENT THAT HAPPENED
20 THIS MORNING IF YOU WOULD PLEASE, JUST FOR THE RECORD

21 MS SIMMONS YES, YOUR HONOR I WAS GETTING READY
22 TO GET ON THE ELEVATOR ONE OF THE JURORS WAS COMING
23 THROUGH THE METAL DETECTOR LINE SHE SAID, "CAN I SPEAK
24 TO YOU? ARE YOU LINDSEY SATTERFIELD?"

25 I SAID, "MA'AM, I CAN'T TALK TO YOU UNTIL AFTER THE

1 TRIAL" AND I GOT ON THE ELEVATOR

2 I DON'T KNOW HER I COULDN'T EVEN TELL YOU HER NAME
3 AS FAR AS WHICH JUROR SHE IS

4 THE COURT AND YOUR MAIDEN NAME IS SATTERFIELD
5 YOU'VE BEEN MARRIED NOW FOR SOME TIME?

6 MS SIMMONS I'VE BEEN MARRIED ALMOST TEN YEARS,
7 JUDGE, YES

8 THE COURT ANY QUESTIONS, MR SPROUSE?

9 MR SPROUSE YOUR HONOR, LINDSEY HAS BEEN SOMEONE
10 IN THE COMMUNITY FOR A LONG TIME, AND I DON'T SEE ANY
11 ISSUE

12 THE COURT I UNDERSTAND I JUST WANTED TO HAVE IT
13 ON THE RECORD IN CASE YOU NEEDED TO REVIEW IT

14 IS THERE ANYTHING ELSE FROM THE STATE?

15 MS SIMMONS NO, YOUR HONOR

16 THE COURT FROM THE DEFENDANT?

17 MR SPROUSE NOTHING, YOUR HONOR

18 THE COURT DOES THE DEFENDANT INTEND TO TESTIFY?

19 MR SPROUSE NO, SIR

20 THE COURT ALL RIGHT IF YOU WOULD, MR
21 BLASSINGAME, PLEASE STAND

22 ALL RIGHT YESTERDAY AFTERNOON BEFORE WE ADJOURNED
23 I ADVISED YOU OF YOUR RIGHTS UNDER THE FIFTH AMENDMENT TO
24 TESTIFY OR NOT IN OTHER WORDS, YOU CANNOT BE COMPELLED
25 TO TESTIFY AGAINST YOURSELF OR EVEN OFFER EVIDENCE

1 AGAINST YOURSELF THAT MEANS THAT IF YOU DO NOT WISH TO
2 OFFER ANY EVIDENCE OR TO TESTIFY YOURSELF, YOU ARE
3 EXERCISING YOUR CONSTITUTIONAL RIGHT AND THAT IS YOUR
4 RIGHT HOWEVER, IT MUST BE MADE FREELY, VOLUNTARILY,
5 KNOWINGLY AND INTELLIGENTLY IT'S YOUR DECISION AND
6 YOURS ALONE

7 I ALSO TOLD YOU A LITTLE BIT OF WHAT WOULD HAPPEN IF
8 YOU DID TESTIFY, YOU WOULD BE LIKE ANY OTHER WITNESS
9 SUBJECT TO CROSS-EXAMINATION, TO INCLUDE ANY PRIOR
10 CONVICTIONS IF THE COURT SHOULD DETERMINE THEY HAVE MORE
11 PROBATIVE VALUE AGAINST ANY PREJUDICE IT MIGHT HAVE TO
12 YOU

13 KNOWING ALL OF THOSE THINGS, DO YOU HAVE ANY
14 QUESTIONS ABOUT YOUR RIGHT TO TESTIFY UNDER THE FIFTH
15 AMENDMENT OR NOT TO TESTIFY?

16 THE DEFENDANT NO, SIR

17 THE COURT ALL RIGHT HAVE YOU HAD AN OPPORTUNITY
18 TO DISCUSS THIS MATTER WITH YOUR ATTORNEY?

19 THE DEFENDANT YES, SIR

20 THE COURT ALL RIGHT HAVE YOU DISCUSSED IT WITH
21 OTHER PEOPLE, AS WELL?

22 THE DEFENDANT NO

23 THE COURT DO YOU WISH TO TALK TO ANYBODY ELSE
24 ABOUT THIS?

25 THE DEFENDANT NO

1 **THE COURT** HAVE YOU MADE UP YOUR MIND AS TO WHETHER
2 YOU WISH TO TESTIFY OR NOT?

3 **THE DEFENDANT** YES, SIR

4 **THE COURT** AND WHAT IS THAT?

5 **THE DEFENDANT** NOT TO TESTIFY

6 **THE COURT** ALL RIGHT I FIND THE DEFENDANT'S
7 DECISION TO EXERCISE HIS RIGHT UNDER THE FIFTH AMENDMENT
8 NOT TO TESTIFY IS FREELY, VOLUNTARILY, KNOWINGLY AND
9 INTELLIGENTLY MADE, AND HE WILL BE ABLE TO EXERCISE THAT
10 RIGHT AND I WILL TELL THE JURY THEY MAY NOT HOLD THAT
11 AGAINST HIM

12 ALL RIGHT YOU MAY BE SEATED

13 DOES THE DEFENSE WISH TO CALL ANY WITNESSES?

14 **MR SPROUSE** NO, YOUR HONOR

15 **THE COURT** THAT MEANS THE STATE OPENS AND THEN THE
16 DEFENSE HAS CLOSING?

17 **MS SIMMONS** YES, YOUR HONOR

18 **MR SPROUSE** YES, SIR

19 **THE COURT** ALL RIGHT ANYTHING ELSE FROM THE
20 STATE?

21 **MS SIMMONS** NO, YOUR HONOR

22 **THE COURT** FROM THE DEFENSE?

23 **MR SPROUSE** NOTHING, YOUR HONOR

24 **THE COURT** ALL RIGHT ASK THE JURY TO JOIN US

25 OH, MR SPROUSE, I'LL RECOGNIZE YOU TO REST ON THE

1 RECORD

2 MR SPROUSE YES, SIR

3 (THE JURY ENTERED THE COURTROOM AT
4 APPROXIMATELY 9 19 A M)

5 THE COURT ALL RIGHT LET THE RECORD REFLECT THAT
6 THE JURY AND ALTERNATES ARE IN THE JURY-BOX

7 I THINK AT THE CONCLUSION OF THE TRIAL YESTERDAY THE
8 STATE RESTED?

9 MS SIMMONS YES, YOUR HONOR

10 THE COURT ALL RIGHT MR SPROUSE, I WILL
11 RECOGNIZE YOU FROM THE DEFENSE

12 MR SPROUSE THE DEFENSE RESTS, YOUR HONOR

13 THE COURT THANK YOU VERY MUCH

14 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
15 THE DEFENSE HAS NOW RESTED THAT MEANS THE TRIAL AS FAR
16 AS ALL THE TESTIMONY AND EVIDENCE IS CONCLUDED WE NOW
17 HAVE THE ARGUMENT BY COUNSEL AND THEN THE CHARGE ON THE
18 LAW AND THEN THE CASE WILL BE GIVEN TO YOU FOR YOUR
19 DELIBERATIONS AND CONSIDERATION

20 BUT I WANT TO EMPHASIZE THAT THE DEFENDANT HAS THE
21 CONSTITUTIONAL RIGHT TO REMAIN SILENT, TO PUT UP NO
22 EVIDENCE AND REQUIRE THE STATE TO MEET ITS BURDEN OF
23 PROOF BEYOND A REASONABLE DOUBT THE ASSERTION OF THAT
24 CONSTITUTIONAL RIGHT NOT TO TESTIFY OR PRESENT EVIDENCE
25 MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS

1 UNDER YOUR OATH YOU ARE TO DRAW NO CONCLUSIONS WHATSOEVER
2 FROM THE FACT THE DEFENDANT IN THIS CASE DID NOT TESTIFY
3 OR PUT UP EVIDENCE

4 AS I'VE STATED, THE DEFENDANT IS NOT REQUIRED TO
5 PROVE HIS INNOCENCE, AND THE BURDEN OF PROOF REMAINS UPON
6 THE STATE TO PROVE THE GUILT OF THE DEFENDANT BEYOND A
7 REASONABLE DOUBT

8 WITH THAT I'LL RECOGNIZE THE SOLICITOR FOR HER
9 CLOSING ARGUMENT

10 MS SIMMONS THANK YOU, YOUR HONOR, MAY IT PLEASE
11 THE COURT

12 THE COURT MS SIMMONS
13 CLOSING ARGUMENT ON BEHALF OF THE STATE

14 MS SIMMONS GOOD MORNING, LADIES AND GENTLEMEN
15 AGAIN, I WANT TO THANK YOU FOR YOUR PATIENCE THE LAST
16 COUPLE DAYS I KNOW PARTS HAVE BEEN INTERESTING, PARTS
17 HAVE PROBABLY BEEN VERY BORING BUT I NOTICE THAT YOU
18 ALL HAVE PAID ATTENTION AND I DO APPRECIATE THAT

19 FIRST OF ALL, I WANT TO TELL YOU WHAT THE LAW IS
20 THE JUDGE WILL INSTRUCT YOU ON THE LAW IN A LITTLE WHILE,
21 BUT BEFORE I REVIEW WITH YOU HOW I THINK WE HAVE PROVED
22 THAT CASE, I WANT TO TELL YOU WHAT THE LAW IS

23 ON FEBRUARY 24TH, 2009, HERE IN OCONEE COUNTY, THE
24 DEFENDANT, TIM BLASSINGAME, DISTRIBUTED CRACK COCAINE TO
25 JAMES WILLIE WALKER DISTRIBUTION WILL BEEN DEFINED FOR

1 YOU BY THE JUDGE IT DOESN'T MEAN A SALE HAS TO HAVE
2 OCCURRED A DISTRIBUTION CAN BE A BARTER, A GIFT, OR A
3 SALE DISTRIBUTION IS THE DELIVERY OF A CONTROLLED
4 SUBSTANCE TO ANOTHER PERSON

5 SO IN THIS SCENARIO, WHEN JAMES WALKER WAS GIVEN THE
6 DRUGS BY TIM BLASSINGAME, THAT IS A DISTRIBUTION

7 AND THE CRACK COCAINE, I DON'T HAVE TO PROVE TO YOU
8 THAT A CERTAIN AMOUNT WAS DISTRIBUTED THE FACT THAT ANY
9 CRACK COCAINE WAS DISTRIBUTED IS A CRIME SO THE FACT
10 THAT THERE IS CRACK COCAINE YOU WILL BE SEEING IN THE
11 JURY ROOM, THE FACT THAT IT IS NOT A HUGE WHOPPING AMOUNT
12 IS NOT FOR YOUR CONSIDERATION IT IS JUST THE EXISTENCE
13 OF CRACK COCAINE DURING THE TRANSACTION

14 BEFORE I GET TO THE STATE'S CASE NOW, I WANT TO GO
15 OVER A LITTLE BIT ABOUT WHAT WE HEARD FROM THE DEFENSE
16 IT'S WHAT I LIKE TO CALL A SMOKE-AND-MIRRORS DEFENSE
17 THEY THROW UP A BUNCH OF SMOKE AND THROW UP A BUNCH OF
18 MIRRORS TO GET YOU GUYS OFF TRACK THEY WANT YOU TO LOOK
19 AT LITTLE THINGS SO THAT YOU DON'T SEE THE BIG PICTURE
20 THEY WANT -- IT'S KIND OF LIKE TRYING TO GET YOU NOT TO
21 SEE THE FOREST FOR THE TREES

22 THERE ARE A FEW THINGS THAT THEY'VE THROWN UP FOR
23 YOU THAT I WANT TO TALK ABOUT THEY SAID THAT MAYBE
24 THESE DRUGS CAME FROM A THIRD PARTY WELL, YOU WILL HAVE
25 AN OPPORTUNITY TO WATCH THE TAPE AND YOU HAVE HAD THE

1 OPPORTUNITY HE DID EXCHANGE PLEASANTRIES WITH SOME
2 FOLKS AT THE APARTMENT COMPLEX WHERE HE WAS DROPPED OFF
3 THOSE FOLKS DID NOT COME INTO CAMERA VIEW HE WAS
4 WEARING A BUTTON CAM THEY DIDN'T POP UP LIKE RIGHT IN
5 FRONT OF HIM HE SAID, I THINK, HEY, MAN WHAT ARE YOU
6 DOING, OR SOME SORT OF EXCHANGE OF HELLO WITH THOSE
7 FOLKS

8 WHAT'S MORE IMPORTANT IS WHAT HE DIDN'T TALK ABOUT
9 WITH THOSE FOLKS HE DIDN'T TALK ABOUT CRACK, HE DIDN'T
10 TALK ABOUT DUBS, HE DIDN'T TALK ABOUT 40'S, HE DIDN'T
11 TALK ABOUT PIECES HE SAID, HEY, MAN, WHAT'S UP? HE WAS
12 NOT TRYING TO CONDUCT A DRUG DEAL WITH THEM HE WAS
13 TRYING TO EXCHANGE SOME CHATTER WITH THEM BECAUSE THE
14 DEFENDANT WAS STOPPED BEHIND A SCHOOL BUS WATCHING HIM
15 HE HAD TO MAKE IT LOOK LIKE HE WAS GOING WHERE HE TOLD
16 HIM HE WAS GONNA GO

17 THEN HE DID WALK, TO HIS SISTER'S FRONT DOOR AND LOOK
18 IN THE WINDOW YOU CAN SEE IN THAT VIDEO THAT WHEN HE
19 WALKS UP, HE DOESN'T GET ANYTHING OFF THE WINDOWSILL HE
20 GOES LIKE THIS (DEMONSTRATING), HE PEERS IN HE DIDN'T
21 GRAB SOME CRACK ROCK THAT HE HAD STASHED THERE TWO DAYS
22 BEFORE WHEN HE SAID "I SET MY COUSIN UP "

23 I MEAN, THEY WOULD HAVE YOU BELIEVE THAT SOME GRAND
24 CONSPIRACY THAT JAMES WILLIE WALKER, HE CALLED HIS
25 COUSIN, GOT HIS COUSIN IN THE CAR, THEY TALKED ABOUT

1 DRUGS, THEY RODE AROUND, AND THEN HE WENT AND GOT THIS
2 CRACK ROCK THAT HE HAD STASHED, OR HE PULLED THIS CRACK
3 ROCK OUT OF HIS POCKET THAT HE HAD STASHED I THINK IT'S
4 FARFETCHED AND QUITE FRANKLY, JAMES WILLIE WALKER IS
5 NOT SMART ENOUGH TO CONCOCT SOME MAJOR CONSPIRACY TO SET
6 UP HIS COUSIN

7 YOU ALSO HEARD ABOUT THE EXISTENCE OF THE DRUGS AND
8 SEARCHES AND MAYBE IT WAS HERE, MAYBE IT WAS THERE

9 YOU HEARD AGENT LANFORD TESTIFY THAT CRACK USUALLY
10 IS PRESENTED IN A ROCK FORM, IT'S A HARD ROCK AND WHEN
11 SHE TAKES IT TO THE LAB AND MANIPULATES THAT DURING THE
12 PROCESS, IT DISINTEGRATES INTO POWDER IF JAMES WILLIE
13 WALKER HAD THAT CRACK ROCK STASHED SOMEWHERE ON HIM, EVEN
14 THOUGH HE WAS SEARCHED THOROUGHLY AND PATTED DOWN, HIS
15 POCKETS WERE TURNED INSIDE OUT, ANYWHERE ON HIS BODY THAT
16 HE COULD HAVE STASHED THAT CRACK ROCK, BY THE TIME HE
17 RODE IN THE CAR WITH SERGEANT CRUM, HE DROVE TO WHERE
18 THEY DROPPED HIM OFF, WALKED -- I DON'T KNOW -- IT SEEMED
19 LIKE A MILE, AND MET WITH HIM, GOT IN THE CAR, GOT OUT OF
20 THE CAR, AND THEN CAME BACK AND GOT SEARCHED AGAIN, THAT
21 CRACK ROCK WOULD HAVE BEEN DISINTEGRATED INTO POWDER HE
22 WOULD NOT HAVE BEEN ABLE TO DELIVER A PIECE OF CRACK TO
23 SERGEANT CRUM THE ONLY LOGICAL EXPLANATION IS THAT
24 CRACK ROCK GOT BACK TO SERGEANT CRUM BECAUSE IT WAS PUT
25 IN JAMES WILLIE WALKER'S HAND BY TIM BLASSINGAME

1 THERE'S ALSO BEEN A BIG DEAL ABOUT CONFIDENTIAL
2 INFORMANTS THEY'RE A NECESSARY EVIL YOU MAY NOT WANT
3 JAMES WILLIE WALKER TO COME OVER FOR DINNER BUT THEY
4 ARE NECESSARY FOR THE FIGHT AGAINST DRUGS I CAN'T GO TO
5 DOWNTOWN SENECA AND BUY CRACK MOST PEOPLE I KNOW CAN'T
6 I WOULDN'T EVEN KNOW WHERE TO START

7 SERGEANT CRUM CAN'T GO TO DOWNTOWN SENECA AND BUY
8 CRACK BECAUSE EVERY CRACK DEALER IN SENECA KNOWS WHO HE
9 IS YOU HAVE TO USE CONFIDENTIAL INFORMANTS, IT'S JUST
10 SOMETHING, YOU HAVE TO USE THEM YOU PUT THEM IN A
11 CONTROLLED ENVIRONMENT, BUT YOU DO USE THEM

12 AND THEY KNOW WHO HAS CRACK THEY ARE OUT IN THE
13 COMMUNITY, THEY KNOW WHERE TO GET CRACK BECAUSE THEY ARE
14 LIVING IN THAT ENVIRONMENT QUITE FRANKLY, IF YOU'RE
15 GONNA CATCH A CRACK DEALER, YOU GOT TO USE A CRACK HEAD
16 THAT'S THE WAY IT WORKS HE KNOWS THAT ENVIRONMENT, HE
17 KNOWS WHERE TO GET DRUGS, AND HE KNEW TIM BLASSINGAME HAD
18 CRACK COCAINE

19 NOW I WANT TO TURN TO THE STATE'S CASE BECAUSE I'M
20 A VISUAL PERSON AND I HOPE THIS HELPS A LITTLE BIT THIS
21 IS A PUZZLE EACH WITNESS PUTS TOGETHER A PIECE TO A
22 PUZZLE WE'RE GONNA TALK ABOUT EACH PIECE SEPARATELY AND
23 HOW I THINK IN THE END IT ONLY COMES TO ONE REASONABLE
24 CONCLUSION THAT'S TIM BLASSINGAME'S GUILT

25 WE'LL START WITH SERGEANT CRUM'S TESTIMONY HE TOLD

1 YOU THAT HE'S BEEN WORKING IN NARCOTICS APPROXIMATELY
2 FIVE YEARS HE HAS USED JAMES WILLIE WALKER SOMEWHERE
3 BETWEEN 30 AND 40 TIMES HE'S GIVEN HIM RELIABLE
4 INFORMATION, HE'S BEEN TRUSTWORTHY, HE HASN'T HAD ANY
5 PROBLEMS OUT OF HIM JAMES WILLIE WALKER HAS A RECORD,
6 BUT SERGEANT CRUM IS A POLICE OFFICER AND HE HAS HAD
7 REASONABLE DEALINGS WITH HIM AND HAS GOTTEN RELIABLE
8 INFORMATION

9 HE ALSO TOLD YOU THAT HE MAKES CONTROLLED BUYS HE
10 DOES EVERYTHING IN HIS POWER TO CONTROL THE ENVIRONMENT
11 THAT THESE BUYS OCCUR IN HE HAD MORE THAN ONE AUDIO ON
12 MR WALKER HE HAD A VIDEO CAMERA ON HIM HE LISTENS TO
13 IT SIMULTANEOUSLY WHILE IT'S HAPPENING THAT IS ABOUT AS
14 MUCH CONTROL AS YOU CAN EXERCISE OVER A CONFIDENTIAL
15 INFORMANT DEAL HE'S LISTENING TO EVERYTHING GOING ON
16 THROUGH THE PROCESS

17 IN A PERFECT WORLD, SERGEANT CRUM WOULD BE ABLE TO
18 BE SITTING IN THE CAR WITH HIM, BUT EVERYBODY KNOWS WHO
19 HE IS OR WE WOULD HAVE SOME GIGANTIC CAMCORDER CATCHING
20 YOU HAND-TO-HAND ON VIDEO BUT THIS CAMERA IS SMALLER
21 THAN ONE OF MY BUTTONS HERE SO WE GOT A HEAD SHOT WE
22 HAVE A HEAD SHOT OF THE DEFENDANT DO WE HAVE A
23 HAND-TO-HAND ON VIDEO? NO DOES THAT HAPPEN VERY MUCH?
24 NO WE AREN'T IN A SITUATION WHERE WE CAN HAVE MULTIPLE
25 CAMERAS WITH GREAT VANTAGE POINTS BUT IT WAS A

1 CONTROLLED ENVIRONMENT FROM BEGINNING TO END, THERE
2 WERE SEARCHES, THERE WERE AUDIOTAPES, THERE WERE
3 VIDEOTAPES, THERE WERE DEBRIEFS, THERE WERE BRIEFINGS
4 SERGEANT CRUM WAS IN CONTROL OF THIS TRANSACTION

5 HE ALSO TOLD YOU WHEN HE LOOKED AT THE VIDEO AND
6 WHEN YOU LOOK AT THE STILL PHOTOGRAPH FROM THE TAPE, IT'S
7 TIM BLASSINGAME HE SAID HE KNOWS TIM BLASSINGAME FROM
8 PRIOR DEALINGS AND THAT THIS IS TIM BLASSINGAME HE WENT
9 AS FAR AS GETTING CORROBORATING INFORMATION TO PROVE THAT
10 THIS IS TIM BLASSINGAME

11 HE KNOWS THAT TIM BLASSINGAME'S GIRLFRIEND AT THE
12 TIME WAS CHARLOTTE REED CHARLOTTE REED DROVE A SILVERY
13 COLORED NISSAN ALTIMA, THE CAR THAT'S IN THE DEAL
14 CHARLOTTE REED HAD A PHONE THAT WAS [REDACTED] TIM
15 BLASSINGAME AT THAT TIME WAS GIVING IT OUT AT HIS NUMBER

16 NOW LET'S MOVE ON TO JAMES WILLIE WALKER MOST
17 CONFIDENTIAL INFORMANTS CAN TELL YOU WHERE TO GET CRACK
18 COCAINE IT IS TRUE HE TOLD SERGEANT CRUM, "I CAN GET
19 CRACK COCAINE FROM TIM BLASSINGAME " BUT IT WAS NOT A
20 GRAND SCHEME BY JAMES WILLIE WALKER TO SET UP TIM
21 BLASSINGAME

22 HE CALLED [REDACTED] TIM BLASSINGAME'S NUMBER TIM
23 BLASSINGAME SHOWED UP, AND THEY HAD A DRUG TRANSACTION
24 TO ME THERE'S ONE TELLING THING ABOUT MR WALKER HE SAT
25 UP HERE AND TOLD YOU, I HAVE A RECORD, I'VE DONE ALL

1 THESE THINGS, I'VE TAKEN RESPONSIBILITY FOR THEM. HE
2 DIDN'T TRY TO LIE AND HE SAID I -- YOU KNOW, HE'S NOT
3 AN UPSTANDING MEMBER OF THE COMMUNITY

4 BUT LOOK AT ONE THING HE DID HE WAS HARD UP FOR
5 MONEY, HE TOLD YOU THAT HE HAD A NEW BABY, HE DIDN'T
6 HAVE A JOB, HE WAS WORKING DRUG DEALS IS IT A NORMAL
7 JOB? NO BUT HE WAS DOING DRUG DEALS FOR THE CITY TO
8 MAKE MONEY HE NEEDED CASH WHEN THIS DRUG DEAL WENT
9 DOWN, HE GOT THE DRUGS FOR FREE WHAT DID HE DO WITH THE
10 \$40 THAT HE WAS SUPPOSED TO USE FOR THAT DRUG DEAL?

11 HE DIDN'T STASH IT IN HIS UNDERWEAR HE DIDN'T
12 SHOVE IT IN HIS SOCK HE GAVE IT BACK TO SERGEANT CRUM
13 HE SAID, HEY, MAN, HE GAVE IT TO ME FOR FREE? IF JAMES
14 WILLIE WALKER WAS A LIAR, HE WOULD HAVE SHOVED THAT 40
15 BUCKS SOMEWHERE WHERE THEY COULD HAVE NEVER FOUND IT
16 BECAUSE HE NEEDED MONEY THAT SPEAKS VOLUMES THAT HE HAS
17 TOLD THE TRUTH THROUGHOUT THIS WHOLE PROCESS

18 MOVING ON TO OFFICER HUNNICUTT'S TESTIMONY. HE
19 TESTIFIED ABOUT THE THOROUGHNESS OF HIS SEARCH, THAT HE
20 EMPTIED HIS POCKETS, HE CHANGED HIS SHIRT, HE PATS PEOPLE
21 DOWN, HE CHECKS, HE CHECKS EVERYWHERE THAT YOU CAN PUT
22 DRUGS AND HE PASSED SO IF THE CRACK ROCK HAD BEEN ON
23 HIM, THE CRACK ROCK WOULD HAVE GOTTEN CRUSHED THE
24 SEARCH WAS THOROUGH AND JAMES WALKER DID NOT HAVE CRACK
25 COCAINE ON HIM BEFORE THIS DEAL STARTED

1 HE ALSO TOLD YOU THAT SOMEWHERE IN THE
2 TEN-DAY-TO-TWO-WEEK PERIOD AFTER THIS DEAL OCCURRED, HE
3 HAD A CONVERSATION WITH TIM BLASSINGAME THEY INDICATED
4 MR BLASSINGAME WANTED OFFICER HUNNICUTT FOR CONTACT
5 INFORMATION HE GAVE HIM THAT CONTACT INFORMATION, AND
6 THEN HE SAID, "I'LL GIVE YOU MY NUMBER "

7 LO AND BEHOLD, IT'S [REDACTED] THE SAME NUMBER THAT
8 JAMES WILLIE WALKER DIALED IN THE PRESENCE OF LAW
9 ENFORCEMENT TO SET UP WHAT HAPPENED ON THAT TAPE, THAT
10 DRUG DEAL

11 THEN ANOTHER CORROBORATING FACTOR WE HAVE IS OFFICER
12 OWENS FROM D N R HE TOLD YOU TWO DAYS, JUST TWO DAYS
13 AFTER THIS OCCURRED HE STOPPED A SILVER-COLORED NISSAN
14 ALTIMA THAT HE IDENTIFIED AS THE SAME OR SUBSTANTIALLY
15 SIMILAR TO THE ONE IN THAT PICTURE BEING DRIVEN BY TIM
16 BLASSINGAME, AND A PASSENGER NAMED CHARLOTTE REED, HIS
17 GIRLFRIEND, WHO THE CAR IS REGISTERED TO

18 TO ME IT'S UNCONTROVERTED THAT THAT'S TIM
19 BLASSINGAME IN THAT CAR, THAT'S CHARLOTTE REED'S CAR, AND
20 THAT'S CHARLOTTE REED'S PHONE NUMBER THAT TIM BLASSINGAME
21 WAS CARRYING

22 THE DRUG ANALYSIS YOU HEARD FROM AGENT LANFORD
23 YESTERDAY SHE'S A FORENSIC CHEMIST SHE HAS A DEGREE
24 IN CHEMISTRY, SHE ANALYZES FIVE OR SIX HUNDRED DRUG CASES
25 A YEAR SHE TOLD YOU ABOUT THE COMPOSITION OF CRACK

1 COCAINE SHE TOLD YOU THAT DURING THE PROCESS OF
2 ANALYZING, I THINK SHE TAKES FOUR TO SIX SAMPLES OFF OF
3 THE DRUGS THAT ARE NOT GONNA BE IN THIS PACKET SHE
4 GIVES THE REMAINDER OF WHAT IS LEFT AFTER ANALYSIS
5 DURING THE PROCESS OF ANALYSIS SHE SAID IT CRUMBLES TO A
6 POWDER-LIKE SUBSTANCE

7 WHICH TELLS YOU A CRACK ROCK, WHEN IT IS CRUSHED,
8 TOUCHED, WHATEVER, IS GOING TO CRUMBLE TO PIECES, WHICH
9 CORROBORATES WHAT MR WALKER WAS TELLING YOU I CARRIED
10 THE CRACK ROCK BACK IN MY HAND AND I DELIVERED ONE PIECE
11 BACK TO SERGEANT CRUM, THE PIECE I GOT FROM TIM
12 BLASSINGAME

13 LASTLY WE HEARD AUDIO -- WELL, ALMOST LASTLY WE
14 HEARD A LOT OF AUDIO EVIDENCE THERE WAS A LOT OF
15 WALKING AND A LOT OF -- BUT THE MEAT OF THE DEAL COMES
16 BETWEEN THE 20-MINUTE AND 23-MINUTE MARK AND I
17 RECOGNIZE THE ACOUSTICS IN THIS COURTROOM ARE NOT REALLY
18 GOOD, SO I WANT YOU TO LISTEN ONE MORE TIME FOR THAT
19 THREE MINUTES WHEN JAMES WILLIE WALKER GETS IN THE CAR
20 WITH TIM BLASSINGAME AND WHAT THEY TALK ABOUT AND THEN
21 AFTER THAT'S FINISHED WE'LL TALK A LITTLE BIT MORE

22 (PLAYS VIDEO FOR JURY FROM APPROXIMATELY 9 34
23 A M UNTIL APPROXIMATELY 9 37 A M)

24 MS SIMMONS LET'S REVIEW WHAT WE JUST HEARD THE
25 DEFENDANT SAYS, I GOT SOME, MAN I AIN'T GONNA GIVE YOU

(, , , , ,)
1 MY 40 -- GIVE YOU A 40 I DON'T HAVE A DUB RIGHT NOW, I
2 HAVE PIECES , WHEN HE TALKS ABOUT TAKING A RIDE, JAMES
3 WILLIE TOLD YOU TAKING A RIDE MEANS GOING TO PENDLETON TO
4 GET MORE, AND HE SAYS WHEN I GET A QUARTER

5 WHILE HE DID NOT SAY, HERE'S YOUR PIECE OF CRACK,
6 JAMES WILLIE WALKER, HE DID SAY EVERYTHING BUT IT'S
7 CLEAR THAT THEY ARE TALKING ABOUT CRACK, 10'S, 40'S,
8 DUBS, QUARTERS, I AIN'T GOT BUT PIECES NOW AND THAT'S
9 WHAT JAMES WILLIE WALKER DELIVERED TO LAW ENFORCEMENT

10 AND WHEN HE GETS OUT OF THE CAR WITH THEM, HE SAID,
11 ALL RIGHT, I LOVE YOU FOR THAT, MAN THANKS, COUSIN

12 I LOVE YOU FOR WHAT? I LOVE YOU FOR GIVING ME ONE
13 OF YOUR LAST PIECES, FOR DISTRIBUTING CRACK COCAINE TO
14 ME

15 THE LAST THING WE HAVE IS A VIDEOTAPE AND THE STILL
16 PHOTOGRAPHS WE OBTAINED FROM THAT VIDEOTAPE YOU HAVE
17 BEEN SITTING HERE FOR THE LAST TWO DAYS WITH THE
18 DEFENDANT THE MAN IN THAT PICTURE IS THE MAN SITTING AT
19 THAT TABLE IT'S HIS GIRLFRIEND'S CAR, THEY'VE GOT PHONE
20 NUMBERS BACKING IT UP, WE'VE GOT OFFICERS SAYING THEY
21 RECOGNIZE THEM WE'VE GOT JAMES WILLIE WALKER GOING,
22 YEAH, I KNOW HIM, HE'S MY COUSIN

23 AND WE GOT A HEAD SHOT OF HIM ON THAT TAPE HE MADE
24 THE EFFORT TO DISGUISE HIS APPEARANCE A LITTLE BIT, BUT
25 IF YOU LOOK AT HIS FACIAL FEATURES, THAT IS THE MAN

1 SITTING RIGHT THERE

2 EVERYTHING YOU HAVE HEARD FROM THE STATE HAS BEEN A
3 PIECE THAT PUTS TOGETHER A PUZZLE WHEN YOU TAKE EVERY
4 SINGLE ONE OF THOSE ITEMS TOGETHER AS A WHOLE, THERE'S
5 ONLY ONE REASONABLE CONCLUSION TIM BLASSINGAME IS
6 GUILTY OF DISTRIBUTION OF CRACK COCAINE

7 WHEN YOU GO INTO THE JURY ROOM, THE MOST IMPORTANT
8 TOOL YOU WILL HAVE IS YOUR COMMON SENSE I PICKED YOU
9 ALL BECAUSE I THINK YOU HAVE GOOD COMMON SENSE YOUR
10 COMMON SENSE, YOU'RE REASONABLE PEOPLE WHEN YOU THINK
11 ABOUT IT AND LOOK AT ALL THE PIECES, LOOK AT THE PUZZLE,
12 AND WHEN ALL THE PIECES COME TOGETHER, THERE'S ONLY ONE
13 REASONABLE CONCLUSION ON FEBRUARY 24TH, 2009, TIM
14 BLASSINGAME DISTRIBUTED CRACK COCAINE TO JAMES WILLIE
15 WALKER, AND I ASK YOU TO FIND HIM GUILTY THANK YOU

16 THE COURT MR SPROUSE?

17 MR SPROUSE MAY IT PLEASE THE COURT, YOUR HONOR

18 THE COURT MR SPROUSE

19 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

20 MR SPROUSE (PLAYS VIDEO FROM APPROXIMATELY 9 42
21 A M UNTIL 9 47 A M)

22 THE COURT MR SPROUSE, IF YOU COULD STAND BACK

23 MR SPROUSE (COMPLIES)

24 (VIDEO CONTINUES PLAYING UNTIL APPROXIMATELY
25 9 47 A M)

1 **MR SPROUSE** IS THAT ENOUGH TO CONVICT AN INNOCENT
2 MAN, LADIES AND GENTLEMEN? IS THAT ENOUGH? I'M BACK
3 BEFORE YOU AGAIN THIS IS MY LAST OPPORTUNITY TO TALK TO
4 YOU, THIS IS MY CLOSING ARGUMENT AND WE'RE AT THE END OF
5 THE TRIAL

6 BEFORE WE TALK ABOUT WHAT THIS CASE IS ABOUT I WANT
7 TO TALK ABOUT SOME THINGS THIS IS NOT ABOUT RIDDING OUR
8 STREETS OF ILLEGAL DRUGS WE ARE ALL IN FAVOR OF THAT
9 THIS CASE IS NOT ABOUT SUPPORTING LAW ENFORCEMENT AND
10 WANTING TO HAVE GOOD LAW ENFORCEMENT THIS IS NOT ABOUT
11 THAT THIS CASE IS NOT A REFERENDUM ON OUR LAWS

12 WHAT THIS CASE IS ABOUT IS AN INDIVIDUAL THIS CASE
13 IS ABOUT TIM BLASSINGAME, THIS YOUNG MAN SEATED AT THE
14 TABLE HE HAS BEEN ACCUSED OF A VERY SERIOUS CRIME THAT
15 THE STATE HAS THE BURDEN OF PROVING BEYOND A REASONABLE
16 DOUBT REASONABLE DOUBT IS A DOUBT THAT WOULD CAUSE YOU
17 TO HESITATE TO ACT HESITATE TO ACT THAT'S A POWERFUL
18 THING

19 YOU HESITATE TO ACT A LOT IN YOUR DAILY LIVES YOU
20 HESITATE WHEN YOU THINK ABOUT WHAT YOU ARE DOING BEFORE
21 YOU DO IT YOU HESITATE WHEN YOU CONSIDER ALTERNATIVES
22 BEFORE YOU CHOOSE A PARTICULAR COURSE OF ACTION YOU
23 HESITATE TO ACT BEFORE YOU TAKE ACTIONS THAT WOULD AFFECT
24 OTHER PEOPLE

25 LADIES AND GENTLEMEN, WE HAVE A SYSTEM WHERE A

1 DEFENDANT COMES TO COURT AND IS INNOCENT UNTIL PROVEN
2 BEYOND A REASONABLE DOUBT THAT HE'S GUILTY

3 NOW, WHAT HAS THE STATE PROVEN HERE TODAY? THE
4 STATE -- WE SPENT A DAY IN TRIAL YESTERDAY, AND THERE ARE
5 THINGS THAT THE STATE HAS PROVED, NO QUESTION ABOUT IT
6 THEY PROVED THAT TIM BLASSINGAME HAS A GIRLFRIEND NAMED
7 CHARLOTTE THEY PROVED THAT CHARLOTTE HAS A CELL PHONE
8 AND THAT SHE DRIVES AN ALTIMA

9 AND WE SPENT A LARGE AMOUNT OF TIME WITH WITNESSES ,
10 PROVING THAT JAMES WILLIE "J DUB" WALKER HANDED A VERY
11 SMALL QUANTITY OF CRACK COCAINE TO SERGEANT HUNNICUTT IN
12 THE POLICE VAN AND LADIES AND GENTLEMEN, THAT'S WHERE
13 IT STOPS THE STATE HASN'T PROVEN ANYTHING ELSE

14 NOW I WANT TO ASK YOU, DO YOU HESITATE WHEN YOU LOOK
15 AT THE VIDEO AND WHEN YOU LOOK AT THE AUDIO OR WHEN YOU
16 HEAR THE AUDIO? THE VIDEO SHOWED NO TRANSACTION, IT
17 SHOWS NO LOCATION THEY CAN'T EVEN TELL US IF IT WAS IN
18 THE CITY OF SENECA OR NOT WITH CERTAINTY THEY THINK IT
19 WAS BUT AS YOU JUST WATCHED IT, ALL THE VIDEO SHOWS ARE
20 TREETOPS AND POWER LINES

21 THE TESTIMONY WAS THAT THEY DROVE AROUND THE BLOCK
22 WE DON'T KNOW WE DON'T KNOW WHERE THIS ALLEGED
23 TRANSACTION TOOK PLACE

24 WE HEARD TESTIMONY YESTERDAY THAT OFFICER CRUM WAS
25 UNABLE TO LISTEN TO THE AUDIO AND DETERMINE THE EXACT

1 TIME THAT THE ALLEGED TRANSACTION TOOK PLACE AND THEN
2 HE -- HE SAID BECAUSE HE PUT THAT ON HIS FIELD REPORT
3 BUT THEN HE SAID, WELL, AFTER LISTENING TO IT LATER,
4 THERE WAS THE STATEMENT, THANK YOU VERY MUCH, I
5 APPRECIATE IT

6 YOU JUST LISTEN TO IT THAT'S NOWHERE ON THE AUDIO
7 THERE IS NOTHING ON THAT AUDIO OTHER THAN HIM TELLING
8 HIM, I LOVE YOU, MAN

9 NOW, THERE'S A REASON THAT HE SAID THAT, LADIES AND
10 GENTLEMEN, AND WE'RE GONNA TALK ABOUT THAT IN A MINUTE
11 BUT THERE'S NOTHING IN THAT AUDIO THAT INDICATES THAT A
12 TRANSACTION HAS BEEN MADE THERE'S NOTHING ON THE VIDEO
13 THAT SHOWS THAT THIS POINT 04 GRAMS AMOUNT OF COCAINE,
14 CRACK COCAINE, WHICH, EVEN IF IT CRUMBLED DURING THE
15 ANALYSIS, IF YOU PUT ALL THIS TOGETHER, THIS IS JUST A
16 LITTLE TINY PIECE OF CRACK COCAINE THAT MR WALKER HAD IN
17 HIS HAND WE KNOW WHEN HE WAS IN THE POLICE VAN AND
18 LADIES AND GENTLEMEN, THERE'S NO EVIDENCE THAT THIS WAS
19 EVER IN THE CAR WE HAVE TO RELY ON MR WALKER TO
20 BELIEVE THAT IT WAS IN THE CAR

21 SO WE HAVE GROUNDS TO HESITATE ON WHAT'S ON FILM, WE
22 HAVE GROUNDS TO HESITATE ON WHAT'S ON THE AUDIO, WE HAVE
23 GROUNDS TO HESITATE ON WHERE THE TRANSACTION WAS THAT
24 CAN'T BE PROVEN WE HAVE GROUNDS TO HESITATE ON THE SIZE
25 OF THE AMOUNT LADIES AND GENTLEMEN, CAN A 30-SECOND

1 SEARCH, WITH PANTS ARE NOT REMOVED, DEFINITELY TELL YOU
2 THAT THIS WASN'T ON MR WALKER, AN ADMITTED CRACK COCAINE
3 USER, BEFORE HE STARTED?

4 AND SOMETHING THAT STRUCK ME, AND I WENT INTO A LOT
5 OF QUESTIONING WITH OFFICER CRUM, IS ABOUT THE CONTROLLED
6 BUY ITSELF WHAT IS THE MOST IMPORTANT THING ABOUT A
7 CONTROLLED BUY? CONIROL MEANS JUST THAT THAT LAW
8 ENFORCEMENT SETS IT IN MOTION TO WHERE THE CIRCUMSTANCES
9 ARE NOT GOING TO BE TAINTED, THAT IF THEY OBTAIN AN
10 ARREST AND THEY OBTAIN CONTRABAND, THERE IS NO
11 POSSIBILITY FOR OTHER PEOPLE TO HAVE COMMITTED IT OTHER
12 THAN THE TARGET OF THE INVESTIGATION

13 LADIES AND GENTLEMEN, YOU JUST WATCHED A VIDEO
14 THIS CONTROLLED BUY WAS TAINTED SERIOUSLY AND FATALLY BY
15 MR WALKER'S ACTIONS AFTER HE GOT OUT OF THE CAR

16 REMEMBER WHAT OFFICER CRUM SAYS THIS WAS IN [REDACTED]
17 [REDACTED] APARTMENTS ON [REDACTED] STREET AND THIS OTHER
18 APARTMENT THIS IS A DRUG-INFESTED AREA OF SENECA, AN
19 AREA THE SENECA POLICE DEPARTMENT HAS MADE A NUMBER OF
20 DRUG ARRESTS ON THERE WAS A REASON THIS AREA WAS
21 TARGETED AND YET IN THIS CONTROLLED BUY, THAT CAN'T BE
22 TAINTED, YOU HAD THE CONFIDENTIAL INFORMANT WALK UP, AS
23 CLOSE AS I AM TO YOU IN THIS JURY-BOX AND IF YOU
24 REMEMBER THE VIDEO, THE PEOPLE ARE SITTING ON THE FRONT
25 STEP HE'S STANDING ABOVE THEM THERE IS NOTHING TO

1 PREVENT HIM FROM SHAKING HANDS WITH THE PERSON IN FRONT
2 OF HIM

3 YOU ALSO SAW ON THE VIDEO MR WALKER WALKING UP TO A
4 RESIDENCE WHERE HE LIVES, HIS SISTER'S RESIDENCE,
5 APARTMENT [REDACTED] ON THE VIDEO WHAT DOES HE DO WITH HIS
6 HANDS? THEY'RE UP ON THE WINDOWSILL YOU SAW IT ON THE
7 VIDEO THE STATE'S EXPLANATION IS, WELL, MR WALKER IS
8 JUST LOOKING IN THE WINDOW WHERE WAS THE CRACK COCAINE
9 WHEN HE GOT INTO THE POLICE VEHICLE? WHERE WAS IT? IT
10 WAS IN HIS HAND IT WAS IN HIS HAND

11 HE TESTIFIED TO THAT, AND THE REASON I BELIEVE THAT
12 PART OF HIS TESTIMONY IS BECAUSE WE SAW IT ON THE VIDEO
13 AND I SUBMIT TO YOU THAT'S THE ONLY THING YOU CAN BELIEVE
14 ABOUT WHAT MR WALKER SAYS IS WHAT YOU SEE ON THE VIDEO
15 BUT THE SAME HAND THAT HE HAD THIS PIECE OF CRACK COCAINE
16 WAS THE SAME HAND THAT WAS UP ON THAT WINDOWSILL IN THE
17 VIDEO THAT YOU JUST SAW

18 NOW, MR WALKER IS THE BASIS OF THE STATE'S CASE
19 OFFICER CRUM WAS VERY FORTHRIGHT TO ME WHEN I QUESTIONED
20 HIM IT'S THE BASIS OF OUR CASE WITHOUT MR WALKER
21 THEY HAVE NO CASE HE'S THE LINK, HE'S THE BRIDGE
22 BETWEEN THE ACCUSATION, THE CRACK COCAINE AND PROVING
23 BEYOND A REASONABLE DOUBT THAT TIM BLASSINGAME DID THIS,
24 THIS VERY SERIOUS AND GRAVE OFFENSE

25 IF YOU CONVICT TIM BLASSINGAME, YOU HAVE TO BELIEVE

1 EVERYTHING THAT JAMES "J DUB" WALKER TELLS YOU IF YOU
2 THINK HE'S LYING, THEN THE STATE HAS NOT PROVED ITS CASE

3 NOW, WAS MR WALKER HONEST WITH YOU WHEN HE
4 TESTIFIED? YOU HAVE TO ASK YOURSELVES THAT QUESTION
5 WHAT DID HE SAY WHEN I ASKED HIM HAD HE EVER BEEN
6 CONVICTED OF CRIMES OF DISHONESTY? HE FIRST SAID NO
7 AND THEN I ASKED HIM, WELL, MR WALKER, WERE YOU
8 DISHONEST WHEN YOU HAD MULTIPLE SHOPLIFTING CONVICTIONS?

9 AND THEN, OH, YEAH, WELL, I GUESS I WAS DISHONEST
10 WITH THAT

11 AND THEN, MR WALKER, WERE YOU DISHONEST WHEN YOU
12 HAD MULTIPLE FORGERIES?

13 YEAH, I GUESS SO

14 WERE YOU DISHONEST WHEN YOU HAD FINANCIAL
15 TRANSACTION FRAUD AND YOU HAD FRAUDULENT CHECKS AND
16 LARCENY? AND THE BEST ONE WAS FALSE INFORMATION HE WAS
17 ACTUALLY CONVICTED OF GIVING FALSE INFORMATION

18 AND THE TIME FRAME IS IMPORANT, TOO, LADIES AND
19 GENTLEMEN BECAUSE IF YOU NOTICE THE QUESTIONS THAT I
20 ASKED HIM, THEY WERE FROM THE LAST FIVE YEARS, THE SAME
21 AMOUNT OF TIME THAT OFFICER CRUM HAS BEEN WORKING AT THE
22 SENECA POLICE DEPARTMENT WE DIDN'T GO INTO ANYTHING
23 BEYOND JUST THE LAST FIVE YEARS

24 NOW, DOES THAT CAUSE YOU TO HESITATE WITH SOMEBODY
25 WITH THAT KIND OF TERRIBLE PUBLIC RECORD OF DISHONESTY,

1 GOING UNDER OATH AND TRYING TO CONVICT SOMEONE? DOES IT
2 CAUSE YOU TO HESITATE WHEN JAMES "J DUB" WILLIE WALKER,
3 AN ADMITTED CRACK USER HIMSELF, LIVES IN A DRUG-INFESTED
4 NEIGHBORHOOD, HAS ACCESS TO THE DRUG AND HE PAYS FOR
5 THESE TRANSACTIONS? WHAT DO YOU THINK HE'S DOING WITH
6 THE \$20 THAT HE'S GETTING PER POP WHEN HE CALLS AND TURNS
7 SOMEONE IN? WHERE DO YOU THINK THAT MONEY'S GOING?

8 HE SAID, OH, I GOT TO PAY CHILD SUPPORT

9 IS HE PAYING CHILD SUPPORT WITH MONEY THAT HE'S
10 USING TO BUY CRACK COCAINE? LADIES AND GENTLEMEN, THAT
11 DOESN'T MAKE SENSE ' JAMES WILLIE WALKER HAS FOUND AN
12 INCOME SOURCE TO SUPPORT HIS HABIT HE'S A CRACK USER
13 HE'S A CRACK USER DOES THAT CAUSE YOU TO HESITATE?

14 DOES IT CAUSE YOU TO HESITATE, LADIES AND GENTLEMEN,
15 WHEN YOU HAVE TO RELY ON A WITNESS TO CONVICT THIS MAN,
16 WHO HAS PENDING CHARGES IN THIS COURT, AND TESTIFIED THAT
17 HE'S ASKED FOR HELP ON THOSE CHARGES? THE STATE HASN'T
18 AGREED BUT HE'S ASKED FOR IT HE THINKS HE'S GONNA GAIN
19 FAVOR WITH THE PROSECUTION SURE, THERE'S A MOTIVE FOR
20 HIM TO LIE SURE, THERE'S A MOTIVE FOR HIM TO COME AND
21 TRY TO HELP GET A CONVICTION

22 BUT THE MOST TELLING THING, LADIES AND GENTLEMEN, IS
23 IT'S FAMILY AND THIS IS WHAT STRUCK ME THE MOST OF ALL
24 OF JAMES WILLIE WALKER'S ACTIONS HOW DID HE ACT? HOW
25 DID HE ACT ON THE VIDEO? WAS THERE ANY SENSE OF REMORSE

1 OR REGRET OR SADNESS? THIS WAS HIS COUSIN, HIS FAMILY
2 MEMBER THAT HE OBVIOUSLY -- THIS IS NOT LIKE A DISTANT
3 COUSIN THAT HE DOESN'T KNOW THIS IS SOMEONE THAT HE
4 KNOWS, SOMEONE HE SPENT OBVIOUSLY A GREATER PART OF HIS
5 LIFE KNOWING THEY WERE ON A FIRST-NAME BASIS BUT
6 THERE WAS NO REGRET AT ALL THAT HE WAS ACCUSING HIS OWN
7 BLOOD, HIS OWN FAMILY, OF SOMETHING THIS AWFUL, THIS
8 SERIOUS

9 AND HOW DID HE ACT ON THE VIDEO? HE WALKED UP THE
10 STREET AND IT WAS A JOKE HE WAS ON THE PHONE IT WAS A
11 JOKE HE WAS LAUGHING ABOUT IT HE CALLED HIS
12 GIRLFRIEND WHAT KIND OF PERSON WOULD DO SOMETHING LIKE
13 THIS? HOW DEBASED CAN A PERSON BE TO DO SOMETHING LIKE
14 THIS TO THEIR OWN FAMILY?

15 NOW, LADIES AND GENTLEMEN, ANYONE, I WOULD SUBMIT TO
16 YOU, WOULD HESITATE TO ACT BEFORE YOU RELY ON A PERSON
17 LIKE THIS TO CONVICT THIS MAN PLEASE DON'T
18 MISUNDERSTAND WHAT I'M SAYING I'M NOT SAYING OFFICER
19 CRUM OR OFFICER HUNNICUTT ARE BAD PEOPLE, BAD OFFICERS
20 NOTHING COULD BE FURTHER FROM THE TRUTH I THINK THEY
21 ARE GOOD PEOPLE, I THINK THEY ARE GOOD YOUNG OFFICERS
22 BUT THEY MADE A MISTAKE IN THIS CASE THEY RELIED ON AN
23 UNTRUSTWORTHY INDIVIDUAL THEY TRUSTED THE
24 UNTRUSTWORTHY

25 AND THAT'S THE BASIS OF THE STATE'S CASE, LADIES AND

1 GENTLEMEN, TO CONVICT AND MS SIMMONS PUT IT UP ON THE
2 BOARD -- AND MS SIMMONS IS A VERY, VERY GOOD SOLICITOR,
3 VERY GOOD PROSECUTOR, SHE ORGANIZES HER CASES WELL -- AND
4 YOU CAN SEE IN BLACK AND WHITE WHAT YOU HAVE TO DO IT
5 IS A PUZZLE FOR YOU TO BE ABLE TO FIND ANYTHING TO
6 CONVICT THIS MAN

7 BUT YOU HAVE TO USE INNUENDO YOU HAVE TO BASE IT
8 ON, WELL, THE EVIDENCE REALLY ISN'T THERE, BUT WALKER
9 SAYS IT HAPPENED, AND IF WE SORT OF ASSUME AND SORT OF
10 ASSUME THAT, WE THINK IT COULD HAVE HAPPENED THAT'S NOT
11 YOUR JOB AS JURORS IT HAS TO BE BEYOND A REASONABLE
12 DOUBT

13 NOW, I WILL SUBMIT TO YOU THAT THIS CASE IS FULL OF
14 REASONABLE DOUBT AND THE STATE HAS FAILED TO MEET ITS
15 BURDEN PLEASE DO NOT CONVICT AN INNOCENT MAN IN THIS
16 CASE

17 NOW MY TIME IS RUNNING SHORT I'M JUST ABOUT
18 THROUGH LADIES AND GENTLEMEN, WHEN I BECAME TIM
19 BLASSINGAME'S LAWYER, I BECAME HIS DEFENDER, I BECAME THE
20 PERSON STANDING IN THE WAY OF THE FULL POWER OF THE STATE
21 OF SOUTH CAROLINA ON THIS INDIVIDUAL IT'S A HEAVY
22 BURDEN, LADIES AND GENTLEMEN WHEN SOMEONE IS CHARGED
23 WITH SOMETHING THIS SERIOUS, IT'S A HEAVY BURDEN

24 BUT I'VE DONE ALL I CAN DO I'VE BROUGHT IT TO THIS
25 COURT BECAUSE THE LAW REQUIRES ME TO GIVE IT TO YOU I'M

1 PUTTING TIM BLASSINGAME IN YOUR HANDS BECAUSE YOU AND
2 YOU ALONE ARE THE ONLY PEOPLE WHO CAN STRIP THE CLOAK OF
3 INNOCENCE THAT SURROUNDS HIM UNDER OUR LAW IT'S UP TO
4 YOU

5 WHEN YOU STAND UP AND YOU WALK THROUGH THAT DOOR,
6 WHEN YOU GO IN THE JURY ROOM, IT'S YOUR DECISION I
7 CAN'T DECIDE IT FOR YOU, MS SIMMONS CAN'T DECIDE IT FOR
8 YOU, JUDGE MACAULAY CAN'T YOU DECIDE IT THIS MAN'S
9 FATE IS IN YOUR HANDS

10 I'M GONNA LEAVE YOU WITH A THOUGHT THAT WHAT YOU
11 HAVE TO CONSIDER IS THE COLD, UTTER FINALITY OF WHAT YOU
12 ARE DOING HERE TODAY THERE IS NO TOMORROW THERE IS NO
13 TOMORROW IF YOU SEE ME ON A STREET CORNER A YEAR FROM
14 NOW, 10 YEARS FROM NOW OR 30 YEARS FROM NOW AND YOU SAY,
15 SCOTT, I THOUGHT ABOUT WHAT WE DID IN THERE AND I'M
16 UNCOMFORTABLE WITH IT I REMEMBER THAT POOR GUY, AND I
17 DON'T LIKE WHAT WE DECIDED I DON'T THINK WE MADE THE
18 RIGHT DECISION I WANT TO CHANGE WHAT WE DID

19 YOU CAN'T YOU CAN'T THE DECISION YOU MAKE TODAY
20 IS THE DECISION THAT TIM BLASSINGAME IS GOING TO HAVE TO
21 LIVE WITH FOR THE REST OF HIS LIFE

22 AND LADIES AND GENTLEMEN, THE DECISION THAT YOU MAKE
23 TODAY IS A DECISION THAT ALL OF YOU ARE GONNA HAVE TO
24 LIVE WITH FOR THE REST OF YOUR LIFE DO THE RIGHT THING
25 DO THE RIGHT THING DON'T CONVICT AN INNOCENT MAN

1 **THE COURT** WOULD COUNSEL APPROACH PLEASE?

2 (DISCUSSION AT SIDEBAR)

3 **THE COURT** MADAM FORELADY, LADIES AND GENTLEMEN OF
4 THE JURY, THE FINAL PART OF THIS TRIAL WILL BE MY CHARGE
5 ON THE LAW THAT WILL TAKE SOME TIME YOU HAVE BEEN IN
6 THE JURY-BOX FOR ABOUT AN HOUR SO I'M GONNA ASK YOU TO
7 TAKE A VERY SHORT BREAK, AND WHEN WE COME BACK, WE'LL
8 CONCLUDE AT THAT TIME AGAIN, DO NOT UNDERTAKE
9 DISCUSSION OF THIS CASE IN ANY WAY AMONG YOURSELVES BUT
10 IF YOU WOULD RETIRE TO THE JURY ROOM, PLEASE

11 (THE JURY LEFT THE COURTROOM AT
12 APPROXIMATELY 10 05 A M)

13 **THE COURT** ALL RIGHT PRIOR TO THE BREAK THE COURT
14 HAD BEEN GIVEN A MESSAGE FROM ONE OF THE JURORS
15 (READING) AT THIS TIME CAN WE ASK THE DEFENDANT TO
16 SHAVE AND PUT ON SUNGLASSES AS IN THE STILL PHOTO?

17 LET ME JUST ASK, IS THERE ANYTHING FROM THE STATE ON
18 THIS QUESTION?

19 **MS SIMMONS** JUDGE, I WOULD JUST ASK THAT IN
20 RESPONSE TO THAT, I CERTAINLY KNOW YOU WON'T REQUIRE HIM
21 TO DO THAT IF YOU JUST GIVE THEM THE -- I THINK YOU
22 READ A LITTLE DIALOGUE THAT HE HAS THE RIGHT NOT TO
23 TESTIFY AND I'M FINE WITH THAT

24 **THE COURT** AND I APPROACH SUCH A QUESTION AS THAT
25 THE CASE IS CLOSED AS FAR AS TESTIMONY AND EVIDENCE

1 MR SPROUSE, ANYTHING FROM YOU?

2 MR SPROUSE NOTHING, YOUR HONOR

3 THE COURT I'LL EXPLAIN IT TO THE LADY AND BRING
4 THEM BACK WITH THAT INSTRUCTION AND GO INTO THE CHARGE
5 BY THE WAY, I ALSO HAVE VERDICT FORMS TELL ME IF
6 YOU HAVE ANY PROBLEM WITH THEM

7 ALL RIGHT WE'RE OFF THE RECORD

8 (MARKED FOR IDENTIFICATION AND RECEIVED IN
9 COURT'S EVIDENCE WAS COURT'S EXHIBIT 3, A
10 NOTE FROM A JUROR REQUESTING IF THE DEFENDANT
11 CAN SHAVE OFF HIS BEARD AND COMPARE IT TO THE
12 PHOTOGRAPH IN EVIDENCE)

13 (A BRIEF RECESS WAS TAKEN)

14 THE COURT LADIES AND GENTLEMEN, WE ARE ABOUT TO
15 CONCLUDE THE TRIAL OF THIS CASE ANYBODY THAT NEEDS TO
16 LEAVE THE COURTROOM, DO SO NOW BECAUSE NO ONE WILL BE
17 ABLE TO LEAVE UNTIL THE CASE HAS BEEN COMPLETED AND IT
18 HAS BEEN GIVEN TO THE JURY

19 ALSO, NO ONE IS TO ENTER THE COURTROOM DURING THE
20 CHARGE ANY QUESTIONS? (NO RESPONSE) IF YOU HAVE TO
21 HAVE CONVERSATION OR IF YOU HAVE TO LEAVE, DO SO NOW
22 BECAUSE YOU WILL NOT BE ABLE TO DO IT WHILE THE COURT IS
23 CHARGING THE JURY VERY GOOD THANK YOU

24 ANYTHING FURTHER FROM THE STATE?

25 MS SIMMONS NO, YOUR HONOR

1 **THE COURT** FROM THE DEFENSE?

2 **MR SPROUSE** YOUR HONOR, JUST FOR PURPOSES OF THE
3 RECORD, I WOULD JUST RENEW MY DIRECTED VERDICT MOTION

4 **THE COURT** ALL RIGHT VERY GOOD MOTIONS WERE
5 NOTED OR ARE NOTED NOW AND THE RULING IS GOING TO BE THE
6 SAME I MIGHT, FOR YOUR BENEFIT ON THE QUESTION OF
7 JURISDICTION, WELL, I CAN GIVE YOU THE CASE IT'S STATE
8 VERSUS HARRIS, I MADE A COPY OF IT YOU MIGHT WANT TO
9 LOOK AT IT SINCE YOU DON'T HAVE YOUR LAPTOP WITH YOU DO
10 IT THE OLD FASHIONED WAY (HANDING)

11 ALL RIGHT ANYTHING ELSE?

12 **MS SIMMONS** NO, YOUR HONOR

13 **THE COURT** ASK THE JURY TO JOIN US, PLEASE

14 (THE JURY ENTERED THE COURTROOM AT
15 APPROXIMATELY 10 20 A M)

16 **THE COURT** LET THE RECORD REFLECT THE JURY AND
17 ALTERNATES ARE IN THE JURY-BOX

18 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
19 PRIOR TO THE BREAK THE COURT WAS PROVIDED WITH A QUESTION
20 FROM ONE OF THE JURORS (READING) AT THIS TIME CAN WE
21 ASK THE DEFENDANT TO SHAVE AND PUT ON SUNGLASSES AS IN
22 THE STILL PHOTO?

23 ALL OF THE EVIDENCE IS IN AT THIS TIME THERE WOULD
24 BE NO ADDITIONAL EVIDENCE THAN WHAT HAS BEEN PRESENTED
25 DURING THE TRIAL OF THIS CASE

1 COURT'S CHARGE TO JURY

2 **THE COURT** MADAM FORELADY AND LADIES AND GENTLEMEN
3 OF THE JURY, AS JURORS IN THIS CASE YOU HAVE CERTAIN
4 FUNCTIONS AND RESPONSIBILITIES TO PERFORM WHICH ARE
5 ENTIRELY SEPARATE AND DISTINCT FROM THOSE OF MINE AS A
6 TRIAL JUDGE I AM PROHIBITED BY THE CONSTITUTION OF OUR
7 STATE FROM CHARGING YOU ON THE FACTS OF THIS CASE I AM
8 ALSO PROHIBITED FROM DISCUSSING THE FACTS OF THE CASE
9 WITH YOU OR IN ANY WAY INTIMATING WHAT MY FEELING IS, IF
10 ANY, ABOUT THE FACTS OF THE CASE IT IS ALSO YOUR
11 RESPONSIBILITY AND YOURS ALONE TO PASS UPON ALL ISSUES OF
12 FACT PRESENTED IN THE CASE

13 I WOULD, THEREFORE, CHARGE YOU THAT IF DURING THE
14 COURSE OF MY TRIAL OR DURING MY CHARGE, YOU HAVE BEEN
15 GIVEN OR ARE LEFT WITH THE IMPRESSION OR FEELING THAT I
16 DO HAVE A PERSONAL FEELING ABOUT THE FACTS OF THE CASE, I
17 WOULD SPECIFICALLY INSTRUCT YOU TO DISREGARD THAT FEELING
18 OR IMPRESSION

19 MOREOVER, YOU ARE THE SOLE JUDGES OF WHAT THE
20 TESTIMONY WAS AND NOT THE ARGUMENT OF COUNSEL IT IS
21 ALSO YOUR DUTY AND YOURS ALONE TO WEIGH THE TESTIMONY AND
22 EVIDENCE IN THE CASE AND TO PASS UPON THE CREDIBILITY OR
23 THE BELIEVABILITY OF THE WITNESSES IN THIS CONNECTION
24 YOU A RIGHT TO BELIEVE ALL THAT A WITNESS TELLS YOU OR TO
25 DISBELIEVE ALL THAT A WITNESS TELLS YOU YOU HAVE A

1 RIGHT TO BELIEVE A PART OF WHAT A WITNESS TELLS YOU AND
2 TO DISBELIEVE A PART OF WHAT A WITNESS TELLS YOU IN THE
3 CASE

4 I SAY THIS MERELY TO EMPHASIZE THE WEIGHT YOU SEE
5 FIT TO GIVE TO THE TESTIMONY THROUGH THE CREDIBILITY OF
6 THE WITNESSES AS WELL AS ALL ISSUES OF FACT IS FOR YOUR
7 SOLE DETERMINATION AS JUDGES OF THE FACTS, YOU ARE ALSO
8 THE JUDGES OF THE CREDIBILITY, THAT IS THE BELIEVABILITY
9 OF THE WITNESSES WHO HAVE TESTIFIED IN THIS CASE IN
10 PASSING UPON THEIR CREDIBILITY YOU MAY TAKE INTO
11 CONSIDERATION MANY THINGS, SUCH AS THE APPEARANCE AND
12 MANNER OF THE WITNESS ON THE STAND, SOMETIMES REFERRED TO
13 AS THE Demeanor OF THE WITNESS

14 WAS THE WITNESS FORTHRIGHT OR HESITANT? WAS THE
15 WITNESS'S TESTIMONY CONSISTENT OR DID IT CONTAIN
16 DISCREPANCIES? WHAT WAS THE ABILITY OF THE WITNESS TO
17 KNOW THE FACTS ABOUT WHICH HE OR SHE TESTIFIED? DID THE
18 WITNESS HAVE A CAUSE OR A REASON TO BE BIASED AND
19 PREJUDICED IN FAVOR OF THE TESTIMONY HE OR SHE GAVE? WAS
20 THE TESTIMONY OF THE WITNESS CORROBORATED OR MADE
21 STRONGER BY OTHER TESTIMONY AND EVIDENCE, OR WAS IT MADE
22 WEAKER OR IMPEACHED BY SUCH OTHER TESTIMONY AND EVIDENCE?

23 AS JURORS YOU HAVE THE RIGHT TO BELIEVE A SMALL PART
24 OF THE WITNESS'S TESTIMONY AND DISCARD THE LARGER OR VICE
25 VERSA YOU MAY BELIEVE ALL OF A WITNESS'S TESTIMONY OR

1 NONE

2 NOW, THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
3 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS AN
4 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WHO WE CALL
5 EXPERT WITNESSES A WITNESS WHO BY EDUCATION AND
6 EXPERIENCE HAS BECOME EXPERT IN SOME ART, SCIENCE,
7 PROFESSION OR CALLING MAY STATE AN OPINION AS TO THE
8 RELEVANT AND MATERIAL MATTER IN WHICH THE WITNESS CLAIMS
9 TO BE AN EXPERT AND MAY ALSO STATE THE REASONS FOR THOSE
10 OPINIONS YOU SHOULD CONSIDER ANY OPINION RECEIVED IN
11 EVIDENCE IN THIS CASE, AND LIKE ANY OTHER EVIDENCE, GIVE
12 IT THE WEIGHT YOU THINK IT DESERVES IF YOU DECIDE THAT
13 THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON
14 SUFFICIENT EDUCATION EXPERIENCE, OR IF YOU CONCLUDE THAT
15 THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND
16 OR THIS OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY
17 DISREGARD THEIR OPINION ENTIRELY AN EXPERT WITNESS'S
18 TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN ANY OTHER
19 WITNESS SIMPLY BECAUSE THE WITNESS IS AN EXPERT

20 FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S
21 OPINION EVEN THOUGH IT IS NOT CONTRADICTED THROUGHOUT
22 THIS ENTIRE PROCESS YOU HAVE BUT ONE SINGLE OBJECTIVE,
23 AND THAT IS TO SEEK THE TRUTH, REGARDLESS OF WHAT WITNESS
24 THE TESTIMONY MAY HAVE COME

25 NOW, BY THE SAME CONSTITUTION AND LAW WHICH MAKES

1 YOU THE FINDERS OF THE FACT AND EVIDENCE AS I DISCUSSED
2 WITH YOU, I AM AS THE JUDGE MADE THE SOLE AND ONLY
3 INSTRUCTOR ON THE LAW YOU MUST ACCEPT AS CORRECT THE
4 LAW WHICH I CHARGE AND APPLY IT TO THE EVIDENCE AS YOU
5 FIND IT AND REACH A VERDICT

6 IF I SHOULD MAKE AN ERROR IN THE LAW AS I INSTRUCT
7 IT TO YOU, THERE IS ANOTHER TIME AND PLACE THAT ERROR CAN
8 BE CONSIDERED AND, IF NECESSARY, CORRECTED BUT FOR THE
9 PURPOSE OF THIS CASE TODAY, YOU MUST ACCEPT THE LAW AS I
10 CHARGE IT TO BE THE CORRECT LAW

11 THE DEFENDANT HAS PLED NOT GUILTY TO THE INDICTMENT
12 AND THAT PLEA PUTS THE BURDEN ON THE STATE TO PROVE THE
13 DEFENDANT GUILTY A PERSON CHARGED WITH COMMITTING A
14 CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO
15 PROVE HIMSELF INNOCENT I CHARGE YOU THAT IT IS AN
16 IMPORTANT RULE OF THE LAW THAT A DEFENDANT IN A CRIMINAL
17 TRIAL, NO MATTER HOW SERIOUS THE CHARGE MAY BE, WILL
18 ALWAYS BE PRESUMED INNOCENT OF THE CRIME FROM WHICH THE
19 INDICTMENT WAS ISSUED UNLESS GUILT HAS BEEN PROVEN BY
20 EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A REASONABLE
21 DOUBT

22 THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU
23 BEGIN YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE
24 DEFENDANT THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT
25 OF GUILT BEYOND A REASONABLE DOUBT THE PRESUMPTION OF

1 INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED UPON THE
2 SHOULDERS OF THE DEFENDANT WHICH REMAINS WITH THE
3 DEFENDANT UNTIL HE HAS BEEN STRIPPED -- UNTIL IT HAS BEEN
4 STRIPPED FROM THE DEFENDANT BY EVIDENCE SATISFYING YOU OF
5 THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT

6 PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY,
7 IT'S NOT A LEGAL PHRASE IT IS A SUBSTANTIAL RIGHT TO
8 WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY,
9 ARE SATISFIED OF THE EVIDENCE OF THE DEFENDANT'S GUILT
10 BEYOND A REASONABLE DOUBT

11 NOW, I INSTRUCT YOU AND EMPHASIZE THAT THE FACT THE
12 DEFENDANT DID NOT TESTIFY OR PUT UP EVIDENCE IN THIS CASE
13 IS NOT A FACTOR TO BE CONSIDERED BY YOU IN ANY WAY IN --
14 YOUR DELIBERATIONS AND IN YOUR CONSIDERATION ON THE
15 QUESTION OF WHETHER OR NOT THE STATE HAS PROVEN THE
16 DEFENDANT IS GUILTY OR NOT GUILTY ON THE CHARGES IN THE
17 INDICTMENT

18 IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER
19 WHATSOEVER THE DEFENDANT HAS A CONSTITUTIONAL RIGHT TO
20 REMAIN SILENT, AND THE ASSERTION OF THIS RIGHT MUST NOT
21 BE CONSIDERED BY YOU IN YOUR DELIBERATIONS I REPEAT
22 UNDER THE OATH YOU HAVE TAKEN, YOU ARE TO DRAW NO
23 CONCLUSION WHATSOEVER FROM THE FACT THAT THE DEFENDANT IN
24 THIS CASE DID NOT TESTIFY OR PRESENT EVIDENCE THE FACT
25 THAT THIS DEFENDANT DID NOT TESTIFY SHOULD NOT EVEN BE

1 DISCUSSED IN THE JURY ROOM THE BURDEN OF PROOF, AS I
2 STATED TO YOU, IS ON THE STATE THE DEFENDANT IS NOT
3 REQUIRED TO PROVE HIS INNOCENCE THE BURDEN OF PROOF
4 REMAINS ON THE STATE TO PROVE GUILT BEYOND A REASONABLE
5 DOUBT WHAT IS A REASONABLE DOUBT? A REASONABLE DOUBT
6 IS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON
7 TO HESITATE TO ACT

8 NOW, THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
9 GENERALLY PRESENTED DURING A TRIAL DIRECT EVIDENCE AND
10 CIRCUMSTANTIAL EVIDENCE DIRECT EVIDENCE IS THE
11 TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE
12 OF A FACT, SUCH AS AN EYEWITNESS IT IS EVIDENCE WHICH
13 IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED

14 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS
15 AND CIRCUMSTANCES INDICATING THE EXISTENCE OF THE FACT
16 IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL
17 FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED
18 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE, NOT ON
19 PERSONAL KNOWLEDGE OR OBSERVATION IT IS PROOF THAT DOES
20 NOT ACTUALLY ESTABLISH THE FACT IN QUESTION, BUT THAT
21 ASSERTS OR DESCRIBES SOMETHING ELSE FROM WHICH YOU MAY
22 EITHER REASONABLY INFER THE TRUTH OF A FACT, OR AT LEAST
23 REASONABLY INFER AN INCREASE IN THE PROBABILITY THAT THE
24 FACT IS TRUE

25 FOR CIRCUMSTANTIAL EVIDENCE TO BE SUFFICIENT TO

1 WARRANT THE FINDING OF A FACT, THE CIRCUMSTANCES MUST
2 LEAD TO THAT FACT WITH REASONABLE CERTAINTY THE FACTS
3 AND CIRCUMSTANCES SHOULD BE CONSIDERED IN LIGHT WITH
4 ORDINARY EXPERIENCE AND COMMON SENSE THE EXISTENCE OF A
5 FACT CANNOT BE BASED ON SPECULATION, SURMISE OR
6 CONJECTURE THE LAW MAKES ABSOLUTELY NO DISTINCTION
7 BETWEEN THE WEIGHT OF VALUE TO BE GIVEN EITHER DIRECT OR
8 CIRCUMSTANTIAL EVIDENCE THERE IS NO GREATER DEGREE OF
9 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
10 DIRECT EVIDENCE

11 YOU SHOULD WEIGH ALL THE EVIDENCE IN THE CASE
12 AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU ARE NOT
13 CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
14 REASONABLE DOUBT, YOU MUST FIND THAT DEFENDANT NOT
15 GUILTY

16 I CHARGE YOU THAT SUSPICION, HOWEVER STRONG, IS NOT
17 ENOUGH TO SUSTAIN A CONVICTION THE EVIDENCE PRESENTED
18 BY THE STATE MUST BE SUBSTANTIAL EVIDENCE THAT TENDS TO
19 PROVE THE GUILT OF THE DEFENDANT BEYOND A REASONABLE
20 DOUBT

21 NOW, CRIMINAL INTENT IS A STATE OF MIND THAT
22 OPERATES JOINTLY WITH AN ACT, OMISSION OR COMMISSION OF A
23 CRIME CRIMINAL INTENT IS A MENTAL STATE CRIMINAL
24 LIABILITY IS NORMALLY BASED ON AN EVIL MEANING MIND AND
25 AN EVIL DOING HAND PROOF OF INTENT NECESSARILY RESTS ON

1 INFERENCES FROM CONDUCT

2 IN ORDER TO ESTABLISH CRIMINAL LIABILITY, CRIMINAL
3 INTENT IS REQUIRED CRIMINAL INTENT MUST BE PROVEN BY
4 THE STATE BEYOND A REASONABLE DOUBT CRIMINAL INTENT IS
5 ALWAYS A MATTER THAT MUST BE DETERMINED BY YOU, THE JURY,
6 THE CIRCUMSTANCES SURROUNDING THE SITUATION THERE IS NO
7 WAY TO PROVE INTENT TO A MATHEMATICAL CERTAINTY THERE
8 IS NO WAY MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN TO
9 DETERMINE WHAT THE PERSON HAD IN MIND THE LAW SAYS
10 CRIMINAL INTENT MUST BE INFERRED FROM THE CIRCUMSTANCES
11 SHOWN TO HAVE EXISTED THIS IS HOW YOU MAKE A
12 DETERMINATION OF WHETHER OR NOT THE ELEMENT REQUIRING
13 INTENT IS PRESENT

14 IT'S NOT NECESSARY TO ESTABLISH INTENT BY DIRECT AND
15 POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY
16 INFERENCE IN THE SAME WAY AS ANY OTHER FACT, TAKING INTO
17 CONSIDERATION THE FACTS OF THE PARTIES, OR THE ACTS OF
18 THE PARTIES AND THE FACTS AND CIRCUMSTANCES OF THE CASE
19 CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS
20 WRONGDOING IT IS UP TO YOU TO DETERMINE WHAT THE
21 DEFENDANT INTENDED TO DO, BASED ON THE CIRCUMSTANCES
22 SHOWN TO HAVE EXISTED

23 IN INDICTMENT NUMBER 2009-GS-37-820 THE DEFENDANT,
24 TIMOTHY LEE BLASSINGAME, IS CHARGED WITH DISTRIBUTION OF
25 CRACK COCAINE UNDER SOUTH CAROLINA CODE SECTION

1 44-53-370, WHICH PROVIDES IN PERTINENT PART THAT
2 (READING) THAT IT SHALL BE UNLAWFUL FOR ANY PERSON TO
3 MANUFACTURE, DISTRIBUTE, DISPENSE, DELIVER, PURCHASE,
4 AID, ABET, ATTEMPT OR CONSPIRE TO MANUFACTURE,
5 DISTRIBUTE, DISPENSE, DELIVER OR PURCHASE OR POSSESS WITH
6 THE INTENT TO MANUFACTURE, DISTRIBUTE, DELIVER OR
7 PURCHASE A CONTROLLED SUBSTANCE OR A CONTROLLED SUBSTANCE
8 ANALOG CRACK COCAINE IS DEFINED AS A CONTROLLED
9 SUBSTANCE PURSUANT TO SOUTH CAROLINA CODE SECTION
10 44-53-110

11 I REMIND YOU THE FACT THAT THE DEFENDANT WAS
12 ARRESTED, CHARGED AND INDICTED IN THIS CASE IS NOT
13 EVIDENCE IN THE CASE AND CANNOT BE CONSIDERED BY YOU AS
14 EVIDENCE OF GUILT THE INDICTMENT IS SIMPLY THE WRITTEN
15 INSTRUMENT WHICH CONTAINS THE CHARGE MADE AGAINST THE
16 DEFENDANT IT IS THE FORMAL DOCUMENT BY WHICH THIS CASE
17 IS BROUGHT INTO THIS COURT

18 TO PROVE A CHARGE OF DISTRIBUTION OF CRACK COCAINE
19 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
20 DEFENDANT DISTRIBUTED CRACK COCAINE DISTRIBUTE MEANS TO
21 DELIVER OR TO ACTUALLY CONSTRUCTIVELY OR ATTEMPT TO
22 TRANSFER A DRUG OTHER THAN BY ADMINISTERING OR DISPENSING
23 BY A PRESCRIPTION DELIVERY MEANS TO ACTUALLY OR
24 CONSTRUCTIVELY ATTEMPT TO TRANSFER A DRUG TRANSFER CAN
25 INVOLVE AN EXCHANGE FOR MONEY, A BARTER, OR A GIFT

1 THERE DOES NOT HAVE TO BE ANYTHING GIVEN IN EXCHANGE FOR
2 THE DRUG TO CONSTITUTE DISTRIBUTION

3 TO PROVE POSSESSION THE STATE MUST PROVE BEYOND A
4 REASONABLE DOUBT THAT THE DEFENDANT HAD BOTH THE POWER
5 AND INTENT TO CONTROL THE USE OR DISPOSITION OF THE CRACK
6 COCAINE POSSESSION MAY EITHER BE ACTUAL OR
7 CONSTRUCTIVE ACTUAL POSSESSION MEANS THAT THE CRACK
8 COCAINE WAS IN THE ACTUAL PHYSICAL CUSTODY OF THE
9 DEFENDANT CONSTRUCTIVE POSSESSION MEANS THE DEFENDANT
10 HAD DOMINION AND CONTROL OR THE RIGHT TO EXERCISE
11 DOMINION AND CONTROL OVER EITHER THE CRACK COCAINE ITSELF
12 OR THE PROPERTY IN WHICH THE CRACK COCAINE WAS FOUND

13 MERE PRESENCE AT THE SCENE IS NOT ENOUGH TO PROVE
14 POSSESSION ACTUAL KNOWLEDGE OF THE PRESENCE OF CRACK
15 COCAINE IS STRONG EVIDENCE TO CONTROL ITS DISPOSITION AND
16 USE THE DEFENDANT'S KNOWLEDGE AND POSSESSION MAY BE
17 INFERRED WHEN A SUBSTANCE IS FOUND ON THE PROPERTY UNDER
18 THE DEFENDANT'S CONTROL HOWEVER, THIS INFERENCE IS
19 SIMPLY AN EVIDENTIARY FACT TO BE TAKEN IN CONSIDERATION
20 BY YOU ALONG WITH THE OTHER EVIDENCE IN THE CASE AND TO
21 BE GIVEN THE WEIGHT YOU DECIDE IT SHOULD HAVE

22 THE STATE HAS THE BURDEN OF PROOF AND MUST ESTABLISH
23 EACH ELEMENT OF THE CHARGED OFFENSE BEYOND A REASONABLE
24 DOUBT YOU SHOULD ENTER YOUR VERDICT BASED ON WHETHER OR
25 NOT YOU ARE SATISFIED THAT THE STATE HAS ESTABLISHED

1 BEYOND A REASONABLE DOUBT ALL OF THE ELEMENTS OF THE
2 CHARGED OFFENSE IF YOU AS JURORS HAVE A REASONABLE
3 DOUBT AS TO WHETHER THE STATE HAS MET ITS BURDEN OF PROOF
4 AND SHOWN ALL THE ELEMENTS OF THE CHARGED OFFENSE, YOU
5 SHOULD FIND THE DEFENDANT NOT GUILTY UNDER THE
6 INDICTMENT

7 YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS,
8 SWORN TO IMPARTIALLY TRY AND DETERMINE THE FACTS IN THIS
9 CASE, AND WHEN YOU COMPLY WITH YOUR OATH TO DO SO, THEN
10 NO ONE WILL HAVE THE RIGHT TO CRITICIZE YOUR VERDICT, AND
11 YOU WILL HAVE FULLY DISCHARGED YOUR DUTY AS JURORS

12 YOU SHOULD NOT BE INFLUENCED BY OPINIONS OR
13 EXPRESSIONS OF OPINIONS WHICH YOU MAY HAVE HEARD ON THE
14 OUTSIDE YOU ARE TO DECIDE THIS CASE ACCORDING TO THE
15 TESTIMONY THAT YOU HAVE HEARD FROM THE LIPS OF THE SWORN
16 WITNESSES ALONG WITH OTHER EVIDENCE THAT HAS BEEN
17 INTRODUCED

18 AS I SAID EARLIER, YOU ARE THE JUDGES OF THE FACTS
19 IN THIS CASE AND YOU ARE TO DETERMINE ONLY IF THIS
20 DEFENDANT IS GUILTY OR NOT GUILTY BASED UPON THE
21 TESTIMONY AND EVIDENCE PRESENTED IN THE TRIAL AFTER
22 APPLYING THE LAW AS I HAVE GIVEN IT TO YOU IF FROM THE
23 EVIDENCE YOU HAVE A REASONABLE DOUBT AS TO WHETHER OR NOT
24 THE DEFENDANT IS GUILTY, IT IS YOUR DUTY TO ACQUIT HIM
25 AND WRITE THE WORDS "NOT GUILTY " UNDER THE OATH YOU

1 TOOK YOU SWORE TO TRY THIS CASE BASED SOLELY AND ONLY ON
2 THE TESTIMONY AND EVIDENCE AND LAW YOU PRESENTED AND
3 HEARD IN THIS COURTROOM

4 IT IS YOUR DUTY TO LAY ASIDE ALL BIAS, PREJUDICE OR
5 SYMPATHY THAT YOU MAY HAVE IN REACHING YOUR VERDICT YOU
6 HAVE NO FRIENDS TO REWARD OR ENEMIES TO PUNISH IN THIS
7 CASE I MIGHT KNOW THE WORD "VERDICT" IS TAKEN FROM THE
8 LATIN TERM "VEREDICTO" WHICH MEANS TO SPEAK THE TRUTH
9 ABIDE BY YOUR OATH AND RETURN A VERDICT WHICH DOES, IN
10 FACT, SPEAK THE TRUTH

11 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, I
12 HAVE PREPARED A VERDICT FORM FOR YOU TO USE FOR YOUR
13 DELIBERATIONS AS I MENTIONED AT THE ONSET OF THIS
14 TRIAL, WHATEVER YOUR VERDICT IS, IT HAS TO BE UNANIMOUS,
15 THAT MEANS ALL 12 MEMBERS OF THE JURY THAT SIT ON THE
16 TRIAL OF THIS CASE, THE DETERMINATION OF THE VERDICT MUST
17 BE UNANIMOUS, ALL 12 MEMBERS MUST AGREE TO IT

18 IF YOU WILL NOTICE, IT SAYS INDICTMENT NUMBER
19 2009-GS-37-00820 FOR DISTRIBUTION OF CRACK COCAINE WE,
20 THE JURY, UNANIMOUSLY FIND THAT THE DEFENDANT, TIMOTHY
21 LEE BLASSINGAME, IS EITHER GUILTY OF DISTRIBUTION OF
22 CRACK COCAINE OR NOT GUILTY WHICHEVER IS THE VERDICT,
23 UNANIMOUS VERDICT OF THE JURY, MADAM FORELADY, IF YOU
24 WOULD CHECK THE APPROPRIATE VERDICT, AND ONCE THAT'S BEEN
25 DONE, THEN SIGN YOUR NAME ON THE LINE PROVIDED, KNOCK ON

1 THE DOOR, AND WE WILL RECEIVE YOUR VERDICT AT THAT TIME

2 I'M GOING TO HAVE TO ASK YOU TO RETIRE ONE MORE TIME
3 TO THE JURY ROOM WITHOUT BEGINNING YOUR DELIBERATIONS I
4 HAVE SOME THINGS I NEED TO TAKE UP WITH THE ATTORNEYS
5 BUT ONCE I SEND IN THE VERDICT FORM TOGETHER WITH THE
6 EXHIBITS, THEN YOU WILL BEGIN YOUR DELIBERATIONS ONCE
7 YOU HAVE REACHED YOUR VERDICT AND THE VERDICT FORM HAS
8 BEEN COMPLETED, KNOCK ON THE DOOR AND YOU WILL RETURN AND
9 WE WILL RECEIVE YOUR VERDICT

10 I'M GOING TO ASK THE ALTERNATE TO REMAIN WITH US BUT
11 THE REST OF THE JURY TO RETIRE TO THE JURY ROOM DO NOT
12 BEGIN YOUR DELIBERATIONS UNTIL I SEND IN THE EXHIBITS AND
13 THE VERDICT FORM

14 (THE JURY LEFT THE COURTROOM AT APPROXIMATELY
15 10 38 A M)

16 THE COURT ARE THERE ANY EXCEPTIONS OR REQUESTS
17 FROM THE STATE?

18 MS SIMMONS NO, YOUR HONOR

19 THE COURT FROM THE DEFENDANT?

20 MR SPROUSE NO, YOUR HONOR

21 THE COURT VERY GOOD ALL RIGHT LOOK OVER THE
22 EXHIBITS BE SURE EVERYTHING IS THERE THAT IS SUPPOSED
23 TO GO BACK AND NOTHING THAT WAS NOT TO GO BACK

24 (DISCUSSION OFF THE RECORD)

25 (COURT CONFERRED WITH TWO ALTERNATE JURORS

1 OFF THE RECORD, AFTER WHICH THE ALTERNATE
2 JURORS WERE EXCUSED)

3 THE COURT ALL RIGHT IT'S IN THE JURY'S HANDS
4 WE'LL WAIT FOR THE VERDICT OF THE JURY WE'LL STAND AT
5 EASE

6 (WHEREUPON, THE JURY BEGAN THEIR
7 DELIBERATIONS AT 10 43 A M , WHILE THE COURT
8 CONSIDERED OTHER MATTERS)

9 (THERE WAS A NOTE FROM THE JURY AT
10 APPROXIMATELY 11 18 A M REQUESTING THAT THE
11 VIDEO THAT WAS PLAYED FOR THEM DURING THE
12 TRIAL AND THE TESTIMONY OF OFFICER CRUM
13 DURING THE TRIAL BE REPLAYED)

14 (COURT'S EXHIBIT 4, NOTE FROM JURY, WAS
15 MARKED FOR IDENTIFICATION AND RECEIVED IN
16 COURT'S EVIDENCE)

17 THE COURT ALL RIGHT ANYTHING FROM THE STATE
18 BEFORE WE BRING THE JURY BACK ON THAT QUESTIONS IN STATE
19 VERSUS BLASSINGAME, 2009-GS-37-820

20 MS SIMMONS NO, YOUR HONOR AND I WENT AHEAD AND
21 SET IT UP WE CANNOT FAST-FORWARD OR REWIND OVER THERE,
22 AND WE CAN ON THIS ONE SHOULD THEY CHOOSE TO ---

23 THE COURT ALL RIGHT ANYTHING FROM THE DEFENSE?

24 MR SPROUSE NOTHING FROM THE DEFENSE

25 THE COURT ALL RIGHT, VERY GOOD ASK THE JURY TO

1 JOIN US

2 (THE JURY ENTERED THE COURTROOM AT
3 APPROXIMATELY 11 36 A M)

4 THE COURT MADAM FORELADY, I HAVE TWO NOTES FROM
5 THE JURY ONE WE WOULD LIKE TO HEAR THE AUDIO AND SEE
6 THE VIDEOTAPE AGAIN

7 THAT CAN BE DONE THE ONLY THING I WOULD ASK, I
8 THINK ONE IS 39 MINUTES, ONE IS 36 MINUTES DO YOU HAVE
9 A PARTICULAR AREA THAT YOU WOULD LIKE TO SEE?

10 THE FORELADY YEAH IN THE CAR RIDE

11 THE COURT THE CAR RIDE IS ABOUT THREE MINUTES IS
12 THERE ANY PROBLEM WITH THAT FROM THE STATE?

13 MS SIMMONS NO, YOUR HONOR I'LL BE HAPPY TO CUE
14 IT UP FOR THEM

15 THE COURT ALL RIGHT IS THERE ANYTHING THAT, ANY
16 PROBLEM FROM THE DEFENSE?

17 MR SPROUSE NO PROBLEM, YOUR HONOR

18 THE COURT AND THAT WOULD BE THE VIDEO AND THE
19 AUDIO

20 THE FORELADY THANK YOU

21 THE COURT ALL RIGHT YES, MA'AM

22 AND THEN YOU ALSO WANT -- LET ME TAKE THEM IN ORDER
23 AND THEN IS THERE A TRANSCRIPTION OF THE VIDEO AND
24 AUDIO? NO, MA'AM THERE IS NO TRANSCRIPTION THE ONLY
25 THING WE HAVE ARE THE TAPES THEMSELVES OR THE C D 'S

1 ANOTHER QUESTION CAN WE SEE THE TESTIMONY OF
2 OFFICER CRUM?

3 MADAM COURT REPORTER, DO WE HAVE AN AUDIO ON THAT?

4 **COURT REPORTER** (NODDED HEAD)

5 **THE COURT** ALL RIGHT HOW LONG IS THAT? DO YOU
6 HAVE ANY IDEA?

7 IS THERE ANY PARTICULAR PART OF THE

8 BECAUSE WHAT WE DO IS THE COURT REPORTER MAKES A
9 BACKUP TAPE OF THE TRANSCRIPTION

10 **THE FORELADY** I'M TRYING TO LEARN ABOUT THE WHOLE
11 INFORMANT SITUATION

12 **THE COURT** SO YOU WANT THE FIRST PART? ALL RIGHT
13 AND THEN, OF COURSE, IF YOU NEED MORE, WE'LL DO IT, BUT
14 WE'LL TRY TO SET IT UP AT THAT

15 ALL RIGHT AT THIS TIME I WILL ASK YOU TO RETIRE TO
16 THE JURY ROOM SO WE CAN SET THOSE MATTERS UP SO THEY'LL
17 BE READY TO PLAY WHEN YOU COME BACK YOU CAN GO AHEAD
18 AND DELIBERATE ON THAT NOW, BUT WE WILL UNDERTAKE THE
19 EFFORT

20 (THE JURY LEFT THE COURTROOM AT

21 APPROXIMATELY 11 38 A M)

22 **THE COURT** ANYTHING FROM THE STATE BEFORE WE SET UP
23 THE

24 **MS SIMMONS** JUDGE, WE JUST NEED TO RETRIEVE THOSE
25 TWO ITEMS FROM THE JURY ROOM SO I CAN CUE THEM UP

1 **THE COURT** ALL RIGHT ASK MR BIBB TO BRING US THE
2 TWO VIDEOS -- NOT VIDEOS -- TWO C D 'S

3 **MR SPOUSE** IF I CAN BE HEARD ON THE SECOND
4 REQUEST THE JURY MADE REGARDING THE TESTIMONY OF OFFICER
5 CRUM?

6 **THE COURT** OH, I'M SORRY YES, SIR

7 **MR SPOUSE** I WOULD OBJECT TO THEM JUST HEARING
8 THE DIRECT EXAMINATION OF OFFICER CRUM BECAUSE THERE WAS
9 EXTENSIVE QUESTIONING ON CROSS-EXAMINATION ABOUT THE
10 CONFIDENTIAL INFORMANT

11 **THE COURT** ALL RIGHT ANYTHING FROM YOU, MADAM
12 SOLICITOR?

13 **MS SIMMONS** JUDGE, I THINK WE SHOULD GIVE THEM
14 WHAT THEY PARTICULARLY ASKED FOR

15 **THE COURT** WELL, I THINK WHAT THEY ASKED FOR WAS
16 THE CONFIDENTIAL INFORMANT MATTER, AND THAT WOULD HAVE TO
17 BE FULLY DEVELOPED NOT ONLY ON DIRECT BUT CROSS, SO I'M
18 GOING TO GRANT THE MOTION TO HEAR THAT PORTION DEALING
19 WITH THE CONFIDENTIAL INFORMANT

20 (DISCUSSION OFF THE RECORD)

21 **THE COURT** IS THERE ANYTHING FROM THE STATE BEFORE
22 WE BRING THE JURY BACK?

23 **MS SIMMONS** NO, JUDGE THE VIDEO IS READY AND I
24 CAN GET THE AUDIO THIS WAY

25 **THE COURT** ANYTHING FROM THE DEFENDANT?

1 **MR SPROUSE** NO, SIR

2 **THE COURT** MY FIRST QUESTION IS DO THEY NEED THE
3 WHOLE TAPE OR JUST THAT PORTION, AND I THINK THAT'S GONNA
4 BE THE THREE MINUTES OF THE VIDEO AND THE AUDIO THAT'S
5 WHAT THEY SAID BEFORE

6 **MS SIMMONS** THAT WAS MY UNDERSTANDING, JUDGE, AND
7 THAT'S WHAT I CUED IT TO

8 **THE COURT** ALL RIGHT ON THE TESTIMONY OF SERGEANT
9 CRUM, THAT WILL BE BOTH THE DIRECT AND THE CROSS

10 OKAY VERY WELL ASK THE JURY TO JOIN US, PLEASE
11 (THE JURY RETURNED TO THE COURTROOM AT
12 APPROXIMATELY 11 54 A M)

13 **THE COURT** ALL RIGHT LET THE RECORD REFLECT THE
14 JURY IS IN THE JURY-BOX

15 MADAM FORELADY, WE HAVE NOW PROGRAMMED THE AUDIO AND
16 VIDEO FOR THAT PERIOD OF TIME OF APPROXIMATELY THREE
17 MINUTES WHEN THEY WERE IN THE AUTOMOBILE AND I THINK
18 THAT'S WHAT YOU WANTED, IS THAT CORRECT?

19 **THE FORELADY** YES, PLEASE

20 **THE COURT** THANK YOU, MA'AM

21 ALL RIGHT, MADAM SOLICITOR, IF YOU WOULD

22 **MS SIMMONS** IF SOMEBODY CAN RAISE THEIR HAND WHEN
23 THEY'RE DONE BECAUSE I WON'T BE ABLE TO SEE

24 (WHEREUPON, A PORTION OF THE VIDEOTAPE WAS
25 PLAYED FOR JURY FROM APPROXIMATELY 11 55 P M

1 UNTIL 12 00 P M AND THEN A PORTION OF AUDIO
2 WAS PLAYED FOR THE JURY FROM APPROXIMATELY
3 12 01 P M UNTIL APPROXIMATELY 12 06 P M)

4 **THE COURT** ALL RIGHT IS THAT WHAT YOU WANTED TO
5 HEAR, MADAM FORELADY?

6 **THE FORELADY** YES

7 **THE COURT** AND NOW WE HAVE THE OFFICER CRUM
8 TESTIMONY

9 (WHEREUPON, THE TESTIMONY OF SERGEANT CRUM
10 WAS PLAYED BACK TO THE JURY FROM
11 APPROXIMATELY 12 06 P M UNTIL APPROXIMATELY
12 12 14 P M , WHEN THE COURT AND COURT REPORTER
13 HELD A DISCUSSION OFF THE RECORD)

14 **THE COURT** WE'RE GOING TO SKIP THE VIDEO AND THE
15 AUDIO AND JUST LIMIT IT TO THE TESTIMONY

16 (WHEREUPON, THE TESTIMONY OF SERGEANT CRUM
17 CONTINUED TO BE PLAYED BACK TO THE JURY FROM
18 APPROXIMATELY 12 15 P M UNTIL APPROXIMATELY
19 12 21 P M WHEN THE COURT AND COURT REPORTER
20 HELD A DISCUSSION OFF THE RECORD)

21 **THE COURT** (TO COURT REPORTER) OKAY, YES, IF YOU
22 WOULD, PLEASE

23 APPARENTLY WE DIDN'T RECORD THE TESTIMONY ON THE
24 AUDIO WHEN IT RESUMED AFTER THE C D 'S, BUT WE DO HAVE
25 THE ORIGINAL TRANSCRIPT AS SHE TAKES IT DOWN WHEN IT'S

1 TAKEN, SO THE COURT REPORTER IS NOW GOING TO READ THE
2 TESTIMONY FOLLOWING THE C D 'S

3 (WHEREUPON, THE COURT REPORTER READ A SMALL
4 PORTION OF SERGEANT CRUM'S TESTIMONY TO THE
5 JURY, AFTER WHICH THE AUDIO RESUMED AND THE
6 REMAINDER WAS PLAYED BACK TO THE JURY UNTIL
7 APPROXIMATELY 12 47 P M)

8 THE COURT THAT CONCLUDES THE TESTIMONY OF SERGEANT
9 CRUM IS THERE ANYTHING ELSE THAT WASN'T CLEAR?

10 THE FORELADY MAY WE ASK A SPECIFIC QUESTION THAT
11 WASN'T ANSWERED IN THAT?

12 THE COURT NO, MA'AM WE CAN ONLY RELY ON WHAT WAS
13 ASKED YOU MAY RETIRE TO THE JURY ROOM THE CLERK WILL
14 COME BACK IN A FEW MINUTES TO ASK YOU ABOUT LUNCH ALL
15 RIGHT VERY GOOD CONTINUE YOUR DELIBERATIONS

16 (THE JURY LEFT THE COURTROOM AT
17 APPROXIMATELY 12 48 P M)

18 THE COURT ANYTHING FROM THE STATE BEFORE WE STAND
19 AT EASE?

20 MS SIMMONS NO, YOUR HONOR

21 THE COURT FROM THE DEFENSE?

22 MR SPROUSE NOTHING, YOUR HONOR

23 THE COURT VERY GOOD WE'LL STAND AT EASE

24 (WHEREUPON, THE JURY CONTINUED THEIR
25 DELIBERATIONS AT APPROXIMATELY 12 48 P M

1 UNTIL APPROXIMATELY 2 45 P M , WHEN THE JURY
2 SENT OUT A NOTE THAT THEY ARE UNABLE TO REACH
3 A VERDICT)

4 (COURT'S EXHIBIT 5, A NOTE FROM THE JURY
5 STATING THEY ARE UNABLE TO REACH A VERDICT,
6 WAS MARKED FOR IDENTIFICATION AND RECEIVED
7 INTO COURT'S EVIDENCE)

8 THE COURT ALL RIGHT IT'S MY UNDERSTANDING THAT
9 THE FORELADY HAS ADVISED THE BAILIFF THAT THE JURY IS
10 HUNG I DON'T KNOW WHAT THE NUMBERS ARE, BUT THEY DIDN'T
11 ASK FOR ANY FURTHER INSTRUCTIONS, SO WHAT I'LL DO IS
12 BRING THEM OUT, GIVE THEM THE ALLEN CHARGE, AND THEN SEND
13 THEM BACK

14 NOW, OF COURSE, UNDER OUR STATUTE, IF THEY COME BACK
15 AGAIN AND SAY THEY CAN'T REACH A VERDICT WITHOUT ASKING
16 FOR FURTHER INSTRUCTION, THEN I WILL HAVE TO DISCHARGE
17 THEM

18 IS THERE ANYTHING FROM THE STATE?

19 MS SIMMONS NO, YOUR HONOR

20 THE COURT FROM THE DEFENSE?

21 MR SPROUSE NO, YOUR HONOR

22 THE COURT VERY GOOD ASK THE JURY TO JOIN US,
23 PLEASE

24 (THE JURY ENTERED THE COURTROOM AT
25 APPROXIMATELY 2 50 P M)

1 **THE COURT** MADAM FORELADY, IT'S MY UNDERSTANDING
2 THAT THE JURY HAS BEEN UNABLE TO REACH A VERDICT I DO
3 NOT WANT TO KNOW HOW THEY MIGHT BE DIVIDED IF THEY ARE
4 DIVIDED BUT IS THAT THE CASE?

5 **THE FORELADY** THAT'S CORRECT
6 ALLEN CHARGE

7 **THE COURT** LADIES AND GENTLEMEN OF THE JURY, YOU
8 HAVE STATED THAT YOU HAVE BEEN UNABLE TO AGREE ON A
9 VERDICT IN THIS CASE AS I INSTRUCTED YOU EARLIER, THE
10 VERDICT OF THE JURY MUST BE UNANIMOUS

11 WHEN A MATTER IS IN DISPUTE, IT ISN'T ALWAYS EASY
12 FOR EVEN TWO PEOPLE TO AGREE, SO WHEN 12 MUST AGREE, IT
13 BECOMES EVEN MORE DIFFICULT IN MOST CASES ABSOLUTE
14 CERTAINTY CANNOT BE REACHED OR EXPECTED HOWEVER, YOU
15 HAVE A DUTY TO MAKE EVERY REASONABLE EFFORT TO REACH A
16 UNANIMOUS VERDICT

17 IN DOING THIS YOU SHOULD CONSULT WITH ONE ANOTHER,
18 EXPRESS YOUR OWN VIEWS AND LISTEN TO THE OPINIONS OF YOUR
19 FELLOW JURORS TELL EACH OTHER HOW YOU FEEL AND WHY YOU
20 FEEL THE WAY YOU DO DISCUSS YOUR DIFFERENCES WITH AN
21 OPEN MIND

22 ALTHOUGH THE VERDICT OF THE JURY MUST BE UNANIMOUS,
23 EVERY ONE OF YOU HAS A RIGHT TO YOUR OWN OPINION, AND THE
24 VERDICT YOU AGREE TO MUST BE YOUR OWN VERDICT, THE RESULT
25 OF YOUR OWN CONVICTIONS, AND YOU SHOULD NOT GIVE UP YOUR

1 FIRMLY HELD BELIEFS MERELY TO BE IN AGREEMENT WITH YOUR
2 FELLOW JURORS

3 THE MAJORITY SHOULD CONSIDER THE MINORITY'S POSITION
4 AND THE MINORITY SHOULD CONSIDER THE MAJORITY'S POSITION
5 YOU SHOULD CAREFULLY CONSIDER AND RESPECT THE OPINIONS OF
6 EACH OTHER AND REEVALUATE YOUR OPINIONS WITH
7 REASONABLENESS, CORRECTNESS, AND IMPARTIALITY YOU MUST
8 LAY ASIDE ALL OUTSIDE MATTERS AND RE-EXAMINE THE
9 QUESTIONS BEFORE YOU, BASED ON THE LAW AND THE EVIDENCE
10 IN THIS CASE

11 IF YOU DO NOT AGREE TO A VERDICT IN THIS CASE, I
12 MUST DECLARE A MISTRIAL IN THAT CASE IT DOES NOT MEAN
13 ANYBODY WINS IT MEANS SIMPLY THAT AT SOME FUTURE TIME I
14 WILL TRY THIS CASE WITH SOME OTHER JURY SITTING WHERE YOU
15 SIT NOW THE SAME PARTICIPANTS WILL COME AND THE SAME
16 LAWYERS WILL ASK BASICALLY THE SAME QUESTIONS AND GET
17 BASICALLY THE SAME ANSWERS AND WE WILL GO THROUGH THE
18 WHOLE PROCESS AGAIN

19 YOU WERE SELECTED IN THE SAME MANNER AND FROM THE
20 SAME SOURCE AS ANY FUTURE JURY WILL BE, AND THERE IS NO
21 REASON FOR ME TO SUPPOSE THAT THE CASE WILL EVER BE
22 SUBMITTED TO 12 MORE INTELLIGENT, IMPARTIAL,
23 CONSCIENTIOUS AND COMPETENT JURORS THAN YOU OR THAT MORE
24 OR CLEARER EVIDENCE WILL BE PRODUCED FROM EITHER SIDE

25 THEREFORE, I ASK YOU TO RETURN TO YOUR DELIBERATIONS

1 WITH THE HOPE THAT YOU CAN ARRIVE AT A VERDICT WITHIN A
2 REASONABLE TIME

3 I'M GOING TO ASK YOU TO RETIRE TO YOUR JURY ROOM ONE
4 MORE TIME AND SEE IF THERE IS SOME WAY THAT YOU CAN REACH
5 A VERDICT WITHIN A REASONABLE TIME VERY GOOD THANK
6 YOU

7 (THE JURY LEFT THE COURTROOM AT APPROXIMATELY
8 2 54 P M)

9 THE COURT ANY EXCEPTIONS OR REQUESTS FROM THE
10 STATE?

11 MS SIMMONS NO, YOUR HONOR

12 THE COURT FROM THE DEFENDANT?

13 MR SPROUSE NO, YOUR HONOR

14 THE COURT VERY GOOD WE'LL STAND AT EASE OR
15 RECESS IN THIS CASE UNTIL WE HEAR FROM THE JURY

16 (WHEREUPON, THE JURY CONTINUED ITS
17 DELIBERATIONS WHILE THE COURT CONSIDERED
18 OTHER MATTERS)

19 (WHEREUPON, THERE WAS ANOTHER NOTE FROM THE
20 JURY AT APPROXIMATELY 3 15 P M)

21 (DISCUSSION OFF THE RECORD)

22 (COURT'S EXHIBIT 6, NOTE FROM JURY, WAS
23 MARKED FOR IDENTIFICATION AND RECEIVED IN
24 COURT'S EVIDENCE)

25 (COURT'S EXHIBIT 7, NOTE FROM JURY, WAS

1 MARKED FOR IDENTIFICATION AND RECEIVED IN
2 COURT'S EVIDENCE)

3 MS SIMMONS OKAY, JUDGE, WE'RE READY

4 THE COURT OKAY WE'RE BACK ON THE RECORD OF THE
5 STATE VERSUS BLASSINGAME I HAVE TWO QUESTIONS FROM THE
6 JURY OR TWO MESSAGES FROM THE JURY ONE IS MARKED AS
7 COURT'S EXHIBIT 7 REITERATE DEFINITION OF DISTRIBUTION
8 SPECIFICALLY DOES THIS INCLUDE INTENT TO DISTRIBUTE?
9 ALSO, RE-READ SECTION ABOUT CIRCUMSTANTIAL EVIDENCE
10 VERSUS ABSOLUTE EVIDENCE, ET CETERA

11 I INTEND, THEN, PURSUANT TO THAT QUESTION, TO READ
12 THE CHARGE ON DIRECT AND CIRCUMSTANTIAL EVIDENCE TO
13 INCLUDE INTENT, CRIMINAL INTENT, AS WELL AS DISTRIBUTION

14 AS FAR AS THE SECOND MESSAGE I HAVE IS, I AM --
15 MARKED COURT'S EXHIBIT 6, IT READS I AM CONCERNED THAT
16 A FEW JURORS WERE UNABLE TO HEAR OR COMPREHEND THE
17 AUDIOTAPE AND ARE DISCOUNTING THAT PART OF EVIDENCE
18 RATHER THAN READING THAT FURTHER INTO THE RECORD, SINCE
19 IT'S NOT A PARTICULAR QUESTION AS MUCH AS A REQUEST, I AM
20 GOING AHEAD AND -- AND IT'S ALSO SIGNED BY A JUROR -- I'M
21 GOING TO JUST PLAY BACK THE AUDIO -- I THINK IT'S THREE
22 MINUTES -- AND ADDRESS IT THAT WAY

23 ANYTHING ELSE FROM THE STATE, OR ANY EXCEPTION?

24 MS SIMMONS NO, YOUR HONOR

25 THE COURT ANYTHING FROM THE DEFENDANT?

1 **MR SPROUSE** YOUR HONOR, THE ONLY THING I WOULD PUT
2 ON THE RECORD IF THERE'S A CONCERN ABOUT ONE JUROR NOT
3 COMPREHENDING, THERE IS NOTHING THE COURT CAN DO ABOUT
4 THAT THAT JUROR OBVIOUSLY IS DISAGREEING WITH SOME OF
5 THE OTHER JURORS, AND

6 **THE COURT** I'M NOT GONNA PUT ANYTHING ABOUT
7 COMPREHEND I THINK THE ONLY THING I WILL DO, THOUGH, IS
8 TO PROVIDE THE PLAYING OF THE AUDIOTAPE BUT I
9 UNDERSTAND YOUR OBJECTION, AND YOUR OBJECTION IS
10 OVERRULED AND NOTED FOR THE RECORD ALL RIGHT ANYTHING
11 ELSE FROM THE DEFENDANT?

12 **MR SPROUSE** NOTHING, YOUR HONOR

13 **THE COURT** ALL RIGHT ASK THE JURY TO JOIN US,
14 PLEASE

15 (THE JURY ENTERED THE COURTROOM AT
16 APPROXIMATELY 3 35 P M)

17 **THE COURT** LET THE RECORD SHOW THAT THE JURY IS IN
18 THE JURY-BOX

19 MADAM FORELADY, MEMBERS OF THE JURY, I HAVE A NOTE
20 THAT REQUESTS TO REITERATE DEFINITION OF DISTRIBUTION
21 SPECIFICALLY DOES THIS INCLUDE INTENT TO DISTRIBUTE?

22 ALSO, RE-READ SECTION ABOUT CIRCUMSTANTIAL EVIDENCE
23 VERSUS ABSOLUTE EVIDENCE, ET CETERA

24 I WILL DO THAT, AS WELL AS I AM GOING TO PLAY BACK
25 THE AUDIO PART OF THE TESTIMONY [SIC] THAT HAS BEEN

1 PLAYED BEFORE, FOR CLARIFICATION

2 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY
3 PRESENTED DURING A TRIAL DIRECT EVIDENCE AND
4 CIRCUMSTANTIAL EVIDENCE DIRECT EVIDENCE IS THE
5 TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE
6 OF A FACT, SUCH AS AN EYEWITNESS IT IS EVIDENCE WHICH
7 IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVEN
8 CIRCUMSTANTIAL EVIDENCE IS A PROOF OF A CHAIN OF FACTS
9 AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT IT
10 IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL
11 FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED

12 CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND
13 NOT ON PERSONAL KNOWLEDGE OR OBSERVATION IT IS PROOF
14 THAT DOES NOT ACTUALLY ESTABLISH THE FACT IN QUESTION BUT
15 THAT ASSERTS OR DESCRIBES SOMETHING ELSE FROM WHICH YOU
16 MAY REASONABLY INFER THE TRUTH OF THE FACT, OR AT LEAST
17 REASONABLY INFER AN INCREASE IN THE PROBABILITY THAT THE
18 FACT IS TRUE FOR CIRCUMSTANTIAL EVIDENCE TO BE
19 SUFFICIENT TO WARRANT THE FINDING OF FACT, THE
20 CIRCUMSTANCES MUST LEAD TO THAT FACT WITH REASONABLE
21 CERTAINTY THE FACTS AND CIRCUMSTANCES SHOULD BE
22 CONSIDERED IN LIGHT OF ORDINARY EXPERIENCE AND COMMON
23 SENSE THE EXISTENCE OF A FACT CANNOT BE BASED ON
24 SPECULATION, SURMISE OR CONJECTURE THE LAW MAKES
25 ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO

1 BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE, NOR
2 IS A GREATER DEGREE OF CERTAINTY REQUIRED OF
3 CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE

4 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE
5 AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU ARE NOT
6 CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
7 REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY

8 IN ORDER TO ESTABLISH CRIMINAL LIABILITY, CRIMINAL
9 INTENT IS REQUIRED CRIMINAL INTENT MUST BE PROVEN BY
10 THE STATE BEYOND A REASONABLE DOUBT CRIMINAL INTENT IS
11 ALWAYS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM
12 THE CIRCUMSTANCES SURROUNDING THE SITUATION THERE IS NO
13 WAY TO PROVE INTENT TO A MATHEMATICAL CERTAINTY THERE
14 IS NO WAY MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN
15 AND DETERMINE WHAT THE PERSON HAD IN MIND SO THE LAW
16 SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE
17 CIRCUMSTANCES SHOWN TO HAVE EXISTED THIS IS HOW YOU
18 MAKE A DETERMINATION OF WHETHER OR NOT THE ELEMENT
19 REQUIRING INTENT WAS PRESENT

20 IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT
21 AND POSITIVE EVIDENCE, BUT INTENT MAY BE ESTABLISHED BY
22 INFERENCE IN THE SAME WAY AS ANY OTHER FACT, BY TAKING
23 INTO CONSIDERATION THE ACTS OF THE PARTIES AND ALL THE
24 FACTS AND CIRCUMSTANCES OF THE CASE CRIMINAL INTENT IS
25 A MENTAL STATE, A CONSCIOUS WRONGDOING IT'S UP TO YOU

1 TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON
2 THE CIRCUMSTANCES SHOWN TO HAVE EXISTED
3 TO PROVE A CHARGE OF DISTRIBUTION OF CRACK COCAINE
4 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
5 DEFENDANT DISTRIBUTED CRACK COCAINE DISTRIBUTE MEANS TO
6 DELIVER OR TO ACTUALLY CONSTRUCTIVELY OR ATTEMPT TO
7 TRANSFER A DRUG OTHER THAN BY ADMINISTERING OR DISPENSING
8 SOMETHING THROUGH A PRESCRIPTION DELIVERY MEANS TO
9 ACTUALLY CONSTRUCTIVELY OR ATTEMPT TO TRANSFER A DRUG
10 TRANSFER CAN INVOLVE AN EXCHANGE FOR MONEY, A BARTER OR A
11 GIFT THERE DOES NOT HAVE TO BE ANYTHING GIVEN IN
12 EXCHANGE FOR DRUGS FOR A TRANSFER TO CONSTITUTE
13 DISTRIBUTION
14 ALL RIGHT IS THERE ANYTHING ELSE THAT YOU WOULD
15 REQUEST FROM THE JURY?
16 **THE FORELADY** NO, SIR
17 **THE COURT** ALL RIGHT IF YOU WOULD PLEASE
18 RETIRE -- OH, WAIT A MINUTE WE NEED -- I APOLOGIZE
19 **MS SIMMONS** IF ANYBODY NEEDS IT LOUDER, JUST SPEAK
20 UP WHEN IT STARTS PLAYING
21 (THE VIDEOTAPE WAS RE-PLAYED FOR JURY FROM
22 APPROXIMATELY 3 39 UNTIL 3 43 WHILE THE JURY
23 CONFERRED IN THE JURY-BOX)
24 **THE COURT** IS THERE ANYTHING ELSE THE JURY
25 REQUIRES? (NO RESPONSE) VERY GOOD IF YOU WOULD

1 PLEASE RETURN TO THE JURY ROOM AND CONTINUE YOUR
2 DELIBERATIONS

3 (THE JURY LEFT THE COURTROOM AT APPROXIMATELY
4 3 44 P M)

5 THE COURT ALL RIGHT ANYTHING FROM THE STATE?

6 MS SIMMONS NO, YOUR HONOR

7 THE COURT ANYTHING FROM THE DEFENSE?

8 MR SPROUSE NOTHING, YOUR HONOR

9 THE COURT VERY GOOD ALL RIGHT WE'LL STAND IN
10 RECESS ON THIS CASE

11 (WHEREUPON, THE COURT AWAITED A VERDICT OF
12 THE JURY WHILE CONSIDERING OTHER MATTERS)

13 (WHEREUPON, THERE WAS ANOTHER NOTE FROM THE
14 JURY AT APPROXIMATELY 4 05 P M)

15 THE COURT BACK TO THE TRIAL OF TIMOTHY LEE
16 BLASSINGAME

17 (COURT'S EXHIBIT 8, COURT'S CHARGE ON
18 DISTRIBUTION OF CRACK COCAINE, WAS MARKED FOR
19 IDENTIFICATION AND RECEIVED IN COURT'S
20 EVIDENCE)

21 (COURT'S EXHIBIT 9, NOTE FROM JURY REQUESTING
22 COURT'S EXHIBIT 8, AMONG OTHER THINGS, WAS
23 MARKED FOR IDENTIFICATION AND RECEIVED IN
24 COURT'S EVIDENCE)

25 THE COURT ALL RIGHT WE NOW HAVE ANOTHER MESSAGE

1 FROM THE JURY CAN WE PLEASE HAVE A COPY OF THE
2 DEFINITION OF DISTRIBUTION OF CRACK COCAINE, I E ,
3 INCLUDING THE WORD "ATTEMPT " THERESA WHICH IS THE
4 FORELADY OF THE JURY

5 I AM GOING TO SEND THEM THE SAME DEFINITION OF
6 DISTRIBUTION OF CRACK COCAINE THAT WE HAVE CHARGED THEM I
7 THINK AT LEAST TWICE, BUT IT WILL BE AT LEAST A COPY OF
8 THAT CHARGE

9 TO PROVE A CHARGE OF DISTRIBUTION OF CRACK COCAINE
10 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
11 DEFENDANT DISTRIBUTED CRACK COCAINE DISTRIBUTED MEANS
12 TO DELIVER OR TO ACTUALLY CONSTRUCTIVELY OR ATTEMPT TO
13 TRANSFER A DRUG, OTHER THAN BY ADMINISTERING OR
14 DISPENSING

15 DELIVER MEANS TO ACTUALLY CONSTRUCTIVELY OR ATTEMPT
16 TO TRANSFER A DRUG A TRANSFER CAN INVOLVE AN EXCHANGE
17 FOR MONEY, A BARTER OR A GIFT THERE DOES NOT HAVE TO BE
18 ANYTHING GIVEN IN EXCHANGE FOR THE DRUGS FOR A TRANSFER
19 TO CONSTITUTE DISTRIBUTION

20 ALL RIGHT ANYTHING FROM THE STATE?

21 MS SIMMONS NO, YOUR HONOR

22 THE COURT FROM THE DEFENSE?

23 MR SPROUSE NO, YOUR HONOR

24 THE COURT ALL RIGHT ASK THE JURY TO JOIN US,
25 PLEASE

1 (THE JURY ENTERED THE COURTROOM AT
2 APPROXIMATELY 4 12 P M)

3 THE COURT ALL RIGHT MADAM FORELADY, I'VE BEEN
4 PROVIDED A MESSAGE FROM THE JURY CAN WE PLEASE HAVE A
5 COPY OF THE DEFINITION OF "DISTRIBUTION OF CRACK COCAINE"
6 I E , INCLUDING THE WORDS OF "ATTEMPT", CLOSE QUOTE

7 I HAVE MADE A COPY OF THE CHARGE FOR DISTRIBUTION OF
8 CRACK COCAINE THAT HAS BEEN GIVEN TO YOU OR HAS BEEN
9 CHARGED TO YOU BY THE COURT, BUT I WILL SEND THIS BACK TO
10 YOU WHEN YOU RETURN TO THE JURY ROOM

11 IS THERE ANYTHING ELSE THE COURT CAN DO FOR YOU AT
12 THIS TIME?

13 THE FORELADY NO, SIR

14 THE COURT VERY GOOD I'LL ASK YOU TO RETIRE TO
15 THE JURY ROOM AND I'LL SEND THE CHARGE BACK AT THAT TIME

16 (THE JURY LEFT THE COURTROOM AT
17 APPROXIMATELY 4 14 P M)

18 THE COURT ALL RIGHT ANYTHING ELSE FROM THE
19 STATE?

20 MS SIMMONS NO, YOUR HONOR

21 THE COURT FROM THE DEFENDANT?

22 MR SPROUSE NO, YOUR HONOR

23 THE COURT ALL RIGHT LIEUTENANT, IF YOU WOULD
24 SEND THE CHARGE BACK TO THE JURY

25 (WHEREUPON, THE JURY CONTINUED ITS

1 DELIBERATIONS WHILE THE COURT CONSIDERED
2 OTHER MATTERS)
3 VERDICT OF THE JURY
4 (WHEREUPON, A VERDICT WAS REACHED BY THE JURY
5 AT APPROXIMATELY 4 25 P M)
6 **THE COURT** IT'S MY UNDERSTANDING THAT THE JURY HAS
7 REACHED A VERDICT
8 ANYTHING FROM THE STATE?
9 **MS SIMMONS** NO, YOUR HONOR
10 **THE COURT** ANYTHING FROM THE DEFENDANT?
11 **MR SPROUSE** NO, YOUR HONOR
12 **THE COURT** ASK THE JURY TO JOIN US, PLEASE
13 (THE JURY ENTERED THE COURTROOM AT
14 APPROXIMATELY 4 30 P M)
15 **THE COURT** MADAM FORELADY, I UNDERSTAND THE JURY
16 HAS REACHED A VERDICT?
17 **THE FORELADY** YES
18 **THE COURT** IF YOU WOULD PLEASE HAND IT UP TO THE
19 BAILIFF
20 *STATE OF SOUTH CAROLINA VERSUS TIMOTHY LEE*
21 *BLASSINGAME*
22 MR BLASSINGAME, IF YOU WOULD PLEASE STAND AND FACE
23 THE JURY (COMPLIES)
24 INDICTMENT NUMBER 2009-GS-37-820, FOR DISTRIBUTION
25 OF CRACK COCAINE WE, THE JURY, UNANIMOUSLY FIND FOR

1 [SIC] THE DEFENDANT, TIMOTHY LEE BLASSINGAME, IS GUILTY
2 OF DISTRIBUTION OF CRACK COCAINE SIGNED BY THE
3 FORELADY, WALHALLA, SOUTH CAROLINA, OCTOBER 28TH, 2009
4 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY, IS
5 THAT YOUR VERDICT AND EACH OF YOUR VERDICTS AND IS IT
6 STILL YOUR VERDICT? IF SO, INDICATE BY RAISING YOUR
7 RIGHT HANDS VERY GOOD
8 LET THE RECORD REFLECT THAT ALL MEMBERS OF THE JURY
9 AFFIRMED THEIR VERDICT
10 ANYTHING FROM THE JURY BEFORE I RELEASE THEM, MADAM
11 SOLICITOR?
12 MS SIMMONS NO, YOUR HONOR
13 THE COURT THE DEFENDANT?
14 MR SPROUSE NO, SIR
15 THE COURT VERY GOOD
16 MADAM FORELADY, LADIES AND GENTLEMEN OF THE JURY,
17 THE COURT OR A JUDGE IS NEVER INTERESTED IN A VERDICT,
18 ONLY HOW THAT VERDICT IS REACHED AND I CAN ASSURE YOU
19 THIS TIME THAT I AM COMPLETELY SATISFIED THAT YOU GAVE
20 BOTH SIDES, ALL THE PARTIES INVOLVED IN THIS CASE, YOUR
21 VERY CAREFUL AND CLOSE ATTENTION AND THAT YOU GAVE,
22 RENDERED A VERDICT OR REACHED A VERDICT THAT YOU FELT WAS
23 APPROPRIATE UNDER THE CASE, AND I CANNOT THANK YOU MORE,
24 BECAUSE YOU HAVE SERVED NOT ONLY THE STATE OF SOUTH
25 CAROLINA BUT OCONEE COUNTY BY YOUR WAY THAT YOU

1 CONSIDERED THIS CASE

2 WE HAVE BEEN HERE A LONG TIME TODAY WE STARTED
3 EARLY IN THE MORNING AND IT'S GONE SOME TIME YOU HAD
4 QUESTIONS, WE HAD REPLAYING OF THE TESTIMONY AND
5 EVIDENCE AS I SAY, I'M SATISFIED AND BY THE WAY, THE
6 CASE WAS VERY PROFESSIONALLY TRIED BY BOTH ATTORNEYS, AND
7 I NOTICED AT NO TIME DID YOUR INTEREST LACK OR WANDER

8 I KNOW NONE OF YOU ASKED TO BE HERE AND YOU WOULD
9 RATHER HAVE BEEN ANYWHERE ELSE EXCEPT WHERE YOU HAVE BEEN
10 THE LAST FEW DAYS BUT LET ME ASSURE YOU THAT OUR SYSTEM
11 OF JUSTICE WOULD NOT SURVIVE OR EVEN BE ABLE TO WORK
12 WITHOUT CITIZEN PARTICIPATION NEEDED AND WE MUST HAVE IT

13 IT COMES TO MY MIND SOMETIMES THAT WINSTON
14 CHURCHILL, THE BRITISH PRIME MINISTER DURING THE SECOND
15 WORLD WAR, ONCE SAID THAT NO GREATER DUTY CAN A CITIZEN
16 PERFORM IN PEACETIME THAN THAT AS A JUROR, BECAUSE YOU
17 ARE THE BACKBONE OF OUR SYSTEM OF JUSTICE AND I THANK YOU
18 FOR THAT

19 I WISH THERE WAS SOMETHING I COULD DO FOR YOU BUT
20 IF YOU REMEMBER ON THE FIRST DAY I ASKED HOW MANY HAD
21 SERVED ON A JURY IN THE LAST THREE YEARS AT LEAST YOU
22 WON'T HAVE TO SERVE FOR ANOTHER THREE YEARS BUT THE
23 FACT IS I HOPE IT HAS NOT BEEN WITHOUT BENEFIT TO YOU AND
24 I THANK YOU SO MUCH AS I SAID, WE'RE ALL IN YOUR DEBT
25 AND I WANT TO THANK YOU AND I HOPE THAT YOU HAVE A GOOD

1 BALANCE OF THE WEEK BECAUSE THIS WILL BE THE LAST CASE WE
2 TRY AND HAVE A GOOD WEEKEND THANK YOU VERY MUCH
3 ANYTHING FROM THE CLERK?
4 **THE CLERK** NO, SIR YOUR CHECKS WILL BE IN THE
5 MAIL
6 **THE COURT** EXCUSE ME THE CHECK'S IN THE MAIL
7 AGAIN, I DO THANK YOU FOR YOUR SERVICE
8 MADAM FORELADY, I WILL NEED TO SEE YOU FOR A MOMENT,
9 PLEASE, IF YOU WOULD COME FORWARD
10 EVERYONE ELSE IS EXCUSED THANK YOU SO MUCH
11 (WHEREUPON, THE COURT CONFERRED WITH THE
12 FORELADY, AFTER WHICH FORELADY WAS EXCUSED)
13 **THE COURT** ALL RIGHT YOU MAY COME AROUND
14 **MS SIMMONS** MAY I APPROACH, JUDGE?
15 **THE COURT** PLEASE MADAM SOLICITOR?
16 **MS SIMMONS** YOUR HONOR, WOULD YOU BE INTERESTED IN
17 HIS PRIOR RECORD?
18 **THE COURT** THE INDICTMENT WAS, IN FACT, INDICTMENT
19 FOR DISTRIBUTION OF CRACK COCAINE, COCAINE BASE, THIRD
20 OFFENSE, SO LET ME GO AHEAD AND CONFIRM THE MAXIMUM
21 SENTENCES THE SENTENCE IS UNDER SECTION
22 44-53-0375(B)(3), IS THAT CORRECT, MADAM SOLICITOR?
23 **MS SIMMONS** YES, YOUR HONOR
24 **THE COURT** IS THAT CORRECT, MR SPROUSE?
25 **MR SPROUSE** YES, SIR

1 **THE COURT** AS I UNDERSTAND IT, THE SENTENCE UNDER
2 SECTION 44-53-0375(B)(3) IS NOT LESS THAN 15 YEARS NOR
3 MORE THAN 30 YEARS, OR A FINE OF NOT MORE THAN \$50,000,
4 OR BOTH, IS THAT CORRECT?

5 **MS SIMMONS** YES, YOUR HONOR

6 **THE COURT** IS THAT CORRECT, MR SPOUSE?

7 **MR SPOUSE** YES, YOUR HONOR

8 **THE COURT** ALL RIGHT DO YOU HAVE ENHANCED
9 CONVICTIONS?

10 **MS SIMMONS** YES, YOUR HONOR I'M PASSING UP FOR
11 THE COURT'S INFORMATION SIX PRIOR CERTIFIED DRUG
12 CONVICTIONS ON MR BLASSINGAME I WOULD BE HAPPY TO GIVE
13 YOU HIS ENTIRE CRIMINAL HISTORY

14 **THE COURT** HAVE YOU LOOKED AT THEM, MR SPOUSE?

15 **MR SPOUSE** THOSE APPEAR TO BE ACCURATE COPIES,
16 YOUR HONOR

17 **THE COURT** ALSO, AS I UNDERSTAND UNDER THIS
18 PARTICULAR STATUTE THAT (READING) EXCEPT FOR FIRST
19 OFFENSES PROVIDED IN SUBSECTION (A) OF THIS SECTION,
20 SENTENCES FOR VIOLATION OF PROVISIONS OF THIS SECTION MAY
21 NOT BE SUSPENDED, AND PROBATION MAY NOT BE GRANTED

22 IS THAT CORRECT?

23 **MS SIMMONS** THAT'S CORRECT, YOUR HONOR

24 **THE COURT** IS THAT WHAT YOU UNDERSTAND,
25 MR SPOUSE?

1 **MR SPROUSE** YES, THAT'S MY UNDERSTANDING OF THE
2 STATUTE, YOUR HONOR

3 **THE COURT** ALL RIGHT ANYTHING ON BEHALF OF THE
4 STATE?

5 **MS SIMMONS** YES, YOUR HONOR THE DEFENDANT'S
6 PRIOR RECORD DATES BACK TO 1992 WHERE HE RECEIVED A
7 FRAUDULENT CHECK, 1992, OBTAINING GOODS BY FALSE
8 PRETENSES, 1992, FAILURE TO APPEAR, 1993, TWO DRUG
9 CONVICTIONS FOR CRACK COCAINE, 1994, ANOTHER CRACK
10 COCAINE CONVICTION, ACTUALLY TWO OF THOSE

11 RESISTING ARREST IN 2001, TWO MORE DRUG CONVICTIONS
12 IN 2001, DRIVING UNDER SUSPENSION IN 2005, PETIT LARCENY
13 IN 2005, ASSAULT ON A POLICE OFFICER IN 2008 AND HE HAS
14 AN OUT-OF-STATE CONVICTION FROM THE STATE OF GEORGIA, AND
15 WAS CONVICTED OF ARMED ROBBERY, AGGRAVATED ASSAULT, AND
16 POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
17 CRIME

18 JUDGE, THE STATE WOULD RESPECTFULLY REQUEST THAT YOU
19 CONSIDER IMPOSING THE MAXIMUM 30-YEAR SENTENCE ON THIS
20 DEFENDANT HIS CRIMINAL HISTORY DATES BACK TO 1992 HE
21 HAS BEEN A CONTINUOUS PROBLEM IN OUR COMMUNITY HE HAS
22 PRIOR VIOLENT CONVICTIONS, AND I BELIEVE THE FACTS AND
23 CIRCUMSTANCES SURROUNDING HIS RECORDS, COUPLED WITH HIS
24 BEHAVIOR DURING THE COURSE OF THIS TRIAL, WHICH HE HAS
25 ATTEMPTED TO INFLUENCE A WITNESS'S TESTIMONY ---

1 **MR SPROUSE** YOUR HONOR, I WOULD OBJECT TO THAT
2 **THE COURT** THOSE ARE SEPARATE OFFENSES, AND ONCE
3 THEY ARE ESTABLISHED, OF COURSE, WHEN THEY ARE, THEN THAT
4 WILL BE CONSIDERED

5 **MS SIMMONS** IN THAT CASE, JUDGE, BASED ON HIS
6 PRIOR RECORD, I WOULD ASK THAT YOU IMPOSE THE MAXIMUM
7 30-YEAR SENTENCE

8 **THE COURT** ALL RIGHT MR SPROUSE, WHAT DO YOU
9 HAVE TO SAY?

10 **MR SPROUSE** YOUR HONOR, I CAN'T STAND HERE AND
11 TELL YOU THAT TIM HAS BEEN A MODEL CITIZEN BECAUSE HIS
12 RECORD DICTATES OTHERWISE BUT I WOULD POINT OUT THAT
13 THIS MAN HAS HAD A TROUBLED PAST, CAME FROM A DIFFICULT
14 HOME SITUATION HIS DRUG PROBLEM BACK IN THE EARLY
15 NINETIES SENT HIM OFF INTO A SPIRAL OF SORTS THAT HAS
16 MADE IT DIFFICULT FOR HIM TO GET ON HIS FOOTING IN
17 SOCIETY AS FAR AS HAVING A STABLE HOME AND A STABLE PLACE
18 TO LIVE

19 YOU HEARD THE TESTIMONY IN THIS CASE AND YOU WENT
20 OVER IT IN GREAT DETAIL, AS WE ALL DID, AS WE SAW IT OVER
21 THE LAST TWO DAYS AND AS YOUR HONOR WOULD NOTE, THE
22 CIRCUMSTANCES OF THIS CASE, WHILE IT'S CERTAINLY A VERY,
23 VERY SERIOUS OFFENSE THE WAY IT'S CHARGED, HE WAS NOT
24 DOING IT FOR PROFIT AND I REALIZE THAT MAKES NO
25 DISTINCTION AS FAR AS THE CULPABILITY UNDER THE STATUTE

1 BUT I BELIEVE IT'S PROPER FOR THE COURT TO CONSIDER THAT,
2 THAT THIS WAS A TINY' AMOUNT

3 AND THERE WAS RESISTANCE ON HIS PART ON THE TAPE
4 THERE WAS RESISTANCE, THAT IT TOOK A SERIOUS EFFORT BY
5 THE CONFIDENTIAL INFORMANT ON THE TAPE AND THIS WAS NOT
6 A CASH DEAL AS THE CONFIDENTIAL INFORMANT HAD SAID IT
7 WAS

8 AND AGAIN, YOUR HONOR, THE JURY HAS FOUND HIM GUILTY
9 SO I'M NOT GONNA ARGUE THE FACTS AS FAR AS GUILTY OR
10 INNOCENT BUT I WOULD ASK THE COURT TO CONSIDER THAT
11 THIS IS A SERIOUS OFFENSE UNDER OUR LAW, DEFINED AS SUCH
12 MR BLASSINGAME WILL HAVE TO SERVE THE 85 PERCENT, AS
13 UNDER A SERIOUS OFFENSE, AND A 15-YEAR SENTENCE, YOUR
14 HONOR, IS A LOT OF JAIL TIME MR BLASSINGAME WOULD
15 SERVE OVER 12 YEARS WITH -- OVER 13 YEARS, EXCUSE ME
16 AND THAT IS A SIGNIFICANT AMOUNT OF JAIL TIME FOR
17 POINT 04 GRAMS OF COCAINE

18 I WOULD ASK THE COURT TO CONSIDER THAT, ASK THE
19 COURT TO BE MERCIFUL IN THIS SITUATION IT'S NOT ANY WAY
20 TO PUT IT THAT THIS IS A GOOD SITUATION, 'CAUSE IT'S NOT
21 AND THEN THE HISTORY IS NOT GOOD BUT IT'S REALLY
22 SOMETHING THAT I DON'T FEEL THE MAXIMUM SENTENCE IS
23 APPROPRIATE DUE TO THE CIRCUMSTANCES OF THIS PARTICULAR
24 OFFENSE HE'S NOT ON TRIAL FOR THINGS THAT HE'S DONE IN
25 THE PAST

1 AND, YOUR HONOR, I WOULD NOTICE IN THE RECORD AND
2 ALSO NOTE THAT IN THE PAST HE'S PLED GUILTY TO OFFENSES
3 HE HAS NOT RUN FROM THINGS THAT HE'S DONE AND HE
4 LEGITIMATELY CONTESTED THIS CHARGE, AND I WOULD ASK THE
5 COURT TO TAKE THAT INTO CONSIDERATION, THAT EVERYONE IS
6 ENTITLED TO THEIR DAY IN COURT, AND THIS WAS NOT A CASE
7 WHERE DRUGS WERE BEING SOLD

8 NOW, YOUR HONOR, I WOULD ASK, FOR PURPOSES OF THE
9 RECORD, MS SIMMONS STATED AT THE BEGINNING THAT THE TWO
10 OTHER CHARGES THAT WERE PRESENT, WARRANTS 9125023 AND
11 9125025 ARE BEING DISMISSED

12 **MS SIMMONS** YES, YOUR HONOR HE HAD TWO OTHER
13 DISTRIBUTION CASES PENDING FROM THIS SAME TIME FRAME AND
14 THE STATE WILL DISMISS THOSE AS A RESULT OF THIS
15 CONVICTION

16 **MR SPOUSE** YES

17 **THE COURT** VERY WELL

18 **MR SPOUSE** BUT, YOUR HONOR, I WOULD ASK FOR THE
19 15-YEAR SENTENCE

20 **THE COURT** ALL RIGHT, MR BLASSINGAME, ANYTHING YOU
21 WOULD LIKE TO SAY?

22 **THE DEFENDANT** I JUST WANT TO SAY I'M SORRY FOR
23 HAVING THESE PEOPLE OUT OF WORK TO COME UP HERE AND
24 THAT I DIDN'T INTEND FOR THIS TO GO DOWN LIKE THIS I
25 FELT LIKE I DIDN'T DO NOTHING ON THIS PART IT'S LIKE I

1 TOLD MY ATTORNEY, THAT, YOU KNOW, IF I DID SOMETHING, I
2 WOULD PLEAD GUILTY TO IT BUT I DIDN'T FEEL LIKE I WAS
3 IN THE WRONG, BUT AS YOU SEE I PICKED THE 12 PEOPLE AND
4 THEY FOUND ME GUILTY OF IT, AND I'M SORRY FOR WASTING
5 THEIR TIME LIKE THIS BUT I DIDN'T DO IT FOR PROFIT OR
6 NONE OF THAT

7 THE COURT NO PROFIT?

8 THE DEFENDANT NO NO, SIR, NOTHING

9 THE COURT YOU DIDN'T MAKE ANYTHING OFF OF THE
10 DISTRIBUTION?

11 THE DEFENDANT NO NO, SIR IT WASN'T LIKE I'M
12 ONE OF THESE DRUG DEALERS THAT'S OUT SELLING DRUGS TO
13 EVERYBODY

14 MR SPROUSE AND, YOUR HONOR, I WOULD NOTE THAT, AS
15 PUT INTO EVIDENCE, THE MONEY THAT WAS PROVIDED TO THE
16 CONFIDENTIAL INFORMANT WAS RETURNED TO THE POLICE
17 OFFICERS THERE WAS NO MONETARY COMPENSATION IN THIS
18 IT WAS A TINY AMOUNT

19 THE COURT BUT HE DOESN'T DENY HE DID GIVE HIM THE
20 DRUGS?

21 THE DEFENDANT NO I'M STILL SAYING ---

22 MR SPROUSE YOUR HONOR, AGAIN, HE PLED NOT ---

23 THE COURT HE JUST SAID NO PROFIT AND I
24 UNDERSTAND BUT THE JURY HAS DECIDED THE FACTS NOW, AND
25 I CAN ASSURE YOU THIS JURY GAVE THE DEFENDANT EVERY

1 BENEFIT OF THE DOUBT. I'VE NEVER SEEN A JURY STRUGGLE
2 MORE WITH A VERDICT THAN THIS ONE BUT I DO FEEL IN THIS
3 PARTICULAR CASE THEY DID WHAT THE TERM IMPLIES, THEY
4 SPOKE THE TRUTH REGARDLESS OF WHAT THE DEFENDANT WOULD
5 LIKE TO SAY

6 ALL RIGHT ANYTHING ELSE, MR BLASSINGAME?

7 **THE DEFENDANT** NO, SIR

8 **THE COURT** WELL, I TELL YOU, LIKE MR SPROUSE SAID,
9 NO ONE IS EVER GOING TO BE PUNISHED, YOU MIGHT SAY, FOR
10 EXERCISING THEIR RIGHT, BECAUSE IF I DID NOT BELIEVE IN
11 THE JUSTICE SYSTEM AND THE PRESUMPTION OF INNOCENCE, I
12 WOULD NOT BE DOING WHAT I DO NOW IT TO ME IS ONE OF THE
13 MOST SACRED THINGS THAT WE CAN HAVE IN OUR CULTURE, AND I
14 HONOR IT AND I RESPECT IT

15 UNFORTUNATELY, THOUGH, IN A TRIAL A LOT COMES OUT
16 THAT I WOULD NOT HAVE KNOWN UNLESS THERE WAS A TRIAL
17 AND IN THIS PARTICULAR CASE, FIRST OF ALL, YOU SAY THERE
18 WAS NO PROFIT BUT I THINK OFFICER HUNNICUTT, WHEN HE
19 WAS TALKING ABOUT IT BEING GIVEN FOR FREE, HE SAYS THAT
20 EQUALS FRONT MONEY OR FRONTING IT TO KEEP COMING BACK
21 IN OTHER WORDS, YOU DON'T BAIT A HOOK WITH A LARGE FISH,
22 YOU BAIT IT WITH A VERY SMALL PIECE OF FISH JUST TO KEEP
23 THE HOOK IN THE FISH

24 AND IN THIS PARTICULAR CASE, MR BLASSINGAME, I HAVE
25 ALL THE COMPASSION IN THE WORLD FOR YOU AND YOUR

1 CIRCUMSTANCES, AND I WISH THAT LIFE HAD BEEN BETTER TO
2 YOU BUT I HATE TO SAY I KNOW A LOT OF PEOPLE THAT
3 HAVEN'T HAD EVEN THE CHANCES THAT YOU HAD

4 AND I GO BACK TO NOVEMBER THE 17TH, 1993, CONSPIRACY
5 TO DISTRIBUTE CRACK COCAINE, AND THERE YOU WERE GIVEN A
6 CONTINUATION ON PROBATION AT THAT SAME TIME YOU WERE
7 GIVEN A SUSPENDED SENTENCE FOR DISTRIBUTION OF CRACK
8 COCAINE JUNE THE 29TH, 1994, YOU WERE GIVEN FIVE YEARS
9 FOR DISTRIBUTION OF CRACK COCAINE ANOTHER FIVE YEARS
10 FOR DISTRIBUTION OF CRACK COCAINE I THINK -- NO -- BOTH
11 OF THOSE WERE FIVE YEARS TO RUN CONCURRENT WITH FIVE
12 YEARS PROBATION

13 AND THEN THE ONE I GUESS THAT SHOULD TROUBLE ME THE
14 MOST, EXCEPT I DON'T REALLY PAY THAT MUCH ATTENTION TO
15 INDIVIDUALS AS MUCH AS I DO THE CASES AND I FIND THAT
16 YOU APPEARED BEFORE THIS COURT ON OCTOBER THE 30TH, 2001,
17 ALMOST EIGHT YEARS TO THE DAY, AND AT THAT TIME I GAVE
18 YOU TWO YEARS

19 THE SAME DAY -- AND BY THE WAY, THAT WAS POSSESSION
20 WITH INTENT TO DISTRIBUTE CRACK COCAINE WITHIN PROXIMITY
21 OF A SCHOOL AND THEN THE SAME DAY I GAVE YOU TWO YEARS
22 RUNNING CONCURRENT WITH THE FIRST SENTENCE, POSSESSION
23 WITH INTENT TO DISTRIBUTE CRACK COCAINE

24 YOU KNOW, THE MAXIMUM SENTENCE IS FOR SOMETHING
25 WHEN THERE IS NO INTENT TO ABIDE BY THE LAW AND TO

1 VIOLATE THE LAW OVER AND OVER AND OVER AND OVER AND OVER
2 AND OVER AND OVER AGAIN, IT'S NECESSARY TO PROTECT
3 SOCIETY FROM THE TYPE OF ACTIVITIES THAT, WITHIN A
4 PROXIMITY OF A SCHOOL,

5 I ASKED ONE GENTLEMAN THIS MORNING, I THINK HE HAD
6 FOUR SONS, AND ONE WAS 13 I SAID, HOW OLD WOULD -- OR
7 WHAT WOULD YOU DO IF YOUR SONS, SOMEBODY WERE GIVING YOUR
8 SONS CRACK COCAINE?

9 AND I DON'T KNOW IF YOU HAVE ANY CHILDREN,
10 MR BLASSINGAME, BUT IF YOU DID, I WONDER WHAT YOU WOULD
11 DO IF SOMEBODY WAS GIVING THEM CRACK COCAINE

12 HAVING SAID ALL OF THAT, AND HAVING, AS I SAY, IT
13 LOOKS LIKE FIVE -- OH, EXCUSE ME -- SIX CHANCES BEFORE,
14 JUDGE BALLENGER GIVING YOU A 15-YEAR SENTENCE SUSPENDED
15 ON FIVE, AND THOSE FIVE YEARS DIDN'T WORK, AND APPARENTLY
16 THE TWO YEARS I GAVE YOU DIDN'T WORK MAYBE THAT'S WHAT
17 THE MAXIMUM SENTENCE IS FOR

18 ANYTHING ELSE, MR BLASSINGAME?

19 **THE DEFENDANT** I JUST ASK YOU TO BE LENIENT ON ME,
20 SIR BECAUSE THIS IS OVER LIKE TEN, 13 YEARS YOU KNOW,
21 IT DID DO ME SOME GOOD YOU KNOW, WHEN I WENT DOWN, I
22 DIDN'T GET BACK OUT AND JUST BACK INTO THE STREET OR
23 SELLING DRUGS OR WHATEVER I WAS USING DRUGS OR WHATEVER
24 AND I GUESS THAT BROUGHT ME, THAT KEPT ME INTO IT, WHERE
25 I HAD TO COME BACK TO IT

1 BUT AS FAR AS YOU SAYING IT DIDN'T DO ME NO GOOD,
2 BUT IT DID IF YOU LOOK AT THE TIME FRAME FROM THE TIME
3 I GOT OUT AND -- FROM THE TIME I GOT OUT UNTIL THE TIME I
4 COMMITTED THE CHARGES, I DIDN'T, YOU KNOW, IT WASN'T LIKE
5 I GOT OUT AND SAID, WELL, I'M GOING RIGHT BACK ON THE
6 STREETS AND SELLING DRUGS, NOR HAD I WOULD

7 **THE COURT** IT COULD BE ALSO THAT YOU WEREN'T CAUGHT
8 IN THAT TIME

9 THE DEFENDANT NO, SIR

10 THE COURT MAYBE YOU LEARNED SOMETHING WHILE YOU
11 WERE IN THIS TIME YOU WILL BE IN LONG ENOUGH TO LEARN
12 SOMETHING ELSE ANYTHING ELSE, MR BLASSINGAME?

13 THE DEFENDANT NO, SIR

14 SENTENCE OF THE COURT

15 THE COURT INDICTMENT NUMBER 2009-GS-37-820, THE
16 SENTENCE OF THE COURT IS THAT MR TIMOTHY LEE BLASSINGAME
17 BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A
18 TERM OF 30 YEARS, PLUS PAY THE COSTS AND ASSESSMENTS AS
19 APPLICABLE GOOD LUCK TO YOU, SIR

20 | THE DEFENDANT ALL RIGHT

21 (WHEREUPON, THE TRIAL IN THE MATTER OF THE
22 STATE OF SOUTH CAROLINA VERSUS TIMOTHY LEE
23 BLASSINGAME WAS CONCLUDED AT APPROXIMATELY
24 5 00 P M)

25 | (COURT'S EXHIBIT 10, COPIES OF CERTIFIED

1 CONVICTIONS OF DEFENDANT, TIMOTHY LEE
2 BLASSINGAME, WAS MARKED FOR IDENTIFICATION
3 AND RECEIVED IN COURT'S EVIDENCE)

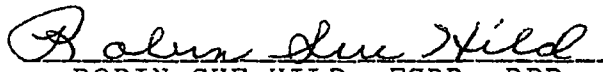
4 ***** END OF REQUESTED TRANSCRIPT OF RECORD *****
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CERTIFICATE OF COURT REPORTER

I, THE UNDERSIGNED, ROBIN SUE HILD, FCRR, RPR,
OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF
THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF
RECORD OF THE PROCEEDINGS HAD AND THE EVIDENCE INTRODUCED
IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL,
IN THE COURT OF GENERAL SESSIONS FOR OCONEE COUNTY, SOUTH
CAROLINA, ON THE 26TH DAY, 27TH DAY, AND 28TH DAY OF
OCTOBER, 2009

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL
NOR INTEREST TO ANY PARTY HERETO

DECEMBER 31, 2009


ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Timothy Blassingame,
Plaintiff

vs

State of South Carolina,
Defendant

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

C/A No 2010-CP-37- 531

AMENDED (Supplemental)
PCR Application Brief

2010 DEC 17 P 12 53

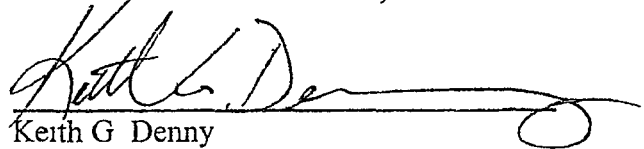
Pursuant to the South Carolina Rules of Civil Procedure, SCRCP Rule 15(c), Plaintiff hereby amends his application for Post Conviction Relief

Finally, Plaintiff amends his original brief and subsequent amendments by amending his assertion of "Prosecutorial Misconduct and Due Process Vioation ' The Plaintiff asserts that the prosecutor denied his right under the Fourteenth Amendment to challenge relevant portions of his grand jury proceeding The Plaintiff asserts that there was a variance between the indictment and the proof

WHEREFORE, Plaintiff requests that his previously submitted Post Conviction Relief application brief and subsequent amendments be amended as stated above

December 17, 2010
Walhalla, South Carolina

NORTON & BALLENGER, P A



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Attorney for Plaintiff

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Timothy Blassingame,
Plaintiff,

vs

State of South Carolina,
Defendant

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

C/A No 2010-CP-37- 531

**AMENDED (Supplemental)
PCR Application Brief**2011 FEB 23
A 6 23

Pursuant to the South Carolina Rules of Civil Procedure, SCRPC Rule 15(c), Plaintiff hereby amends his application for Post Conviction Relief

Plaintiff amends his original brief and subsequent amendments with the assertions of 1) prosecutorial misconduct as evidenced by the prosecutor's improper comment and 2) conflict of interest as evidenced by trial counsel's failure to subpoena witnesses and enter exculpatory evidence

First Plaintiff contends that Assistant Solicitor Simmons committed misconduct by presenting to the court and jurors a conclusory statement which did not collaborate with the evidence presented during the State's case. This declarative unproven statement influenced the jury verdict and prejudiced the jury against the Plaintiff in his criminal trial. Here, Assistant Solicitor Simmons stated "while he did not stay, 'Here's your piece of crack James Willie Walker', he did say everything but. It's clear that they are talking about crack. And that's what James Willie Walker delivered to law enforcement." Transcript pg 161, lines 5-7. It is the Plaintiff's assertion that this statement was prejudicial against the Plaintiff at his criminal trial. In review of the actual audio of the alleged transaction, the Plaintiff is heard stating that he was not going to give Mr. Walker his last piece. Furthermore, the State's first witness Sgt. Crum testified that there is not absolute proof that what Mr. James Walker

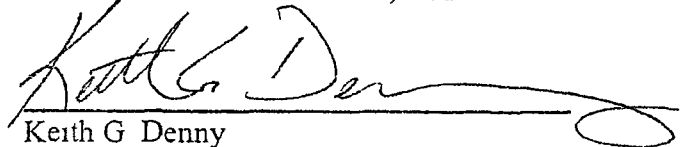
delivered to law enforcement came from the Plaintiff. The Plaintiff asserts that Assistant Solicitor Simmons' statement was detrimental prejudicial conduct because the inference could be drawn against the defendant since there was no overwhelming evidence presented against the Plaintiff at his criminal trial. The cumulative effect of prosecutorial errors and unclear witness testimony warrants that the Plaintiff receive a new trial. *See Berger v United States*, 55 S Ct 629 (1935).

Finally, Plaintiff asserts that the trial counsel exhibited a conflict of interest which was detrimental to the Plaintiff to receiving adequate counsel at his criminal trial. Specifically, Plaintiff asserts that trial counsel failed to subpoena witnesses and enter exculpatory evidence in his defense. Trial counsel's failure to put on a defense for the Plaintiff at his criminal trial deprived the Plaintiff of his right to defend himself against the State's prosecution.

WHEREFORE, Plaintiff requests that his previously submitted Post Conviction Relief application brief and subsequent amendments be amended as stated above.

February 23, 2011
Walhalla, South Carolina

NORTON & BALLENGER, P A



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Attorney for Plaintiff

STATE OF SOUTH CAROLINA
 COUNTY OF OCONEE

Timothy Blassingame,
 Plaintiff,

vs

State of South Carolina,
 Defendant

IN THE COURT OF COMMON PLEAS
 TENTH JUDICIAL CIRCUIT

C/A No 2010-CP-37- 531

**AMENDED (Supplemental)
 PCR Application Brief**

Pursuant to the South Carolina Rules of Civil Procedure, SCRCP Rule 15(c), Plaintiff hereby amends his application for Post Conviction Relief

Plaintiff amends his original brief and subsequent amendments with the assertions of 1) trial counsel failed to enter favorable impeaching evidence and 2) trial counsel failed to investigate favorable impeaching evidence Plaintiff asserts that based on the aforementioned failures by trial counsel, the Plaintiff was prejudiced and denied a fair trial Plaintiff asserts that trial counsel was aware of possible impeachable evidence relevant to a key State's witness which was neither brought before the Court nor adequately investigated

WHEREFORE, Plaintiff requests that his previously submitted Post Conviction Relief application brief and subsequent amendments be amended as stated above

February 25, 2011
 Walhalla, South Carolina

NORTON & BALLENGER, P A


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 Attorney for Plaintiff

State of South Carolina

County of Oconee

In the Court of General Sessions

Timothy Blassingame,

Plaintiff,

-vs-

State of South Carolina,

Defendant

2010-GS-04-0493

March 14, 2011

Transcript of Record

B E F O R E

The Honorable R Lawton McIntosh, Judge

A P P E A R A N C E S

Mary S Williams, Esquire
Attorney for the State

Keith Denny, Esquire
Attorney for Defendant

Renee H Tollison
Circuit Court Reporter

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	DIRECT	CROSS	REDIRECT	RECROSS
Lindsey Satterfield Simmons				
Denny	10		32	
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Francis Stevenson Pruitt, Jr				
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Justin Diggs				
Denny	54			
Williams		57		
Timothy Blassingame				
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Williams				
Scott Sprouse, Esquire				
Williams	74			
Denny		84		
Jonathan Bryson				
Denny	129			
Williams		131		

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Timothy Blassingame v State 2010-GS-04-0598
Opening Statements

4

1 **MARCH 14, 2011**

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had commencing at
4 approximately 9 44 a m)

5 MS WILLIAMS May it please the Court

6 THE COURT Yes, ma'am

7 MS WILLIAMS Your Honor, this is Timothy
8 Blassingame, 2010-CP-37-0598 Mr Blassingame was
9 represented by Scott Sprouse He faced a charge of
10 distribution of crack cocaine, third offense He
11 proceeded to a jury trial with Judge Macaulay, and he was
12 convicted and sentenced to thirty years on October 28,
13 2009 And this application was timely filed

14 Mr Denny is representing him today He has several
15 issues regarding ineffective assistance of counsel, and I
16 will turn it over to Mr Denny to elaborate on some of
17 those

18 THE COURT So ineffective is the basis?

19 MR DENNY Yes, Your Honor There's
20 ineffective assistance of counsel as well as there's
21 allegations of prosecutorial misconduct

22 Your Honor, may I beg the Court's indulgence for a
23 second? We're in the process of trying to get an
24 additional witness up here from the Department of
25 Corrections, and I just had to go and re-fax an order

Timothy Blassingame v State 2010-GS-04-0598
Opening Statements

5

1 that was sent And I think they're calling me right now
2 to confirm they received it Would you mind if I confirm
3 that they're going to have this witness brought up here
4 today?

5 THE COURT Sure

6 (WHEREUPON, court stood at ease in this case)

7 MR DENNY Your Honor, I do appreciate your
8 indulgence for that They did confirm they will have the
9 witness up here within a couple of hours We're going to
10 go ahead and proceed And you know, at that point in
11 time, we may ask to call a witness out of order just to
12 get his testimony on the record

13 THE COURT Well, just let me see where we are
14 Okay Go ahead Tell me about your case, please

15 MR DENNY All right Yes, Your Honor In
16 October 2009, my client was represented by the Oconee
17 County Public Defender's Office At that time he had
18 appointed to him a public defender, Danny Day About
19 three and a half weeks or three weeks prior to the trial,
20 which was around the end of October, his appointed public
21 defender was -- he asked to be reassigned to a different
22 attorney At that point in time, attorney Scott Sprouse
23 was ---

24 THE COURT Let me ask -- who asked The
25 Applicant asked that he be appointed another attorney?

Timothy Blassingame v State 2010-GS-04-0598
Opening Statements

6

1 Is that what you're saying?

2 MR DENNY Yes, Your Honor

3 THE COURT Okay

4 MR DENNY Around the first of October, that
5 request was granted Mr Blassingame was appointed an
6 attorney, Scott Sprouse, who's a local attorney in the
7 Ocone Bar Mr Sprouse met with Mr Blassingame
8 initially down at the Ocone Detention Center About
9 three weeks passed and the trial was initiated There
10 was -- this situation stemmed from an alleged
11 distribution of crack back in the February time frame
12 There is -- there were some allegations on the table that
13 the confidential informant that was the State's main
14 witness against Mr Blassingame had actually recanted his
15 statement, actually wrote a statement exonerating ---

16 THE COURT Do you have any evidence of that?

17 MR DENNY In the record that was presented --
18 or actually in the file record that was presented from
19 the defense counsel, there's a copy of the statement at
20 the actual trial itself that was not introduced into the
21 record And part of that ---

22 THE COURT Okay What does that mean? Does
23 that mean that there was a recantation of his version or
24 was it not?

25 MR DENNY There was a recantation of his

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1 version, correct

2 THE COURT Okay

3 MR DENNY It was not introduced at Mr

4 Blassingame's trial Mr Blassingame has stated that he

5 had requested that be introduced in his defense It

6 wasn't That forms one of the basis for his ineffective

7 assistance of counsel allegation in this P C R hearing

8 THE COURT Okay Give me the reference to

9 where that is, please

10 MR DENNY It is ---

11 MS WILLIAMS Your Honor, the letter is first

12 mentioned on direct examination by the solicitor at page

13 95, and then there's cross-examination of the same

14 witness

15 THE COURT Page 95 of the transcript?

16 MS WILLIAMS Yes, sir And I can get you

17 some further page references in just a moment

18 THE COURT I've got it

19 MR DENNY And also, Your Honor, on page 33

20

21 THE COURT On page what, 33?

22 MR DENNY Page 33 of the transcript, Your

23 Honor

24 THE COURT Okay

25 MR DENNY line 16 through 22, there is

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1 the defense counsel bringing it up to the Court at that
2 point in time It was addressed at the trial level, but
3 it was not ever introduced into evidence Whether it was
4 defense strategy or not, that's part of the grounds for
5 the ineffective assistance of counsel He wanted it
6 introduced to help impeach the State's witness

7 THE COURT All right Anything else? You had
8 prosecutorial misconduct, ineffective assistance of
9 counsel, I guess, intertwined based on that What other
10 grounds?

11 MR DENNY Well, Your Honor, the -- you know,
12 just go through the list And my client's had numerous
13 amendments to his P C R application, so I want to go --
14 if you'll indulge me for just a second here

15 His failure to object to the admission of false
16 testimony And in that -- and we'll go through each of
17 these as we, you know, present our witnesses

18 Bolstering the State's witness In this case
19 basically there's an allegation that there was no failure
20 to object whenever the prosecutor, in essence, was
21 vouching for the State's witness

22 The admission of improper comments Again, that's
23 intertwined with the solicitor's statements with regards
24 to the State's witness

25 There's an allegation of erroneous jury instruction

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1 During the trial there was an aspect, you know, a request
2 for the definition of distribution or distribute And we
3 believe that was incorrect

4 On the day of the trial the witness list was
5 actually submitted to defense counsel There's no
6 objection or time to investigate each of the witnesses

7 There's an allegation that there's no objection to
8 the fact that the jury pool primarily excluded my
9 client's race, to question to make sure that the jury was
10 drawn in a manner that, you know, protected his due
11 process rights

12 Ineffective assistance of counsel for failure to
13 admit evidence that was exculpatory Failure to
14 introduce impeaching evidence against the State's
15 witness Failure to investigate or subpoena witnesses to
16 corroborate Mr Walker who's a State's witness in that
17 case who basically corroborated that the recantment was
18 voluntary and without threat

19 Failure to challenge the sufficiency of the
20 indictment Failure to suppress and investigate the
21 illegal use of evidence as, you know, alleged by my
22 client

23 There's a violation of Rule 6, failure to preserve
24 issues for appellate review

25 On prosecutorial misconduct, my client has alleged

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1 that the illegal use of evidence, there's evidence they
2 did not necessarily follow the chain of custody, you
3 know, as strictly as maybe it should have

4 The Brady violation, the fact that information was
5 not disclosed to my client or defense counsel until the
6 day of trial

7 The admission of false testimony and bolstering the
8 State's witness as well as -- you know, as a prosecutor
9 they've got -- they're supposed to be a -- not only an
10 advocate but also administer of justice to ensure that
11 the due process rights of a party is protected In this
12 case, it should have been challenged to ensure that the
13 jury pool was drawn from similar -- or correctly that
14 maybe did not exclude my client's race

15 Those are the allegations that my client has wished
16 to be put in his P C R petition and which we'll present
17 testimony here to support

18 THE COURT You may call your first witness

19 MR DENNY Your Honor, first I'd like to call
20 Assistant Solicitor Lindsey Simmons

21 (WHEREUPON, the witness was duly sworn)

22 THE COURT Go ahead

23 **LINDSEY SATTERFIELD SIMMONS,**

24 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS**

25 **DIRECT EXAMINATION**

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11

1 BY MR DENNY

2 Q Ms Simmons, if you would, state your full name for
3 the record

4 A Lindsey Satterfield Simmons

5 Q Okay That's your married name, Simmons?

6 A Yes

7 Q Okay What's your current job?

8 A Assistant Solicitor in Oconee County

9 Q How long have you been in your current job?

10 A Since 2005, and I've been a prosecutor since 2002

11 Q Okay How long have you been practicing criminal
12 law in South Carolina?

13 A I was admitted in 2000 -- I'm sorry I've been a
14 prosecutor since 2003 I was admitted to practice law in
15 2002

16 Q Okay And just to clarify, you were -- were you the
17 Assistant Solicitor in the case against Mr Blassingame
18 in 2009?

19 A I was the entire time, yes

20 Q Okay Just a minute ago, I read through a list of
21 the allegations regarding prosecutorial conduct Did you
22 review the audio and video evidence regarding this case
23 before the trial?

24 A Yes I actually -- Mr Blassingame was originally
25 represented by Danny Day And I did review the audio and

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1 video evidence with Mr Day I can't give you a specific
2 date on that, but I did After Mr Sprouse was
3 appointed, Mr Sprouse and I personally met on October 6,
4 2009, at his office along with the investigating officer
5 And at that point in time, basically I made my entire
6 file available to Mr Sprouse for inspection and copying
7 And we watched the tape and listened to the audio

8 Q So you would definitely say you're familiar with the
9 audio and video in regards to this case?

10 A I certainly was back then, but right now I can't
11 tell you a whole lot about it It's been a long time

12 Q I completely understand But at the point of the
13 trial, you were very familiar with the audio and video of
14 it?

15 A Yes

16 Q Okay In the transcript -- on page 83 of the
17 transcript, lines 1 through 4, you were doing a redirect
18 on Sergeant Crumb You had -- Crumb testified that
19 Walker states, thank you, I appreciate it, man And you
20 know, that's down to -- that's when the deal actually
21 occurred in this matter Now, was that actually on the
22 tape?

23 A I do not know

24 Q Okay And you did not know at that point in time,
25 or you do not know now?

1 A I do not know now because I've never seen the
2 transcript in this case

3 Q Okay Would you like to read a copy of this page?

4 A In order to answer your question, I'd have to go
5 back and watch the tape and try to read the transcript
6 And I don't think I can answer that

7 Q Okay

8 A I would defer to whatever is in the transcript

9 Q Okay

10 A Honestly, since -- in 2009, I mean, I don't
11 remember

12 Q All right So basically you're -- I mean, the fact
13 that in the transcript on page 83 you're asking Sergeant
14 Crumb, you've indicated that based on your dealing with
15 this informant, he said, thank you, I appreciate it, man,
16 at the end of the deal His answer was, correct, yes,
17 ma'am And that -- that follows what discussion? And
18 according to Crumb, that was -- the purchase had been
19 made or distribution had been made So -- and the
20 question was, I don't think that was clear That
21 statement follows what distribution from the
22 defendant/informant And his answer was, asking for
23 crack, the forty, the dove, the ten -- that conversation
24 they had So if that statement -- if the, thank you,
25 thank you, I appreciate it man, is not on the audio,

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1 would you consider that to be a false statement ---

2 A I wouldn't ---

3 Q --- if it's not actually on the audio?

4 A I wouldn't consider it to be a deliberate false
5 statement I think the officer probably was paraphrasing
6 whatever is actually on the audio tape, but I can't speak
7 for Sergeant Crumb I didn't answer that question He
8 did

9 Q Okay But actually it was in your question that you
10 stated that he said, thank you, I appreciate it, man, at
11 the end of the deal On page 83, line 14 through 16,
12 your statement was, he said, thank you, I appreciate it,
13 man, at the end of the deal, question mark?

14 A That's ---

15 Q So that's your statement Should we be able to find
16 that on the audio if it existed?

17 A I don't know I honestly don't

18 Q Okay All right

19 MR DENNY I would beg the Court's indulgence
20 for just a minute, Your Honor

21 THE COURT Okay

22 Q Do you normally keep records of your cases that you
23 prosecute?

24 A I do

25 Q Okay In preparation for this trial, did you

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1 receive a subpoena from me for your records in this case?

2 A I did And I answered it

3 Q Okay Did you provide a series of C D s for me
4 regarding this case?

5 A I did My paralegal did

6 Q Okay

7 MR DENNY Your Honor, this is C D of the
8 original audio from the trial We don't have a dispute
9 over what was actually in the audio was presented

10 THE COURT It is what now?

11 MR DENNY This is the actual audio that was
12 presented at the trial

13 THE COURT Instead of the transcript of
14 record?

15 MR DENNY We've got the transcript of record,
16 but this is the audio that was actually played during the
17 trial Right now we've got a discrepancy over what was
18 actually in the transcript

19 MS WILLIAMS I think I can clarify this a
20 little bit I haven't seen the audio and video, but I
21 know that it was argued in the transcript by the defense
22 counsel on several occasions that the end of the video
23 does not actually say, thank you, I appreciate it, man
24 It actually says something else The defense attorney
25 cross-examined on that and argued in closing at page 165

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1 that that is nowhere on the audio in order to call into
2 question the credibility of the officer So I don't have
3 a problem with the tape being in here I think it's an
4 issue that was just at trial, but ---

5 THE COURT All right Well, I'll just let you
6 admit it into evidence We're going to just go ahead and
7 mark it

8 MS WILLIAMS If it came from Ms Simmons, I'm
9 sure it's the real thing

10 THE COURT I'm not sure what relevance that
11 has at all, but I'm going to let you admit it We're not
12 going through line-by-line or audio-by-audio with this
13 tape I need to move forward, please

14 MR DENNY Thank you, Your Honor

15 THE COURT Okay

16 MR DENNY The relevance that we'd like to
17 establish with this is basically, we just want to know
18 where it is on this tape I mean, basically, the
19 allegation my client has brought forward ---

20 THE COURT Well, assuming that it's not there
21 -- I'm not saying -- I'm not sure if I, sitting here
22 right now, understand what the relevance is I mean, it
23 has some credibility issues, and that's a factual
24 determination for the jury to decide, isn't it?

25 MR DENNY But actually, Your Honor -- I mean,

1 I understand there was a factual determination by the
2 jury But the jury heard it, and then they heard the
3 State present that there was something else on the tape

4 THE COURT Mark it, please, and admit it into
5 evidence You might want to mark your -- do you have
6 your cover for it?

7 MR DENNY Well, let's see if we've got that

8 THE COURT That might be the way to do it
9 (WHEREUPON, Plaintiff's Exhibit Number 1 was marked
10 for identification only)

11 MR DENNY Thank you, Your Honor I'd like to
12 move forward We may need to come back and actually play
13 this at some point in time, Your Honor

14 THE COURT I'm not going to let you play it
15 I can tell you -- you can admit it into evidence, but I'm
16 not going to let you play it I've got the transcript
17 I understand the point that you're trying to make with
18 it

19 MR DENNY Okay

20 THE COURT And if I'm not mistaken, it's at
21 line -- page 83 of the record, lines 14 through 25
22 indicate on the record that he said, thank you, I
23 appreciate it, man, at the end of the deal And that
24 doesn't show up on the transcript -- I mean, it doesn't
25 show up on the audio tape Therefore, it has to do with

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1 the credibility of Officer Crumb Is that correct?

2 MR DENNY Yes, Your Honor

3 THE COURT Okay, sir I've got that Would
4 you move that into evidence and go forward, please, sir?

5 MR DENNY Yes, Your Honor And Your Honor,
6 at this time, I'd like to admit Plaintiff's Exhibit 1
7 into evidence

8 (WHEREUPON, Plaintiff's Exhibit Number 1 was
9 admitted into evidence)

10 THE COURT Okay

11 Q When did you receive the discovery requests in this
12 case from either Attorney Danny Day or Attorney Scott
13 Sprouse?

14 A Can I refer to my file?

15 Q Please

16 A October 6, 2009, is when I received it from Scott
17 Sprouse, and I answered on the same day

18 THE WITNESS I beg the Court's indulgence for
19 one moment

20 THE COURT Yes, ma'am

21 A It appears I answered to Danny Day on June 8th of
22 2009 pursuant to his request, which I have a Rule 5 from
23 Mr Day, but there's no date on it

24 Q Okay So -- but just -- you received two discovery
25 requests in this case?

1 A Yes, one from Mr Day when he was counsel of record
2 and one from Mr Sprouse

3 Q When you responded both to the original one from Mr
4 Day, and then you said, October 6th for Mr Sprouse, did
5 you provide all discoverable information?

6 A We provided certainly everything in the file that
7 was a paper copy And then we made available for their
8 inspection the audio and video tapes on at least one
9 occasion for both of them But Mr Sprouse actually had
10 copies of everything

11 Q Okay Did you provide a witness list on October 6th
12 when you say you responded to Attorney Sprouse's
13 discovery request?

14 A I did not provide a witness list at that time
15 Certainly all the names were in the file, that Mr
16 Sprouse knew everybody But there was not an alibi
17 issue, so I had not provided my actual witness list I
18 provided that the first day of trial

19 Q Okay So you got the request, and basically his
20 discovery request was for witnesses, and you provided
21 that on the first day of trial?

22 A The actual witness list was provided the first day
23 of trial Mr Sprouse was provided with everyone's name
24 either on the day we -- I answered his discovery and we
25 met in person or as witnesses came available or issues

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1 came up I certainly forwarded to Mr Sprouse everything
2 that I thought was remotely relevant In an abundance of
3 caution, I probably gave him information that I didn't
4 have to

5 Q Okay Are you aware that there's an alleged
6 recantment of the confidential informant's statement
7 against Mr Blassingame?

8 A I am Mr Sprouse and I discussed that He was
9 made aware of it And during my questioning of James
10 Willie Walker on direct, we discussed that And he was
11 also cross-examined on that issue I believe actually
12 Mr Sprouse specifically either showed Mr Walker the
13 recantment or read it to him on cross

14 Q Okay Do you think he read the entire recantment on
15 cross?

16 A He may have -- he showed it to him or read it I'm
17 not sure I just remember there was some extensive
18 cross-examination on that issue

19 Q Okay You'd think it was accurate to say that you
20 objected to that because it was not going to be
21 introduced into evidence?

22 A I probably would have, but I can't -- I would defer
23 to the transcript

24 Q Okay What is your understanding as to why that
25 statement -- that you believe that statement was invalid?

1 Not the introduction -- not the introduction at a trial,
2 but basically why was there no validity given to that
3 recantment by Mr Walker?

4 A Are you asking me to tell you what Mr Walker said
5 to me?

6 Q Do you know that there's a threat? Do you believe
7 there's a threat against Mr Walker?

8 A That's what -- Mr Walker told me -- I mean, these
9 are certainly aren't his words But based on the
10 totality of the circumstances at the time when he was
11 housed with Mr Blassingame, he felt like it was a
12 coercive environment

13 Q Okay

14 A And those are certainly not his words That's just
15 my impression of what he told me

16 Q That's fine So you were under the impression that
17 he was being coerced and that, you know, there's some
18 kind of fear that made him write that recantment?

19 A Some sort of -- I don't know if I would call it
20 fear Certainly some sort of anxiety and interaction
21 between he and the Defendant had caused him to write this
22 letter

23 Q Are you saying he's testifying -- protect Mr
24 Walker? I mean, that you recognize that there's some
25 kind of anxiety or coercion going on?

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1 A I didn't know about this letter at the time that
2 they were housed together at the jail It came up later
3 And you know, certainly the officers were made aware of,
4 you know, what Mr Blassingame -- what had gone on
5 between Mr Blassingame and Mr Walker, but I don't
6 recall knowing at the time when they were actually housed
7 together that this had happened

8 Q All right On page 158 of the transcript, lines 4
9 through 18, you're making your statements to -- I believe
10 your closing statements You admit that Mr Walker could
11 have hidden the forty dollars and that -- but you don't
12 -- but there's no expectation that he could have hidden
13 anything else I mean, do you believe that he actually
14 could have hidden something from the confidential -- or
15 from the handlers, Sergeant Crumb and Hunnicutt, you
16 know, during that buy?

17 A I believe Sergeant Crumb and Officer Hunnicutt
18 testified regarding the extensive search that they
19 conducted

20 Q Okay The extensive search? Do you know what was
21 involved in that extensive search?

22 A I would have in late 2009, but I can't tell you
23 today

24 Q If I told you that Hunnicutt said they took about
25 thirty seconds to do that search, would that be about

1 right?

2 A I would defer to whatever the transcript says

3 Q Okay When you were talking to the jury, you talked
4 about the fact that Mr Walker could have hid forty
5 dollars, you know -- but, you know, he didn't -- and hide
6 it from the cops during this buy And you made the
7 statement on, again, page 158, lines 4 through 18 That
8 speaks volume He has told the truth about this whole
9 process I mean, what were you intending with that? I
10 mean, what was -- where did you get the fact that Mr
11 Walker could have hidden something but he didn't? Do you
12 know that Mr Walker had ever hidden money from the
13 police before during buys?

14 A No, I certainly don't know that I believe, you
15 know, witness credibility is certainly a question for the
16 jury And I'm sure acting as an advocate on the behalf
17 of the State, I was discussing that this witness, you
18 know, had a -- there was an indicia of reliability there
19 and credibility because, if I remember correctly, Mr
20 Blassingame did not charge Mr Walker for these drugs,
21 but the officers had provided him with documented funds
22 to make this purchase And I was arguing that he
23 certainly was trustworthy and reliable because in fact he
24 brought the officers their money back and said, hey, he
25 didn't charge me for this Here's your forty bucks back

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1 Q Okay I understand that But then you talk about
2 on 158 that he could have actually hidden the money He
3 could have actually taken out and hidden forty dollars
4 The cops wouldn't know But he didn't Is there
5 anything in the record, anything -- I've gone through
6 this transcript several times Has -- did you ever
7 establish that Mr Walker has been able to hide money
8 from the cops whenever he does all these buys and
9 basically that he doesn't turn the money back over? Have
10 you ever established that he had that opportunity or that
11 capability before you told the jury that he could have
12 but he didn't, therefore, believe me, he's telling you
13 the truth here?

14 A I would venture to guess that just about anybody
15 could hide money on their person or attempt to I don't
16 have any, you know, concrete evidence that Mr Walker had
17 ever attempted to do that But I would think any
18 confidential informant has that capability if they chose
19 to do so

20 Q Okay But it wasn't part of your -- it wasn't part
21 of your prosecution strategy to basically establish that
22 he could have, and the fact that he didn't means that
23 he's more truthful now to the jury?

24 A I mean, I think I was arguing his credibility I
25 don't think it rose to the level of bolstering There

1 was no contemporaneous objection

2 Q Okay Are you familiar with the case *Matthew v*
3 *State of South Carolina*? The cite is 350 S C 272?

4 A No

5 Q Okay

6 MR DENNY And to paraphrase it for the Court,
7 basically the solicitor cannot bolster credibility of the
8 State's witness aspects using bolster or vouch for not
9 already in the record before the court Part of -- so I
10 guess -- and I'll end this line of questioning

11 Q Was there anywhere in the record or in your trial
12 strategy that you wanted to establish that Mr Walker
13 could have hidden the money, but in this particular case,
14 because you're talking about this truthfulness to the
15 jury, that he did not? Is there anywhere that you
16 represented that? I could not find it in the transcript

17 A I believe Mr Walker testified that he gave the
18 officers their money back or either the officers did, one
19 of the two

20 Q Right I completely understand that But I believe
21 your statement again is the fact that he could have
22 hidden the forty dollars, and that's a capability, that's
23 a specific act, that you are embedding or that you are
24 basically establishing that he had at that moment in time
25 that he chose not to, and that was the basis of saying,

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1 that speaks volumes, he has told the truth about this
2 whole process?

3 A And I don't think that's improper bolstering, but
4

5 Q Okay All right When the jury pool was actually
6 pulled, did you see any issue with the makeup of the
7 jury?

8 A I cannot tell you how many African Americans were on
9 the jury pool if you -- I'll defer to whatever you tell
10 me

11 Q If I told you that there were approximately three
12 African Americans in the jury pool, would that, you know,
13 be uncommon for a jury pool?

14 A Not really A while back, I did -- I did look at
15 the twelve months of jury pools It wasn't for this
16 case But just in my duty as a prosecutor, I wanted to
17 look and see what kind of racial makeup we were looking
18 at And I remember averaging out to somewhere in like
19 the dozen range of people on the actual master list
20 What that whittled -- when that whittled down based on
21 criminal convictions or conflicts or age or anything like
22 that, I can't tell you how many that actually ended up
23 But I would say that, you know, three to five to seven
24 was not way out of the ordinary for a jury pool in Oconee
25 County

1 Q Okay And again, as the solicitor in this position,
2 I mean, not only are you an advocate according to the
3 South Carolina Rules of -- or Professional Conduct Rule
4 38, Comment 1, you're not necessarily an advocate just
5 for the State, but you're also an administer of justice
6 So when you saw that the jury pool that was possibly
7 going to be used to select a jury against my client, Mr
8 Blassingame, did it cause you any concern to just go back
9 and re-validate that, you know, that was a valid process
10 to pull a jury pool? I mean, just -- again, you're not
11 an advocate for the State You're more of an administer
12 of justice as a solicitor to make sure that his due
13 process rights were protected?

14 A I can't tell you that I looked at that jury pool and
15 thought it was any different than the average jury pool
16 in Oconee County

17 MR DENNY I beg the Court's indulgence for a
18 minute, Your Honor

19 THE COURT All right

20 Q Ms Simmons, just a few more questions With
21 regards to the chain of custody, the evidence that was
22 presented at the trial, on the tape -- or actually in the
23 transcript, when you were in direct on Crumb, you'd asked
24 about the handing of the crack or the crack from the
25 confidential informant, Mr Walker, back to the police

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1 officers Now, I'll find the line cite in just a second
2 My review of the transcript -- did the crack actually go
3 from Mr Walker to Sergeant Crumb?

4 A I believe that -- and this is just based on my
5 memory I want to make that clear -- that Mr Walker got
6 in the car with Officer Hunnicutt and Sergeant Crumb, and
7 the drugs were passed up from the back seat to Sergeant
8 Crumb And I don't know if it passed through Officer
9 Hunnicutt's hands or ended up on the console being passed
10 to him But as far as for chain of custody purposes, the
11 transfer of the drugs from Mr Walker to Sergeant Crumb
12 was solely in Mr Crumb's -- in Sergeant Crumb's
13 presence, and he saw everything

14 Q Okay

15 A For purposes of establishing a chain

16 Q And in the video -- I think the video testimony that
17 was shown on the video was shown at the trial actually
18 shows that he handed it to Officer Hunnicutt, and then at
19 some point in time it goes to Sergeant Crumb So the
20 chain of custody that was actually presented actually
21 said from Walker to Crumb, and the actual chain went from
22 Walker to Hunnicutt to Crumb?

23 A In Crumb's presence And it's generally accepted in
24 the prosecution of cases as long as Sergeant Crumb was
25 present during that transfer during the entire time, that

1 would complete the chain

2 Q All right

3 MR DENNY I beg the Court's indulgence just a
4 moment

5 Q In your closing statements you made on page 160 and
6 161, the trial transcript, you talk about what you heard
7 in the audio Again, lines 24 on the bottom of page 160
8 going to the top of page 161, you state, let's review
9 what we just heard The Defendant says, I got some, man
10 I ain't going to give you a forty, give you a forty I
11 don't have the dough right now I have pieces He
12 talked about taking a ride, James Wood told you to take a
13 ride means going to Pendleton to get more He says --
14 and he says, when I get a quarter You know, he says,
15 I'm not going to give you my forty in this audio, that
16 you're establishing -- you try to mix with saying that,
17 you know, that in essence is giving the forty or the
18 piece of crack in this case I mean, how is it this -- I
19 mean, he specifically says on the audio he's not going to
20 give him that piece How is it that you were able to,
21 you know, say that he is giving it when we have the audio
22 and it's clear he says I'm not going to give you, you
23 know, my forty?

24 A Mr Walker testified he gave him drugs

25 Q All right So basically Mr Walker saying that -- ,

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1 you know, even though he said, I'm not going to give it
2 to you, you then are able to take that and say that, you
3 know, that meant that he was going to give it to him?

4 A I don't remember exactly what the audiotape said
5 But I think there was talk about a piece and a forty, and
6 the confidential informant said that he gave it to him
7 And the jury in this case listened to this audiotape
8 multiple times of the distribution -- I know they did --
9 because they came back during their deliberations and
10 wanted to hear it again So certainly they heard the
11 exact deal, not just my word of what I was saying

12 happened, multiple times
13 Q Okay And so on page 161, lines 12 through 14, when
14 you are restating, you know, the fact that my client
15 supposedly said, I love you -- or, you know -- I'm sorry
16 Mr Walker says, I love you He said, I love you for
17 what I love you for giving me one of your last pieces,
18 for distributing crack cocaine to me I mean, you took
19 his statement, said, I ain't going to give you my forty,
20 and you paraphrase it, you know, lines 12 through 14,
21 that I love you for me giving one of your last pieces,
22 for distributing crack cocaine to me So you basically
23 took a statement that was, I'm not going to give you
24 anything, and then restate it to the jury that says that
25 means I'm going to give you my last piece of crack?

1 A I mean, I'm sure that was part of my argument
2 because the average juror may not understand the drug
3 lingo that goes on in these cases But Judge Macaulay
4 specifically -- he always specifically instructs the jury
5 that openings and closings are not to be considered by
6 the jury as evidence, that they should defer to the
7 evidence that's actually introduced in the record And
8 this jury did listen to the audiotape multiple times

9 Q No further questions, Ms Simmons Please answer
10 any questions that Ms Williams may have

11 MS WILLIAMS Just briefly

12 CROSS-EXAMINATION

13 BY MS WILLIAMS

14 Q Just briefly Mr Walker was paid or was he working
15 off charges?

16 A He was paid

17 Q Okay And you guys had talked about several
18 instances involving contact between the Defendant and Mr
19 Walker You had mentioned one at the jail Were there
20 some other contacts between the Defendant and Mr Walker
21 that later came to light?

22 A Yes I believe the week -- the -- probably the
23 Sunday before trial, Mr Blassingame was attempting to
24 contact Mr Walker via third parties I think they
25 actually did speak on the phone at one point in time It

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Lindsey Satterfield Simmons - Redirect Examination by Mr Denny

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1 resulted in Mr Blassingame being investigated by the
2 Oconee County Sheriff's Office by Lieutenant Washington,
3 and he was charged with intimidation of a State's
4 witness

5 Q But that charge has never been prosecuted, is that
6 correct?

7 A After Mr Blassingame was convicted at trial, I
8 chose not to pursue that charge

9 Q And in terms of the chain of custody, is it your
10 recollection that each member of that chain of custody
11 that would have been involved in transporting the drugs
12 to analysis did actually testify at trial?

13 A They did

14 Q Okay

15 MR DENNY Your Honor, just to be clear

16 REDIRECT EXAMINATION

17 BY MR DENNY

18 Q So basically, even though we have the trial
19 transcript that talks about basically Mr Walker getting
20 paid to go do this work for the Seneca Police Department,
21 he was actually working off charges?

22 MS WILLIAMS No

23 A If I recall correctly, he was paid for this deal
24 At the time he testified, he did have pending charges
25 But again, if I'm remembering correctly, on the date in

1 question where this deal took place, he actually was
2 working for money

3 Q All right On the day that the deal took place
4 But actually when he was testifying for the State on page
5 100 of the transcript, lines 20 through 25, you've asked
6 whether he's got pending charges Or actually -- asked
7 if he had pending charges and that he asked for help on
8 his pending charges in return for cooperation with the
9 State, had he not? And the answer was, yes, sir So
10 basically -- in the transcript on page 100 and page 101,
11 lines 20 through 25 and the first line on 101, he's
12 basically establishing that he's got pending charges,
13 he's asked for help, and that's what he expects out of
14 helping the State in this matter Is that -- does that
15

16 MS WILLIAMS If we're just going to tell you
17 what the transcript states, on page 105 he clarifies that
18 he has not been promised anything in exchange for his
19 testimony regarding those charges

20 THE COURT Okay

21 A In fact, Mr Denny, I did not prosecute Mr Walker
22 on his pending charges At that time, they were handled
23 by Mr Wagner, and I believe he was represented by Ms
24 Earle I never made any promises

25 MR DENNY Thank you No further questions,

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Francis Stevenson Pruitt, Jr - Direct Examination by Mr Denny

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1 Your Honor

2 THE COURT Thank you May she step down and
3 be excused?

4 MR DENNY Yes, Your Honor I have no further
5 questions

6 THE COURT Thank you, ma'am

7 Would you call your next witness, please?

8 MR DENNY Yes, Your Honor Your Honor, I
9 would like to call Major Steve Pruitt of the Oconee
10 County Detention Center

11 **FRANCIS STEVENSON PRUITT, JR ,**

12 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

13 DIRECT EXAMINATION

14 BY MR DENNY

15 Q Mr Pruitt, if you'd please state your full name for
16 me?

17 A Francis Stevenson Pruitt, Jr

18 Q And what is your current job?

19 A I am Director of the Oconee County Detention Center

20 Q How long have you been in that position?

21 A Since April of 2003

22 Q Are you -- would you consider yourself to be

23 familiar with the records in the daily operations of the
24 Oconee County Detention Center?

25 A Yes, sir, somewhat

1 Q Can you just briefly describe the general housing
2 requirements for pretrial inmates at the Oconee Detention
3 Center? I mean, how are they housed down there? I mean,
4 are they in cell blocks or individual cells?

5 A In the jail wing, we have four males We have four
6 housing units composed of "A" Cell which has eighteen
7 beds It's an open-dormitory design "B" Cell is the
8 same, eighteen beds, open-dorm "C" Cell has about
9 sixteen beds It is broken down into cells within the
10 housing unit "D" cell is the same, has a capacity of
11 about sixteen inmates and broken down into sub-cells

12 Q And just for my clarification, when you say an open
13 dormitory, basically is it one large area where all the
14 inmates are able to interact with each other?

15 A Yes

16 Q Okay How do you maintain where people are located
17 in your facility? I mean, is it just a visual check, or
18 I mean, do you have any way of logging or tracking people
19 in at your facility?

20 A First of all, we have a classification system, and
21 inmates are assigned to housing based on that
22 classification system Unfortunately, we are
23 overcrowded, and sometimes we can't always adhere to that
24 classification system As far as checking inmates,
25 that's done by periodic random rounds by correctional

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1 officers to those housing units

2 Q As far as where an inmate is, whether it's in "A"
3 cell, "B" cell, cell block, I mean, do you track that in
4 any way? Do you have a system that tracks that
5 information?

6 A Yes It's tracked by computer "A" cell, for
7 instance, is the -- usually the least serious type crimes
8 whereas "C" and "D" Cell are the more serious type
9 offenses

10 Q Are you able to run reports from this computer, this
11 tracking system?

12 A Yes

13 Q All right Can you identify what this is?

14 A That is an inmate history housing report for James
15 Willie Walker

16 Q Okay

17 MR DENNY At this time I'd like to mark this
18 Inmate Housing Report as Plaintiff's Exhibit 2

19 THE COURT Any objections from the State?

20 MS WILLIAMS I haven't seen it

21 THE COURT Who's the inmate, Robinson?

22 MR DENNY This is James Willie Walker, the
23 Housing Inmate Report

24 THE COURT James Walker, okay

25 MR DENNY Yes, sir

1 THE COURT All right Admitted without
2 objection

3 (WHEREUPON, Plaintiff's Exhibit Number 2 was marked
4 and admitted into evidence)

5 Q All right Major Pruitt, can you please review that
6 report and answer the next couple of questions I have for
7 you? On April 21st, where was Mr Walker housed at the
8 Oconee Detention Center?

9 A He was housed in "A" cell

10 Q On May 15th through the 19th, where was he housed?

11 A In "C" dorm, which would indicate he was then
12 considered a sentenced inmate So he was moved from the
13 jail wing to the sentence side of the jail

14 Q Okay And how long was he there in dorm "C"?

15 A He was in "C" dorm from May the 15th to May the
16 19th

17 Q Then on June 27th, where was Mr Walker?

18 A June 27th, that would have been a different booking,
19 a separate visit to the jail He was housed in "A" cell
20 for, it appears to be, a little over an hour

21 Q And then on July 29th ---

22 THE COURT Go back to June 27th Where was
23 he? Just tell me what the -- I didn't catch what the
24 response was?

25 MR DENNY He was in -- I'm sorry

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1 THE COURT No Go ahead

2 MR DENNY He was in cell "A" It was a
3 different booking from the original I mean, what I
4 submitted to the Court are three different bookings

5 THE COURT I've got you Okay

6 MR DENNY Okay

7 Q And then on July 29th, where was Mr Walker?

8 A On July 29th, he was briefly in "B" cell, it
9 appears, for slightly under two hours Then he was moved
10 to a segregation cell And he stayed there from July the
11 29th to July the 31st, shortly after eight o'clock p m

12 Q Why would he be in a segregation cell?

13 A Generally, there can be several reasons why a person
14 would be put in a segregation cell One would be
15 protective custody Another would be a disciplinary
16 matter A third could possibly be because they're
17 considered a vulnerable inmate due to age or some other
18 reason

19 Q From July 31st until right after the 1st of October,
20 where was Mr Walker?

21 A He was in "A" cell

22 Q Okay And so he was in "A" cell -- I mean, what
23 dates was he in "A" cell again?

24 A July 31st to October the 2nd, 2009

25 Q Okay Now, the report you're looking at, I

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1 requested it from you When would that report be
2 available in the normal course of business? When would
3 you run that report?

4 A We could run this report anytime

5 Q So immediately after someone was, you know, booked
6 down at the detention center, would you be able to run
7 that report?

8 A Yes

9 Q Any reason why you would not run that report if
10 someone requested it from you?

11 A No, not that I can think of

12 Q So this information is readily available from your
13 office just for the asking, correct?

14 A Yes

15 Q Okay All right

16 A Subject, of course, to the Freedom of Information

17 Q Yes, sir

18 MR DENNY Your Honor, at this time I'd like
19 to mark Inmate Housing Report for Timothy Lee Blassingame
20 as Plaintiff's Exhibit 3

21 THE COURT Any Objection?

22 MS WILLIAMS No, sir No, Your Honor

23 THE COURT Admitted without objection

24 (Whereupon, Plaintiff's Exhibit Number 3 was marked
25 and admitted into evidence)

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1 Q Major Pruitt, I'm handing you -- can you identify
2 what this exhibit is?

3 A This is an Inmate Housing History Report for Timothy
4 Lee Blassingame

5 Q Okay Just as I asked you before about Mr Walker,
6 can you tell me where Mr Blassingame was housed at the
7 Oconee Detention Center from April 1st until, say,
8 September 26th?

9 A From April 6, 2009, to September 26, 2009, he was
10 housed in "B" cell

11 Q Okay And from September 26th until October 29th,
12 where was Mr Blassingame housed?

13 A He was housed in "A" cell

14 Q Okay Now, if we go back over to the report for Mr
15 Walker, was there any period of time in which Mr Walker
16 and Mr Blassingame were housed together? If you look at
17 the period from 7/31 to October 2nd of 2009 for Mr
18 Walker, and then from 9/26 to October 29th for Mr
19 Blassingame Are they both housed in cell "A"?

20 A There was a brief period on July the 29th when they
21 were both housed in "B" cell And then a longer period,
22 from September the 26th to October the 2nd, they were
23 housed in "A" cell

24 Q And again, just with -- well, let me ask you With
25 Mr Walker's record we just talked about and Mr

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1 Blassingame's, was there any reason why Mr Blassingame's
2 housing record would not be available if requested back
3 in October 2009?

4 A None that I can think of, no

5 Q Did anyone actually request any of his housing
6 records back in October 2009?

7 A Not to my knowledge Well, you made an initial
8 request at -- in 2009, you said?

9 Q 2009

10 A Not 2010? Right

11 Q Okay

12 A Not that I know of, no

13 Q I don't think I would have made a request in 2009

14 A Right

15 Q So to your knowledge, am I the only one that's made
16 a request for these housing reports?

17 A Yes

18 Q Okay All right

19 MR DENNY Your Honor, at this time I'd like
20 to have marked for -- marked for a plaintiff's exhibit,
21 exhibit 4, which is a Refusal of Protective Custody, the
22 State of South Carolina I'm going to ask Major Pruitt
23 to indicate that this is a record maintained in the
24 ordinary course of business at the Oconee County
25 Detention Center

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1 MS WILLIAMS I don't think he can
2 authenticate any signatures or who signed it or what the
3 conditions were ---

4 THE COURT Let's just wait and see Go ahead
5 (WHEREUPON, Plaintiff's Exhibit Number 4 was marked
6 for identification only)

7 Q Major Pruitt, I'm handing you an exhibit that's been
8 marked as Plaintiff's Exhibit 4 Can you identify what
9 the title of that document is?

10 A It is a Refusal of Protective Custody, State of
11 South Carolina, County of Oconee

12 Q Okay In the ordinary course of business at the
13 Oconee County Detention Center, is that a form that would
14 be signed if a inmate does not want to have protective
15 custody?

16 A Yes

17 Q Okay Does that photocopy look like a form that
18 would be used at the Oconee County Detention Center?

19 A Yes, sir

20 Q Okay

21 MR DENNY And Your Honor, at this time, I'd
22 like to introduce this into evidence I'm not
23 introducing it as for the matter for which it's asserted,
24 basically Mr Walker's asked for protective custody, but
25 the fact there exists in the record, you know, for

1 whatever value it has, basically a refusal of protective
2 custody against the State of South Carolina that was
3 signed at the detention center which was discoverable,
4 you know, at the trial, at the time of the trial

5 MS WILLIAMS What is the purpose? I'm sorry
6 I don't understand what you're saying

7 MR DENNY Okay Basically the purpose of
8 this is that there's been an alleged threat based -- from
9 my client to the State's witness, Mr Walker Now ---

10 MS WILLIAMS In my reading of the transcript,
11 there was no alleged ---

12 THE COURT Hold on No, uh-uh (negative)
13 You direct it to me, please

14 MS WILLIAMS Okay

15 THE COURT I'll admit it Go ahead, please

16 MR DENNY Thank you, Your Honor

17 (WHEREUPON, Plaintiff's Exhibit Number 4 was
18 admitted into evidence)

19 Q Major Pruitt, now, I'm not asking you to validate
20 that the signature is that of Mr Walker I'm not asking
21 you to validate that the witness down there is someone
22 that worked in your facility All I'm asking is that you
23 please review Plaintiff's Exhibit 4 and identify if that
24 looks to be a record that you maintain whenever someone
25 does not want protective custody at the Oconee County

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1 Detention Center Is that such a document?

2 A Yes, sir

3 Q Okay Is there any reason why that document would
4 not have been -- could anyone have requested that
5 document from your files back in 2009 in the July,
6 August, September, October time frame?

7 A Yes, sir

8 Q Is there a reason why it could not have been
9 delivered?

10 A None that I know of

11 Q Okay So you would turn it over to anyone that
12 requested it?

13 A Yes

14 Q All right Thank you

15 MR DENNY So Your Honor, just to be clear, I
16 do want this Plaintiff's Exhibit 4 introduced into
17 evidence

18 THE COURT I've already admitted it into
19 evidence

20 MR DENNY I'm sorry I apologize

21 I'd like to have this marked as Plaintiff's Exhibit

22 5

23 (WHEREUPON, Plaintiff's Exhibit Number 5 was marked
24 for identification only)

25 Q Major Pruitt, can you again read to me the title on

1 this document that I'm handing to you? It's Plaintiff's

2 Exhibit 5

3 A This is a Refusal of Protective Custody, State of

4 South Carolina, County of Oconee

5 Q Okay And ---

6 THE COURT What's the purpose of your
7 introduction of that if it's not a business record form?

8 Q Is this a standard business record that's maintained
9 within ---

10 THE COURT You've already admitted the same
11 form just in Exhibit Number 4, have you not?

12 MR DENNY No, Your Honor, I have not

13 THE COURT You've not? Okay

14 MR DENNY It is the same kind of form, but
15 there was two dates There's actually two different
16 entries in the record at the Oconee County Detention
17 Center where this one person, Mr Walker, has requested
18 no protective custody on two different dates filed
19 separately

20 THE COURT The purpose I'm asking you, you
21 admitted exhibit number 4 based on what you just told me
22 on the fact that this is just a business record where the
23 guard -- we're not trying to authenticate his signature

24 MR DENNY Yes, Your Honor

25 THE COURT Is this not the exact same form?

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1 MR DENNY This is another one I want ---

2 THE COURT Is it not the exact same form as
3 far as the form goes?

4 MR DENNY Yes, Your Honor

5 THE COURT Okay And so then you're going to
6 have him authenticate the signature?

7 MR DENNY I'm not going to ask him to
8 authenticate the signature, Your Honor I just want to
9 make sure that basically both of these -- I mean, the
10 same record, that they were available in the files at the
11 Oconee ---

12 THE COURT I understand what you're trying to
13 do But I'm saying that your basis for admission of this
14 document earlier was that this is just a simple form that
15 they maintain And this is the exact same form
16 Although it may have a different signature and a
17 different date, it's the exact same form

18 MR DENNY Yes, Your Honor

19 THE COURT Is that correct?

20 MR DENNY Yes, Your Honor

21 THE COURT Okay

22 MR DENNY And Your Honor, even though this is
23 the exact same form, it is, you know, introduced to show
24 that the Oconee County Detention Center -- I do want to
25 admit this into evidence as Plaintiff's Exhibit 5 to show

1 that the Oconee County Detention Center maintains
2 multiple forms when they are filled out I'm not talking
3 about what's actually signed on them, but that they are
4 available in the record for requests

5 THE COURT What's your position on that?

6 MS WILLIAMS If I may clarify just the
7 Court's ruling briefly is that this is just being shown
8 that there's a form, it's not offered for the truth or
9 that Mr Walker actually signed this or this has to do
10 with James Walker Is that correct?

11 MR DENNY Your Honor, part of the Plaintiff's
12 case at this time is basically ineffective assistance of
13 counsel This is being introduced to show that there
14 were records -- I mean, we're not trying the case here
15 That was back in October 2009 All we're showing is
16 basically that there were records available from the
17 Oconee County Detention Center that could have been
18 requested in support of my client's case And this is
19 another example of a record that was there Yes, this is
20 the same form as Plaintiff's Exhibit 4 that was just
21 introduced, but it's another one that was available for
22 request I'm not going into the truth of the matter
23 asserted because we're not retrying the case from October
24 2009 in this court

25 THE COURT Do you have an objection?

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Francis Stevenson Pruitt, Jr - Direct Examination by Mr Denny

1 MS WILLIAMS Your Honor, I believe this is
2 not properly authenticated in terms of what it contains
3 He wants to show there were forms of the O C -- that the
4 Department uses to -- that an inmate can sign But other
5 than that, it's not been verified that this is the same
6 Mr Walker or any of those things So I think it can be
7 admitted as a form only

8 THE COURT I'm going to let you proffer it
9 into the record so you'll have a record on this case I
10 think that you haven't authenticated it to be admissible
11 based on your prior exhibit coming into evidence, but I'm
12 going to let you make it -- I'm going make it a Court
13 exhibit and let you proffer Okay, sir?

14 MR DENNY Okay

15 THE COURT Just go ahead and give it to the
16 court reporter and let her make it Court Exhibit Number
17 1

18 (WHEREUPON, Plaintiff's Exhibit Number 5 previously
19 marked for identification was remarked as Court's
20 Exhibit Number 1 for identification only)

21 THE COURT I'm going to sustain the State's
22 objection

23 MR DENNY Thank you, Your Honor

24 THE COURT Yes, sir

25 Q All right So Major Pruitt, just to clarify, based

1 on your records, there have been multiple refusals for
2 protective custodies ---

3 THE COURT Objection I'm not letting you go
4 there That is not properly in the record

5 MR DENNY Okay All right

6 Q Major Pruitt, you do recognize that there is a
7 process and you will clarify that there's a process if an
8 inmate wants to not have protective custody, is that
9 correct?

10 A Yes, sir

11 Q All right And one of the forms that was shown to
12 you, Plaintiff's Exhibit 4, is a sample of that form that
13 you allow to be, you know, filled out by an inmate, is
14 that correct?

15 A Yes, sir, that's correct

16 Q All right Okay Mr Pruitt, if an inmate alleges
17 that there is a threat against him or her at your
18 facility, what are your procedures?

19 A Normally, an inmate will file a written request
20 stating a problem with another inmate Sometimes it may
21 come to an officer verbally during rounds Sometimes it
22 happens during the booking process Anyway, we -- the
23 supervisor sometimes will attempt to establish whether
24 there is indeed a conflict or a problem because sometimes
25 inmates will make a claim of that nature in an effort to

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Francis Stevenson Pruitt, Jr - Direct Examination by Mr Denny

1 get moved to another cell, to be with a friend or, you
2 know, an acquaintance, somebody they know So the
3 officers generally will do a brief inquiry to determine
4 the credibility or legitimacy of the request Then the
5 inmate will be moved to another housing unit if it is
6 thought that there's a potential for some conflict or
7 assault or other problem Often that means we have to
8 override classification, either put them in a cell of a
9 higher classification or a lower classification, which we
10 don't like to do But we often have to do it because
11 we're overcrowded

12 Q If there was a threat -- I mean, just if I
13 understood you correctly, basically if there's a threat,
14 once you've investigated it -- if there's a threat, would
15 you have the person making the threat and the potential
16 victim in the same cell block?

17 A No We would do our best to separate those either
18 by moving the person that is the source of the threat or
19 the person making the request

20 Q And I just want to go back You previously
21 testified that from September 26th until October 2nd that
22 Mr Blassingame and Mr Walker were housed together in
23 cell block "A", I believe, is that correct?

24 A Yes From September 26th to October the 2nd, they
25 were both housed in "A" cell

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Francis Stevenson Pruitt, Jr - Direct Examination by Mr Denny

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1 Q If you were aware of a threat against Mr Walker
2 from Mr Blassingame, how long would it have taken you to
3 make sure or to keep him from being housed with Mr
4 Blassingame?

5 A Usually no more than an hour or two

6 Q Okay

7 A Sometimes immediately

8 Q Okay But it's not a process that takes five or six
9 days to investigate to, you know, make sure before you
10 move someone around?

11 A No

12 Q Is that correct? Okay So the fact that these two
13 were in the same cell together, you know, based on your
14 position to establish as you're familiar with the
15 runnings of the Oconee Detention Center, that you're head
16 of the Oconee County Detention Center, would two people
17 that are -- had animosity toward each other and a
18 potential threat, one to the other, been in a cell that
19 long together?

20 A We have -- because of our population, we have made
21 mistakes before If somebody made a previous request not
22 to be housed with somebody -- there have been cases where
23 we've had to move a lot of different people around and
24 two people would wind up in the same cell again But
25 normally if that happens, the individual will notify us

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Francis Stevenson Pruitt, Jr - Cross-Examination by Ms Williams

1 immediately and let us know that they're back in the cell
2 with somebody they don't want to be, and we'll move them
3 accordingly

4 Q In preparation for your testimony here today -- and
5 I asked you to pull your file when I subpoenaed back last
6 September and then also once again back in this past
7 February, and you reviewed the file Did you see any
8 indication that, you know, there's a mistake or that, you
9 know, there was some indication that these two should not
10 have been put together?

11 A Not during that period of time, no

12 Q Okay

13 MR DENNY No further questions, Your Honor

14 MS WILLIAMS May it please the Court

15 THE COURT Yes, ma'am

16 CROSS-EXAMINATION

17 BY MS WILLIAMS

18 Q Do you normally keep records of each threat that is
19 reported or each inmate complaint that is made?

20 A We will keep either a copy of the inmate request, or
21 if there's an actual incident of some sort, the officer
22 will file an incident report

23 Q In what kind of situations would you generate a
24 Refusal of Protective Custody Form?

25 A There would actually be two One would be if a

1 person had already been moved to different housing For
2 instance, if they were put in administrative segregation
3 because of protective custody, they might fill out a
4 refusal of P C because they want to get moved back in to
5 general population The second case might be where an
6 officer is aware of a potential conflict and questions
7 the individual about that potential conflict, but the
8 individual says, no, we'll be fine, and he signs a
9 refusal of protective custody

10 Q And so you don't have any personal knowledge about
11 Mr Walker's situation with regard to the preparation of
12 these forms, and you have no record of him making a
13 complaint to your knowledge?

14 A I'm not aware of him identifying a specific threat
15 or a specific individual

16 Q All right Thank you, sir

17 THE COURT May this officer be excused?

18 MR DENNY Yes, Your Honor

19 THE COURT Thank you, sir

20 MR DENNY Your Honor, the Plaintiff would
21 like to now call Justin Biggs I believe he is in
22 holding

23 THE COURT Okay How many witnesses do you
24 propose to have?

25 MR DENNY Biggs and Mr Bryson are the only

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Justin Diggs - Direct Examination by Mr Denny

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1 two We're waiting on Mr Bryson to come up from Tiger
2 River There was a mistake by S C D C on transport this
3 morning

4 THE COURT Are you going to call Mr
5 Blassingame?

6 MR DENNY I am going to call Mr Blassingame
7 Yes, Your Honor

8 (WHEREUPON, the witness was duly sworn)

9 THE COURT Excuse me, ladies and gentlemen
10 Go ahead

11 MR DENNY Thank you, Your Honor

12 **JUSTIN DIGGS,**

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

14 DIRECT EXAMINATION

15 BY MR DENNY

16 Q Mr Diggs, can you state your full name, please?

17 A Jason O'Neal Diggs

18 Q Okay Are you currently serving time in the South
19 Carolina Department of Corrections?

20 A Yes, sir

21 Q All right Were you ever housed at the Oconee
22 County Detention Center?

23 A Yes, sir

24 Q Okay When were you housed at the Oconee County
25 Detention Center?

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- 1 A April '09 to like December '09
- 2 Q Okay So the better part of 2009?
- 3 A Yes, sir
- 4 Q Do you know this gentleman sitting beside me over
- 5 here?
- 6 A Yes, sir
- 7 Q Were you housed with Mr Blassingame at the Oconee
- 8 County Detention Center?
- 9 A Yes, sir
- 10 Q What cell block were you housed with Mr
- 11 Blassingame?
- 12 A "A" cell
- 13 Q "A" cell? All right So were you housed with Mr
- 14 Blassingame during -- you know, between September 26th
- 15 and around October the 2nd?
- 16 A Yes, sir
- 17 Q Were you also -- in that same cell block, was there
- 18 a Mr James Walker housed with you?
- 19 A Yes, sir
- 20 Q Okay Do you know Mr Walker?
- 21 A Yes, sir
- 22 Q Okay While you were in the cell with Mr
- 23 Blassingame and Mr Walker, can you describe, you know,
- 24 what you observed, the interactions between the two of
- 25 them?

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Justin Diggs - Direct Examination by Mr Denny

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1 A It was an everyday thing like we all played cards,
2 played checkers and stuff like that It was every day
3 Wasn't nothing different

4 Q Okay And just for my clarification -- you say it's
5 an everyday thing I mean, was there animosity every
6 day? Was there anger every day? Was there any kind of
7 issues, you know, between -- that you could observe? I'm
8 not asking for you to tell me what Mr Blassingame or Mr
9 Walker have ever said to each other But did you observe
10 any kind of outward hostility or outward threats ---

11 A No, sir

12 Q --- while you were there in cell "A"?

13 A No, sir

14 Q Okay I mean, have you had any -- I mean, other
15 than my initial conversation with you back in the holding
16 cell prior to this hearing and then back in October, have
17 you had any background on this case? I mean, has anyone
18 told you what to say in this case?

19 A No, sir

20 Q Are you coming here freely and voluntarily?

21 A I came here of my own will

22 Q Okay I mean, you're willing to come up here and
23 testify on behalf of Mr Blassingame, is that correct?

24 A Yes, sir

25 Q Okay Mr Diggs, has anyone promised you anything

1 in exchange for, you know, testifying on behalf of Mr
2 Blassingame at this trial?

3 A No, sir

4 Q All right Would you have testified if called as a
5 witness for Mr Blassingame back in October 2009?

6 A Yes, sir

7 Q Did anyone ever contact you back in October 2009 or
8 in that time frame, back in the September/October time
9 frame, and ask you about interactions between Mr
10 Blassingame and Mr Walker?

11 A No, sir

12 Q If they had, again, would you have been willing to
13 be a witness?

14 A Yeah

15 Q Yes? Yes, you would have?

16 A Yes, sir

17 Q Okay All right

18 MR DENNY No further questions, Your Honor

19 THE COURT Any cross-examination?

20 MS WILLIAMS Just briefly

21 CROSS-EXAMINATION

22 BY MS WILLIAMS

23 Q What are you currently in the Department of
24 Corrections for?

25 A Common-law robbery

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1 Q And you had some prior convictions involving drug
2 convictions as well, right?

3 A Yes, ma'am

4 Q Okay And that was the manufacture and possession
5 of drugs and possession with intent to distribute
6 cocaine Are those correct?

7 A That's ---

8 Q One in Seneca?

9 A Yeah Around the same time I caught these charges
10 right here

11 Q Like within three days of each other in 2008, right?

12 A It was -- no In 2008 I had a distribution of
13 marijuana

14 Q Okay Okay And how many days were the three of
15 you, that is Mr Walker, Mr Blassingame and you,
16 together in ---

17 A I want to say probably about three, four months

18 Q Three or four months? All three of you were there
19 for three or four months?

20 A Uh-huh (affirmative) Prior -- I think about three
21 or four months

22 Q Okay And you took naps and slept You didn't see
23 him all the time Is that accurate?

24 A I seen them every day

25 Q Okay All right Thanks

1 THE COURT May this witness be excused?

2 MR DENNY Yes, Your Honor

3 THE COURT Thank you You may step down

4 MR DENNY Your Honor, as mentioned

5 previously, we did have two inmate transport requests

6 One was for Mr Diggs and the other was for Mr Bryson

7 Judge, both were sent to S C D C on March 8th

8 Apparently there was a mixup this morning Based on my

9 conversation earlier within this court, basically they've

10 got Mr Bryson on his way up here

11 THE COURT So Mr Bryson's anticipated

12 testimony would basically be cumulative to what we just

13 heard?

14 MR DENNY In addition to one other aspect

15 that he knows, he knows about the recanted statement He

16 knows that Mr Walker was writing a statement We're not

17 going to get into what that statement was But you know,

18 in addition to that there's no animosity -- my

19 understanding, based on the brief conversation I had with

20 him prior to the October 4th hearing was that, yeah, he

21 was aware that he was writing something and that, you

22 know, he was aware there was no animosity, you know,

23 between the two

24 THE COURT All right Call your witness,

25 please

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Timothy Blassingame - Direct Examination by Mr Denny

1 MR DENNY All right At this time, I'd like
2 to call Mr Timothy Blassingame

3 (WHEREUPON, the witness was duly sworn)

4 MR DENNY Thank you, Your Honor

5 **TIMOTHY BLASSINGAME,**

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

7 DIRECT EXAMINATION

8 BY MR DENNY

9 Q Mr Blassingame, how old are you?

10 A I'm twenty-seven -- thirty-seven

11 Q Thirty-seven And why were you arrested in April
12 2009? Why were you arrested back in 2009?

13 A For distribution ---

14 THE COURT Let's go forward, please We're
15 taking up too much time on this case I want to get to
16 the issues involved The record will show why he was
17 arrested, and he stood trial and was found guilty by a
18 jury I just want to get to the issues on this P C R ,
19 please

20 MR DENNY Okay

21 Q With regards to your assertion of ineffective
22 assistance of counsel, failure to object to the admission
23 of false testimony, improper comments by the Solicitor,
24 can you please elaborate on the basis for your
25 allegations against your former attorney?

1 A Yes During the trial, Sergeant Crumb committed a
2 false testimony by stating -- saying that Mr Walker made
3 a direct statement on the audiotape of, thank you, thank
4 you, I appreciate it And you know, Mr Sprouse, he
5 referred back to it and asked him again about that,
6 through the trial transcript -- I don't have my records
7 up here But it was asking him about, you know, to
8 testify to it again And he did And he failed to
9 correct the error

10 Q And so this -- based on the review of the
11 transcript, this is on page 164, lines 24 and 25, page
12 165, lines 1 through 12 And is this basically where you
13 recall hearing the statement, thank you, thank you, I
14 appreciate that? Is that what you're referring to?

15 A Yeah Well, it's on page 59

16 Q Page 59, lines 6 through 8?

17 A Page 59, lines 6 through 8 And then he referred
18 back to it on page, I want to say

19 Q 75?

20 A 75, lines 12 through 15

21 Q Okay And then there's also -- if we went to page
22 83, lines 14 through 25?

23 A That's when the Solicitor on her redirect
24 examination

25 Q Okay

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1 A specifically referred back to the false
2 testimony

3 Q Do you believe that this testimony, the admission of
4 those statements, prejudiced you?

5 A Yes, because it was material evidence of a
6 distribution that didn't occur

7 Q Do you believe had that not been there that the jury
8 could have found or would not have given it sufficient
9 weight in its deliberation?

10 A Right

11 Q Okay With regards to your assertion that Attorney
12 Sprouse failed to object to the assistant solicitor for
13 vouching for the State's witness, can you elaborate on
14 the basis of that allegation?

15 A Well, I mean, she -- like I said, on page 158, she
16 commits that act, saying that this man has told the truth
17 throughout this whole process You know, this case was
18 based on this man's credibility There was no physical
19 evidence or none of that So you know -- you know, by
20 her vouching for him, telling the jury that, hey, this
21 man is trustworthy, he's truthful, so y'all can believe
22 him, you know, that induces the jury to trust the State's
23 judgment about the witness

24 Q And do you believe that if that was vouching, that
25 that impacted the jury's decision in this case?

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Timothy Blassingame - Direct Examination by Mr Denny

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1 A Yes Yes

2 Q And was it prejudicial against your case?

3 A Yes

4 Q As far as your assertion that the defense attorney,
5 Mr Sprouse, did not introduce any exculpatory evidence
6 or investigate exculpatory evidence, can you elaborate as
7 to, you know, your allegation on that from that aspect?

8 A It wasn't so much as exculpatory, but it wasn't like
9 from -- like from the solicitor It's really in favor of
10 impeaching evidence from -- you know, that we discovered
11 that this man wrote a recanting statement saying he did
12 not get no drugs from me

13 Q Okay And did you ask your defense attorney, Mr
14 Sprouse, to introduce the statement that was provided by
15 Mr Walker?

16 A Yes

17 Q Okay Did Mr Sprouse tell you he was not going to
18 do that?

19 A No, he didn't

20 Q Did he discuss putting on a defense for you?

21 A No, he never told me what kind of defense -- well,
22 he told me when he came to visit me that basically this
23 case is boiled down to the credibility of the witness
24 That's -- you know, that's my word against his word
25 because there was no physical evidence on no distribution

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1 anyway So you know, by him being the lawyer, you know,

2 I'm just going by what he said

3 Q Did you explain to Mr Sprouse that you wanted the
4 evidence introduced regarding Mr Walker's statement?

5 A Yes, because as soon as I got it, I confronted [sic]
6 with him and told him And he said, well, you know if he
7 admits to this statement and it get introduced, it's
8 going to turn the State's case a hundred and eighty
9 degrees So I told him -- I said, well, look, I want
10 this to be admitted into evidence I want this to be
11 brought up at the court proceedings

12 Q All right And recognizing the Court's direction as
13 far as getting to the core of your allegations, we've
14 identified basically the exculpatory evidence We've
15 identified the vouching statements We've identified the
16 failure -- your allegation of the failure of the defense
17 counsel to put on the defense for you that you requested
18 What other issues do you have that you feel is the basis
19 for your P C R ?

20 A That he should object to the improper comments that
21 was made by the solicitor and the conclusory statements
22 that she made

23 Q Conclusory statements basically that ---

24 A Saying that whatever Mr Walker turned over to the
25 police came from me when it was already confirmed on page

1 75 of the trial transcript from Sergeant Crumb that he
2 said there's a possibility he could have got drugs
3 somewhere else There was no proof of that

4 Q That was on page 75, lines 12 through 15?

5 A Yes

6 Q All right During the trial, did you and Mr
7 Sprouse confer? Did you and Mr Sprouse confer during
8 the trial?

9 A Well, he just gave me a pad and said, if you've got
10 any questions just write it on here Don't bother me
11 while I'm ---

12 Q Okay Did you ask him any questions?

13 A Well, I wrote them down He never asked none of
14 them So I mean, he never did none of those

15 Q Did you file an appeal in your case?

16 A Yes

17 Q Okay What was the disposition of that appeal?

18 A Well, I dismissed it because all the issues that I
19 had was not directed to the issues

20 Q Okay And does that involve basically the failure
21 to object?

22 A Yes

23 Q You've heard basically the questions to Assistant
24 Solicitor Simmons regarding prosecutorial misconduct that
25 addressed basically the vouching, the bolstering You've

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1 also heard -- you also made your allegations on the
2 record with regards to defense counsel's failure --
3 ineffective assistance of counsel for failure to enter
4 exculpatory evidence as well as failure to object on
5 several different issues Are there any other issues
6 that you want this Court to evaluate for your P C R
7 application?

8 A Yes I want to go back when he was talking about
9 the audiotape, saying that, you know, it was played
10 during the course of the trial, so the jury had multiple
11 times to listen to it That's correct They did They
12 listened to it five times, to be exact You know, on
13 page 57, lines 24 and 25, and page 63, lines 2 and 3,
14 page 160, lines 22 and 23, and page 162, lines 20 through
15 22, and page 194, lines 1 through 3 But then like on
16 page 200, the Court received a message from the jurors,
17 said they couldn't comprehend it and would discounted
18 that part of the evidence So my question is, if they
19 discounting the physical evidence, the only physical
20 evidence that they got, then so the false testimony by
21 the State's witness, both of them, the improper comments,
22 and the vouching by the Solicitor, you know, that -- you
23 know, so they had to believe what they heard from what
24 they said since they was discounting that part of the
25 evidence You know, I mean, it plainly states that If

1 they would have actually heard what was on the tape, as
2 we discovered what was on the tape that I said, I do have
3 some -- and I'm not denying that But I said, I'm not
4 giving you my last piece because you know how I do I
5 got to have something to go down the road with If the
6 jury would have been able to comprehend the tape, they
7 would have been able to exonerate me on these charges

8 Q All right And was there a point in time in your
9 trial where the tapes were going to be replayed for the
10 jury, but was not?

11 A You got the -- I didn't bring it up here with me,
12 but you got it marked He asked the solicitor to, you
13 know, to bring it back to the mark, but he never -- we
14 played it to show the jury that this testimony is not on
15 the tape But still -- even after he did all that, they
16 still came up with the message about they was discounting
17 that part of the evidence anyway So I felt like he
18 should have objected to it then when he knew that it was
19 not stated on there, especially when it was material
20 evidence concerning distribution

21 Q And just to be clear, you're referring to

22 MR DENNY I beg the Court's indulgence for
23 just a minute, Your Honor

24 Q So basically on page 92, lines 13 through 17, again,
25 we're talking about the solicitor asking basically

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1 Walker about giving the drugs, didn't give him the drugs,
2 and, you know, restating what was on the tape, even
3 though on page 200, they're saying that basically we've
4 got information where the jury's come back and said, you
5 know, they don't -- they couldn't understand They
6 couldn't discern what was actually on the tape

7 A Exactly That was after they even played it back
8 for them and everything during the closing arguments and
9 all

10 Q Right

11 A So the Judge after that, he -- he said, well, I'm
12 going to play it back one more time So I mean, the
13 thing is they done listened to it over five times during
14 the trial and they couldn't even comprehend it So what
15 would make one more time listening to it, they can all --
16 now they can understand it?

17 Q All right So other than basically the false -- the
18 improper comments and basically vouching and basically
19 the ineffective assistance of counsel, we've gone through
20 the objections Any other issues that are the basis for
21 your post-conviction relief that you want addressed by
22 this Court?

23 A Well, I mean, the part that he did not put in that
24 statement You know, I mean -- like, you know, he told
25 me this You know, I'm putting my trust in this lawyer,

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1 you know, about, hey, you know, when I told him this
2 about this statement, he should have took the greater
3 measure to making sure that it got in

4 Q Okay

5 A You know, even though he get the closing argument, I
6 mean, this is part of my defense that I'm giving him, you
7 know And you know, he tell me, hey, it's my word
8 against his, so if you got a statement from the same key
9 witness, that's the only one that can prove you guilty as
10 shown on page 83 -- on page 82 and 83 at the bottom with
11 the officer even telling himself, you know, the only way
12 that I can be proven guilty is Walker got to be telling
13 the truth

14 Q And just to be clear, did you ask your defense
15 attorney to introduce this statement?

16 A Yes

17 Q You wanted it introduced, you recognized the fact
18 that introduction of any evidence on your behalf would
19 have negated your defense attorney's right to the last
20 word, and that's a trial strategy that this attorney may
21 have chosen, but you were clear you wanted this
22 introduced?

23 A Right I have a -- there's a statement in discovery
24 that you should have about when she faxed him telling him
25 that there was supposed to have been a threat about this

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1 statement

2 Q Uh-huh (affirmative)

3 A And I told him from that point on -- I said, well,
4 Mr Sprouse, I never threatened nobody I said, he came
5 to me personally and told me that he wanted to fix the
6 problem

7 Q Did anyone ever ---

8 A And ---

9 Q I'm sorry Go ahead

10 A And so -- and that's when -- when he came to me, he
11 said, well, I got a phone call from the solicitor saying
12 ---

13 MR WILLIAMS Your Honor, if there's anything
14 he's going to say that Mr Walker said, I'm going to
15 object to hearsay

16 A I'm not ---

17 THE COURT Okay I'll sustain the objection
18 on hearsay

19 MR DENNY I understand

20 Q Mr Blassingame, did anyone from the Oconee County
21 Detention Center come and talk to you about any alleged
22 threat?

23 A No

24 Q Okay So you were never investigated for an alleged
25 threat at the detention center?

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Timothy Blassingame - Direct Examination by Mr Denny

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1 A No

2 Q Okay Any other allegations you want brought before
3 this Court regarding your post-conviction relief
4 application?

5 A That and my case had no overwhelming evidence This
6 case -- I mean, the record clearly shows it And I'd
7 like to have them pages entered into the evidence

8 Q Okay

9 A Here you go

10 Q I'm sorry?

11 A I mean, I'd like to have these pages entered to show
12 the Court that, you know, this case was not boil -- it
13 boiled down to testimony instead of overwhelming evidence
14 in my case So I feel like those errors during the
15 course of this trial had a pervasive effect on the
16 outcome of my case

17 Q Okay So it's your position basically that the
18 record did not reflect overwhelming evidence before the
19 jury and that basically it was the statements from the
20 ---

21 A Exactly

22 Q --- assistant solicitor and the failure to introduce
23 any kind of exculpatory evidence in your behalf was
24 actually, you know, detrimental to your case in October
25 2009?

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1 A Yes

2 Q Okay All right Anything else, Mr Blassingame,
3 that you'd like this Court to consider in your
4 allegation?

5 A No

6 MR DENNY No further questions, Your Honor

7 THE COURT Cross-examination?

8 MS WILLIAMS We don't have any questions for
9 him

10 THE COURT Okay

11 You may step down, sir

12 MR DENNY Your Honor ---

13 THE COURT At this time, I understand you've
14 got the other witness Explain to me this statement
15 I'm a little bit confused as to what relevance that is
16 For some reason, it's not sinking in

17 MS WILLIAMS May ---

18 THE COURT No I'll let you go I just want
19 to have him explain it to me

20 MR DENNY The statement from the confidential
21 informant, Your Honor? Is that the question you're
22 asking about?

23 THE COURT The fact that you put up in your
24 case that there was no threats to this confidential
25 informant, there's no request to change any housing

1 status, but then he changed his testimony What's the
2 relevance of that or suppose he did?

3 MR DENNY Your Honor, when defense counsel
4 calls Attorney Sprouse to the stand -- and again, we're
5 not going to authenticate this as something Mr Walker
6 wrote, but it's a record that was turned over through
7 discovery from Mr Sprouse's files It's a statement
8 that basically was made from Mr Walker This statement
9 exists in the file This exonerates or this would have
10 basically impeached Mr Walker at trial

11 Now, again, we're not here to try to retry the case
12 from 2009, so I'm not going to get in here and try to put
13 Mr Walker on the stand, et cetera

14 THE COURT All right I got you Okay

15 MR DENNY But the existence of it is
16 something that, you know, in conversation with, you know,
17 the Defendant at that point in time, you know, the
18 Defendant was very clear on his testimony, we have no --
19 I mean, I have shown -- I believe we've shown to the
20 Court from the Oconee County Detention Center that
21 there's no -- there was no, you know, record of any
22 conflict between Mr Blassingame and Mr Walker They
23 were housed together If there had been some allegations
24 that would have negated this statement, then that should
25 have been questioned at the trial And I realize I ---

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Scott Sprouse - Direct Examination by Ms Williams

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1 THE COURT I got you I don't need to hear
2 any further Okay Go ahead Do you want to call your
3 -- are you done with your witness -- your case at this
4 point? Are you done with your case at this point?

5 MR DENNY Yes, sir I'll ask permission to
6 call Mr Bryson out of order, you know, at some point if
7 he gets up here within a reasonable amount of time, Your
8 Honor

9 THE COURT Sure Okay

10 MR DENNY Thank you, Your Honor

11 MS WILLIAMS Your Honor, the State would call
12 Scott Sprouse

13 THE COURT I tell you what Let's do this
14 We've been going for a bit Let me take about a five-
15 minute break, okay?

16 MR DENNY Thank you, Your Honor

17 (WHEREUPON, court stood at recess for a short
18 break)

19 THE COURT We're going to go ahead and call
20 Mr Sprouse out of order I know that there's another
21 witness that the Applicant has, but we're going to call
22 Mr Sprouse, is that correct?

23 MS WILLIAMS That's correct, Your Honor

24 **SCOTT SPROUSE, ESQUIRE,**

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

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Scott Sprouse - Direct Examination by Ms Williams

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1 DIRECT EXAMINATION

2 BY MS WILLIAMS

3 Q Mr Sprouse, can you tell me generally about your
4 legal experience? How long have you been practicing,
5 what type of law you practice?

6 A I am in a general practice located in Seneca, South
7 Carolina I have been practicing law over two decades
8 now I graduated from school in 1989 I've been
9 involved in criminal cases pretty much from the
10 beginning, and I have a varied law practice Heavy
11 domestic practice, some criminal, some civil

12 Q Now, tell me how you came to represent Mr
13 Blassingame

14 A I received a phone call, I believe it was from
15 either -- well, I take that back My paralegal received
16 a phone call saying we were getting paperwork, and then I
17 received an order of appointment from the Clerk of Court
18 This would have been, I believe, in the first week of
19 October 2009 I then received -- from Mr Blassingame,
20 he had relieved his previous attorney, R Daniel Day I
21 then received a phone call from Lindsey Simmons who
22 arranged for a visit to my office with the discovery
23 materials along with Officer Crumb of the Seneca Police
24 Department

25 Q So you have -- would it be fair to say you had

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Scott Sprouse - Direct Examination by Ms Williams

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1 adequate opportunity to discuss the materials with them
2 or review them?

3 A They came to my office They brought me all the
4 materials that they had provided to R Daniel Day through
5 discovery They had also received discovery requests
6 from Mr Blassingame directly They brought the
7 audiotape on a disk, and they also brought videotape
8 There were two different tapes We viewed those at my
9 office, and I had a significant period of time there to
10 discuss the case with them

11 Q All right At what point were you provided with a
12 letter from Mr Walker regarding this case?

13 A I don't remember which meeting it was I went to
14 the jail several times to meet with Tim And he told me
15 at our first meeting that Mr Walker, the confidential
16 informant, was his -- was related to him somehow I
17 believe he was his cousin He told me that Walker had
18 written a statement to where he wanted to make things
19 right And I don't remember if it was at the first
20 meeting or a subsequent meeting, but he did hand me a
21 copy of a piece of -- of a handwritten statement from Mr
22 Walker

23 Q And tell me how you employed that statement at
24 trial?

25 A Mr Walker testified -- now, the Solicitor was aware

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1 of this statement before trial In fact, they had put me
2 on notice of this statement before the trial ever
3 started And it was obvious to me they were preparing
4 for this statement

5 Now, Mr Walker never stated in testimony that he
6 was being threatened by Mr Blassingame That's what I
7 anticipate he was going to do, but he did not He made
8 some blanket statement to the effect that he felt his
9 life would be in danger if he slept in the same cell,
10 something to that effect, but he never -- he never made
11 any direct accusation that Mr Blassingame was
12 threatening him

13 What I did with the statement is I put it on the
14 overhead projector and asked Mr Walker questions about
15 the statement The jury was able to see the statement
16 He identified his signature He said he wrote the
17 statement Of course, he said that Mr Blassingame told
18 him what to write and he copied what Mr Blassingame had
19 told him what to write But there really never was any
20 allegation that he was intimidating him or threatening
21 him

22 At that point, I was surprised the solicitor did not
23 object to me putting it on the overhead projector and
24 letting the jury see it, which they had several minutes
25 to read the statement and see it while he was being

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1 questioned, and then she finally objected So I did not
2 put it into evidence for the simple fact that I wanted to
3 keep last argument in the case I didn't want to do
4 anything to jeopardize that This was a case that was
5 apparent to me that we had no, no real possibility of the
6 Defendant testifying given his extensive record And
7 that was the rationale behind it They got to see the
8 statement It was identified It was testified to, but
9 it was not actually put in as an exhibit

10 MS WILLIAMS I beg your indulgence for just a
11 moment

12 THE COURT Yes, ma'am

13 Q All right And you did some cross-examination on
14 other items Tell me about how you attacked credibility
15 of the police officers through the audio and videotapes,
16 those sort of things?

17 A Well, the case -- and cross-examination was based on
18 my theory of the case The previous attorney and the
19 correspondence that Mr Blassingame had sent to Ms
20 Simmons -- he sent her several faxes from the jail -- all
21 centered around mistaken identity And when I ran the
22 copies of the pictures off the D V D s and looked at the
23 vehicle and the circumstances, the solicitor was well-
24 prepared for that defense So our defense in the case
25 was a loss of control of the transaction We had a very

1 unreliable confidential informant, a confidential
2 informant that had an extensive RAP sheet, many
3 convictions for crimes involving dishonesty which we were
4 able to bring out at trial

5 Now, in furtherance of that defense, when Officer
6 Crumb testified and Officer Hunnicutt testified, what I
7 was seeking to do was to show that they lost control of
8 the situation And the case in point, when the informant
9 got in the vehicle And the videotape shows that there
10 was several turns made and the vehicle was driving around
11 the block I didn't anticipate we were going to be
12 successful with it, but I made a jurisdictional argument
13 since there was a little part on the road that wasn't
14 actually in the city limits And I did that more to just
15 show that they didn't plan out their operation very well

16 Then they dropped -- Mr Walker was dropped off at
17 an apartment complex in Seneca that the officers admitted
18 was a drug infested area There's -- on the video, you
19 could see Mr Walker approaching a window sill, putting
20 his hands up on it, having contact with other people
21 There was plenty of opportunity, as far as our argument
22 went, for the transaction to have been tainted I cross-
23 examined the officers on that

24 Also, I was pleased with cross-examination in that
25 Officer Crumb had to admit that the case boiled down to

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1 the credibility of Mr Walker If he was lying to them,
2 then they really had no case There was no actual video
3 footage of the crack cocaine being handed to Mr Walker
4 The audiotape, it was able -- you could discern on the
5 audiotape what was being said

6 And I realize there's testimony today about the
7 audiotape But there was no, thank you very much, or, I
8 appreciate it, statement, which I pointed that out to the
9 jury in my closing argument I did not consider that
10 prosecutorial misconduct I considered that the State
11 not having their case together and the officers were
12 confused as to what actually happened And the jury
13 heard that audiotape a number of times, and they saw the
14 videotape a number of times This was a distribution by
15 constructive -- there wasn't an actual handing of the
16 drugs on video You could tell -- he said something to
17 the effect, I love you, man, or something to that effect
18 on the audio And that's when the State was claiming
19 that the crack cocaine was transferred Our argument was
20 he could have gotten it at the apartment complex when he
21 made the contact with the other people But Officer
22 Crumb was cross-examined on the issue of that He also
23 was cross-examined on the credibility of Mr Walker
24 Q Were there any surprises in terms of the witness
25 list?

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1 A No No Everyone that they called I had been made
2 aware of They called their chain of custody people Of
3 course, the crack cocaine itself was not really the issue
4 in the case I mean, it was an element that they had to
5 prove But basically our argument was we don't know
6 where they got the crack cocaine because Mr Walker was
7 getting a monetary payment from the police department,
8 and he was just as easily setting them up as anyone else
9 But they called their chain of custody folks They
10 called the officer who had previously arrested Tim for
11 driving under suspension or stopped the vehicle with Ms
12 Reed in it, the same vehicle, at a different date And
13 then they called their confidential informant So there
14 were no witnesses that I did not anticipate
15 Now, they did hand me some materials on the literal
16 morning of the trial in which they were claiming that
17 witness intimidation was taking place They were serving
18 him with a warrant for that And the weekend prior to
19 the trial they claim that other witnesses -- I believe
20 there was a Rodney Johnson that they claim So that was
21 something that caused me a lot of concern, and I made a
22 motion for a continuance based on new -- that new
23 evidence And then the solicitor agreed to withdraw
24 that, and they did not present any of that evidence at
25 the trial The only things they presented at the trial

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1 were evidence that was available to Mr Blassingame
2 through his previous attorney, and they provided it again
3 to me

4 Q Did you consider calling anyone from the jail to
5 discuss the relationship between Mr Walker and Mr
6 Blassingame?

7 A I didn't consider that because Mr Walker never,
8 never made the statement that he was being threatened and
9 forced to write the statement To me, it was a situation
10 that he felt bad that he had sold his cousin down the
11 river to get money from the police department That was
12 what we wanted to project There wasn't an allegation,
13 and he wasn't at trial either, that Tim was actually
14 threatening to kill him or hit him or did anything
15 violent to intimidate him

16 Q And based on your observation of the testimony, do
17 you feel that that would have made a difference in terms
18 of trial, the testimony that we heard from

19 MS WILLIAMS I beg the Court's indulgence

20 Q Mr Biggs, the witness who testified about their
21 collegial relationship at the jail?

22 A I think it would have had a detrimental effect for
23 us because we would have lost the last word We had last
24 argument to the jury And I don't see that that
25 testimony would have helped us any in the presentation of

1 what we were presenting

2 MS WILLIAMS I beg the Court's indulgence for
3 one moment

4 Q Regarding improper comments by the solicitor, there
5 was extensive discussion about Ms Simmons' arguments
6 regarding the credibility of the confidential informant
7 Did you consider an objection on those matters?

8 A I did not consider that statement sufficient enough
9 to object because I was going to bring it up in my
10 closing argument, and that goes to a factual dispute I
11 thought it was much more effective to have the solicitor
12 say that and then the jury turn around and hear that what
13 the State was putting forward was not -- that it was not
14 entirely accurate, that their view of the facts was not
15 accurate I did not believe she was deliberately lying
16 to the Court or doing anything unethical And I -- in my
17 experience, I have found that interrupting lawyers in
18 their closing arguments sometimes appears rude and does
19 more damage than good And I felt it was better to deal
20 with it in our closing argument since it's purely a
21 factual dispute And I thought the facts supported our
22 position

23 Q Thank you for your time

24 THE COURT Cross-examination, Mr Denny?

25 MR DENNY Yes, Your Honor Thank you May

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1 it please the Court

2 THE COURT Yes, sir

3 CROSS-EXAMINATION

4 BY MR DENNY

5 Q Mr Sprouse, just for my clarification, how much of
6 your practice is currently focused on criminal defense?

7 A Is now primarily focused on criminal defense?

8 Q Just how much of it is?

9 A Oh, I don't know Maybe fifteen percent or
10 something

11 Q Okay And out of -- and I recognize those are
12 questions -- and just bear with me But out of that
13 fifteen percent, if you had to make a guesstimate on how
14 much of that is narcotic or drug-related defense that you
15 have to represent?

16 A I would say maybe five percent of my practice

17 Q Okay

18 A Now, I will -- let me further answer that though I
19 see a lot of drug cases through my job as Municipal Judge
20 of the City of Walhalla, so I deal with that on a regular
21 basis I have also prosecuted cases in my job as City
22 Attorney for the City of Westminster I prosecuted
23 simple possession and other actual and constructive
24 possession cases, so I'm not really counting that as far
25 as my private practice goes

1 Q But obviously, I mean, you're -- and I respect your
2 position as municipal judge as well as a solicitor for
3 the City of Westminster or prosecutor for the City of
4 Westminster But you would agree that based on being a
5 defense attorney for a case is a little bit different
6 than those other roles?

7 A You're doing a different job That's correct

8 Q All right When -- let me be sure You were
9 identified or you were appointed to be Mr Blassingame's
10 attorney on what date?

11 A I received the paperwork, I believe it was, October
12 the 1st or 2nd It was less than a month prior to the
13 start of the trial

14 Q Okay

15 A When I received the paperwork -- and let me just
16 back up I received a phone call from the solicitor
17 either that day or the next day I don't remember And
18 they -- and I found out what the offer had been, that
19 he'd turned down eight years and basically wanted his
20 attorney gone for that reason And she reiterated -- at
21 first it was fifteen years, then she reiterated the
22 eight-year offer And I took that to Tim at the jail,
23 and he steadfastly said, that's the reason I got rid of
24 my first attorney I'm not -- I want my trial So that
25 -- which that's fine But I just -- that was the first

1 time that I was aware of the case is when I received the
2 order of appointment and then I received the materials
3 from the solicitor I believe it was the next day that I
4 got the stuff

5 Q And it's your testimony that the only -- the lowest
6 plea offer on the table from the solicitor was eight
7 years that you're aware of?

8 A Now, Danny Day told me that he had it at five years,
9 but I have not gotten any verification from the
10 Solicitor's office They initially told me that the
11 eight years had been withdrawn because he had rejected it
12 and had gotten rid of Danny But then I called Lindsey
13 again, and she reinstated it But then meeting with Tim,
14 he had already sent her in writing that he rejected the
15 eight-year offer, and he told me the same thing He was
16 consistent with that He didn't want to do that

17 Q So you pick up the case, there was -- the only
18 offer, the lowest offer, on the table was eight years?

19 A That's the lowest offer, right

20 Q You state that basically the next day after
21 appointment you were going to -- you met with Lindsey
22 Simmons and Sergeant Crumb?

23 A Right

24 Q Do you remember -- you said you looked at the audio
25 -- or you listened to the audio and the video Any other

1 evidence that you reviewed?

2 A They brought copies of the materials they had
3 already provided, the forms and the warrants and the RAP
4 sheets and all the discovery materials they'd already
5 given to Danny

6 Q Okay How much did you review the audio and the
7 video before trial? Just a couple of times? Were you
8 familiar with the audio and video?

9 A Oh, absolutely I watched it for the first time
10 there in the office with Lindsey and John Crumb They
11 brought it to me And then I took my laptop to the jail
12 and watched it with Tim And I would say I watched it
13 several times before the trial and listened -- the audio
14 -- now, keep in mind -- the video, I thought, was in some
15 ways helpful to us because it was so poorly done It was
16 a very poor video There was no -- again, there was no
17 hand-to-hand transaction And it clearly showed that he
18 -- I thought it was tainted

19 Q Mr Sprouse, we're going to talk about some specific
20 things in the transcript now Do you have a copy of the
21 transcript with you?

22 A Yeah Yeah

23 Q In my client's P C R application, there's an
24 allegation that items were not preserved for appeal and
25 basically based on a failure to object to specific items

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1 that occurred throughout the trial I'm going to bring
2 your attention to -- it's a series of page numbers And
3 then we'll kind of go into some general questions

4 And I realize -- I want to be cognizant of the
5 Court's time Admission of false testimony, page 164,
6 lines 24 through 25, and page 165, lines 1 through 12 I
7 want to look at page 59, lines 6 through 8 And ---

8 THE COURT Slow down, please 164, 165
9 What's the other pages?

10 MR DENNY Page 59

11 THE COURT Okay

12 MR DENNY Page 75

13 THE COURT Okay

14 MR DENNY Page 83

15 THE COURT Okay

16 MR DENNY And page 92

17 THE COURT And all of these references have to
18 do with failure to preserve the record by objecting?

19 MR DENNY Failure to object and focused on
20 admission of what we believe is false testimony, that
21 trial counsel had an opportunity to object and that he
22 did not

23 THE COURT Okay

24 Q All right On page 59, lines 6 through 8, there's a
25 statement by Crumb on direct that says they're riding

1 around, and he gets to where he starts saying, thank you,
2 thank you, I appreciate that He had the dope at that
3 point You just testified you're familiar with the
4 audio?

5 A Right

6 Q Was that ever on the audio?

7 A No No He said something like -- his exact words
8 were, I love you, man, or something to that effect

9 Q Okay So whenever the State's witness, Sergeant
10 Crumb, presented this under oath in front of the jury,
11 did you not object?

12 A No, I did not object, no

13 Q Why?

14 A That's a factual dispute, and it'd undermine the
15 credibility of the witness when he testifies to something
16 that the audio clearly shows is inaccurate, and that was
17 brought up at closing argument

18 Q Was the audio replayed at closing or ---

19 A The audio was played probably three or four times to
20 the jury They asked to hear it again That was clearly
21 showing that the officer did not have control over what
22 his operation was And these other times you mentioned,
23 I did not object at those either for the exact same
24 reason

25 Q Had you objected, would that have preserved this

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1 issue on appeal?

2 A It would have preserved the issue, but I don't see
3 that there is any issue there

4 Q Well, we've got a -- I mean, would you not agree
5 that a State's witness is basically testifying to
6 something that was never before the jury? I mean, even
7 for the audio I mean, there's clear -- it's in
8 contradiction to what the State's witness is saying
9 happened and what the audio presented I mean, it is
10 clearly a hundred and eighty degrees different Would
11 you not believe that you'd want to object to that and
12 preserve that for appeal?

13 A Not with what we were doing here

14 Q There's an opportunity, I believe, that you were
15 going to have the tape replayed And you actually
16 decided not to do that

17 MR DENNY I'm sorry I beg the Court's
18 indulgence for just a minute

19 Q Even though Sergeant Crumb -- let's see, Sergeant
20 Crumb made this statement as well as I believe Walker on
21 page 92 made this statement Whenever there's a question
22 on direct to Walker from the solicitor, page -- line 13,
23 page 92 When he gave you the drugs, did he say
24 anything? I know y'all talk about quarters and doves and
25 dimes and all, but -- all I said was, I appreciate you

1 looking for that, Cuz And he said, all right And I
2 got out of the car So here we've got in the record
3 between two State's witnesses, you know -- and you know,
4 I've listened to this audio several times throughout this
5 in preparation on this case -- discrepancies So at any
6 time did you want to object to, you know, what Mr
7 Walker's saying to make sure that the jury's hearing
8 exactly what was correct on that audio?

9 A Again, my answer's still the same This is a
10 factual dispute, and he's not testifying about what's on
11 the audio He's testifying about what happened The
12 audio's evidence to impeach what he testifies happened

13 Q So is your position around basically you didn't
14 challenge Walker or Crumb because -- not only the
15 discrepancy of their statements -- because ---

16 A Oh, I challenged them I challenged them But I
17 didn't object Because again, he's not there to prove
18 the audio He's there to prove what happened, and he's
19 got a massive problem with his testimony

20 Q Okay Do you think that that could have been
21 cleared up if the audio had been replayed at that moment
22 in time to show -- I mean, to confront the witness with
23 the inaccuracy of their statement?

24 A I guess you could have played it there, but it was
25 played several times during the trial, and ---

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1 Q Well -- I'm sorry

2 A Oh, go ahead Go ahead

3 Q I didn't mean to interrupt you Please finish your
4 answer

5 A It was played several times

6 Q All the more reason, I mean, if it's been played
7 several times Was Mr Walker in the room when it was
8 played?

9 A Yes

10 Q Was Mr Crumb in the room when it was played?

11 A Yes

12 Q Then don't you think that if they were in the room,
13 they heard it played several times and then they
14 misrepresent what's on it, that it's relevant to play it
15 again because apparently everyone's hearing is different?
16 Don't you think that's relevant or wants to be brought to
17 the jury or object to it so it's preserved, you know, the
18 error?

19 A I'd do it the same way if I did it again

20 Q With regards to Ms Simmons, I mean, were you in the
21 courtroom this morning, Mr Sprouse?

22 A Yes

23 Q All right You heard us and my questions to Ms
24 Simmons regarding the State's vouching or bolstering of
25 the State's witness, Mr Walker Did you listen to those

1 questions?

2 A Yes

3 Q Okay On page 156, lines 2 through 8, page 157, 24
4 and 25, and page 158, Ms Simmons goes through on this
5 narrative about how trustworthy, you know, Mr Walker is
6 and states if James Willie Walker was a liar, he would
7 have shoved that forty bucks somewhere they could have
8 never found it because he needed money That speaks
9 volumes that he has told the truth throughout this

10 process Why didn't you object to that? I mean, that
11 sounds like, you know, the State is putting the power of
12 the State and its position behind this one witness

13 A Well, it's her job to -- I mean, she's not going to
14 call a witness that she's going to get up and say, I'm
15 calling this witness to prove my case, but you can't
16 believe a word that he says She didn't do anything
17 unethical in this case She simply put up witnesses that
18 she asked the jury to believe, just like I asked the jury
19 not to believe those same witnesses because I pointed out
20 that I didn't believe the evidence supported their
21 trustworthiness So again, that's just -- that's part of
22 the trial One side wants you to believe their
23 witnesses, and the other side wants you to disbelieve
24 them

25 Q Are you familiar with -- again, earlier in this

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1 court I referenced a case, *Matthew v State*, the cite 350
2 S C 272 And in this case they're basically -- my
3 interpretation of this case -- it's certainly open for
4 interpretation -- basically that in order to establish
5 something vouching for a State -- for a witness, it has
6 to be in the record though The State cannot go and use
7 some kind of piece of information that was not in the
8 record before the Court during that trial

9 Now, if you take Ms Simmons's statement directly as
10 it is, he's been trustworthy Crumb hasn't had any
11 problems out of him If James Willie Walker wants to be
12 -- was a liar, he would have shoved that forty bucks
13 somewhere that could have never been found because he
14 needed money

15 A Well, I believe Crumb testified that Walker had been
16 a reliable informant for him And she's just reiterating
17 what her witness stated I mean, she's paraphrasing it
18 But that's what I considered that, just as I made the
19 inference in the closing argument about how untrustworthy
20 Mr Walker was So again, I don't see any -- I don't see
21 how that case applies as far as ethical consideration
22 This is a factual dispute

23 Q Well, the fact that -- you don't believe the fact
24 the Solicitor stated that he would have the capability to
25 hide money or hide contraband on him and decided not to

1 do it in this case, and because he decided not to do it,
2 even though he had the capability, which is -- I mean,
3 that's how I read that statement I believe it's a fair
4 interpretation You don't believe that that is adding
5 something for the record? I mean, the record has Crumb
6 establishing that Mr Walker has been reliable in the
7 past

8 A Uh-huh (affirmative)

9 Q The record does not have it that Mr Walker has had
10 the ability to basically hide contraband or hide money,
11 you know, and in this case chose not to I can see the
12 -- where you might be getting confused on this But
13 she's saying that if he wanted to, he could have done it,
14 and he chose not to do it in this case

15 A I don't see any ethical violation by that

16 Q So you don't believe you should have objected to
17 that?

18 A No, I do not

19 Q All right During the jury deliberation, the
20 question came back with regards to instruction defining
21 distribution of crack cocaine And the jury specifically
22 requested the definition of distribute

23 A Uh-huh (affirmative)

24 THE COURT The definition of what?

25 MR DENNY Distribute

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1 THE COURT What page?

2 MR DENNY Page 200 to page 204

3 Q Do you recall the jury, you know, requesting the
4 definition of distribute?

5 A Right I recall that Well, I mean, in looking at
6 the transcript, I remember it now I didn't recall it
7 before looking at the transcript But they did They
8 came back with several questions over the course of the
9 day

10 Q Okay Based on South Carolina Code § 44-53-110,
11 when the jury asks specifically for the definition of
12 distribute, were you familiar with the definition as read
13 by the Judge or as listed in the statute?

14 A Well, I looked at both

15 Q Okay So were you in agreement with the Judge's
16 definition of distribute in that case?

17 A I didn't have any objections

18 Q Even though distribute just means to deliver a
19 controlled substance other than by administering or
20 dispensing?

21 A And the Judge will talk about actual and
22 constructive possession and distribution But that's --
23 again, I didn't have any problem with the Judge's
24 instructions These are standard jury instructions

25 Q And also, the Judge included attempt to distribute

1 as the definition for distribute?

2 A Yes

3 Q Okay If you'll go to page 66 with regards to the
4 use of evidence, the illegal use of evidence, and page
5 113 and page 92

6 A Yes

7 Q Did you review the chain of custody of the alleged
8 crack that was distributed in this situation?

9 A Yes

10 Q And do you believe that the video matched up with
11 the chain of custody that was presented to Sergeant Crumb
12 and to Officer Hunnicutt?

13 A Their actual forms -- they left out Officer
14 Hunnicutt on the forms because when Walker got back in
15 the van, Hunnicutt and Crumb were seated in the front of
16 the van And he handed the materials across the seat,
17 and it was actually Hunnicutt that handed it to Crumb
18 That, in my opinion -- and I think the law is established
19 -- that was not fatal to their chain of custody because
20 they had everybody there They had everybody that
21 participated in the chain of custody there who testified,
22 all the way from Hunnicutt to Crumb to Smith to Ms
23 Lanford and then back to Crumb So I did not see that a
24 problem

25 Q Okay Now, previously you testified that on the day

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1 of the trial you were given some discovery requests or
2 some basically discovery responses from the State?

3 A About incidents that had occurred that weekend prior
4 where they were accusing Tim of threatening other
5 witnesses, and I think they issued a warrant I didn't
6 represent him on the intimidation of a witness warrant,
7 but they chose not to pursue any of that because that was
8 a strong -- I thought strong grounds for having the case
9 continued if they were going to bring up new stuff that I
10 didn't have on the literal eleventh hour before trial

11 Q The witness list that was presented by the State, it
12 was presented the day of trial?

13 A Uh-huh (affirmative)

14 Q Did you have a chance to investigate each of those
15 witnesses that were going to be called?

16 A They didn't call anyone that I wasn't familiar with
17 They had their chain of custody people there They had
18 the confidential informant They had the officer who had
19 arrested him for an unrelated charge of the vehicles I
20 mean, I was aware of all of those people

21 Q Now, Mr Sprouse, I recognize that, you know, based
22 on your view of the discovery responses previously
23 provided by the State ---

24 A Uh-huh (affirmative)

25 Q --- you were aware of them Did you have a chance

1 to investigate each of those witnesses, you know, so that
2 you were prepared if they were called basically in this
3 case?

4 A What? Do a background check on each witness or -- I
5 mean, I knew -- I had talked to Crumb and Hunnicutt And
6 I had attempted to talk to Walker, and he would not talk
7 to us In fact, when we called him, he called the
8 solicitor then because Tim had told me that Walker was
9 ready to help us, you know And we called him And then
10 the next thing I know I get a phone call from the
11 solicitor saying, Mr Walker just called us and said you
12 called him So I mean, I knew then that we were going to
13 have trouble with him But Ms Lanford, I didn't need
14 I mean, I knew -- I was aware of her qualifications And
15 the other officer -- I did not investigate Officer Smith
16 because he really didn't -- he had a peripheral
17 involvement in this

18 Q Okay So I mean, it's your contention that
19 basically the submission of the witness list on the day
20 of the trial, I mean, you were adequately prepared and
21 could handle any question the State brought against those
22 witnesses?

23 A Yes If they'd brought up witnesses that I wasn't
24 aware of, then certainly I would have, I think, had a
25 legitimate gripe and would have moved for a continuance

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1 And I think it would have been granted on that basis

2 Q Okay Mr Sprouse, I want to now turn your
3 attention to failure to admit exculpatory evidence

4 A Uh-huh (affirmative)

5 Q My understanding -- how many times did you visit
6 with Mr Blassingame in preparation for this trial?

7 A Let me check I know I visited with him
8 immediately Okay I went and had a conference with him
9 that week I know that I met with him the week before at
10 least twice And there was another meeting, I believe
11 Don't -- but I can't attest to that It was at least
12 three times, maybe four, at the jail And the last one
13 was a very lengthy meeting where, again, I took my
14 laptop We watched everything again, got our minds
15 together as to what we were going to do

16 Q So just for my clarification, three or four times at
17 the Oconee County Detention Center?

18 A Yeah

19 Q A couple of short ones and one lengthy one? How
20 many hours? If you had to put together the number of
21 hours that you spent meeting face-to-face with Mr
22 Blassingame in preparation for his trial, would you say?

23 A I would say each meeting -- the last one was, I
24 know, at least a two-hour meeting The first one was
25 probably an hour maybe The second one thirty minutes to

1 an hour And again, if there was another one, that would
2 have been about a thirty-minute as well So it was -- I
3 would say if you add everything together, probably about
4 four hours with Tim total

5 Q Whenever you met with Mr Blassingame, did he tell
6 you he wanted evidence introduced on his behalf?

7 A He never used the word, I want evidence introduced
8 He said this is what Walker wrote, and he gave me a copy
9 of that We discussed that we want to bring out at trial
10 that he's written this note that basically says I lied
11 And so that's what we did But I did not put it into
12 evidence

13 Q Okay But was he -- I'm going to go back Did he
14 ask you that he wanted this note brought out at trial?

15 A We discussed that, bringing that out at trial The
16 words, put into evidence, was never, never used to my
17 recollection

18 Q Okay Did you get ---

19 MR DENNY And I ask the Court's indulgence
20 here for a second

21 Q And I'm not trying to beat a dead horse But one of
22 the things that -- you know, Mr Blassingame's very
23 adamant in this, in his post-conviction relief -- is that
24 he clearly wanted this statement brought before the
25 Court, introduced as -- you know, he's not a lawyer You

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1 know, so he's not going to use, you know, legal terms

2 like introduced as evidence

3 A Uh-huh (affirmative)

4 Q But did he convey to you that this was a piece of

5 information that he felt was determinative that he was

6 adamant that he wanted, you know, the Court to hear, you

7 know, about Mr Walker and about his situation?

8 A We discussed that That's why I asked Mr Walker

9 the questions, why I put it up on the screen

10 Q Okay Do you think the jury could memorize it when

11 it went back into the jury room to deliberate?

12 A I couldn't ---

13 MS WILLIAMS Your Honor, that calls for

14 speculation

15 THE COURT Sustained

16 Q It was on the screen for how long?

17 A For however long it took me to ask these questions

18 And I think I summarized -- of course, I'd have to go

19 back and read the transcript But I believe that I asked

20 Mr Walker the question directly -- if you'll bear with

21 me for just a minute, I'll find it here

22 Q This would be on page 101 and 102?

23 A Okay Yeah, I asked him the question I asked him

24 if he wrote a document saying that the report that he'd

25 given was untrue? And he confirmed that So he admitted

1 writing it, and he admitting saying that he had -- he
2 didn't say -- use the word lie But the question I asked
3 was not true And he said, yes, sir And then he
4 claimed that Tim had told him what to write, but

5 Q Is that when Ms Simmons objected because you were
6 going to put it into evidence?

7 A Well, if you look -- yeah, at the top of the next
8 page, it shows where I was going down questioning I was
9 asking him about his signature and his handwriting and
10 then the date of it And then she objected But it was
11 up on the screen in clear view that whole time

12 MR DENNY I'd like to have this marked as
13 Plaintiff's Exhibit 6

14 (WHEREUPON, Plaintiff's Exhibit Number 6 was marked
15 for identification only)

16 MS WILLIAMS I'm going to assume you're going
17 to put that into evidence

18 Q Mr Sprouse, I don't want you to read what's on that
19 statement But is that the document that came from your
20 case file when I asked for your records?

21 A That appears to be the same

22 Q And does that appear to be the same record that you
23 put forward on the overhead at the trial?

24 A That appears to be the same thing, yes, sir

25 MR DENNY Your Honor, at this time, I'd like

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1 to introduce Plaintiff's Exhibit 6 into evidence

2 THE COURT Any objection?

3 MS WILLIAMS I just believe it's admissible

4 to -- in terms of reasonableness, not for the truth

5 that's contained in the statement You know, this was

6 what I put on the screen, not for the truth of it

7 THE COURT For that purpose I'll admit it

8 for that purpose

9 MR DENNY Okay

10 MS WILLIAMS Demonstrative, I guess

11 (WHEREUPON, Applicant's Exhibit Number 6 was

12 admitted into evidence)

13 Q Mr Sprouse, I'm not going to ask you to read it

14 But I want you to describe to me -- and I hate to be

15 very, you know, granular on this

16 MR DENNY And I apologize to the Court for

17 the time

18 Q But if you'd describe to me what you have in your

19 hand I mean, is it a typewritten note? Is it a

20 handwritten note? Is it big cursive, little cursive,

21 printed, you know?

22 A It's printed, and it has his signature in cursive at

23 the bottom with the date And it is a statement that,

24 again, paraphrasing, that -- basically saying that he

25 lied when he ---

1 Q Okay

2 A --- when he handled the deal for Officer Crumb

3 Q Okay So it's your contention to this Court that
4 rather than introduce this into evidence

5 A Uh-huh (affirmative)

6 Q and have the jury be able to look at it, hold it
7 in their hands in the jury room, physically read it

8 A Uh-huh (affirmative)

9 Q it's your contention that you -- you were able
10 to achieve the impeachment or the basically, you know,
11 challenge Mr Walker's statement by having it, you know,
12 up on the overhead for some period of time and then, you
13 know, removing it whenever there was objection by Ms
14 Simmons You're saying that those two things were equal
15 enough to do what you believe as far as impeachment?

16 A I believe it was the correct course of action, yes

17 Q All right Are you aware of any threats that Mr
18 Blassingame had allegedly made against Mr Walker down at
19 O C D C ?

20 A Again, not I wasn't aware of any threats about
21 this statement Now, again, there were allegations that
22 things happened the weekend and the night before the
23 trial, but the solicitor didn't use those at trial So I
24 was not aware of any threats that were pertinent to this
25 statement

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1 Q You're not aware -- I just want to make it clear

2 You're not aware ---

3 A Yeah, he did not say he threatened me and made me
4 write this statement Now, he did not say that

5 Q Okay Do you use email as a part of your daily
6 business?

7 A Yeah

8 Q Do you email back and forth with Solicitor Simmons?

9 A I receive emails from her, yes

10 Q Did you receive an email from Solicitor Simmons on
11 October 25th that you maintained that you turned over in
12 your case file?

13 A I'm sure I did I mean, I don't recall that She
14 -- I believe -- now, wait a minute I believe she did
15 send me an email about the statement And they were --
16 if my -- and I don't -- if my recollection's correct, she
17 was trying to allege that Mr Walker was being
18 threatened But there was no -- again, he didn't testify
19 to that at trial

20 Q Okay So you had gotten -- so now we go back and so
21 basically, you know, before the trial, you had got some
22 kind of email ---

23 A Now that you ask me that and I think about it, that
24 is correct I did get something from Lindsey saying that
25 Walker was feeling intimidated or threatened But again,

1 there's no -- there was no specifics or anything, and he
2 didn't testify to that

3 Q Okay But prior to the trial, you were aware that
4 there's an allegation out there that Mr Walker was being
5 threatened?

6 A In a general sense, yes

7 Q Okay Did you contact O C D C ? Did you ever find
8 out if the threat had been made?

9 A When I saw they put them in the same cell, I knew
10 that they would have moved him had there been some
11 problem between the two of them

12 Q So on page 102, lines 14 -- and look at line 18

13 THE COURT What page?

14 MR DENNY Page 102 of the transcript, Your
15 Honor

16 THE COURT Okay

17 MR DENNY Line 18

18 Q Where basically you're crossing Mr Walker You
19 said, is it true that as a result of that incident there
20 was no complaint by you and the jail authorities? Yeah,
21 they got complaints I mean, Roger from the jail, the
22 second shift supervisor, he got a complaint Ms
23 Gillespie, Beverly, all of them Roger and all of them
24 got complaints And all you got to do is ask them, and
25 they'll tell you The major got them too You can ask

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1 him too

2 A Again, I -- there's no allegation of a threat

3 Q So basically, you know, you just testified that
4 prior to the trial you received an email from Simmons,
5 and you were then kind of put on notice that there was,
6 you know, something up with this statement Maybe there
7 was an allegation of a threat, some intimidation,
8 something that was going to challenge admissibility, and
9 it was coming from Mr Blassingame to Mr Walker That's
10 what I understood you to say a minute ago, is that
11 correct?

12 A Yes

13 Q Okay And then in your cross on Walker, he's
14 talking about that, you know, there were complaints made,
15 you know, to try and add some support to that I mean,
16 that's on page 102, the latter part of that page

17 A Yeah That's what the transcript says

18 Q Did you ever investigate -- I mean, I realize that
19 that email was right before the trial Did you call down
20 to the jail? Did you call Mr Pruitt? Did you call
21 anyone to try and see if there was validity to this
22 threat?

23 A I may have spoken to somebody when I was down there,
24 but I cannot attest to that I don't -- I'm there
25 practically every day So I don't know

1 Q So you don't know whether you talked to anyone or
2 not?

3 A I don't know

4 Q Okay And you know -- and I -- again, I apologize
5 But from the time standpoint here, I mean, you're aware
6 that there was some allegation of a threat that's
7 directed to this statement, and this statement is what
8 Mr Blassingame had presented to you as a significant
9 piece of evidence Is that, you know ---

10 A I'm aware of it I did not subpoena any witnesses
11 I did not get the records I did not consider it an
12 issue since he did not testify to that at trial

13 Q Okay All right Were you aware of any other cell
14 mates with Mr Blassingame such as Mr Justin Diggs or
15 Mr Jonathan Bryson?

16 A No Mr Blassingame did not tell me about either
17 one of them

18 Q Okay Was it reasonable to assume that -- just a
19 minute ago you testified that they were in the same cell
20 together?

21 A Uh-huh (affirmative) Tim told me I mean, he did
22 tell me, and Lindsey had told me that, too

23 Q Okay So is it reasonable to assume that they were
24 the only two people in this entire -- in cell "A"?

25 A I don't know I don't go in that part of the jail

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1 I don't know who they have together

2 Q So you didn't interview Mr Diggs and Mr Bryson?

3 A No

4 Q You just testified that you didn't contact anyone at
5 the Oconee County Detention Center regarding the threats
6 that were made against Mr Walker?

7 A No

8 Q Is it your testimony here today that you didn't call
9 Mr Diggs or Mr Bryson because you weren't aware of them
10 or because you didn't believe in the validity of the
11 threat?

12 A First of all -- well -- first of all, I wasn't aware
13 of them I didn't know that he'd been in the cell with
14 them And secondly, I don't see that that would have
15 made one iota of difference in the case anyway

16 Q On the day of the trial or actually prior to the
17 trial when you received the jury pool, the jury pool list
18

19 A Uh-huh (affirmative)

20 Q did you review it?

21 A Yes

22 Q Okay Did anything in that list, you know, strike
23 you as odd?

24 A It looked like a standard Oconee County jury pool

25 Q Okay The fact that the Defendant's race was almost

1 excluded completely from the pool of potential jurors,
2 that didn't cause any question?

3 A There were between sixty and seventy jurors And if
4 my recollection is correct, there were probably eight or
5 nine maybe African Americans in the pool, which that's a
6 little over ten percent of the pool, which that's not far
7 off of the percentage of African Americans in Oconee
8 County None came up in the jury selection I believe a
9 black lady was our alternate There was one in the pool,
10 if I remember correctly, that Tim told me that he might
11 be related to But she did not -- her name was not
12 drawn But there were simply -- there were no racial
13 exclusions because the State never had a -- now, I'm not
14 saying the State would have, but none came up when the
15 names were drawn

16 Q Okay So it's your contention that basically when
17 you got the jury pool that looked like a standard Oconee
18 County jury pool, it didn't put you on notice of any
19 potential due process right that would have impacted or
20 been prejudicial against my client Is that your
21 statement?

22 A I did not consider it prejudicial, no

23 Q Okay

24 MR DENNY I just want to point the Court's
25 attention to a couple of things, and I'll form the

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1 questions of Mr Sprouse

2 MS WILLIAMS Can we just make arguments at
3 the end on anything that we're just pointing to?

4 THE COURT I'm going to let him do it

5 MS WILLIAMS Okay

6 MR DENNY Okay

7 Q Throughout the course of the trial you had
8 highlighted that the credibility was crucial to the
9 State's case

10 A Correct

11 MR DENNY And I point the Court's attention
12 to, you know, page 73, lines 9 through 11 and 22 through
13 25, page 69, lines 10 through 17, page 51, lines 2
14 through 6, page 164, line 16, page 165, lines 18 through
15 20, page 167, lines 18 through 22, and page 50, lines 13
16 through 19

17 Q Throughout this trial, you had recognized that the
18 State's witness, the credibility of that witness, is
19 paramount to their success? And that's specifically
20 James Walker

21 A That's correct

22 Q But yet you had some impeaching evidence that you
23 didn't put into -- some impeaching statement that you
24 didn't put into evidence, and that was part of your trial
25 strategy, correct?

1 A I have already answered that question

2 Q All right With regards to the fact that any
3 conviction of Mr Blassingame is going to be tied -- we
4 know that, you know, you've identified that the State's
5 witness credibility is important But to actually
6 convict Mr Blassingame, they've got to tie that witness'
7 credibility to Mr Blassingame

8 MR DENNY And I'll point the Court's
9 attention to page 82, lines 24 and 25, page 83, lines 1
10 and 6 through 9, page 51, lines 2 through 4, page 167,
11 lines 18 through 22, page 50, lines 13 through 15 and 17
12 through 19, and page 169, line 15

13 Q You had made it clear throughout your defense of Mr
14 Blassingame that it's not only the State's witness is
15 credible, but basically you've got to tie it to basically
16 in order to convict my client And you were well aware
17 of that, but yet you didn't introduce -- you didn't put
18 on a defense or you did not put on ---

19 A I put on the best defense that I thought that I
20 could put on at the time Ultimately, it was not
21 successful I regret that he was convicted I wanted to
22 win that trial But again, if I had it to do over again,
23 I would defend it the exact same way

24 Q Throughout the course of the trial, you didn't
25 actually identify to the Court, as far as trying to

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1 impeach Mr Walker, that the State's key witness had used
2 drugs prior to the alleged buy that was going on that
3 day And this is on page 72, line 6 through 12, and page
4 104, lines 10 through 20 You know, but yet, you know,
5 he was impaired that day, and you brought that to the
6 Court's attention And now we have -- you have a piece
7 of evidence that would directly impeach his statement
8 against the client and, again, did not want to bring that
9 into evidence?

10 A I have answered that question, and my answer is the
11 same as it was fifteen minutes ago

12 Q With regards to the record of Mr Walker, you went
13 through on page 98, 99 and 100 his extensive background
14 and issues with dishonesty?

15 A That is correct

16 Q Okay In your opinion, do you think that's
17 sufficient to impeach his testimony that day?

18 A Well, whether or not it's sufficient, I guess,
19 depends on whether or not you were successful The jury
20 found the Defendant guilty, so ultimately it was
21 unsuccessful But I don't know of anything else I could
22 have done to impeach him with his record than what I did
23 We painstakingly went through all, I believe it was,
24 thirteen or fourteen crimes of moral turpitude
25 convictions in extensive detail And that's in the

1 record, so

2 Q And then finally with regards to, you know, what
3 you're presenting at trial to try and impeach Mr Walker,
4 you were able to elicit from Mr Walker that he was
5 actually trying to provide his favorable testimony to the
6 State for leniency in his pending charges And that's
7 page 100 or 101, lines 20 to 25 Now, you know, again,
8 he's now established that basically he's trading favors
9 And again, his credibility, I think, would be challenged

10 A I think he denied that though, if I remember I'd
11 have to read it But I believe when I asked him that
12 question, he denied it Of course, the State denied it
13 But I asked that question just to throw that out there
14 and have the jury to think about the pending charges that
15 he had

16 MR DENNY Your Honor ---

17 Q Mr Sprouse, I point your attention to page 100 and
18 page 101 of the transcript, the bottom of page 100 and
19 the top of 101 He actually admitted that he was asking
20 for leniency on the charges in response for his favorable
21 testimony

22 A Okay Well, he asked for it, but they denied they
23 were giving him any leniency There was no -- they told
24 me that there was no deal, and I believe he testified
25 that there was no deal

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1 MS WILLIAMS At line 5, 106, he does state
2 that

3 A But certainly he wanted help That's what I wanted
4 the jury to believe anyway, that he was doing this ---

5 Q Right

6 A --- to get help That's correct

7 Q And were you in the courtroom this morning whenever
8 Ms Simmons testified that subsequent charges for Mr
9 Walker were dropped, were not prosecuted?

10 A I heard that

11 Q Okay All right But yet you don't believe that
12 there was any promise for, you know, leniency as long as
13 he just gave favorable testimony to the State?

14 A See, I don't know what has happened since then At
15 the time -- if your question is, do I think they were
16 just going under oath and lying on the record, no, I do
17 not

18 Q Okay

19 MR DENNY Your Honor, I have no further
20 questions for Mr Sprouse

21 THE COURT Redirect?

22 MS WILLIAMS Your Honor, I have nothing
23 further I would be glad to provide you argument I'm
24 glad to write that

25 THE COURT Okay Any reason why Mr Sprouse

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1 can't be excused then?

2 MS WILLIAMS None from the State, Your Honor

3 MR DENNY No, Your Honor

4 THE COURT Okay Thank you, Mr Sprouse

5 MR SPROUSE Thank you, Your Honor

6 MR DENNY Your Honor ---

7 THE COURT Just one second I'm trying to

8 formulate some questions I have for you

9 MR DENNY Yes, Your Honor

10 THE COURT I have to say that I -- you know,
11 certainly, I got this information I haven't read the
12 transcript I will read the transcript and go through
13 the petitions because this was just handed to me today
14 But I am a little confused as to the threatening
15 statements -- or the threatening nature of Mr
16 Blassingame's -- the State said -- let me strike that and
17 say this

18 You put up testimony from Justin Diggs, I believe

19 MR DENNY Yes, Your Honor

20 THE COURT And Mr Diggs said that Blassingame
21 -- if my notes are correct -- and Mr Walker played games
22 together and they had no issues with one another

23 MR DENNY Yes, Your Honor

24 THE COURT Okay You put up testimony of
25 Major Pruitt who said they had nothing in their files to

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1 indicate that there was any threats being made from the
2 Defendant to Mr Wilson

3 MR DENNY Walker Mr Walker

4 THE COURT Correct?

5 MR DENNY Mr Walker, Your Honor

6 THE COURT Mr Walker Thank you Thank you

7 But then it appears that what you're trying to say in
8 your petition -- and this is where I need some help You
9 said although it doesn't appear to be any threats, that
10 there was some evidence that was brought up by the
11 Solicitor's office to Mr Sprouse of alleged witness
12 intimidation by Blassingame to this same witness right
13 around the trial that had to do with him changing his
14 story and recanting his prior statements For some
15 reason don't -- I'm not following the line that's going
16 on here And I'm sure it's my fault But would you
17 clarify that for me?

18 MR DENNY Yes, Your Honor And I recognize
19 that this is not the forum to retry a case ---

20 THE COURT I've heard that I just want you
21 to tell me what that means

22 MR DENNY Your Honor, the statement that Mr
23 Sprouse said that he -- Plaintiff's Exhibit 6, which was
24 the statement that he had before the court back in
25 October 2009, was dated -- in the transcript of record

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1 was dated September 28th And that statement is what he
2 put up there that basically was a recantment Mr
3 Walker, who is a confidential informant, whose sole
4 testimony was the State's evidence against Mr
5 Blassingame, you know, was working for the cops to try
6 and make, you know, forty bucks a pop to go do these
7 deals

8 On September 28th, he wrote a statement that said, I
9 was lying about my assertion against Mr Blassingame
10 Plain and simple The State's key witness has written a
11 statement well before you get close to the time of the
12 trial Has made that public It was dated September
13 28th It was there The defense counsel had it It's
14 the only real -- I mean, first of all, the State put up
15 several witness, Crumb, Hunnicutt, Lanford, as far as
16 from the, you know, law enforcement But the State's
17 real witness was Mr Walker And here's a statement from
18 Mr Walker saying that on September 28th he was lying
19 He did not make any -- he did not, you know, get crack
20 cocaine from Mr Blassingame That he was lying It was
21 all part of his, you know, shuffle between him and the
22 cops to make this forty bucks and move on That is what
23 that statement was about

24 That statement goes directly to the State's case in
25 October 2009 when they're trying to, you know, question

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1 Mr Walker about what he's testifying to And while Mr
2 Sprouse -- you know, I understand the value of, you know,
3 saving that last argument, you know, before the jury
4 walks out, however, you know, putting the statement up on
5 the overhead is not the same as allowing the jury to have
6 in their hands as they deliberate this man's fate And
7 he did not do that

8 And my understanding in my review with my client for
9 this P C R is that he was very adamant He wanted
10 everything about Mr Walker in that statement to
11 basically be brought before that Court And it wasn't

12 Now, we've got -- we've presented testimony to you
13 today that showed that there's a way to get -- if there's
14 been a threat based on an inmate, you ---

15 THE COURT Well, hold on Stop Stop And
16 that's what I'm driving at Because at the time this
17 alleged statement was made by Mr Walker, there is no
18 threats being made according to what the evidence has
19 showed so far in this hearing

20 MR DENNY Yes

21 THE COURT There may have been some later So
22 the question I'm having, you know, what is the relevance
23 of any subsequent threats to Mr Walker that allegedly
24 were made by this Defendant the night or -- the night
25 before or around trial, if they weren't gone into at the

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1 time of this -- you know, the State didn't seek to
2 introduce it?

3 MR DENNY The email that we alluded to in my
4 conversations with Mr Sprouse, although he received it
5 the night before the trial, was regarding these statement
6 -- was regarding the statement written on the 28th when
7 Mr Blassingame and Mr Walker were housed in the same
8 cell over in Oconee County Detention Center So the
9 State waited until the night before and say, hey, yeah
10 You know, any statement that you put for Mr Walker,
11 we're going to say is based on a threat And he
12 recognized that -- you know, he got that on the 25th
13 But yet on the -- September 28th, Mr Blassingame had
14 already identified, here's this letter You know, from
15 the 28th until the 25th of October, the 28th of September
16 to the 25th of October, had this letter You know, on
17 the ---

18 THE COURT Okay So you're saying -- and let
19 me correct you At the time the statement was made by
20 Mr Watson -- Walker -- I keep messing that up

21 MR DENNY Yes, sir

22 THE COURT there were actually no evidence
23 of threats But when it came time to -- you know, closer
24 to trial, then the State started saying, well, you do
25 that, we're going to start saying there's a threat where

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1 there's really none in the evidence because the State had
2 no evidence of that happening?

3 MR DENNY Right They had no evidence

4 THE COURT Okay

5 MR DENNY And in the record ---

6 THE COURT I got you

7 MR DENNY In the record they're saying that
8 basically, you know, there's some kind of intimidation

9 THE COURT Well, how about the fact that I
10 looked in the testimony that you had that -- Mr Walker's
11 testimony saying -- admitted that he was this gentleman's
12 cousin, and also that he wrote down what apparently Mr
13 Blassingame told him to write down That's the way I
14 read it Or at least somebody told him what to write
15 down

16 MR DENNY Yes, sir I mean, that's in the
17 record The question is, I mean -- you know, was he --
18 did he do it voluntarily? I mean, and I'm not going to
19 read that letter into the record here because I know this
20 is not the place to read it at trial But the question
21 is was it voluntary And Mr Walker, you know, says this
22 is your cousin I'm looking at page 101 I wrote -- I
23 didn't write it, but I copied it down from where he wrote
24 it Is that your signature on it? Yes, sir And is
25 that your handwriting? Yes, sir And does that have

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1 September 28th? Yes, sir And you said, I, James Willie
2 Walker -- and then all of a sudden, you know, Ms Simmons
3 -- this is on page 102, lines 1 through 10, roughly
4 That basically Ms Simmons objected And then no longer
5 was that statement available to be -- you know, available
6 for the jury here
7 Now, there's nothing in here that said -- no one
8 ever questioned, you know, was it involuntarily done or
9 voluntarily done It was a piece of evidence that
10 exonerated my client Which, you know, we can have a
11 difference of opinion on trial strategy But the client
12 made it very clear that he wanted that before the jury,
13 not just -- and you know, my client's not an attorney
14 But before the jury means he wants it in their
15 consideration whether it's, you know, here in the
16 courtroom, back in the jury room It was a piece of
17 evidence that's relevant It was never established that
18 it was involuntary or there was a threat We've
19 established, I believe, in this hearing that based on all
20 the procedures at Oconee County Detention Center, there
21 was no threat during the time in which this letter was
22 written They had them housed in the same place There
23 was no report of a threat between these two And you
24 heard that from Major Pruitt who, you know, by all
25 accounts he knows what's going on at the Oconee County

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1 Detention Center

2 So the letter was relevant to impeach Mr Walker
3 whenever, you know -- or to at least establish that what
4 he's saying now, if you go to the bottom -- or actually
5 I'm -- if you go to the additional question by Ms
6 Simmons where she's asking, you know, are you doing this
7 for leniency on your charges, and he's saying, yes Now,
8 Ms Simmons ---

9 THE COURT I got that part And they said, we
10 didn't give him a deal Okay He was hoping to get it,
11 and they didn't give it to him, at least at that point?

12 MR DENNY Yes, Your Honor, that is what she
13 stated, however, the charges -- I mean, the reality is
14 the charges against him subsequently were dropped And
15 that was by her testimony this morning

16 THE COURT Well, okay I got that part

17 MR DENNY Thank you, Your Honor

18 THE COURT All right Anything further?

19 MR DENNY As far as -- as far as going into
20 our closing statements at this point, Your Honor, I'd
21 like to bring the Court's attention to the fact that
22 there's a significant amount of, you know, potential
23 evidence that could have been brought before the Court in
24 October 2009

25 THE COURT Let me ask you this

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1 MR DENNY Yes, Your Honor

2 THE COURT Do you intend to introduce that

3 evidence?

4 MR DENNY No, sir, I'm not going to introduce

5 it

6 THE COURT Then I don't want to hear about it

7 I mean, it's not going to be relevant if it's not

8 introduced

9 MR DENNY Well, I would like to point the

10 Court's attention to some of the pages of the transcript

11 that are appropriate

12 THE COURT Okay Sure

13 MR DENNY Okay When we look at, you know,

14 page 50, lines 13 through 15, 17 through 19, page ---

15 THE COURT All right Slow down Slow down

16 All right Page 50?

17 MR DENNY 50, lines 13 through 15, 17 through

18 19 All right Page 51, lines 2 through 4, page 69,

19 lines 10 through 17, page 73, lines 9 through 11, 22

20 through 25, page 74, lines 9 through 16, page 76 and 77,

21 lines 21 through 25 and then 1 through 20 on the

22 following page, pages 78 and 79, 17 through 25, and then

23 5 through 19 respectively, and then page 82 and 83, lines

24 24 and 25, and lines 1 -- 6 through 9 on 83, page 165,

25 lines 18 through 20, and then page 137, lines 5 through

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1 10, and 16 through 17 on page 137

2 THE COURT Okay, sir

3 MR DENNY We believe that, you know, there
4 was no overwhelming evidence against Mr Blassingame at
5 his trial, but there was significant opportunity for the
6 introduction of evidence that Mr Blassingame had
7 identified and we have brought forward in this Court
8 And his trial counsel did not bring that forward, did
9 not, you know, follow the wishes of Mr Blassingame
10 recognizing that there's strategy, but there's also
11 procedural requirements Mr Sprouse did not preserve
12 issues for the appeal, did not object to things that were
13 clearly errors of law that we feel were evident in the
14 record Because of this, we believe Mr Blassingame was
15 prejudiced at his trial, and that prejudice definitely
16 impacted his ability to have a fair trial and his
17 conviction, his subsequent conviction Therefore, we
18 feel the only thing that should be done in this case is
19 an order allowing Mr Blassingame to have a new trial
20 He understands -- now, I've, you know, conferred
21 with him that it does not erase -- you know, it does not,
22 you know, basically give him a reversal on that and he
23 goes free That puts him back in the same state as he
24 was prior to the other trial And the State could bring,
25 you know, a different trial strategy which could possibly

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1 be detrimental to Mr Blassingame But based on what he
2 asked his attorney to do and what the attorney did not do
3 and what was reflected in the record, we believe that
4 there's no overwhelming evidence to convict Mr
5 Blassingame and that there's ineffective assistance of
6 counsel in this case warranting a new trial

7 THE COURT Okay Thank you very much

8 MR DENNY Thank you, Your Honor

9 MS WILLIAMS I'll just point out, Your Honor,
10 that it's a pretty gross mischaracterization to submit
11 that Mr Walker testified to a threat He just said, he
12 told me to write it down, and I did He talks like the
13 witness have said at 95, 101, 102 this was kind of a
14 generalized fear There's no specific threat We've got
15 Mr Diggs who thinks they were all in jail for three or
16 four months together when they were together for three or
17 four days None of these things are something that's
18 going to prejudice the outcome of the trial and that Mr
19 Sprouse has obviously -- without going into what his
20 testimony -- repeating for you I think you heard it --
21 was that he had a strategy of this, that Mr Walker said,
22 I made this statement up I -- yes, I wrote a statement
23 It said, I did not buy drugs I did not get drugs He
24 admitted to what the statement was It was put up on a
25 board, and he admitted in his testimony that he lied He

Timothy Blassingame v State 2010-GS-04-0598
Closing Arguments

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1 impeached him -- I don't know how many ways he impeached
2 Mr Walker from the fact of his drug use He's the one
3 who contacted the police He didn't know -- he got Crumb
4 to admit that he didn't even know when the transaction
5 occurred I mean, Mr Sprouse impeached these folks just
6 about every way he could And I think you'll see that in
7 your review of the record

8 As far as closing arguments, I think that Ms
9 Simmons did stay within permissible closing argument,
10 commenting on the facts and logical common sense
11 inferences to be drawn from those I think those were
12 the main points that we wanted to touch on

13 THE COURT All right

14 Yes, sir?

15 MR DENNY Your Honor, if I may -- and I
16 apologize for going out of order The last witness that
17 we had has just arrived from S C D C I don't believe it
18 will take more than five minutes to question this witness
19 if you're willing ---

20 THE COURT I'm willing to go forward And
21 according to my calculations at this time, it's just
22 twenty minutes until one o'clock, is that right?

23 MR DENNY Yes, Your Honor

24 THE COURT Let's go ahead Any reason why we
25 shouldn't go ahead and get this witness done?

Timothy Blassingame v State 2010-GS-04-0598
Jonathan Bryson - Direct Examination by Mr Denny

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1 MS WILLIAMS I don't see any reason why not

2 THE COURT Okay Let's bring him in

3 MR DENNY Thank you, Your Honor

4 THE COURT Yes, sir

5 **JONATHAN BRYSON,**

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

7 DIRECT EXAMINATION

8 BY MR DENNY

9 Q Mr Bryson, what is your full name?

10 A Jonathan Cole Bryson

11 Q And are you currently serving time in the South
12 Carolina Department of Corrections?

13 A Yes, sir

14 Q Okay What are you currently serving time for?

15 A A trafficking charge, trafficking marijuana

16 Q Okay How long have you currently been serving
17 time?

18 A A little over two years

19 Q Were you ever incarcerated at the Oconee County
20 Detention Center?

21 A Yes, sir

22 Q Okay When were you incarcerated at the Oconee
23 County Detention Center?

24 A I got arrested March 13th of 2009, and I went to
25 S C D C October 4th

Timothy Blassingame v State 2010-GS-04-0598
Jonathan Bryson - Direct Examination by Mr Denny

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1 Q Okay At any period of time were you in a cell with
2 Mr Tim Blassingame?

3 A Yes, sir

4 Q Okay What cell was that? Do you remember?

5 A It was "A" cell

6 Q And in "A" cell, was there a Mr James Walker in
7 that cell with you?

8 A Yes, sir

9 Q Did you observe Mr Walker and Mr Blassingame
10 interacting?

11 A Yes, sir They would talk all the time like friends
12 really

13 Q Did you ever -- and general observations -- I don't
14 want to know anything that was stated by either of them
15 But I mean, was there any kind of animosity between them?

16 A Uh-uh (negative)

17 Q Were you aware of any threats made by Mr
18 Blassingame to Mr Walker?

19 A Not to my knowledge

20 Q Okay Did you ever observe Mr Walker writing a
21 statement?

22 A Actually, I did see him write a statement, and he
23 actually brought it over to Mr Tim Blassingame

24 Q Okay And I'm not going to ask you what's in that
25 statement But you know, did you see anyone coerce Mr

Timothy Blassingame v State 2010-GS-04-0598
Jonathan Bryson - Cross-Examination by Ms Williams

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- 1 Walker into writing a statement?
- 2 A Not that I seen
- 3 Q Okay Did anyone ever talk to you about being a
4 witness back in October 2009?
- 5 A No, sir
- 6 Q So it's your testimony here today that basically Mr
7 Walker and Mr Blassingame were friends while in the cell
8 together?
- 9 A Yes, sir
- 10 Q And just how long -- and again, I know it's been a
11 couple of years now But how long were you in the cell,
12 the cell block "A", with Mr Blassingame and Mr Walker?
- 13 A Probably a good six months at least
- 14 Q Both of them or you were in ---
- 15 A I was probably in there with Mr Blassingame a good
16 six months, and then James Walker probably a good three
17 months
- 18 Q Okay All right
- 19 MR DENNY No further questions, Your Honor
- 20 THE COURT Cross-examination?
- 21 MS WILLIAMS Just briefly
- 22 CROSS-EXAMINATION
- 23 BY MS WILLIAMS
- 24 Q Are you also the same individual with charges for
25 lynching second degree and burglary second degree from

Timothy Blassingame v State 2010-GS-04-0598
Jonathan Bryson - Cross-Examination by Ms Williams

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1 2009?

2 A Yes, ma'am

3 Q Thank you

4 THE COURT Okay Anything further?

5 MR DENNY No, Your Honor

6 THE COURT All right Any reason why Mr
7 Bryson can't be excused?

8 MR DENNY No, Your Honor

9 THE COURT Very good Anything further from
10 the Petitioner?

11 MR DENNY No, Your Honor The Petitioner
12 rests

13 THE COURT From the State?

14 MS WILLIAMS Nothing, Your Honor

15 THE COURT Thank you Thank you both
16 attorneys for being so prepared I'm going to read
17 through all of this information and I'll give y'all my
18 decision as soon as I can

19 MS WILLIAMS Thank you, sir

20 (WHEREUPON, the hearing ended at approximately 4 14
21 p m and then resumed at approximately 4 16 p m)

22 MR DENNY Your Honor, I apologize There was
23 one last thing on this case There's a motion that was
24 filed by my client last March 8th There's a motion to
25 address all issues and ---

Timothy Blassingame v State 2010-GS-04-0598
Jonathan Bryson - Cross-Examination by Ms Williams

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1 THE COURT To what?

2 MR DENNY There's a motion to address all
3 issues in one ---

4 THE COURT What is a motion to address all
5 issues?

6 MR DENNY He wanted me to make sure that the
7 court-appointed counsel, in the event of preparing the
8 order that all issues are addressed in that order Just
9 want to bring it before the Court to make sure that all
10 issues have been addressed and it was filed last week

11 THE COURT Mr Blassingame, is it your
12 contention that all the issues have not been addressed at
13 this stage?

14 THE APPLICANT No, sir The purpose of that
15 motion was to make sure that when you give your order ---

16 THE COURT Mr Blassingame, is it your
17 contention at this stage that all the issues have not
18 been addressed in this hearing? That's my question

19 THE APPLICANT They've been addressed

20 THE COURT Okay Very good Thank you

21 (WHEREUPON, the hearing ended at approximately 4 16
22 p m)

23 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

Certificate of Reporter

2 I, the undersigned Renee H Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Oconee County, South Carolina,
9 on the 14th day of March 2010

10 This transcript may contain quoted material Such
11 material is reproduced as read by the speaker

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto

October 25, 2010

Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF OCONEE	)	
	)	2010-CP-37-0531
Timothy Blassingame, #213064,	)	
	)	
Applicant,	)	
	)	
v	)	ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
	)	
Respondent	)	

FILED OCONEE, SC
 DEVERLY H. HIGHTFIELD
 CLERK OF COURT
 2011 MAY 26 A 8 52

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 30, 2010. The Respondent made its Return on or about August 4, 2010. An evidentiary hearing into the matter was convened on March 14, 2011, at the Oconee County Courthouse. The Applicant was present at the hearing and was represented by Keith Denny, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Robert S. Sprouse, Esquire ("Counsel"). Applicant also presented testimony from Assistant Solicitor Lindsay Simmons, Major Steve Pruitt of the Oconee County Detention Center, Justin Diggs, and Jonathan Bryson. This Court had before it the records of the Oconee County Clerk of Court, the trial transcript, the appellate records, the Applicant's records from the South Carolina Department of Corrections, and exhibits introduced at hearing.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of the Oconee County Clerk of Court. Applicant was indicted for Distribution of Crack Cocaine (Cocaine Base) 3rd Offense (2009-GS-37-

0820) Robert S. Sprouse, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Alexander S. Macaulay. Applicant was found guilty and sentenced to thirty (30) years imprisonment.

A Notice of Appeal was filed. Applicant's appeal was dismissed by the South Carolina Court of Appeals in a written order dated April 15, 2010. The Remittitur was sent on May 7, 2010.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

- 1 Prosecutorial misconduct
- 2 "Illegal use of evidence, violation of chain of custody, Rule 6 and 36 "
- 3 Brady violation
- 4 "Admission of false testimony + bolstering of state's witnesses + vouching for state's witness, improper comments "
- 5 "6th Amendment and due process violations, discrimination of jury venire because his race was excluded "
- 6 Ineffective assistance of counsel
 - a "Failure to object to untimely witness list "
 - b "Failure to object to preserve for appellate review "
 - c "Failure to object to State's evidence that was not in the record "
 - d "Failure to object to discriminatory jury venire "
 - e "Failure to subpoena witness and enter exculpatory evidence "
 - f "Failure to investigate case and chain of custody "

In an Amended PCR Application Brief filed February 23, 2011, Applicant set forth the following additional grounds:

- 1 "Prosecutorial misconduct as evidenced by the prosecutor's improper comment "
- 2 "Conflict of interest as evidenced by trial counsel's failure to subpoena witnesses and enter exculpatory evidence "

In an Amended PCR Application Brief filed February 25, 2011, Applicant set forth the following additional grounds:

- 1 "Trial counsel failed to enter favorable impeaching evidence "
- 2 "Trial counsel failed to investigate favorable impeaching evidence "

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S C Code Ann ' 17-27-80

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v State, 351 S C 385, 389, 570 S E 2d 172, 174 (2002) (citing Rule 71 1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v Washington, 466 U S 668, 104 S Ct 2052, 2064, 80 L Ed 2d 674, 692 (1984), Butler v State, 286 S C 441, 334 S E 2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v State, 300 S C 115, 386 S E 2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300

S C at 117, 385 S E 2d at 625 (citing Strickland, supra) Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different " Cherry, 300 S C at 117-18, 386 S E 2d at 625 "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial " Johnson v State, 325 S C 182, 186, 480 S E 2d 733, 735 (1997) (citing Strickland)

Failure to Object to Racial Composition of Jury Panel

Applicant argues that Counsel should have challenged the racial composition of the jury venire because only three (3) of the thirty-six (36) potential jurors were black Of the three (3), only one (1) was drawn during jury selection, and the juror was selected as an alternate Assistant Solicitor Lindsay Simmons ("Simmons") has been employed in the Tenth Circuit since 2005 Simmons stated that having only three (3) black jurors in a jury pool would not be unusual in Oconee County Simmons believed that there were probably about a dozen black jurors on any master list, but having only three (3) to seven (7) black jurors in any given jury pool would not be out of the ordinary Counsel also stated that he did not consider the racial composition of the jury pool to be atypical Counsel stated that in a typical jury pool of sixty (60) to seventy (70) potential jurors, typically only eight (8) or nine (9) would be black Counsel noted that the three (3) black jurors did not come up in random jury selection Counsel stated that he did not feel this was prejudicial to Applicant

Based on the evidence before this court, I find that Applicant has failed to meet his burden of demonstrating that Counsel's failure to challenge the jury pool on the basis of racial composition was unreasonable under professional norms Both Simmons and Counsel, attorneys experienced in

practicing in the area, stated that such a makeup was not unusual. As stated in State v. Patterson, 324 S C 5, 21, 482 S E 2d 760, 767-68 (1997)

In order to establish a prima facie violation of the fair cross-section requirement, the defendant must show that 1) the group excluded is a “distinctive” group in the community, 2) the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community, and 3) this underrepresentation is due to a systematic exclusion of the group in the jury selection process.

While a racial group may be a distinctive group, Applicant has failed to demonstrate that the number of black jurors in the jury pool was not “fair and reasonable in relation to the number of such persons in the community” or that there was a “systematic exclusion of the group in the jury selection process.” See State v. Ravenell, 387 S C 449, 459, 692 S E 2d 554, 560 (Ct App 2010). Therefore, I find further that Applicant has failed to demonstrate prejudice in that had such a challenge been made, there is no evidence that it would have been successful.

Failure to Object to Comments by Solicitor

Applicant asserts that Counsel failed to object to comments by the solicitor at trial. Applicant specifically points to the solicitor’s arguments at p. 156, lines 2-8 and at p. 158 where the solicitor argues regarding confidential informant James Walker’s (“Walker”) credibility. Applicant argues that these passages constitute improper vouching. “A solicitor’s argument based on the record and its reasonable inferences is not error.” State v. Caldwell, 300 S C 494, 505, 388 S E 2d 816, 822 (1990). “A solicitor may not vouch for the credibility of a State’s witness based on personal knowledge or other information outside the record.” Matthews v. State, 350 S C 272, 276, 565 S E 2d 766, 768 (2002). Counsel stated that he did not believe that the solicitor’s comments constituted improper vouching and were not objectionable. I agree. I find that the solicitor did not

vouch in this matter but based her closing comments upon evidence in the record or inferences reasonably arising from that evidence. For example but not exclusively, I refer to Officer Crum's testimony found at pages 54, 55, 57, 59, 60, 63, 66, 67, 74, 75 and 83, also Mr. Walker's testimony found at pages 87, 88, 89, 92, 95, 98, 101 and 102. Therefore, I find Counsel's performance well within reasonable professional norms in this regard. Moreover, any objection would have been fruitless.

Chain of Custody

Applicant argues that Counsel should have objected to the drug evidence on the basis of chain of custody. Applicant's claim is based on testimony by Walker that he handed the narcotics from the transaction to Officer John Michael Crum ("Crum"). Both Crum and Officer Timothy Hunnicutt ("Hunnicutt") testified that Walker handed the narcotics to Hunnicutt and that Hunnicutt passed them to Crum. (Tr. p. 66, lines 14-16, p. 113, lines 1-17.) Applicant argues that the discrepancy between the testimony of Walker and that of Hunnicutt and Crum compromises the chain of custody. Such discrepancy raises an issue of credibility, not admissibility. See State v. Mathis, 359 S.C. 450, 465-466, 597 S.E.2d 872, 880-881 (Ct. App. 2004). I find Counsel's failure to object in this instance not unreasonable under professional norms.

Witness List/Prosecutorial Misconduct

Applicant further asserts that Counsel should have objected when the solicitor provided the State's witness list on the day trial commenced. Applicant relies on Rule 5(e)(2), SCCrP. Rule 5(e), SCCrP, addresses a notice of alibi. Alibi was not an issue in this case. Moreover, Counsel was aware of the witnesses that would be called in support of the State's case. When Counsel assumed representation, the solicitor and investigating officer Crum met with Counsel and reviewed

the State's evidence Counsel was given an opportunity to observe the audio and visual recordings in the case The solicitor stated that she provided Counsel with all names in the discovery and that Counsel had access to everything remotely relevant Counsel confirmed that there were no surprises on the witness list Based on the foregoing, I find Counsel's performance to be well within reasonable professional norms Further, Applicant has pointed to no evidence or witness which would have been procured but for the alleged shortcoming Therefore, I find that Applicant has failed to demonstrate ineffective assistance of counsel I also find no evidence of vindictiveness which would support a claim of prosecutorial misconduct

Failure to Present James Walker's Written Statement

Applicant asserts that Counsel erred in failing to enter the written statement of confidential informant James Walker ("Walker") into evidence Walker, Applicant's cousin, testified at trial that Applicant gave him crack cocaine Walker stated that, while they were in prison together, Applicant had asked him to write a statement denying that Applicant was the person he had received crack cocaine from (Tr p 95, lines 3-20) At trial, Walker disavowed the written statement and affirmed his trial testimony (Tr p 95, line 21 – p 96, line 10, p 105, lines 11-19) Counsel cross-examined Walker on the subject (Tr p 101-103) Counsel testified at PCR hearing that he placed the Walker's statement on an overhead projector so that the jury could see the document during his cross-examination Counsel stated that the solicitor did not object to the statement for some minutes Counsel stated that he chose not to enter the statement into evidence so as not to lose last argument, especially since the jury had seen the statement while it was displayed

I find Counsel's performance to be well within reasonable professional norms Counsel articulated a valid reason for choosing not to place the statement into evidence See for example

Whitehead v State, 308 S C 119, 417 S E 2d 530 (1992) (where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel) Moreover, any failure in this regard was harmless inasmuch as the jury saw the document and Walker testified to recanting his statement and his reasons for doing so

Failure to Call Additional Witnesses

At PCR hearing, Applicant presented three (3) additional witnesses who he believes should have been called on behalf of the defense at trial Walker testified at trial that he had copied a statement written by Applicant at Applicant's request Walker stated that he complied because he "didn't want to lay in the cell knowing that my life could be in danger " (App p 95, lines 13-14 See also p 103, lines 8-10) Walker testified that he made complaints to jail staff (App p 102, lines 20-25) Applicant asserts that the testimony from additional witnesses - Major Steve Pruitt of the Oconee County Detention Center ("Pruitt") and former Oconee County inmates Justin Diggs ("Diggs") and Jonathan Bryson ("Bryson") – would have impacted the outcome of his trial

Pruitt provided records of where Applicant and Walker were housed at the Oconee County Detention Center ("OCDC") Walker was in Cell A from July 31, 2009, until October 2, 2009 Applicant was in Cell A from September 26, 2009 until October 29, 2009 Therefore, the two were in Cell A together from September 26, 2009, until October 2, 2009, a little less than one week Walker's written statement is dated September 28, 2009

Bryson and Diggs testified that they did not see any threats made to Walker by Applicant Bryson estimated that Walker was in a cell with them for about three (3) months Bryson stated that he saw Walker write a statement but did not see any coercion Diggs stated that he, Applicant, and Walker were housed together for three (3) to four (4) months and that the group would play cards

together Diggs and Bryson admitted their criminal convictions and that they did not observe Walker and Applicant the entire time. Notably, their estimates of time incarcerated together vary significantly from the jail's records. I find the testimony of Bryson and Diggs lacking credibility.

Counsel noted that Walker's testimony did not make mention of any specific threat made but rather was a blanket statement that he was afraid of consequences if he did not comply with Applicant's request to write the statement. Counsel did have concerns over an incident alleged to have occurred the weekend before trial wherein Applicant made a threatening call to Walker through a three-way phone call (Tr pp 26-34). It was agreed that incident would not be raised at trial. Counsel also noted that Applicant had not mentioned Diggs or Bryson as potential witnesses in their meetings. Counsel reported that Applicant told him that Walker wrote the statement to 'make things right.' After listening to the testimony presented at PCR hearing, Counsel still felt that preserving last argument was more important than the testimony offered from Pruitt, Diggs, and Bryson, especially since Walker did not testify about any specific threat. Counsel attacked Walker's credibility on cross-examination through, *inter alia*, evidence of drug use and his criminal record.

I find Counsel's performance in this regard not unreasonable under professional norms. I further find that even if Counsel should have known of and called the witnesses, the outcome of trial would not likely have been affected. Therefore, I find Applicant has failed to carry his burden in this regard.

Failure to Object to Testimony by Officer Crum and Walker

Applicant also argues that Counsel should have objected to testimony by Officer Crum that Walker said "thank you, thank you, I appreciate that," because the testimony was not accurate. Counsel stated that this statement was not grounds for an objection but provided fodder for an

argument on credibility Counsel pointed out the inconsistency in his closing argument (Tr p 165, lines 2-8) Applicant also points to testimony by Walker about what was said on the video (See for example Tr p 92, lines 16-17) Counsel felt that any discrepancies between the testimony and the actual tape were factual disputes, and he used the audio tape as impeachment The tape was played for the jury multiple times I find Counsel's performance well within reasonable professional norms in this regard

Other Allegations

No other allegations were raised at the PCR hearing Therefore, any additional allegations are deemed waived because no evidence was presented

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application Therefore, this application for post conviction relief must be denied and dismissed with prejudice

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review His attention is also directed to Rule 243, SCACR, for appropriate procedures after notice has been timely filed

IT IS THEREFORE ORDERED

- 1 That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE, and
- 2 The Applicant must be remanded to the custody of the Respondent

AND IT IS SO ORDERED this 19 day of MAY 2011

R. LAWTON MCINTOSH

10 of 10

ATLUECC

6 201

2011 MAY 26 A 8 52

FILED OCONEE SC
CLERK OF SUPERIOR COURT
J. WILLIAMS

Presiding Judge
Tenth Judicial Circuit

_____, South Carolina

1

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF OCONEE	2011 JUN -3 P 3:35 FIFTH JUDICIAL CIRCUIT
Timothy Blassingame Plaintiff,	C/A No 2010-CP-37- 531
vs	
State of South Carolina Defendant	NOTICE OF MOTION AND MOTION FOR RECONSIDERATION

Pursuant to the South Carolina Rules of Civil Procedure, SCRPC Rule 59(e), Applicant hereby moves for this Court to reconsider the Order of Dismissal issued on May 19, 2011. The Applicant requests a hearing on the specific and general matters referenced herein.

Ineffective Assistance of Counsel

In this matter, Counsel provided testimony that his reason for not objecting to comments by the Solicitor was that he felt he could address those issues in his closing statements. Specifically, Counsel acknowledged that the Solicitor's and Officer Crum's testimony regarding Walker's alleged statements was not reflected by the audio recording. However, Counsel intentionally failed to object because it was not his desire to interrupt the Solicitor's line of questioning.

In this State, it is held as a matter of law that "counsel cannot assert trial strategy as a defense for failure to object to comments which constitute an error of law and are inherently prejudicial." *Matthews v State*, 350 S C 272, 565 S E 2d 766, 768 (2002) (citing *Dawkins v State* 346 S C 151, 551 S E 2d 260 (2001), (Counsel's failure to object to prejudicial hearsay because he did not want to "confuse or upset the jury" was not valid strategy) *Gallman v State* 307 S C 273, 414 S E 2d 780 (1992)(trial counsel's failure to object to judge's

comments inviting jury to prematurely discuss the case was not "strategic" where error of law involved and such comments are inherently prejudicial))

Failure to Object to Comments By Solicitor

The Applicant was prejudiced by Counsel's failure to preserve the objections for the record and have his matter heard before the South Carolina Court of Appeals. In this matter, this Court has acknowledged Counsel failed to object on numerous times throughout the trial. This Court has concluded that any objection by Counsel to the alleged vouching would have been 'fruitless.' This Court has found that the Solicitor's reliance upon the testimony of the State's witnesses, Officer Crum and Mr. Walker, sufficient to establish the foundation for the Solicitor's closing arguments. This would not be an issue had the Solicitor used the characterization or comments provided by the testimony presented to the court during the Applicant's trial.

In this case, the Solicitor specifically stated that Mr. Walker could have "shoved that 40 bucks somewhere they could have never found it because he needed the money" (Tr. p. 158, lines 13-17). There is nothing in the record that speaks to Mr. Walker's capability to hide any objects from the officers conducting the operation. The Solicitor never elicited testimony from Mr. Walker or from Officer Crum as to whether it was possible for Mr. Walker – or any confidential informant – to hide an item on their person without the officer's knowledge. The Applicant elicited testimony at the PCR hearing which established that the Solicitor did not have the basis for her statements. Therefore, this Court's finding is against the laws of this State. *Matthews*, 350 S.C. 272, 276, 565 S.E.2d 766, 768 (2002) (a solicitor may not vouch for the credibility of a State's witness based on personal knowledge or other information outside the record).

Failure to Present James Walker's Written Statement

Counsel provided testimony at the PCR Hearing that his strategy was to basically slip Mr. Walker's statement to the jury by inadvertently leaving the statement on the overheard projector during his closing statements so the jury could read it. Counsel would have this Court believe that a handwritten statement displayed across the room from the jury during his closing argument was sufficient rather than provide the statement into evidence. Counsel's sole contention for not entering the written statement into evidence was to preserve the last closing argument. However, the Applicant provided testimony that he advised Counsel that he wanted to testify in his own defense even though he ultimately waived his right to testify. Furthermore, the Applicant provided testimony that he wanted witnesses called on his behalf acknowledging that his request to Counsel was to present a defense. Given that the Applicant communicated to his Counsel to call witnesses on his behalf, Counsel's failure to admit Mr. Walker's written statement to preserve last closing argument is without merit.

Failure To Call Additional Witnesses

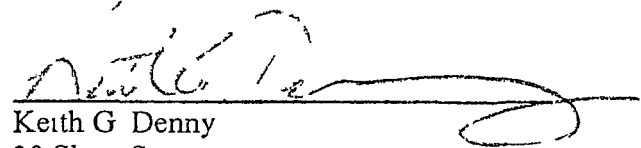
This Court determined that the Applicant's witnesses lacked credibility, however, there has been no finding established that the witnesses were not admissible. Therefore, the credibility of the witnesses were for the jury to decide and Counsel's failure to present them during the Applicant's criminal trial prejudiced the Applicant. Furthermore, this Court asserted that Counsel's desire to preserve last argument supported Counsel's decision to not call on any witnesses for the Applicant. According to the Applicant's testimony at the PCR Hearing, the Applicant had already communicated to Counsel that he wanted testify on his own behalf and have witnesses called, therefore a decision by Counsel regarding not calling witnesses to preserve last argument is baseless.

WHEREFORE, Applicant requests that the Order of Dismissal be amended to find that the Applicant should be granted a new trial. In the alternative, the Applicant requests a hearing on this matter and the Order of Dismissal be reconsidered.

I SO MOVE!

June 3, 2011
Walhalla, South Carolina

NORTON & BALLENGER P A



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Walhalla, S C 29691
Tel 864-638-2930
Fax 864-638-2922
Attorney for Applicant

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

Timothy Blassingame, #213064,)

Applicant,)

v)

State of South Carolina,)

Respondent)

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

2010-CP-37-0531

FILED
OCCONEE
SC 10
2011 JUN 14 11:00 AM

**ORDER DENYING APPLICANT'S MOTION
MOTION TO ALTER OR AMEND**

This post-conviction relief matter came before the Court for an evidentiary hearing at the Oconee County Courthouse on March 14, 2011. The Applicant was present in court and represented by Keith Denny, Esquire, and the State was represented by Mary S. Williams, Assistant Attorney General. After taking the matter under advisement, this Court issued an Order of Dismissal dated May 19, 2011, and filed May 26, 2011. The Order was mailed to Applicant on May 26, 2011, and he filed a timely Motion to Alter or Amend the Judgment on June 3, 2011.

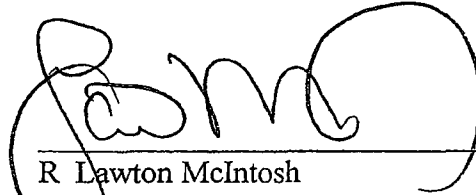
The Applicant asks the court to reconsider its rulings on the following issues: (1) ineffective assistance of counsel in failing to object to the solicitor's comments and testimony of Officer Crum, (2) failure to object to portions of the solicitor's closing argument, and (3) failure to call additional witnesses. Having carefully reviewed the entire record in this matter, this Court finds that no basis for altering or amending its prior ruling¹. Therefore, this Court hereby denies the Applicant's Rule 59 Motion in its entirety, and affirms the previous Order of Dismissal.

This Court advises that if the Applicant desires to secure appellate review of this Order and the

¹ The Court, in its discretion, has considered this matter based upon the motions submitted by the parties and the post-conviction relief file, since oral argument will not aid the Court in reaching its decision. See Rule 59(f), SCRCP.

Order of Dismissal, a notice of appeal must be filed and served **within thirty (30) days** of the service of this Rule 59 Order. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of appeal has been timely filed.

AND IT IS SO ORDERED this 28 day of June, 2011



R. Lawton McIntosh
Presiding Judge
Tenth Judicial Circuit Court

Anders

South Carolina

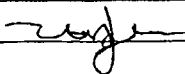
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CLERK OF COURT
SOUTH CAROLINA
JUL 14 2011

A TRUE COPY

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WITNESSES

JOHN CRUM Seneca Police Department



ARREST WARRANT NUMBER

J452354

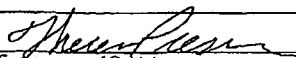
ACTION OF GRAND JURY




 Foreperson of Grand Jury
 Date JUL 20 2009

VERDICT

Guilty


 Foreperson of Petit Jury
 Date 10/28/09

DOCKET NO 2009GS37 00820

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

July 20, 2009
 Term

THE STATE

vs

Timothy Lee Blassingame

LSS

Indictment for

Distribution of Crack Cocaine (Cocaine Base)
 3rd Offense

SC Code 44 53-0375 (B) (3)
 CDR Code 3039

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FILED
 10/28/09
 CLERK
 OF
 COURT

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

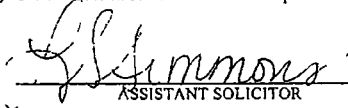
INDICTMENT

At a Court of General Sessions convened on Jul 20, 2009 the Grand Jurors of Oconee County present upon their oath

Distribution of Crack Cocaine (Cocaine Base) 3rd Offense

That on or about **February 24 2009** in Oconee County South Carolina the Defendant, **Timothy Lee Blassingame** did distribute dispense deliver or otherwise aid abet attempt or conspire to distribute dispense or deliver a quantity of Crack Cocaine (Cocaine base) a schedule II controlled substance under provisions of Section 44 53 110 et seq Code of Laws of South Carolina (1976) as amended such not having been authorized by law all in violation of Section 44 53 375 Code of Laws of South Carolina (1976) as amended

Against the peace and dignity of the State and contrary to the statute in such case made and provided


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Oconee
 STATE VS
Mr Timothy Lee Blessingame
 AKA
 Race B Sex M Age 36
 DOB [REDACTED] SS# [REDACTED]
 Address [REDACTED]
Seneca SC
 DL# [REDACTED] SID# [REDACTED]

INDICTMENT/CASE# 2009GS3700820
 A/W# 1452354
 Date of Offense 2/24/2009
 S C Code § 44-53-375 (B) (3)
 CDR Code # 3039

SENTENCE SHEET

In disposition of this said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO distribution of crack cocaine 3rd offense
 in violation of § 44-53-375 of the S C Code of Laws bearing CDR Code # 3039
☐ NON VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or 1ewd Act) ☐ §17-25-45
 The charge is ☒ Indicted ☐ Lesser Included Offense ☐ Defendant Waives Jurisdiction to Grand Jury (defendant's initials)
 The plea is ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State
Simmons 70224 Tim B Ross 12958
Simmons Lindsey Satterfield SC Bar# Defendant Attorney for Defendant SC Bar#
 WHEREFORE the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$ provided that upon the service of days/months/years and/or payment
 of \$ plus costs and assessment is applicable the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation - Parole and Pardon Services standard conditions of
 probation which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on
☐ The Defendant is to be given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S C Code § 17-25-135

Pursuant to 18 U S C Section 922 It is unlawful for a person convicted of a violation of Section 16 25 20 or 16 25 65 (Criminal Domestic Violence) to ship transport possess or receive a firearm or ammunition

SPECIAL CONDITIONS

☐ RESTITUTION ☐ Deferred ☐ Defendant If a ☐ Defendant PTUP
 Total \$ plus 20% fee \$
 Payment Terms
☐ set by SCDPPS
 Recipient
 Fin
 § 14-1-706 (Assessment 1075) \$
 § 14-1-211(A)(1) (Conviction Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 14-1-211 (DUI Breach Fee) \$5 \$
 § 14-1-217 (Lien Enforcement Funding) \$25 \$ 25.00
 § 14-1-13 (DUI Surcharge) \$100 \$ 100.00
 § 50-21-114 (DUI Breath Test Fee) \$50 \$
 § 56-5-2942(1) (Vehicle Assessment) \$40/c \$
 § 90-7 (SCCJAS fee) \$5 \$ 5.00
 / City (if paid in installments) \$ 6.90
 TOTAL \$ 236.90

Obtain GED
 Attend Voc Rehab or Job Corp
 May serve W/T beginning
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be paid in equal consecutive weekly/monthly
 payments of \$ beginning
 \$ paid to Public Defender Fund
 Other
☐ Appointed PD or appointed other counsel 4712
 requires \$500 be paid to Clerk during probation

Clerk of Court/Deputy Clerk Beverly A Whitfield
 Co. Reporter Robin Hild
 SCCA/17 (06/2009)

RELEASING JUDGE Ross Dix
 Judge Code 163
 Sentence Date 10/28/09